IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
ATRIUM CORPORATION, *et al.*,[1]	)	Case No. 10-_____ (___)
Debtors.	)	Joint Administration Requested

DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING DEBTORS (A) TO OBTAIN POSTPETITION SECURED FINANCING PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) AND 364(e) AND (B) TO UTILIZE CASH COLLATERAL PURSUANT TO 11 U.S.C. § 363; (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES PURSUANT TO 11 U.S.C. §§ 361, 362, AND 363; AND (III) SCHEDULING A FINAL HEARING PURSUANT TO BANKRUPTCY RULES 4001(B) AND (C)

Atrium Corporation and its debtor affiliates as debtors in possession in the above-captioned chapter 11 cases (collectively, the "***Debtors***"),[2] respectfully represent:

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[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal taxpayer-identification number, are: Atrium Corporation (4598); ACIH, Inc. (7822); Aluminum Screen Manufacturers, Inc. (6750); Atrium Companies, Inc. (2488); Atrium Door and Window Company – West Coast (2008); Atrium Door and Window Company of Arizona (2044); Atrium Door and Window Company of the Northeast (5384); Atrium Door and Window Company of the Northwest (3049); Atrium Door and Window Company of the Rockies (2007); Atrium Enterprises Inc. (6531); Atrium Extrusion Systems, Inc. (5765); Atrium Florida, Inc. (4562); Atrium Vinyl, Inc. (0120); Atrium Windows and Doors of Ontario, Inc. (0609); Champion Window, Inc. (1143); North Star Manufacturing (London) Ltd. (6148); R.G. Darby Company, Inc. (1046); Superior Engineered Products Corporation (4609); Thermal Industries, Inc. (3452); and Total Trim, Inc. (8042). The Debtors' main corporate address is 3890 W. Northwest Highway, Suite 500, Dallas, Texas 75220.

[2] A detailed description of the Debtors and their businesses, and the facts and circumstances supporting this motion and the Debtors' restructuring, are set forth in greater detail in the Declaration of Gregory T. Faherty, President and Chief Executive Officer of Atrium Corporation, in Support of First Day Motions (the "***First Day Declaration***"), filed contemporaneously with the Debtors' voluntary petitions for relief filed under chapter 11 of title 11 of the United States Code (the "***Bankruptcy Code***"), on January 20, 2010 (the "***Petition Date***"). Simultaneously with the commencement of these chapter 11 cases, the Debtor North Star Manufacturing (London) Ltd. sought relief under the Companies' Creditors Arrangement Act in the Ontario Superior Court of Justice in Toronto, Ontario, Canada (the "***CCAA Proceeding***").

Jurisdiction

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are sections 105, 361, 362, 363(b), 363(c)(2), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 507 and 552 of the Bankruptcy Code, Rules 2002, 4001, 6003, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***") and Rules 4001-2 and 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***").

Relief Requested

4. By this motion, the Debtors request entry of an interim order, substantially in the form attached hereto as **Exhibit A** (the "***Interim Order***"), and a final order (the "***Final Order***" and, together with the Interim Order, the "***DIP Orders***"), authorizing the Debtors to enter into and perform under the $40 million DIP Credit Agreement (as defined below and substantially in the form attached hereto as **Exhibit 1** to **Exhibit A** and incorporated by reference herein).[3] More specifically, the Debtors seek authority to:

a. permit ACI, pursuant to the Interim Order and before entry of the Final Order, to borrow up to $15 million under the DIP Facility;

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[3] Specifically, the Debtors seek authority to enter into the Senior Secured Priming and Superpriority Debtor-In-Possession Credit Agreement (together with any other agreements, documents and instruments related thereto, as each of the same may be amended, supplemented or modified from time to time, the "***DIP Credit Agreement***," and the postpetition financing made available hereby, the "***DIP Facility***" or "***DIP Financing***"), dated as of January 20, 2010, by and among Atrium Companies, Inc. ("***ACI***"), as borrower, each of the other Debtors, as guarantors, GE Business Financial Services Inc., as administrative and collateral agent (the "***DIP Agent***") and a syndicate of financial institutions (collectively, with the DIP Agent, the "***DIP Lenders***").

b. grant to the DIP Agent, for the benefit of itself and the other DIP Lenders, senior liens on substantially all of the Debtors' assets pursuant to sections 364(c)(2) and (d) of the Bankruptcy Code;

c. grant superpriority administrative claims to the DIP Lenders pursuant to section 364(c)(1) of the Bankruptcy Code;

d. use "cash collateral" (as such term is defined in section 363 of the Bankruptcy Code) of the Debtors' Prepetition Secured Lenders (as defined below);

e. grant adequate protection to the secured parties under the Second Amended and Restated Credit Agreement, dated as of October 15, 2008, (the "***Prepetition Secured Credit Agreement***"), among ACI, as borrower, certain other Debtors, as guarantors, GE Business Financial Services Inc. (formerly known as Merrill Lynch Business Financial Services Inc.), as administrative agent and collateral agent (in such capacity, the "***Prepetition Secured Agent***") and the lenders party thereto (collectively, the "***Prepetition Secured Lenders***," and together with the Prepetition Secured Agent, the "***Prepetition Secured Parties***");

f. vacate the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the DIP Credit Agreement and the Interim Order and the Final Order;

g. waive any applicable stay, including under Bankruptcy Rule 6004, to provide for immediate effectiveness of the Interim Order; and

h. pursuant to Bankruptcy Rule 4001, set a date for a hearing to consider entry of the Final Order, authorizing and approving the transactions described herein on a final basis.

5. In support of this motion, the Debtors submit the Declaration of Jared J. Dermont, a Partner and Managing Director of Moelis & Company LLC, the Debtors' proposed financial advisor and investment banker, a copy of which is attached hereto as **Exhibit B** (the "***Dermont Declaration***").

Concise Statement Pursuant to Bankruptcy Rule 4001(c)

6. Pursuant to Bankruptcy Rule 4001(c), the Debtors submit this concise statement listing certain material terms contained in the DIP Credit Agreement and the DIP Orders. As discussed in detail herein, the Debtors believe that the terms of the contemplated DIP Financing are appropriate and justified in the context of, and the circumstances relating to, these chapter 11 cases.[4]

a. ***Amount of Borrowing***. The DIP Financing contemplates a $40 million delayed draw term loan, $15 million of which will be made available to the Debtors upon entry of the Interim Order. Borrowings under the DIP Facility that are repaid cannot be reborrowed. DIP Credit Agreement at §§ 2.01, 2.02, 2.04.

b. ***Interest Rate***. The applicable interest rate on the DIP Financing will be (i) 8.5% plus the Alternative Base Rate (as described herein and set forth in section 1.01 of the DIP Credit Agreement) for the period such loan is an Alternative Base Rate Loan; and (ii) 9.5% plus the LIBOR Rate (as described herein and set forth in section 1.01 of the DIP Credit Agreement) for the period such loan is a LIBOR Loan. DIP Credit Agreement at §§ 1.01, 3.02.

c. ***Pricing, Economic Terms and Fees***. The DIP Financing contemplates the payment of various fees, including (i) a $50,000 arranging fee payable to the DIP Agent that is earned and payable upon entry of the Interim Order; (ii) a non-refundable agency fee payable in advance upon entry of the Interim Order and every three months thereafter, in the amount of $50,000; (iii) an upfront facility fee totaling $1.2 million, $600,000 of which will be payable to the DIP Agent for distribution to the DIP Lenders on a pro rata basis upon entry of the Interim Order; and (iv) an unused facility fee equal to 1.0% per annum on the average daily

[4] Capitalized terms used in this concise statement but not otherwise defined herein shall have the meanings ascribed to such terms in the DIP Credit Agreement. This concise statement is qualified in its entirety by reference to the provisions of the DIP Credit Agreement and the Interim Order. To the extent of any inconsistency between this concise statement and the proposed DIP Credit Agreement, the DIP Credit Agreement shall govern.

unused balance of the DIP Facility, payable monthly in arrears. Interim Order at ¶ 2(g); DIP Credit Agreement at § 2.05.

d. ***Conditions to Closing and Borrowing.*** Among the conditions for borrowing under the DIP Facility is the Court's approval of an amendment and waiver relating to the Debtors' continuation of their prepetition accounts receivable securitization facility on a postpetition basis. The Debtors have filed a separate motion seeking this approval. Interim Order at ¶ 2(i).

e. ***Maturity.*** The DIP Facility will mature on July 20, 2010, with the possibility of extension to October 20, 2010, to the extent that, among other things, the Majority Lenders determine that the Debtors are diligently pursuing the confirmation of the Plan in good faith. DIP Credit Agreement at §§ 1.01, 2.12.

f. ***Events of Default.*** The DIP Credit Agreement sets forth a number of events of default, including (i) the entry of an order or orders granting relief from or modifying the automatic stay applicable under section 362 of the Bankruptcy Code to the holder(s) of security interests in the Collateral; (ii) reversal, vacatur or modification (without consent of the requisite percentage of Lenders) of the Interim Order; (iii) failure to obtain entry of the Final Order within 40 days after the Petition Date (or a later date as agreed upon by the Majority DIP Lenders); and (iv) failure to obtain the final securitization order. Interim Order at ¶ 2(f); DIP Credit Agreement at § 10.

g. ***Priority of DIP Liens.*** The DIP Financing contemplates the granting of postpetition liens on substantially all of the Debtors' assets (the "***DIP Collateral***"), including: (i) pursuant to section 364(c)(2) of the Bankruptcy Code, a first priority lien on all unencumbered DIP collateral and, solely upon entry of the Final Order, proceeds of the Debtors' claims and causes of actions under sections 502(d), 544, 545, 547, 548, 549, 550 and 553 of the Bankruptcy Code; (ii) pursuant to section 364(c)(3) of the Bankruptcy Code, a junior lien on all DIP Collateral that is subject to certain prepetition liens (the "***Prepetition Prior Liens***"); and (iii) pursuant to section 364(d)(1) of the Bankruptcy Code a first priority, senior priming lien on all DIP Collateral that is senior and priming to certain prepetition liens, including those under the Prepetition

Secured Credit Agreement, but that is junior to the Carve-Out and the Prepetition Prior Liens. Interim Order at ¶¶ 2(j)-(k); DIP Credit Agreement at § 2.13.

h. ***Priority of DIP Claims.*** In addition to the DIP Liens, the DIP Financing contemplates that all of the DIP Obligations will constitute allowed super-priority administrative claims pursuant to section 364(c)(1) of the Bankruptcy Code and will have priority, subject only to the Carve-Out, over all administrative expense claims whether or not such claims may become secured by a judgment lien or other non-consensual lien, levy or attachment. Interim Order at ¶¶ 2(m).

i. ***Effect on Existing Liens.*** The DIP Facility includes priming liens granted pursuant to section 364(d)(1) of the Bankruptcy Code with respect to the Prepetition Secured Parties during the time between entry of the Interim Order and the Final Order. Additionally, the DIP Facility contemplates the provision of adequate protection to the Prepetition Secured Parties in the form of replacement liens (subject to, among other things, the Carve-Out and the DIP Liens), superpriority claims pursuant to section 507(b) of the Bankruptcy Code (subject to the DIP Super-Priority Claims and the Carve-Out) and certain postpetition payments, including payments to the Prepetition Secured Agent for accrued fees, costs and expenses as well as a portion of the interest accruing under the Prepetition Secured Credit Agreement. Interim Order at ¶¶ 2(j)-(k); 4.

j. ***Borrowing Conditions***. In addition to customary borrowing conditions appropriate for debtor in possession financing agreements, access to the DIP Facility is conditioned upon, among other things, entry of the Interim Order within five days of the Petition Date, payment of the fees and expenses of the Prepetition Secured Parties up to the Closing Date, payment of the Upfront Facility Fee and the filing of the Plan and Disclosure Statement on the Petition Date. DIP Credit Agreement § 7.

k. ***Carve-Out.*** The Interim Order provides that each of the DIP Liens, DIP Super-Priority Claims, Prepetition Liens, Adequate Protection Replacement Liens and Adequate Protection Super-Priority Claims are subject and subordinate to the Carve-Out. The Carve-Out applies to United States Trustee fees, professionals fees of the Debtors and the Committee. Interim Order at ¶ 7.

Provisions to be Highlighted Pursuant to Local Rule 4001-2(a)(i)

7. The DIP Credit Agreement also includes certain provisions that the Debtors are required to highlight pursuant to Local Rule 4001-2(a)(i). As discussed in detail herein, the Debtors believe these provisions are reasonable in light of the facts and circumstances of these chapter 11 cases and should be approved.

a. **Local Rule 4001-2(a)(i)(B) – *Validity, Perfection and Amount of Prepetition Obligations*.** As part of the Interim Order, the Debtors' stipulate and agree that all obligations of the Debtors and liens granted by the Debtors under the Prepetition Secured Credit Agreement are valid, binding, enforceable and perfected. Additionally, the Interim Order provides that the liens granted to the Prepetition Secured Parties are not subject to avoidance, recharacterization or subordination and are subject and subordinate only to the DIP Liens, the Carve-Out and certain other permitted liens under the Prepetition Secured Credit Agreement. Additionally, the Interim Order contemplates a release by the Debtors of the Prepetition Secured Parties of any and all "claims" (as defined in the Bankruptcy Code) with respect to the Prepetition Obligations and Prepetition Liens. The Interim Order refers to these provisions as the "***Debtors' Stipulations***." Interim Order at ¶¶ D(i)-(iii).

b. **Local Rule 4001-2(a)(i)(B) – *Committee Challenge Period*.** The Interim Order provides that the Debtors' Stipulations are binding upon the Debtors in all circumstances as well as each other party in interest, including any Committee, unless such Committee or other party commences a contested matter or adversary proceeding challenging or otherwise objecting to the Debtors' Stipulations or against any or all of the Prepetition Secured Parties on or before 60 days after entry of the Final Order. Interim Order at ¶ 6.

c. **Local Rule 4001-2(a)(i)(C) – *Waiver of Section 506(c) Claims.*** Subject to entry of the Final Order, no costs or expenses of administration of these chapter 11 cases shall be charged against or recovered from the DIP Lenders, the Prepetition Secured Lenders, the DIP Collateral, the Prepetition Collateral (as defined in the Interim Order) and the Cash Collateral pursuant to section 506(c) of the Bankruptcy Code or otherwise without prior written

consent of the DIP Agent or the Prepetition Secured Agent. Interim Order at ¶ 8.

d. **Local Rule 4001-2(a)(i)(D) – *Grant of Liens on Avoidance Actions*.** The DIP Credit Agreement contemplates the grant of postpetition liens to the DIP Lenders on certain avoidance actions, solely upon entry of the Final Order. Interim Order at ¶¶ 2(j)-(k).

e. **Local Rule 4001-2(a)(i)(F) – *Treatment of Committee Professionals*.** The Committee's professional fees are included in the Carve-Out. As discussed above, each of the DIP Liens, DIP Super-Priority Claims, Prepetition Liens, Adequate Protection Replacement Liens and Adequate Protection Super-Priority Claims are subject and subordinate to the Carve-Out. Interim Order at ¶ 7.

Introduction

8. The Debtors require access to liquidity under the DIP Facility to prevent immediate and irreparable harm to their estates. The DIP Facility will ensure that the Debtors are able to continue ongoing business operations, preserve the value of estate assets, maintain favorable relationships with suppliers and customers, pay employees and satisfy other working capital and general corporate needs, all of which are necessary to maintain the value of the Debtors' businesses and, ultimately, effectuate a successful reorganization.

9. As explained in the First Day Declaration, the Debtors have commenced these chapter 11 cases to effectuate an efficient and expeditious restructuring of their balance sheet. Through this restructuring, the Debtors seek to reduce the substantial debt burden that hinders their ability to effectively compete in an already difficult market. To this end, the Debtors have undertaken extensive negotiations with their key creditor constituencies to ensure this goal is quickly realized.

10. These negotiations have been successful. Contemporaneously herewith, the Debtors have filed a pre-negotiated plan of reorganization (the "***Plan***") that is supported by the

Prepetition Secured Agent and a vast majority of the Prepetition Secured Lenders, as evidenced by the Restructuring and Lock-Up Agreement that is attached as an exhibit to the First Day Declaration (the "***Lock-Up Agreement***"). Among other things, the Plan provides for the reorganization of the Debtors as a going concern and will result in the elimination of at least $350 million of outstanding debt obligations.

11. To implement the restructuring contemplated under the Plan and the Lock-Up Agreement, the Debtors require continued and immediate access to liquidity. As discussed below and in the Dermont Declaration, the Debtors' decision to proceed with the DIP Financing comes only after a dedicated and diligent review of other financing alternatives. After a review of such alternatives and arm's-length and extensive negotiations with the DIP Lenders, the Debtors determined that the only viable source of financing was that proposed by the DIP Lenders. Thus, to ensure the Debtors' access to sufficient liquidity that will provide the foundation for maximizing value for all stakeholders, the DIP Facility should be approved.

The Debtors' Outstanding Prepetition Indebtedness

12. As of December 31, 2009, the Debtors have outstanding secured and unsecured indebtedness totaling approximately $655.9 million. These obligations include: (a) $383.1 million outstanding under the Prepetition Secured Credit Agreement, which is secured by substantially all of the Debtors' assets; (b) $47.9 million outstanding under certain 11.0% unsecured notes due 2012 (the "***11.0% Senior Subordinated Notes***"); and (c) $220.3 million outstanding under certain 15.0% unsecured notes due 2012 (the "***15.0% Senior Subordinated Notes***" and, together with the 11.0% Senior Subordinated Notes, the "***Senior Subordinated Notes***"). Additionally, the Debtor ACIH, Inc. is obligated on $4.6 million outstanding under 11.5% unsecured notes due 2012 (the "***ACIH Notes***").

13. The chart below summarizes the Debtors' prepetition indebtedness, including

approximate amounts outstanding as of December 31, 2009. Further detail with respect to each debt obligation is provided below.

Debt Obligation	Original Amount	Approximate Amount Outstanding as of December 31, 2009	Maturity Date	Security Status
Prepetition Secured Credit Agreement	Revolver: $46 million	Revolver: $34.7 million[5]	May 2011	Secured
	Term Loan: $335 million	Term Loan: $349.0 million	May 2012	Secured
11.0% Senior Subordinated Notes	$42 million	$47.9 million	December 2012	Unsecured
ACIH Notes	$174 million	$4.6 million[6]	December 2012	Unsecured
15.0% Senior Subordinated Notes	$186 million	$220.3 million	December 2012	Unsecured

A. The Prepetition Secured Credit Agreement

14. On October 15, 2008, Atrium Companies, Inc., as borrower, and each of the Debtors (other than Atrium Corporation), as guarantors, entered into the Prepetition Secured Credit Agreement. The Prepetition Secured Credit Agreement waived the Debtors' defaults under the Debtors' prior credit facility while increasing the interest rate thereunder and establishing new financial covenants.

15. The Prepetition Credit Agreement includes: (a) a revolving credit facility in the amount of approximately $46 million; (b) a $20 million sublimit for the issuance of letters of credit; (c) a $10 million sublimit for swing line loans; and (d) a term loan facility in the amount of approximately $335 million. A total of approximately $383.7 million was outstanding under the Prepetition Secured Credit Agreement as of December 31, 2009.

16. Each of the Debtors (other than Atrium Corporation) unconditionally guaranteed

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5 This includes approximately $12.6 million in issued and outstanding letters of credit.

6 In October 2008, the Company exchanged 97.45% of the ACIH Notes for the 15.0% Senior Subordinated Notes and equity warrants.

the obligations under the Prepetition Secured Credit Agreement. In addition, the obligations under the Prepetition Secured Credit Agreement, and the obligations of the guarantors under the guarantees, are secured by substantially all of Debtors' assets, including:

- a first priority perfected security interest in all of the capital stock of each of the Debtors (except Atrium Corporation and ACIH, Inc.); and
- a first priority perfected security interest in substantially all other present and future assets and properties, including accounts receivable, inventory, machinery, equipment, contracts, domestic intellectual property, license rights and general intangibles (other than the accounts receivable and other assets that are pledged to secure the A/R Facility, as defined below).

17. The Debtors have been in default under the Prepetition Secured Credit Agreement since May 2009 after failing to make a payment thereunder.

B. The A/R Facility

18. On December 28, 2007, Atrium Companies, Inc., and certain of its subsidiaries entered into an accounts receivable securitization facility for a five year term expiring on December 28, 2012 (the "***A/R Facility***").7 Pursuant to the A/R Facility, each participating Debtor agreed to sell, on a non-recourse and ongoing basis, a pool of receivables comprising their entire trade receivable portfolio to Atrium Funding Corporation II (the "***SPV***") — a special purpose, bankruptcy-remote entity wholly-owned by Atrium Companies, Inc. Contemporaneously therewith, the SPV entered into an agreement with a group of financial institutions, with General Electric Capital Corporation acting as the administrative agent,

7 The Debtor entities party to the A/R Facility are: Aluminum Screen Manufacturers, Inc., Atrium Door and Window Company – West Coast, Atrium Door and Window Company of Arizona, Atrium Door and Window Company of the Northeast, Atrium Door and Window Company of the Northwest, Atrium Door and Window Company of the Rockies, Atrium Extrusion Systems, Inc., Atrium Florida, Inc., Atrium Vinyl, Inc., Atrium Windows and Doors of Ontario, Inc., Superior Engineered Products Corporation, and Thermal Industries, Inc.

pursuant to which the financial institutions agreed to fund advances to the SPV to enable the SPV to purchase receivables from the participating Debtors, subject to certain reserves and eligibility criteria.

19. As a condition to the financial institutions' agreement to fund advances under the A/R Facility, the SPV agreed to assign and pledge all of its right, title and interest in and to the receivables to the administrative agent, for the benefit of the funding financial institutions. The SPV is not a Debtor in these chapter 11 cases. The Debtors' net accounts receivable balance as of November 30, 2009 includes $12.7 million of retained interests in receivables that have been transferred to the SPV in connection with the A/R Facility and is net of the obligations of the SPV to the lenders under the A/R Facility.

20. In connection with the filing of this motion, the Debtors have filed a separate motion for authority to enter into and perform under an amendment to the operative documents governing the A/R Facility that will permit the Debtors to continue the A/R Facility on a postpetition basis (the "***A/R Motion***").

C. The Swap Agreement

21. On December 27, 2007, Atrium Companies, Inc. entered into a swap agreement with Merrill Lynch Capital Services (the "***Swap Contract***"). As of the Petition Date, approximately $4.7 million of termination payments was due under the Swap Contract, inclusive of accrued and unpaid interest and certain fees, costs, expenses, charges and all other obligations incurred in connection therewith as provided in the Swap Contract (the "***Swap Contract Claims***"). The Swap Contract Claims are secured by liens on and security interests in substantially all of the Debtors' assets. These liens and interests are of equal priority to the obligations under the Prepetition Secured Credit Agreement.

D. The Senior Subordinated Notes

22. Atrium Companies, Inc. issued the 11.0% Senior Subordinated Notes and 15.0% Senior Subordinated Notes in October 2008. The Senior Subordinated Notes are governed by an indenture by and among Atrium Companies, Inc. and each of the other Debtors (except Atrium Corporation) as guarantors, and U.S. National Bank Association, as trustee, dated October 15, 2008 (the "***Senior Subordinated Notes Indenture***"). The Senior Subordinated Notes, which mature on December 15, 2012, are jointly and severally, absolutely and unconditionally guaranteed by each of the Debtors in these chapter 11 cases except Atrium Corporation.

23. In the event of any distribution or payment that would otherwise be made in respect of the 11.0% Senior Subordinated Notes or the 15.0% Senior Subordinated Notes (other than regularly scheduled payments of interest, whether in the form of cash or payment-in-kind interest), including, without limitation, any distribution or payment that is made in connection with any refinancing or recapitalization of Atrium Companies, Inc., upon the sale of all or any part of the assets of Atrium Companies, Inc. or any of its subsidiaries or the winding up of their affairs (including pursuant to an event of liquidation under chapter 7 or chapter 11 of the Bankruptcy Code, state law, or otherwise), holders of the 11.0% Senior Subordinated Notes are entitled to receive, in the aggregate, (a) prior to December 15, 2011, an amount equal to 75% of the aggregate principal amount of, and unpaid interest on, the 11.0% Senior Subordinated Notes (the "***Prior Payment Amount***") and (b) on or after December 15, 2011, the Prior Payment Amount as of December 15, 2011, before holders of the 15.0% Senior Subordinated Notes are entitled to receive all or any portion of any such distribution or payment. Thereafter, any distribution to the holders of the 15.0% Senior Subordinated Notes and the 11.0% Senior Subordinated Notes is pro rata in accordance with otherwise applicable law and the terms of the Senior Subordinated Notes Indenture.

24. Atrium Corporation is a signatory to only one provision of the Senior Subordinated Notes Indenture, pursuant to which holders of the majority in principal amount of the 15.0% Senior Subordinated Notes are entitled to appoint one director and one observer to Atrium Corporation's Board of Directors, and holders of the majority in principal amount of the 11.0% Senior Subordinated Notes are entitled to appoint one observer to Atrium Corporation's Board of Directors.

E. The ACIH Notes

25. ACIH, Inc. issued the ACIH Notes in December 2004. The ACIH Notes are governed by an indenture by and between ACIH, Inc., as issuer and U.S. National Bank Association as trustee dated as of December 28, 2004 (as amended from time to time, the "***ACIH Notes Indenture***"). Pursuant to the October 2008 restructuring, 97.4% of the ACIH Notes were exchanged for the 15.0% Senior Subordinated Notes and equity warrants. With respect to the unexchanged ACIH Notes, the ACIH Notes Indenture is still in effect; however, pursuant to the Ninth Supplemental Indenture, by and between ACIH, Inc. and U.S. National Bank Association, dated as of October 15, 2008, many operative provisions with respect to events of default and covenants for the ACIH Notes have been eliminated.

The Debtors' Liquidity Needs and the DIP Budget

26. The Debtors are one of the largest manufacturers and distributors of residential windows and patio doors in the United States. The Debtors' offer a comprehensive product line of aluminum and vinyl windows and patio doors, as well as other complementary building material products, to leading national homebuilders, distributors and home center retailers. A severe economic recession, which was triggered by a collapse in housing prices, a credit crunch and diminished levels of demand, has had a debilitating impact on the Debtors' businesses.

27. The recession left a large inventory of houses, but deprived individuals of the resources to purchase them, thereby dampening housing demand. As housing demand subsided, so did demand for the Debtors' products. Economic insecurity has curtailed individuals' home remodeling plans, further hurting the Debtors' bottom line. The depressed revenues from this economic slowdown impede the Debtors' ability to both service their debt obligations and invest in the capital and labor necessary for their businesses to succeed.

28. To best assess the Debtors' funding needs during these chapter 11 cases, the Debtors have, with the assistance of their advisors, analyzed their cash needs to determine what is necessary to maintain their operations in chapter 11 and work toward a successful reorganization within the timeframe contemplated under the Plan.

29. As described in the Dermont Declaration, on or about August 10, 2009, the Debtors retained Moelis & Company LLC ("***Moelis***") as their financial advisor and investment banker. Moelis – together with the Debtors' management team – analyzed the Debtors' cash needs to determine if there was a need for additional liquidity to support the Debtors' balance sheet restructuring initiatives. More specifically, and considering the ongoing dialogue the Debtors had been engaged in with their senior secured lenders for many months, Moelis considered the incremental liquidity that would be necessary to maintain operations in connection with the filing of these chapter 11 cases and implementation of a swift and permanent de-leveraging.

30. In undertaking this analysis, Moelis considered the Debtors' near-term financial projections, including, without limitation, demand for the Debtors' products and the cost to manufacture such products. The Debtors' management also conferred with key operational

divisions to understand essential business metrics in both the near and long-term to help establish the financial projections that were necessary to adequately analyze future liquidity needs.

31. As part of the Debtors' recent financial analysis and projections, the Debtors developed a 13-week cash flow forecast that takes into account anticipated cash receipts and disbursements during the projected period. This forecast considers a number of factors, including the impact of the chapter 11 filing, material cash disbursements, required vendor payments, cash flows from the Debtors' ongoing operations and the cost of necessary goods and materials.

32. Following, Moelis' review and analysis of the Debtors' financial situation, and in connection with ongoing discussions concerning the Debtors' overall de-leveraging efforts, the Debtors entered into extensive, arm's-length negotiations concerning the Debtors' potential incremental liquidity needs with the Prepetition Agent and an ad hoc group of the Prepetition Lenders. The Prepetition Secured Lenders were an obvious source of incremental financing as the incumbent lenders who could provide financing, thereby alleviating a potential "priming fight."

33. Additionally, the parties discussed and contemplated the use of cash collateral, with or without any additional financing, to fund operations during these chapter 11 cases. However, based on the Debtors' financial projections, as well as Moelis' analysis and discussions with the Prepetition Secured Lenders, it was determined that cash collateral alone was insufficient to fund operations and the Debtors' go-forward business plan. Thus, to provide the Debtors with appropriate and necessary financing, the negotiation of adequate liquidity in the form of debtor in possession financing was critical to ensure that operations would continue uninterrupted during the Debtors' restructuring.

34. Utilizing the 13-week cash flow forecast to project their cash needs during these chapter 11 cases, the Debtors believe that $15 million in liquidity availability is necessary for operations during the early stage of these chapter 11 cases. The proposed DIP Financing will provide the Debtors with immediate access of up to $15 million of a delayed draw term loan. The Debtors note, however, that the 13-week cash flow forecast on which this conclusion is based assumes that the Debtors will have continued access to the A/R Facility — which provides for a commitment of up to $60 million — on a postpetition basis. As noted above, the Debtors have filed the A/R Motion, which, upon approval, will permit the Debtors to continue the A/R Facility on a postpetition basis. Additionally, it is important to note that approval of the A/R Motion on an interim basis is a condition precedent to the Debtors' access to the DIP Financing.

35. Ultimately, the Debtors rely on working capital financing to meet their cash needs, and the filing of these chapter 11 cases makes the need for such financing even greater. Indeed, immediate access to the DIP Facility and use of cash collateral will enable the Debtors to demonstrate to their vendors, suppliers, customers and employees that they have sufficient capital to ensure ongoing operations. Without access to the funds available under the DIP Facility, as well as continued access to the A/R Facility, the Debtors may not have the necessary liquidity to conduct their business as a going concern. Absent the ability to obtain postpetition financing, the Debtors may have to curtail or even terminate their business operations to the material detriment of creditors, employees and other parties in interest and it is likely the Debtors' restructuring would fail. Thus, the Debtors have an immediate need to ensure that working capital is available on an interim basis and throughout the pendency of these chapter 11 cases.

The Debtors' Efforts to Obtain Postpetition Financing

36. In early December, in addition to ongoing discussions with the Prepetition Secured Lenders regarding potential debtor in possession financing, Moelis also approached a broad set of potential lenders, including "traditional lenders" (*e.g.*, money-center banks) and "non-traditional lenders" (*e.g.*, hedge funds). Because of the potential complexity of obtaining postpetition financing that would "prime" the Prepetition Secured Lenders, and the short timeframe in which the Debtors were likely to need access to such financing, Moelis chose to target a group of potential lenders that, in its professional judgment, would be most likely to provide postpetition financing under the specific circumstances and dynamics of these chapter 11 cases.

37. Over the last several weeks, of the eight parties initially contacted six potential lenders signed confidentiality agreements and conducted initial diligence. Of those six parties, two – one bank and one hedge fund – indicated early on that they did not intend to submit a letter of intent or a term sheet with respect to postpetition financing.

38. The Debtors ultimately received preliminary indications regarding pricing and terms for postpetition financing from three financing sources, as well as a proposal submitted by the Prepetition Agent and certain of the Prepetition Secured Lenders.

39. The Debtors' management, together with Moelis, analyzed and considered each of the financing proposals. For various reasons, several of which are detailed below, the Debtors determined that the proposed DIP Financing was far superior to any of the other proposals. In fact, a review of the three other term sheets, when compared to the proposed DIP Financing, revealed that the proposed DIP Financing was the only viable financing alternative under the circumstances.

40. *First*, the proposed DIP Financing contemplates continued access to the A/R Facility. Although the advancing agent and administrative agent under the A/R Facility – General Electric Capital Corporation – is a separate and distinct entity from the Prepetition Agent and the agent under the Proposed DIP Financing, the Debtors understood from early discussions with those parties that the Debtors would not have postpetition access to the A/R Facility if the Debtors pursued postpetition financing with a third party source.

41. Notably, maintaining the A/R Facility minimizes the sizing requirements of the Debtors' postpetition financing needs, thereby minimizing administrative expenses in these chapter 11 cases. Moreover, absent an amendment to the terms of the A/R Facility to provide for its continuation postpetition, the securitization would terminate (by its express terms) and the Debtors would be left without an important source of liquidity, thereby necessitating a significant increase in liquidity needs and the size of any replacement financing facility. As a result, a competing postpetition financing facility would, absent the Debtors' continued access to the A/R Facility, need to be sized at approximately $100 million.

42. *Second*, because the proposed DIP Financing is limited in size, the upfront costs, including the commitment and arrangement fees, are comparatively less than the fees associated with alternative sources of financing, including the financing proposals received by the Debtors as part of this process.

43. *Third*, the proposed DIP Facility negates a potential "priming" fight, considering that the Debtors have reached a consensus with respect to adequate protection to be provided to the Prepetition Secured Lenders, whose prepetition liens are being primed by the proposed DIP Financing. An agreement on adequate protection was highly unlikely under the alternative forms of postpetition financing. In the first instance, none of the third party sources of financing were

willing to consider providing postpetition financing without obtaining first-priority priming liens on substantially all of the Debtors' assets. Moreover, all parties made clear to the Debtors and Moelis that they would not seek to provide postpetition financing on a priming basis without the consent of the Prepetition Secured Lenders. At the same time, the Prepetition Secureds indicated to the Debtors that they were not inclined to permit their prepetition liens to be primed on a consensual basis. Any uncertainty with respect to the Debtors' access to postpetition financing, however, would be detrimental to the Debtors' business operations and could impact the Debtors' expeditious exit from chapter 11. As a result, moving forward with a "priming" fight was not in the best interests of the Debtors' estates.

44. Based on the foregoing considerations, the Debtors determined to proceed with negotiations with respect to the financing proposed by the Prepetition Secured Lenders. This is not to say, however, that the Debtors' discussions with the Prepetition Secured Lenders were not hard-fought. Indeed, over the course of the weeks and days immediately proceeding the commencement of these chapter 11 cases, the Debtors and the Prepetition Secured Lenders engaged in rigorous, arm's-length and good faith negotiations with respect to all aspects of the proposed DIP Financing, including the size and term of the facility, the cost of the facility and the events of default contemplated thereunder. Only after these discussions did the Debtors determine to proceed with the terms of the proposed DIP Financing.

Summary of Proposed Postpetition Financing

45. In accordance with the terms and conditions of the DIP Credit Agreement, the DIP Lenders have agreed to extend the DIP Facility in an aggregate amount of $40 million. On an interim basis, the DIP Lenders will provide the Debtors with access of up to $15 million of a delayed draw term loan, which will be used to pay costs and expenses associated these

chapter 11 cases and provide financing for working capital, letters of credit, capital expenditures and other general corporate purposes of the Debtors.

46. The following summarizes the significant terms of the DIP Credit Agreement and the Interim Order.[8]

Provision	Summary Description
Borrower Interim Order at ¶ (i); Agreement definition of "Borrower"	Atrium Companies, Inc. as "Borrower."
Guarantors Interim Order at ¶ (i); Schedule 1.01(b) to Agreement	Each of the following Debtors: Atrium Corporation; ACIH Inc.; Aluminum Screen Manufacturers, Inc.; Atrium Door and Window Company – West Coast; Atrium Door and Window Company of Arizona; Atrium Door and Window Company of the Northeast; Atrium Door and Window Company of the Northwest; Atrium Door and Window Company of the Rockies; Atrium Enterprises Inc.; Atrium Extrusion Systems, Inc.; Atrium Florida, Inc.; Atrium Vinyl, Inc.; Atrium Windows and Doors of Ontario, Inc.; Champion Window, Inc.; North Star Manufacturing (London) Ltd.; R.G. Darby Company, Inc.; Superior Engineered Products Corporation; Thermal Industries, Inc.; and Total Trim, Inc.
DIP Agent and Collateral Agent Interim Order at ¶ (i); Agreement definition of "Administrative Agent" and "Collateral Agent"	GE Business Financial Services Inc.

[8] This summary of the DIP Credit Agreement is provided for the benefit of the Court and other parties in interest. To the extent there are any conflicts between this summary and the DIP Credit Agreement, the terms of the DIP Credit Agreement shall govern. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the DIP Credit Agreement.

Provision	Summary Description
Arranger and Bookrunner Interim Order at ¶ (i); Agreement definition of "Lead Arranger"	GE Capital Markets, Inc.
DIP Lenders Interim Order at ¶ (i); Agreement definition of "Lenders"	GE Business Financial Services Inc. and a syndicate of financial institutions party to the DIP Credit Agreement.
Committed Facilities Interim Order at ¶¶ (i), (vii), 2(c); Agreement definition of "DIP Facility"; Agreement at § 2.01	Aggregate $40 million senior secured priming and superpriority delayed draw term loan credit facility. ▪ Interim DIP Order: Authorizes loans up to $15 million in aggregate outstanding principal. ▪ Final Order: Remaining funds under the DIP Facility shall be made available.
Borrowing Conditions Agreement at § 7.01	In addition to customary borrowing conditions appropriate for debtor in possession financing agreements, including the Debtors' production of corporate documents, financial statements and certificates of good standing, accuracy of representations and absence of default, the effectiveness of the DIP Credit Agreement and obligations of the DIP Lenders to make Loans pursuant thereto are subject to the satisfaction of the conditions precedent that: ▪ The Interim Order is entered by the Court no later than five days after the Petition Date in form and substance satisfactory to the DIP Lenders. ▪ Entry or "making" of the CCAA Order by the CCAA Court. ▪ The Plan Support Agreement shall not have been breached by any of the Debtors and shall be in full force and effect. ▪ All accrued out-of-pocket fees and expenses of the DIP Lenders in connection with the Prepetition Secured Credit Agreement and the Credit Documents have paid to the extent invoiced. ▪ The First Day Orders shall have been entered.

Provision	Summary Description
	▪ The DIP Lenders have approved the Debtors' initial Budget. ▪ The A/R Facility Amendment shall have been duly executed and delivered by the parties thereto and the Bankruptcy Court shall have entered the Interim A/R Facility Order. ▪ The Prepetition Secured Lenders shall have received payment in full of the cash interest payment due December 31, 2009, under the Prepetition Secured Credit Agreement. ▪ The Debtors shall have filed the Disclosure Statement and Plan with the Bankruptcy Court on the Petition Date. ▪ The Debtors shall have paid the Upfront Facility Fee.
Maturity Agreement definition of "Initial Maturity Date" and "Outside Maturity Date"; Agreement at § 2.12	The DIP Facility shall mature on the Initial Maturity Date of the DIP Credit Agreement, which is July, 20, 2010, unless extended to the Outside Maturity Date, which is October 20, 2010, to the extent that, among other things, the Majority Lenders determine that the Debtors are diligently pursuing the confirmation of the Plan in good faith.
Use of Funds Interim Order at ¶ 2(h); Agreement at § 9.28	The Debtors shall apply the proceeds of all Loans solely as follows: (i) to pay costs and expenses of the Transactions; (ii) to pay costs and expenses in connection with these chapter 11 cases in accordance with and as set forth in the Approved Budget; (iii) to pay Obligations under the DIP Credit Agreement as and when due and payable; (iv) to pay such prepetition obligations as the Bankruptcy Court may approve; (v) for working capital and other general corporate purposes of the Debtors not in contravention of any Requirement of Law and not in violation of the DIP Credit Agreement; and (vi) for Capital Expenditures to the extent set forth in the Approved Budget and to the extent Capital Expenditures do not exceed the Maximum Capital Expenditures applicable at that date as set forth in section 9.11 of the DIP Credit Agreement.
Interest Rate Interim Order at ¶ 2(g); Agreement at § 3.02	Interest shall be paid in cash on the unpaid principal amount of each Loan made for the period from and including the date of such Loan to but excluding the date such Loan shall be paid in full at the following rates *per annum*: ▪ during such periods as such Loan is an ABR Loan, the Alternate Base Rate (as in effect from time to time), *plus*

Provision	Summary Description
	the Applicable Margin; and ▪ during such periods as such Loan is a LIBOR Loan, for each Interest Period relating thereto, the LIBOR Rate for such Loan for such Interest Period, *plus* the Applicable Margin. "Alternate Base Rate" shall mean for any day, a rate per annum equal to the highest of (i) the rate last quoted by *The Wall Street Journal* as the "Prime Rate" in the United States or, if *The Wall Street Journal* ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by Agent) or any similar release by the Federal Reserve Board (as determined by Agent); (ii) the sum of 3% per annum and the Federal Funds Rate; and (iii) the sum of LIBOR calculated for each such day based on an Interest Period of three months determined two Business Days prior to such day, plus (y) the excess of the Applicable Margin for LIBOR Loans over the Applicable Margin for ABR Loans, in each instance, as of such day. Any change in the Base Rate due to a change in any of the foregoing shall be effective date of such change in the Federal Funds Rate or LIBOR for an Interest Period of three months. "LIBOR Rate" shall mean, for any LIBOR Loan for any Interest Period therefor, a rate *per annum* (rounded upwards, if necessary, to the nearest 1/100 of 1%) determined by the Administrative Agent to be equal to the LIBOR Base Rate for such Loan for such Interest Period divided by 1 minus the Reserve Requirement (if any) for such Loan for such Interest Period. "LIBOR Base Rate" shall mean, for each Interest Period, the higher of (i) 3.0% per annum or (ii) the offered rate per annum for deposits of Dollars for the applicable Interest Period that appears on Reuters Screen LIBOR 01 Page as of 11:00 A.M. (London, England time) two Business Days prior to the first day in such Interest Period. If no such offered rate exists, such rate will be the rate of interest per annum, as determined by Administrative Agent at which deposits of Dollars in immediately available funds are offered at 11:00 A.M. (London, England time) two Business Days prior to the first day in such Interest Period by major financial institutions reasonably

Provision	Summary Description
	satisfactory to Agent in the London Interbank market for such Interest Period for the applicable principal amount on such date of determination. "Applicable Margin" shall mean 8.50% for Loans maintained as ABR Loans and 9.50% for Loans maintained as LIBOR Loans.
Fees Interim Order at ¶ 2(g); Agreement at § 2.05; 7.01(ii)(xix)	Debtors have agreed to pay the following fees: ▪ An Arranging Fee of $50,000 payable to the DIP Agent. ▪ An Agency Fee of $50,000 payable to the DIP Agent in advance upon entry of the Interim Order and every three months thereafter. ▪ An Upfront Facility Fee of $1,200,000, $600,000 of which shall be paid upon the Debtors' acceptance of the Delayed Draw Term Loan Commitments and $600,000 of which shall be paid on the Closing Date, to the DIP Agent for distribution to the DIP Lenders. ▪ An unused line fee equal to 1.0% per annum on the average unused daily balance of the DIP Facility, payable monthly in arrears to DIP Agent for prompt distribution to the DIP Lenders on a pro rata basis.
DIP Budget Interim Order at ¶ 2(d)-(e); Agreement definition of "Approved Budget"	The Debtors shall operate under a "rolling" 13-week budget which reflects on a line-item basis the Debtors' projected cumulative cash receipts, disbursements, unused availability under the DIP Facility and A/R Facility and unrestricted cash on hand on a weekly basis. The Debtors shall provide a Variance Report, certified by the chief financial officer of the Borrower, to the DIP Agent, so as actually to be received on or prior to the last Business Day of each week commencing with the last Business Day of the fourth week after the Closing Date in form acceptable to the DIP Agent and the Majority DIP Lenders in their sole discretion, setting forth (i) the actual cash receipts, expenditures and disbursements for such immediately preceding calendar week on a line-item basis and the Aggregate Liquidity as of the end of such calendar week; (ii) the variance in dollar amounts of the actual expenditures and disbursements (excluding debt service, professional fees and Capital Expenditures) for each 4-week period from those reflected for the corresponding period in the Approved Budget; and (iii) the variance in dollar amounts of the actual expenditures and disbursements in respect of professional

Provision	Summary Description
	fees for each 4-week period from those reflected for the corresponding period in the Approved Budget.
Use of Cash Collateral Interim Order at ¶ ¶ 1(iv), 3	Subject to the terms and conditions of the Interim Order and the DIP Loan Documents, (i) the Debtors are authorized to use proceeds of DIP Loans from and after the Closing Date and (ii) the Debtors are authorized to use all Cash Collateral, and each Debtor shall be prohibited from at any time using proceeds of DIP Loans or Cash Collateral except in accordance with the terms and conditions of the DIP Orders and the DIP Loan Documents. The term "Cash Collateral" means "cash collateral" (as such term is defined in section 363 of the Bankruptcy Code), including, Cash Collateral in which the Prepetition Secured Parties and/or the DIP Lenders have a Lien or other interest, in each case whether existing on the Petition Date, arising pursuant to the Interim Order or otherwise.
DIP Collateral Interim Order at ¶ 1(iv)	The term "DIP Collateral" means all collateral including, without limitation, all cash and cash equivalents (whether maintained with any of the DIP Agent or otherwise), and any investment in such cash or cash equivalents, money, inventory, goods, accounts receivable, other rights to payment, intercompany loans and other investments, investment property, contracts, contract rights, properties, plants, equipment, machinery, general intangibles, payment intangibles, accounts, deposit accounts, documents, instruments, chattel paper, documents of title, letters of credit, letter of credit rights, supporting obligations, leases and other interests in leaseholds, real property, fixtures, patents, copyrights, trademarks, trade names, other intellectual property, intellectual property licenses, capital stock of subsidiaries (subject to the restriction set forth below), tax and other refunds, insurance proceeds, commercial tort claims, Avoidance Action Proceeds (as defined below and solely upon entry of the Final Order), rights under section 506(c) of the Bankruptcy Code (solely upon entry of the Final Order), all other Collateral and all other "property of the estate" (within the meaning of the Bankruptcy Code) of any kind or nature, real or personal, tangible, intangible or mixed, now existing or hereafter acquired or created, and all rents, products, substitutions, accessions, profits, replacements and cash and non-cash proceeds of all of the foregoing; *provided, however*, that notwithstanding any provision of the DIP Credit Agreement or in any DIP Loan Document to the contrary, no Debtor

Provision	Summary Description
	organized under U.S. law shall be required to pledge in excess of 65% of the capital stock of its direct foreign subsidiaries (other than North Star Manufacturing (London) Ltd., 100% of the capital stock of which shall be pledged) or any of the capital stock of its indirect foreign subsidiaries.
DIP Liens Interim DIP Order at ¶ 2(j)	As security for the DIP Obligations, the Debtors' grant the following security interests and liens on all of the DIP Collateral and all such Liens granted to the DIP Agent as provided in the DIP Loan Documents as security for the DIP Obligations: ▪ pursuant to section 364(c)(2) of the Bankruptcy Code, a perfected, binding, continuing, enforceable, non-avoidable, first priority Lien on all unencumbered DIP Collateral and, upon entry of the Final Order, proceeds ("***Avoidance Action Proceeds***") of solely the Debtors' claims and causes of action under sections 502(d), 544, 545, 547, 548, 549, 550 and 553 of the Bankruptcy Code and any other avoidance or similar action under the Bankruptcy Code or similar state law ("***Avoidance Actions***"), whether received by judgment, settlement or otherwise; ▪ pursuant to section 364(c)(3) of the Bankruptcy Code, a perfected junior Lien upon all DIP Collateral that is subject to (x) valid, enforceable, non-avoidable and perfected Liens in existence on the Petition Date that, after giving effect to any intercreditor or subordination agreement, are senior in priority to the Prepetition Liens, and (y) valid, enforceable and non-avoidable Liens in existence on the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code and after giving effect to any intercreditor or subordination agreement, are senior in priority to the Prepetition Liens, other than, in the case of clause (x) or (y), Liens which are expressly stated to be primed by the Liens to be granted to the DIP Agent (subject to such exception, the "***Prepetition Prior Liens***"); and ▪ pursuant to section 364(d)(1) of the Bankruptcy Code, a perfected first priority, senior priming Lien on all DIP Collateral (including, Cash Collateral) that is senior and priming to (x) the Prepetition Liens and (y) any Liens that are junior to the Prepetition Liens, after giving

Provision	Summary Description
	effect to any intercreditor or subordination agreements (the Liens referenced in clauses (x) and (y), collectively, the "***Primed Liens***"); *provided, however,* that the Liens described in this subsection shall be junior to the Carve-Out and the Prepetition Prior Liens.
DIP Lien Priority Interim DIP Order at ¶ 2(k); Agreement at § 2.13	Notwithstanding anything to the contrary contained in the Interim Order or the other DIP Loan Documents, for the avoidance of doubt, the DIP Liens granted to the DIP Agent for the ratable benefit of the DIP Lenders shall in each and every case be first priority senior Liens that (i) are subject only to the Prepetition Prior Liens, and to the extent provided in the provisions of the Interim Order and the DIP Loan Documents, shall also be subject to the Carve-Out and (ii) except as provided in sub-clause (i), are senior to all prepetition and postpetition Liens of any other person or entity (including, the Primed Liens and the Adequate Protection Replacement Liens). The DIP Liens and the DIP Super-Priority Claims (i) shall not be subject to sections 510, 549, 550 or 551 of the Bankruptcy Code or, subject to entry of the Final Order, section 506(c) of the Bankruptcy Code or the "equities of the case" exception of section 552 of the Bankruptcy Code; (ii) shall not be subordinate to, or *pari passu* with, (x) any Lien that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code or (y) any intercompany or affiliate Liens of the Debtors; and (iii) shall be valid and enforceable against any trustee or any other estate representative appointed in these chapter 11 cases, upon the conversion of any of these chapter 11 cases to a case under chapter 7 of the Bankruptcy Code or in any other proceedings related to any of the foregoing, and/or upon the dismissal of any of these chapter 11 cases.

Provision	Summary Description
Superpriority Administrative Claims Interim Order at ¶ 2(m); Agreement at § 2.13	Effective immediately upon entry of the Interim Order and the Initial CCAA Order, all of the DIP Obligations shall constitute allowed super-priority administrative claims pursuant to section 364(c)(1) of the Bankruptcy Code, which shall have priority, subject only to the payment of the Carve-Out and the Interim Order, over all administrative expense claims, adequate protection and other diminution claims (including the Adequate Protection Super-Priority Claims), unsecured claims and all other claims against the applicable Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including, administrative expenses or other claims of the kinds specified in, or ordered pursuant to, sections 105, 326, 328, 330, 331, 503(a), 503(b), 506(c) (subject to the entry of the Final Order), 507(a), 507(b), 546, 726, 1113 and 1114 or any other provision of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment Lien or other non-consensual Lien, levy or attachment.
Adequate Protection Interim Order at ¶ 4(a)-(b)	The holders of the Prepetition Secured Obligations will receive: (i) replacement liens on all assets of the Obligors, which shall be junior in priority only to the liens securing the DIP Facility, the Carve-Out and any Prior Liens; (ii) a superpriority administrative expense claim pursuant to section 507(b) of the Bankruptcy Code that is junior in priority only to payment of the Carve-Out and to the superpriority administrative expense claim in respect of the DIP Facility; (iii) current cash payment of a portion of the interest due under the Prepetition Secured Credit Agreement equal to the LIBOR Rate (without giving effect to the 3.0% LIBOR floor contained therein) with all other interest due under the Prepetition Secured Credit Agreement being capitalized and added to the outstanding principal balance of the applicable Prepetition Secured Obligations; and (iv) current cash payment of all reasonable and documented fees, costs and expenses of one primary counsel and local counsel (as necessary) for each of the Prepetition Secured Agent and the ad-hoc group of Prepetition Secured Lenders constituting Majority Term Lenders and one financial advisor to be retained by the Prepetition Agent for the benefit of the Prepetition Lenders.

Provision	Summary Description
Events of Default Interim Order at ¶ 2(f); Agreement at § 10	The DIP Credit Agreement contains a number of specific Events of Default, including: ▪ the failure to obtain the Final Order within 40 days after the Petition Date; ▪ the failure to obtain entry of a final securitization order substantially contemporaneously with the entry of the Final Order; ▪ violations of the terms and conditions of the Approved Budged; ▪ obtaining credit or the incurrence of Indebtedness, after the Petition Date that is (i) secured by a security interest, mortgage or other lien on all or any portion of the Collateral which is equal or senior to any security interest, mortgage or other lien of the Prepetition Secured Agent and the Prepetition Secured Lenders or (ii) entitled to priority administrative status which is equal or senior to that granted to the Prepetition Secured Agent and Prepetition Secured Lenders herein, unless used to refinance the Prepetition Obligations in full; ▪ the entry of a final order by the Court, other than the Final Order, granting relief from or modifying the automatic stay of section 362 of the Bankruptcy Code (i) to allow any creditor to execute upon or enforce a lien on or security interest in any Collateral in excess of $1,000,000 or (ii) with respect to any lien of or the granting of any lien on any Collateral to any state or local environmental or regulatory agency or authority, (in each case with a value in excess of $1,000,000) which in either case would have a material adverse effect on the business, operations, property, assets, or condition, financial or otherwise, of the Debtors; ▪ reversal, vacatur, or modification (without the express prior written consent of the Prepetition Secured Agent, in its sole discretion) of the Interim Order; ▪ dismissal of any of these chapter 11 cases or conversion of any of these chapter 11 cases to chapter 7 cases, or appointment of a chapter 11 trustee or examiner with enlarged powers or other responsible person in any of these chapter 11 cases; ▪ upon written notice from the Prepetition Secured Agent,

Provision	Summary Description
	any material misrepresentations made by the Debtors or their agents, after the Petition Date, to the Prepetition Secured Agent or Prepetition Secured Lenders or their agents about the financial condition of the Debtors, or any of them, the nature, extent, location or quality of any Collateral, or the disposition or use of any Collateral, including Cash Collateral; ▪ upon written notice from the Prepetition Secured Agent, the material failure to make adequate protection payments or other payments to the Prepetition Secured Agent and Prepetition Secured Lenders pursuant to the Interim Order and DIP Credit Agreement when due and such failure shall remain unremedied for more than three Business Days after notice thereof; ▪ the failure by the Debtors to perform, in any respect, any of the material terms, provisions, conditions, covenants, or obligations under the DIP Orders and such failure shall continue unremedied for more than three Business Days after receipt by the Debtors of notice thereof; ▪ the failure to obtain an order from the Court approving the Solicitation Materials (as defined in the Lock-up Agreement) and setting a hearing to confirm the Plan or a plan of reorganization incorporating a Higher and Better Bid (as defined in the Lock-up Agreement) within 40 days after the Petition Date, or as soon thereafter as the Court's schedule permits; ▪ the failure to commence a hearing to consider confirmation of the Plan or a plan of reorganization incorporating a Higher and Better Bid within 40 days after the date that the Solicitation Materials are approved; ▪ the Court's order confirming the Plan or any plan of reorganization incorporating a Higher and Better Bid shall not have been entered by the Court within 30 days after the date that the hearing to consider confirmation of the Plan or any plan of reorganization incorporating a Higher and Better Bid shall have commenced, or as soon thereafter as the Court's schedule permits, but in any event not later than 35 days after the date the hearing to consider confirmation of the Plan or any plan of reorganization incorporating a Higher and Better Bid shall have commenced;

Provision	Summary Description
	▪ the effective date of the Plan or any plan of reorganization incorporating a Higher and Better Bid shall not have occurred within 20 days after the date that the Plan or any plan of reorganization incorporating a Higher and Better Bid is confirmed; ▪ any breach by the Debtors of their covenants and other undertakings in the DIP Credit Agreement or the Lock-up Agreement.
Carve-Out Interim Order at ¶ 7	The term "Carve-Out" means (i) all unpaid fees required to be paid in these chapter 11 cases to the clerk of the Bankruptcy Court and to the office of the United States Trustee under 28 U.S.C. §1930(a), whether arising prior to or after the delivery of the Carve-Out Trigger Notice; (ii) all reasonable unpaid fees, costs and disbursements of the Debtors' Professionals that are incurred prior to the delivery by the DIP Agent of a Carve-Out Trigger Notice, are allowed by the Court under sections 105(a), 330 and 331 of the Bankruptcy Code or otherwise and remain unpaid after application of any retainers and any available funds remaining in the Debtors' estates for such creditors; (iii)(x) all reasonable unpaid fees, costs and disbursements of the Committee's Professionals and all reasonable unpaid expenses of the Committee Members that are incurred prior to the delivery by the DIP Agent of a Carve-Out Trigger Notice, are allowed by the Court under sections 105(a), 330 and 331 of the Bankruptcy Code or otherwise and remain unpaid after application of any retainers and any available funds remaining in the Debtors' estates for such creditors and (y) in an aggregate amount not to exceed $250,000; (iv)(x) all reasonable unpaid fees, costs and disbursements of the Debtors' Professionals that are incurred after the delivery of a Carve-Out Trigger Notice are allowed by the Court under sections 105(a), 330 and 331 of the Bankruptcy Code or otherwise and remain unpaid after application of any retainers and any available funds remaining in the Debtors' estates for such creditors and (y) in an aggregate amount not to exceed $1,000,000; (v)(x) all reasonable unpaid fees, costs and disbursements of the Committee Professionals and all reasonable unpaid expenses of Committee Members that are incurred after the delivery of a Carve-Out Trigger Notice are allowed by the Court under sections 105(a), 330 and 331 of the Bankruptcy Code or otherwise and remain unpaid after application of any retainers and any available funds remaining in the Debtors' estates for such creditors and (y) in an aggregate amount not to exceed $50,000; and (vi) the costs and

Provision	Summary Description
	administrative expenses not to exceed $150,000 in the aggregate that are permitted to be incurred by any chapter 7 trustee pursuant to any order of the Court following any conversion of any cases pursuant to section 1112 of the Bankruptcy Code. The term "***Carve-Out Trigger Notice***" shall mean a written notice delivered by the DIP Agent to the Debtors' lead counsel, the U.S. Trustee, counsel for the Prepetition Secured Parties, and lead counsel to any Committee appointed in these chapter 11 cases, which notice may be delivered at any time following the occurrence and during the continuation of any Event of Default under the DIP Loan Documents, expressly stating that the Carve-Out is invoked. Each of the DIP Liens, DIP Super-Priority Claims, Prepetition Liens, Adequate Protection Replacement Liens and Adequate Protection Super-Priority Claims shall be subject and subordinate in all respects to payment of the Carve-Out.
Debtor's Waivers and Releases Interim Order ¶ D(iv)	Subject to the reservation of rights set forth in paragraph 6 of the Interim Order , each Debtor and its estate shall be deemed to have forever waived, discharged and released the Prepetition Secured Parties of any and all "claims" (as defined in the Bankruptcy Code), counterclaims, causes of action, defenses, setoff, recoupment or other offset rights against any and all of the Prepetition Secured Party Releases, whether arising at law or in equity, with respect to the Prepetition Obligations and Prepetition Liens, including (i) any recharacterization, subordination, avoidance or other claim arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code, or under any other similar provisions of applicable state or federal law and (ii) any right or basis to challenge or object to the amount, validity, or enforceability of the Prepetition Obligations, or the validity, enforceability, priority or non-avoidability of the Prepetition Liens securing the Prepetition Obligations.

Supporting Authority

A. Financing Under Section 364 of the Bankruptcy Code

47. Pursuant to section 364(c) of the Bankruptcy Code, a court may authorize a debtor to incur debt that is (a) entitled to a superpriority administrative expense status; (b) secured by a

lien on otherwise unencumbered property; or (c) secured by a junior lien on encumbered property if the debtor cannot obtain postpetition credit on an unsecured basis, on an administrative expense priority or secured solely by junior liens on the debtor's assets. *See* 11 U.S.C. § 364(c);[9] *see also Pearl-Phil GMT (Far East) Ltd. v. Caldor Corp.*, 266 B.R. 575, 584 (S.D.N.Y. 2001) (superpriority administrative expenses authorized where debtor could not obtain credit as an administrative expense).

48. Additionally, section 364(d)(1) of the Bankruptcy Code provides that a court may authorize a debtor to incur postpetition debt on a senior or "priming" basis if (a) the debtor is unable to obtain credit otherwise and (b) there is "adequate protection" of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted. *See* 11 U.S.C. § 364(d)(1).

49. Courts in this jurisdiction and others have fashioned guidelines in applying these statutory requirements. Generally, courts advocate using a "holistic approach" to evaluate superpriority postpetition financing agreements, which focuses on the transaction as a whole. As one court has noted:

> Obtaining credit should be permitted not only because it is not available elsewhere, which could suggest the unsoundness of the basis for use of the funds generated by credit, but also because the credit acquired is of significant benefit to the debtor's estate and . . . the terms of the proposed loan are within the bounds of

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9 Specifically, section 364(c) of the Bankruptcy Code provides, in pertinent part, that:

> If the trustee [or debtor-in-possession] is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt – (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title; (2) secured by a junior lien on property of the estate that is not otherwise subject to a lien; or (3) secured by a junior lien on property of the estate that is subject to a lien.

11 U.S.C. § 364(c).

> reason, irrespective of the inability of the debtor to obtain comparable credit elsewhere.

In re Aqua Assocs., 123 B.R. 192, 196 (Bankr. E.D. Pa. 1991).

50. More specifically, in evaluating a debtor's proposed postpetition financing, courts consider whether the postpetition financing (a) is necessary to preserve the assets of the estate and is necessary, essential and appropriate for continued operation of the Debtors' business; (b) is in the best interests of the Debtors' creditors and estates; (c) is an exercise of a debtor's sound and reasonable business judgment; (d) was negotiated in good faith and at arm's length between the debtor, on the one hand, and the agents and the lenders on the other; and (e) contains terms that are fair, reasonable and adequate given the circumstances of the debtor and the proposed postpetition lender. *In re Farmland Indus., Inc.*, 294 B.R. 855, 862-79 (Bankr. W.D. Mo. 2003); see also *In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 37-39 (Bankr. S.D.N.Y. 1990); *In re Barbara K. Enters., Inc.*, No. 08-11474, 2008 WL 2439649, at *10 (Bankr. S.D.N.Y. June 16, 2008).

51. For these reasons, the Debtors submit that entry into the DIP Facility is in the best interests of the Debtors' creditors, is necessary to preserve the value of estate assets and is an exercise of the Debtors' sound and reasonable business judgment.

(i) Entry into the DIP Facility is in the Best Interests of the Debtors' Creditors and Estates, is Necessary to Preserve Estate Assets and is an Exercise of the Debtors' Sound and Reasonable Business Judgment

47. A debtor's decision to enter into a postpetition lending facility under section 364 of the Bankruptcy Code is governed by the business judgment standard. *See, e.g., Trans World Airlines, Inc. v. Travellers Int'l AG* (*In re Trans World Airlines, Inc.*), 163 B.R. 964, 974 (Bankr. D. Del. 1994) (approving postpetition loan and receivables facility because such facility "reflect[ed] sound and prudent business judgment"); *Ames Dep't Stores*, 115 B.R. at 38 (noting

that financing decisions under section 364 of the Bankruptcy Code must reflect a debtor's business judgment); *Barbara K. Enters.*, 2008 WL 2439649, at *14 (explaining that courts defer to a debtor's business judgment "so long as a request for financing does not 'leverage the bankruptcy process' and unfairly cede control of the reorganization to one party in interest").

48. Generally, the business judgment standard requires that, absent evidence to the contrary, a debtor in possession is afforded discretion to act with regard to business planning activities. *See In re Simasko Prod. Co.*, 47 B.R. 444, 449 (Bankr. D. Colo. 1985) ("[D]iscretion to act with regard to business planning activities is at the heart of the debtor's power.") (citations omitted).

49. Specifically, to determine whether the business judgment standard is met, a court is "required to examine whether a reasonable business person would make a similar decision under similar circumstances." *In re Exide Techs.*, 340 B.R. 222, 239 (Bankr. D. Del. 2006); *see also In re Curlew Valley Assocs.*, 14 B.R. 506, 513-14 (Bankr. D. Utah 1981) (noting that courts should not second guess a debtor's business decision when that decision involves "a business judgment made in good faith, upon a reasonable basis, and within the scope of [the debtor's] authority under the [Bankruptcy] Code.") (citation omitted).

50. The Debtors' decision to enter into the proposed DIP Facility indisputably satisfies this standard. This decision is the culmination of an intense, several month-long process targeted at procuring the best available financing under the circumstances. The Debtors weighed proposals from three potential sources of financing, each of whom made clear that they would not proceed with postpetition financing on a non-consensual priming basis. Additionally, the Prepetition Secured Lenders' offer to provide continued access to the A/R Facility during these chapter 11 cases mitigated the costs of any postpetition financing. Ultimately, the Debtors'

decision to enter into the DIP Facility was no decision at all – there was no other viable financing alternative.

51. Entry into the DIP Facility and securing financing thereunder is absolutely necessary to the preservation of estate assets and is in the best interest of the Debtors' creditors and all parties in interest; therefore entry into the DIP Facility is an exercise of the Debtors' sound business judgment. Given the Debtors' significantly constrained liquidity position, the DIP Facility is of critical importance to operating the Debtors' business and preserving going concern value, especially following the commencement of these chapter 11 cases and the general uncertainty in the marketplace that will accompany this process.

52. Specifically, the Debtors have an urgent need to obtain access to the DIP Facility to, among other things, continue the operation of their businesses in an orderly manner, maintain business relationships with vendors, suppliers, and customers, pay over 3,800 employees and satisfy other working capital and operational needs – each of which is vital to preserving and maintaining the Debtors' going concern value. Moreover, the Debtors' access to the DIP Facility will provide comfort and confidence to all parties in interest at this critical juncture. In short, the Debtors' access to the DIP Facility will ensure that the going concern value of their estates are preserved, thereby providing a greater recovery to the Debtors' stakeholders.

(ii) The Terms of the DIP Facility are Fair, Reasonable and Appropriate in Light of the Debtors' Needs and the Current Market Environment

53. It is well-recognized in this jurisdiction and others that the appropriateness of a proposed postpetition financing facility must be considered in light of current market conditions. *See, e.g., In re Snowshoe Co. Inc.*, 789 F.2d 1085, 1088 (4th Cir. 1986) (noting that a debtor is

not required to seek credit from every possible lender before determining such credit is unavailable). Indeed, courts often recognize that where there are few lenders likely, able and willing to extend the necessary credit to a debtor, "it would be unrealistic and unnecessary to require [a debtor] to conduct such an exhaustive search for financing." *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), *aff'd*, 99 B.R. 117 (N.D. Ga. 1989); *see also In re Garland Corp.*, 6 B.R. 456, 461 (B.A.P. 1st Cir. 1980) (authorizing secured credit under section 364(c)(2), after notice and a hearing, upon showing that unsecured credit was unobtainable); *In re Stanley Hotel, Inc.*, 15 B.R. 660, 663 (D. Colo. 1981) (finding refusal of two national banks to grant unsecured loans was sufficient to support conclusion that requirements of section 364 requirement had been met); *Ames*, 115 B.R. at 37-39 (holding that debtor must show that it made reasonable efforts to seek other sources of financing under section 364(a) and (b)).

54. Rather, a debtor must demonstrate that it made a reasonable effort to seek credit from other sources available under sections 364(a) and 364(b) of the Bankruptcy Code. *See Snowshoe*, 789 F.2d at 1088; *see also In re Plabell Rubber Prods., Inc.*, 137 B.R. 897, 899-900 (Bankr. N.D. Ohio 1992).

55. The Debtors' efforts to obtain alternative postpetition financing made clear that there is no ready market for the Debtors to obtain financing on any terms other than a senior secured, superpriority basis. Moreover, as described above and in the Dermont Declaration, the Debtors' ability to obtain financing on even a superpriority secured basis was limited; both other potential sources of third party financing made clear that they would provide financing only on a senior secured *consensual* basis. At the same time, the Prepetition Secured Lenders were amenable to maintaining access to the A/R Facility, which minimized the size of the Debtors' postpetition financing needs. Accordingly, the Debtors submit that the terms of the DIP Credit

Agreement are reasonable and represent the best source of financing available to the Debtors under the circumstances.

56. Further, in considering whether the terms of postpetition financing are fair and reasonable, courts consider the terms in light of the relative circumstances of both the debtor and the potential lender. *In re Farmland*, 294 B.R. at 886; *see also Unsecured Creditors' Comm. Mobil Oil Corp. v. First Nat'l Bank & Trust Co. (In re Elingsen McLean Oil Co., Inc.)*, 65 B.R. 358, 365 (W.D. Mich. 1986) (recognizing a debtor may have to enter into hard bargains to acquire funds for its reorganization).

a. The Scope of the Carve-Out is Appropriate

57. The proposed DIP Facility subjects the security interests and administrative expense claims of the DIP Lenders to the Carve-Out. Similar carve-outs for professional fees have been found to be reasonable and necessary to ensure that a debtor's estate and any statutory committee can retain assistance from counsel. *See Ames*, 115 B.R. at 40. The DIP Facility does not directly or indirectly deprive the Debtors' estates or other parties in interest of possible rights and powers by restricting the services for which professionals may be paid in these cases. *See Ames*, 115 B.R. at 38 (observing that courts insist on carve-outs for professionals representing parties-in-interest because "[a]bsent such protection, the collective rights and expectations of all parties-in-interest are sorely prejudiced"). Additionally, the Carve-Out protects against administrative insolvency during the course of these chapter 11 cases by ensuring that assets remain for the payment of U.S. Trustee fees and professional fees of the Debtors and a committee of unsecured creditors, notwithstanding the grant of superpriority and administrative liens and claims under the DIP Facility.

b. The Payment of Fees to the DIP Lenders is Appropriate

58. The various fees and charges to be paid to the DIP Lenders, as expressly provided for in section 2.05 of the DIP Credit Agreement, are reasonable and appropriate under the circumstances. Courts routinely authorize similar lender incentives beyond the explicit liens and rights specified in section 364 of the Bankruptcy Code. *See In re Defender Drug Stores, Inc.*, 145 B.R. 312, 316 (9th Cir. BAP 1992) (approving financing facility pursuant to section 364 of the Bankruptcy Code that included a lender "enhancement fee").

B. The DIP Facility was Negotiated in Good Faith and Should be Afforded the Protection of Section 364(e) of the Bankruptcy Code

59. Pursuant to section 364(e) of the Bankruptcy Code, any reversal or modification on appeal of an authorization to obtain credit or incur debt or a grant of priority or a lien under section 364 of the Bankruptcy Code shall not affect the validity of that debt incurred or priority or lien granted as long as the entity that extended credit "extended such credit in good faith." *See* 11 U.S.C. § 364(e).

60. The terms of the DIP Facility were negotiated in good faith and at arm's-length between the Debtors, the DIP Agent and the DIP Lenders, and all of the DIP Facility obligations will be extended by the DIP Lenders in good faith (as such term is used in section 364(e) of the Bankruptcy Code). No consideration is being provided to any party in connection with the DIP Financing other than as set forth herein. Moreover, the DIP Facility has been extended in express reliance upon the protections afforded by section 364(e) of the Bankruptcy Code, and the DIP Lenders should be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that the Interim DIP Order or any provision thereof is vacated, reversed or modified on appeal or otherwise. *See* 11 U.S.C. § 363(e).

C. The Debtors' Proposed Grant of Adequate Protection to Use Cash Collateral is Appropriate

61. As discussed above, the DIP Financing contemplates providing the DIP Lenders with priming liens on the liens granted to the Prepetition Secured Lenders under the Prepetition Secured Credit Agreement pursuant to section 364(d) of the Bankruptcy Code. Accordingly, the Debtors are required to show that the interests of the Prepetition Secured Lenders are "adequately protected." 11 U.S.C. § 364(d). Additionally, pursuant to section 363(c) of the Bankruptcy Code, the Debtors may only use cash collateral of the Prepetition Secured Lenders subject to the consent of those parties or the grant of adequate protection. 11 U.S.C. § 363(c)(2).

62. What constitutes adequate protection is decided on a case-by-case basis and it can come in various forms, including payment of adequate protection fees, payment of interest, granting of replacement liens and administrative claims. *See In re Columbia Gas Sys., Inc.*, 1992 WL 79323, at *2 (Bankr. D. Del. Feb. 18, 1992); *In re Mosello*, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1996) ("the determination of adequate protection is a fact-specific inquiry . . . left to the vagaries of each case"); *see also In re Realty Southwest Assocs.*, 140 B.R. 360 (Bankr. S.D.N.Y. 1992); *In re Beker Indus. Corp.*, 58 B.R. 725, 736 (Bankr. S.D.N.Y. 1986) (the application of adequate protection "is left to the vagaries of each case, but its focus is protection of the secured creditor from diminution in the value of its collateral during the reorganization process") (citation omitted); *see also In re Continental Airlines Inc.*, 154 B.R. 176, 180-181 (Bankr. D. Del. 1993).

63. In this case, access to the DIP Financing – which necessitates granting the DIP Lenders' liens on a priming basis under section 364(d) of the Bankruptcy Code – is critical to the Debtors' ability to continue operations. As a result of such proposed priming, the Debtors intend to provide the Prepetition Secured Lenders with the following forms of adequate

protection. *First*, the Debtors propose to grant the Prepetition Secured Parties replacement liens on all DIP Collateral (including upon entry of the Final Order, the proceeds of certain avoidance actions) to the extent of any aggregate postpetition diminution in value of the prepetition interests of the Prepetition Secured Parties, subject and subordinate only to the liens granted to the DIP Lenders, the Prepetition Prior Liens and the Carve-Out.[10]

64. *Second*, as set forth above and in the Interim Order, the Debtors will, solely to the extent of diminution in the value of the Prepetition Secured Parties' collateral, grant allowed superpriorirty administrative claims pursuant to section 507(b) of the Bankruptcy Code, junior only to the superpriority claims granted to the DIP Lenders and the Carve-Out.[11]

65. *Third*, the Interim Order contemplates the payment of the costs and fees of the Prepetition Secured Agent as well as a portion of the interest accruing under the Prepetition Secured Credit Agreement and the fees, costs and expenses of one primary counsel and local counsel (as necessary) for the Prepetition Secured Agent and each of the Majority Term Lenders (as defined in the Prepetition Secured Credit Agreement) and one financial advisor to be retained by the Prepetition Secured Agent for the benefit of the Prepetition Secured Lenders.

66. The Debtors believe that the proposed adequate protection is necessary and appropriate to ensure that the Debtors can continue to use Cash Collateral and access necessary liquidity under the DIP Financing. Accordingly, the adequate protection proposed herein and in

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[10] Importantly, the Interim Order provides that to the extent the effective date of the Plan occurs by the date set forth in the Debtors' prepetition lock-up agreement, the replacement liens granted to the Prepetition Secured Parties will be deemed satisfied without further consideration beyond the distributions to be provided under the Plan to the Prepetition Secured Parties.

[11] As with the replacement liens, to the extent the effective date of the Plan occurs by the date set forth in the Debtors' prepetition lock-up agreement, the claims granted to the Prepetition Secured Parties will be deemed satisfied without further consideration beyond the distributions to be provided under the Plan to the Prepetition Secured Parties.

the DIP Orders is fair and reasonable and is sufficient to satisfy the requirements of sections 363(c) and 364(d) of the Bankruptcy Code. *See* 11 U.S.C. §§ 363(c), 364(d).

D. Approval of the DIP Facility on an Interim Basis is Necessary to Prevent Immediate and Irreparable Harm

67. Bankruptcy Rule 4001(c)(2) governs the procedures for obtaining authorization to obtain postpetition financing and provides, in relevant part:

> The court may commence a final hearing on a motion for authority to obtain credit no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a hearing before such 14 day period expires, but the court may authorize the obtaining of credit only to the extent necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

Fed. R. Bankr. Proc. 4001(c)(2).

68. In examining requests for interim relief under the immediate and irreparable harm standard, courts apply the same business judgment standard applicable to other business decisions. *See, e.g.*, *Ames Dep't Stores*, 115 B.R. at 36; *Simasko*, 47 B.R. at 449. After the 14-day period, the request for financing is not limited to those amounts necessary to prevent the destruction of the debtor's business, and the debtor is entitled to borrow those amounts that it believes are prudent to the operation of its business. *Ames Dept. Stores* at 36.

69. Immediate and irreparable harm would result if the relief requested herein is not granted on an interim basis. As described in detail herein and in the First Day Declaration, the Debtors have an immediate need to obtain access to liquidity to, among other things, provide comfort to their employees, customers and suppliers as well as to continue to operate their businesses, maintain key business relationships, make payroll and satisfy other working capital and operational needs. Funding each of these expenditures is necessary to the Debtors' ability to preserve and maintain their going-concern values for the benefit of all parties in interest.

70. Absent access to liquidity under the DIP Facility, the continued availability of cash under the A/R Facility and authorization to use Cash Collateral, the Debtors' trade creditors almost certainly will cease to provide goods and services to the Debtors, the Debtors will be unable to satisfy their payroll and other direct operating expenses necessary to run their businesses in the ordinary course. Thus availability of sufficient working capital and liquidity is vital to the preservation and maintenance of the value of the Debtors' estates.

71. The crucial importance of a debtor's ability to secure postpetition financing to prevent immediate and irreparable harm to its estate has been repeatedly recognized in this district. *See, e.g., In re Taylor-Wharton Int'l LLC*, Case No. 09-14089 (Bankr. D. Del. Nov. 20, 2009); *In re Lazy Days' R.V. Center Inc.*, Case No. 09-13911 (Bankr. D. Del. Nov. 6, 2009); *In re Source Interlink Cos.*, Case No. 09-11424 (Bankr. D. Del. May 28, 2009); *In re AbitibiBowater Inc.*, Case No. 09-11296 (Bankr. D. Del. Apr. 20, 2009); *In re EZ Lube, LLC*, Case No. 08-13256 (Bankr. D. Del. Jan 14, 2009).

E. Modification of the Automatic Stay Provided Under Section 362 of the Bankruptcy Code is Appropriate Under the Circumstances

72. Paragraphs 5 and 14 of the proposed Interim Order provide that the automatic stay imposed under section 362(a) of the Bankruptcy Code is hereby lifted to, among other things, permit the Debtors to grant various superpriority liens and claims and adequate protection liens; perform various obligations; incur various liabilities; permit the exercise of remedies by the Prepetition Secured Agent and the DIP Lenders following a default under the DIP Facility; and to allow the DIP Lenders to file and record financing statements, mortgages or other instruments to provide notice and evidence the grant and perfection of the liens.

73. Stay modification provisions of this sort are ordinary and usual features of debtor in possession financing facilities and, in the Debtors' business judgment, are reasonable under

the present circumstances. Accordingly, the Court should modify the automatic stay to the extent contemplated under the DIP Credit Agreement and the proposed DIP Orders.

Request For Final Hearing

74. Pursuant to Bankruptcy Rules 4001(b)(2) and (c)(2) and Local Rule 4001-2(c), the Debtors requests that the Court set a date for the final hearing that is as soon as practicable, but in no event later than 40 days following the Petition Date, and fix the time and date prior to the final hearing for parties to file objections to this motion.

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

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

Notice

76. The Debtors have provided notice of this motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) the entities listed on the Consolidated List of Creditors Holding the 50 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) counsel to the agent for the Debtors' proposed postpetition secured lenders; (d) counsel to the agent for the Debtors' prepetition credit facility; (e) counsel to the ad hoc group of lenders under the Debtors' prepetition credit facility; (f) counsel to the agent under the Debtors' accounts receivable securitization facility; (g) counsel to Kenner & Company, Inc.; (h) the indenture trustee for each of the Debtors' outstanding bond issuances; (i) the monitor appointed in the CCAA Proceeding; (j) the Internal Revenue Service; (k) the Securities and Exchange Commission; (l) the Delaware Secretary of State; (m) the Delaware Secretary of Treasury; and (n) counsel to any statutory committee appointed in these chapter 11 cases. In light of the nature

of the relief requested in this motion, the Debtors respectfully submit that no further notice is necessary.

No Prior Request

77. No prior motion for the relief requested herein has been made to this or any other court.

[*Remainder of page intentionally left blank*]

WHEREFORE, for the reasons set forth herein, the First Day Declaration and in the Dermont Declaration, the Debtors respectfully request entry of the DIP Order (a) authorizing the Debtors to (i) enter into and perform under the DIP Credit Agreement and (ii) use Cash Collateral of the Prepetition Secured Lenders; (b) granting adequate protection to the Prepetition Secured Parties under the Prepetition Secured Credit Agreement; (c) setting a date for a hearing to consider entry of the Final Order no later than 40 days following the Petition Date; and (d) such other and further relief as may be appropriate.

Dated: January 20, 2010
Wilmington, DE

/s/ Domenic E. Pacitti

Domenic E. Pacitti (Bar No. 3989)
Michael Yurkewicz (Bar No. 4165)
KLEHR HARRISON HARVEY
BRANZBURG LLP
919 Market Street, Suite 1000
Wilmington, DE 19801-3062
Telephone: (302) 426-1189
Facsimile: (302) 426-9193

- and -

Richard M. Cieri (*pro hac vice* pending)
Joshua A. Sussberg (*pro hac vice* pending)
Brian E. Schartz (*pro hac vice* pending)
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, NY 10022-4611
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

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
ATRIUM CORPORATION, *et al.*,[1]	)	Case No. 10-_____(___)
Debtors.	)	Joint Administration Requested

INTERIM ORDER (I) AUTHORIZING DEBTORS (A) TO OBTAIN POSTPETITION SECURED FINANCING PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) AND 364(e) AND (B) TO UTILIZE CASH COLLATERAL PURSUANT TO 11 U.S.C. § 363; (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES PURSUANT TO 11 U.S.C. §§ 361, 362, 363 AND 364; AND (III) SCHEDULING A FINAL HEARING PURSUANT TO BANKRUPTCY RULES 4001(B) AND (C)

Upon the motion, dated January 20, 2010, (the "***DIP Motion***"), of Atrium Corporation, Atrium Companies, Inc. (the "***Borrower***"), and the other debtors and debtors in possession (collectively, the "***Debtors***"), in the above-referenced chapter 11 cases (the "***Cases***"), seeking entry of an interim order (this "***Interim Order***") pursuant to sections 105, 361, 362, 363(b), 363(c)(2), 364(c)(l), 364(c)(2), 364(c)(3), 364(d)(l), 364(e), 365, 507 and 552 of chapter 11 of title 11 of the United States Code (as amended, the "***Bankruptcy Code***"), Rules 2002, 4001, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***") and

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[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal taxpayer-identification number, are: Atrium Corporation (4598); ACIH, Inc. (7822); Aluminum Screen Manufacturers, Inc. (6750); Atrium Companies, Inc. (2488); Atrium Door and Window Company - West Coast (2008); Atrium Door and Window Company of Arizona (2044); Atrium Door and Window Company of the Northeast (5384); Atrium Door and Window Company of the Northwest (3049); Atrium Door and Window Company of the Rockies (2007); Atrium Enterprises Inc. (6531); Atrium Extrusion Systems, Inc. (5765); Atrium Florida, Inc. (4562); Atrium Vinyl, Inc. (0120); Atrium Windows and Doors of Ontario, Inc. (0609); Champion Window, Inc. (1143); North Star Manufacturing (London) Ltd. (6148); R.G. Darby Company, Inc. (1046); Superior Engineered Products Corporation (4609); Thermal Industries, Inc. (3452); and Total Trim, Inc. (8042). The Debtors' main corporate address is 3890 W. Northwest Highway, Suite 500, Dallas, Texas 75220.

Rule 4001-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "***Local Rules***"), that, among other things:

(i) authorizes the Borrower to obtain, and authorizes each of the other Debtors, in their capacity as guarantors (collectively, the "***Guarantors***") to unconditionally guaranty, jointly and severally, the Borrower's obligations in respect of senior secured postpetition financing, which if approved on a final basis, would consist of a senior secured, priming and super priority, delayed draw term loan credit facility of up to $40 million in aggregate principal amount (the "***DIP Loans***," and such credit facility, the "***DIP Facility***") pursuant to the terms of (x) this Interim Order, (y) that certain Senior Secured and Priming Super-Priority Debtor-In-Possession Credit Agreement, dated as of January 20, 2010, (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "***DIP Credit Agreement***"),[2] by and among the Borrower, each of the Guarantors, GE Business Financial Services Inc. (in its individual capacity, "***GEBFS***"), as administrative agent and collateral agent (in such capacity, the "***DIP Agent***") and a syndicate of financial institutions (collectively with GEBFS, the "***DIP Lenders***," and together with the DIP Agent, the "***DIP Secured Parties***"), in substantially the form attached hereto as **Exhibit 1**; and (z) any and all other Credit Documents (as defined in the DIP Credit Agreement, together with the DIP Credit Agreement, collectively, the "***DIP Loan Documents***");

(ii) approves the terms of, and authorizes the Debtors to execute and deliver, and perform under, the DIP Credit Agreement and the other DIP Loan Documents and to perform such other and further acts as may be required in connection with the DIP Loan Documents;

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[2] Unless otherwise specified, all capitalized terms used herein without definition shall have the respective meanings given such terms in the DIP Credit Agreement.

(iii) authorizes each Debtor to grant (x) to the DIP Agent, for the benefit of itself and the other DIP Secured Parties, Liens on all of the DIP Collateral (as defined below) pursuant to sections 364(c)(2), (c)(3) and (d) of the Bankruptcy Code, which Liens shall be senior to the Primed Liens (as defined below) but shall be junior to any valid, enforceable and non-avoidable Liens that are (A) in existence on the Petition Date, (B) either perfected as of the Petition Date or perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, and (C) senior in priority to the Prepetition Liens (as defined below), and (y) to the DIP Secured Parties pursuant to section 364(c)(1) of the Bankruptcy Code super-priority administrative claims having recourse to all prepetition and postpetition property of the Debtors' estates, now owned or hereafter acquired (which, solely upon entry of the Final Order (as defined below), will include Avoidance Actions Proceeds (as defined below) and any Obligors' rights under section 506(c) of the Bankruptcy Code and the proceeds thereof);

(iv) authorizes the Debtors to use "cash collateral," as such term is defined in section 363 of the Bankruptcy Code (the "***Cash Collateral***"), including, without limitation, Cash Collateral in which the Prepetition Secured Parties (as defined below) and/or the DIP Secured Parties have a Lien or other interest, in each case whether existing on the Petition Date, arising pursuant to this Interim Order or otherwise;

(v) grants, as of the Petition Date and in accordance with the relative priorities set forth herein, certain adequate protection to the Prepetition Secured Parties as described below;

(vi) vacates the automatic stay imposed by section 362 of the Bankruptcy Code solely to the extent necessary to implement and effectuate the terms and provisions of the

DIP Loan Documents and this Interim Order and subject in all respects to the Debtors' rights under paragraph 14 herein;

(vii) authorizes the Borrower at any time prior to the entry of the Final Order (as defined herein) to borrow under and pursuant to the terms of the DIP Facility in an aggregate outstanding principal amount not to exceed $15,000,000.00;

(viii) schedules a final hearing on the DIP Motion to be held within forty (40) days after the entry of this Interim Order (the "***Final Hearing***") to consider entry of a final order acceptable in form and substance to the DIP Agent and DIP Lenders holding a majority of the DIP Loans and undrawn commitments under the DIP Facility at such time (the "***Majority DIP Lenders***"), which grants all of the relief requested in the DIP Motion on a final basis (the "***Final Order***"), provided, however, that subsequent modifications to the form or substance of the Final Order made in response to objections of other creditors or Court rulings shall be acceptable to a majority in principal holdings of those DIP Lenders present (or otherwise represented by counsel) at the Final Hearing instead of the Majority DIP Lenders; and

(ix) waives any applicable stay (including under Bankruptcy Rule 6004) and provides for immediate effectiveness of this Interim Order.

Having considered the DIP Motion, the DIP Credit Agreement, the Declaration of Jared J. Dermont (the "***Dermont Declaration***"), Managing Director of Moelis & Company LLC, in support of the DIP Motion, the Declaration of Gregory T. Faherty, President and Chief Executive Officer of Atrium Corporation in Support of Chapter 11 First Day Motions, and the evidence submitted or proferred at the Interim Hearing; and in accordance with Bankruptcy Rules 2002, 4001(b), (c), and (d) and 9014 and all applicable Local Rules, notice of the DIP Motion and the Interim Hearing having been provided in a sufficient manner; an Interim Hearing having been

held and concluded on 21, 2010; and it appearing that approval of the interim relief requested in the DIP Motion is necessary to avoid immediate and irreparable harm to the Debtors pending the Final Hearing and otherwise is fair and reasonable and in the best interests of the Debtors, their creditors, their estates and all parties in interest, and is essential for the continued operation of the Debtors' business; and after due deliberation and consideration, and for good and sufficient cause appearing therefor:

IT IS FOUND, DETERMINED, ORDERED AND ADJUDGED[3], that:

A. **Petition Date**. On January 20, 2010, (the "***Petition Date***"), each of the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware (this "***Court***"). The Debtors have continued in the management and operation of their businesses and properties as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No statutory committee of unsecured creditors (to the extent such committee is appointed, the "***Committee***"), trustee, or examiner has been appointed in the Cases.

B. **Jurisdiction and Venue**. This Court has core jurisdiction over the Cases, the DIP Motion and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue for the Cases and proceedings on the DIP Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are sections 105, 361, 362, 363, 364, 507 and 552 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004 and 9014 and the Local Rules.

C. **Notice**. The Interim Hearing is being held pursuant to the authorization of Bankruptcy Rule 4001. Notice of the Interim Hearing and the emergency relief requested in the

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[3] Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact, pursuant to Bankruptcy Rule 7052.

DIP Motion has been provided by the Debtors, whether by facsimile, electronic mail, overnight courier or hand delivery, on January 20, 2010, to certain parties in interest, including: (i) the Office of the United States Trustee, (ii) the United States Securities and Exchange Commission, (iii) the Office of the United States Attorney for the District of Delaware, (iv) the Internal Revenue Service, (v) those entities or individuals included on the Debtors' list of 50 largest unsecured creditors on a consolidated basis, (vi) counsel to the Prepetition Secured Agent (as defined below), (vii) the Prepetition Secured Agent, and (viii) counsel to the DIP Agent. Under the circumstances, such notice of the DIP Motion, the relief requested therein and the Interim Hearing complies with Bankruptcy Rule 4001(b), (c) and (d) and the Local Rules.

D. **Debtors' Stipulations Regarding the Prepetition Secured Credit Facility**. Without prejudice to the rights of parties in interest to the extent set forth in paragraph 6 below, the Debtors admit, stipulate, acknowledge and agree (paragraphs D(i) through D(iv) hereof shall be referred to herein collectively as the "***Debtors' Stipulations***") as follows:

(i) Prepetition Secured Credit Facility. Pursuant to that certain Second Amended and Restated Credit Agreement dated as of October 15, 2008 (the "***Prepetition Secured Credit Agreement***"), among Borrower, ACIH, Inc., certain other Debtors as guarantors, GE Business Financial Services Inc. (formerly known as Merrill Lynch Business Financial Services Inc.), as administrative agent for the Prepetition Secured Lenders (as defined below) and collateral agent for the Creditors (as defined in the Prepetition Secured Credit Agreement) (in such capacity, the "***Prepetition Secured Agent***"), and the lenders party thereto (collectively, the "***Prepetition Secured Lenders***," together with the Prepetition Secured Agent, the "***Prepetition Secured Parties***"), the Prepetition Secured Agent and Prepetition Secured Lenders agreed to extend loans to, and issue letters of credit for the account of, the Borrower. The

Prepetition Secured Credit Agreement, along with any other agreements and documents executed or delivered in connection therewith, including, without limitation, the "***Credit Documents***" as defined therein, are collectively referred to herein as the "***Prepetition Loan Documents***" (as the same may be amended, restated, supplemented or otherwise modified from time to time). All obligations of the Debtors arising under the Prepetition Secured Credit Agreement (including, without limitation, the "Obligations" as defined therein) or any other Prepetition Loan Document shall collectively be referred to herein as the "***Prepetition Obligations***."

(ii) Prepetition Liens and Prepetition Collateral. Pursuant to the Security Documents (as defined in the Prepetition Secured Credit Agreement) (as such documents are amended, restated, supplemented or otherwise modified from time to time, the "***Prepetition Collateral Documents***"), by and between each of the Debtors (other than Atrium Corporation) and the Prepetition Secured Agent, each Debtor granted to the Prepetition Secured Agent, for the benefit of itself and the Prepetition Secured Lenders, to secure the Prepetition Obligations, a first priority security interest in and continuing lien (the "***Prepetition Liens***") on substantially all of such Debtor's assets and property (which for the avoidance of doubt includes Cash Collateral) and all proceeds, products, accessions, rents and profits thereof, in each case whether then owned or existing or thereafter acquired or arising. All collateral granted or pledged by such Debtors pursuant to any Prepetition Collateral Document or any other Prepetition Loan Document, including, without limitation, the "Collateral" as defined in the Prepetition Secured Credit Agreement, and all prepetition and postpetition proceeds thereof shall collectively be referred to herein as the "***Prepetition Collateral***." As of the Petition Date, (I) the Prepetition Liens (a) are valid, binding, enforceable, and perfected Liens, (b) were granted to, or for the benefit of, the Prepetition Secured Parties for fair consideration and reasonably equivalent value, (c) are not

subject to avoidance, recharacterization, or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law (except for the priming contemplated herein), and (d) are subject and subordinate in all respects only to (A) the DIP Liens (as defined below), (B) the Carve-Out (as defined below), and (C) valid, perfected and unavoidable Liens permitted under the applicable Prepetition Loan Documents, but only to the extent that such Liens are permitted by the applicable Prepetition Loan Documents to be senior to or *pari passu* with the applicable Prepetition Liens, and (II) (w) the Prepetition Obligations constitute legal, valid and binding obligations of the applicable Debtors, enforceable in accordance with the terms of the applicable Prepetition Loan Documents (other than in respect of the stay of enforcement arising from section 362 of the Bankruptcy Code), (x) no setoffs, recoupments, offsets, defenses or counterclaims to any of the Prepetition Obligations exist, (y) no portion of the Prepetition Obligations or any payments made to any or all of the Prepetition Secured Parties is subject to avoidance, recharacterization, recovery, subordination, attack, offset, counterclaim, defense, or "claim" (as defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law, and (z) each of the Guarantees (as defined in the Prepetition Secured Credit Agreement) continues in full force and effect notwithstanding any use of Cash Collateral permitted hereunder or any financing and financial accommodations extended by the DIP Agent or DIP Lenders to the Debtors pursuant to the terms of this Interim Order or the DIP Loan Documents.

(iii) Amounts Owed under Prepetition Loan Documents. As of the Petition Date, the Debtors were truly and justly indebted to the Prepetition Secured Parties pursuant to the Prepetition Loan Documents, without defense, counterclaim or offset of any kind, in respect of loans made and letters of credit issued by the Prepetition Secured Agent and Prepetition Secured

Lenders in the aggregate principal amount of not less than $383.1 million, *plus* all accrued or, subject to section 506(b) of the Bankruptcy Code, hereafter accruing and unpaid interest thereon and any additional fees and expenses (including any attorneys', accountants', appraisers' and financial advisors' fees and expenses that are chargeable or reimbursable under the Prepetition Loan Documents) now or hereafter due under the Prepetition Secured Credit Agreement and the other Prepetition Loan Documents.

(iv) Release of Claims. Subject to the reservation of rights set forth in paragraph 6 below, each Debtor and its estate shall be deemed to have forever waived, discharged, and released the Prepetition Secured Parties, together with their respective affiliates, agents, attorneys, financial advisors, consultants, officers, directors, and employees (all of the foregoing, collectively, the "***Prepetition Secured Party Releasees***") of any and all "claims" (as defined in the Bankruptcy Code), counterclaims, causes of action, defenses, setoff, recoupment, or other offset rights against any and all of the Prepetition Secured Party Releasees, whether arising at law or in equity, with respect to the Prepetition Obligations and Prepetition Liens, including, without limitation, (I) any recharacterization, subordination, avoidance, or other claim arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code, or under any other similar provisions of applicable state or federal law, and (II) any right or basis to challenge or object to the amount, validity, or enforceability of the Prepetition Obligations, or the validity, enforceability, priority, or non-avoidability of the Prepetition Liens securing the Prepetition Obligations.

E. **Findings Regarding the DIP Facility**.

(i) Need for Postpetition Financing. The Debtors have an immediate need to obtain the DIP Facility and use Cash Collateral to, among other things, permit the orderly

continuation of the operation of their businesses, to maintain business relationships with vendors, suppliers and customers, to make payroll, to make capital expenditures, and to satisfy other working capital and operation needs. The Debtors' access to sufficient working capital and liquidity through the use of Cash Collateral and borrowing under the DIP Facility is vital to a successful reorganization of the Debtors.

(ii) No Credit Available on More Favorable Terms. As set forth in the DIP Motion and in the Dermont Declaration in support thereof, the Debtors have been and continue to be unable to obtain financing on more favorable terms from sources other than the DIP Secured Parties under the DIP Loan Documents. The Debtors are unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtors are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code without (i) granting to the DIP Secured Parties the rights, remedies, privileges, benefits and protections provided herein and in the DIP Loan Documents, including, without limitation, the DIP Liens and the DIP Super-Priority Claims (as defined below), (ii) allowing the Prepetition Secured Lenders to provide the DIP Loans on the terms set forth herein and in the DIP Loan Documents (all of the foregoing described in clauses (i) and (ii) above, including the DIP Liens and the DIP Super-Priority Claims, collectively, the "***DIP Protections***"), and (iii) providing the Prepetition Secured Agent and the Prepetition Secured Lenders the adequate protection more fully described in paragraph 4 below.

F. **Adequate Protection for Prepetition Secured Parties**. The Prepetition Secured Agent has negotiated in good faith regarding the Debtors' use of the Prepetition Collateral (including the Cash Collateral) to fund the administration of the Debtors' estates and continued

operation of their businesses. The Prepetition Secured Agent has agreed to permit the Debtors to use the Prepetition Collateral, including the Cash Collateral, for the period through the Cash Collateral Termination Date (as defined below), subject to the terms and conditions set forth herein, including the protections afforded a party acting in "good faith" under section 364(e) of the Bankruptcy Code. In addition, the DIP Facility contemplated hereby provides for a priming of the Prepetition Liens pursuant to section 364(d) of the Bankruptcy Code. The Prepetition Secured Parties are entitled to the adequate protection as set forth herein pursuant to sections 361, 362, 363 and 364 of the Bankruptcy Code for the Diminution in Value (as defined below) of the Prepetition Collateral. Based on the DIP Motion and on the record presented to the Court at the Interim Hearing, the terms of the proposed adequate protection arrangements, use of the Cash Collateral and the DIP Facility contemplated hereby are fair and reasonable, reflect the Debtors' prudent exercise of business judgment, and constitute reasonably equivalent value and fair consideration for the Prepetition Secured Agent's consent thereto.

G. **Lock-up Agreement**. The Debtors and certain of the Prepetition Secured Lenders have entered into that certain Restructuring and Lock-up Agreement dated as of January 20, 2010, (the "***Lock-up Agreement***") which includes a proposed plan of reorganization attached as Exhibit A thereto (the "***Plan***"). Nothing in this Interim Order shall modify any parties' rights or obligations under the Lock-up Agreement.

H. **Limited Consent**. The consent of the Prepetition Secured Agent and the requisite majority of the Prepetition Secured Lenders to the priming of their liens by the DIP Liens is limited to the DIP Facility presently before this Court, with GEBFS as DIP Agent and a subset of the Prepetition Secured Lenders subscribing to the DIP Facility as DIP Lenders, and shall not, and shall not be deemed to, extend to any other postpetition financing or to any modified version

of this DIP Facility with any party other than GEBFS as DIP Agent and such subscribing Prepetition Secured Lenders as DIP Lenders. Nothing in this Interim Order, including, without limitation, any of the provisions herein with respect to adequate protection, shall constitute, or be deemed to constitute, a finding that the interests of the Prepetition Secured Agent or any Prepetition Secured Lender are or will be adequately protected with respect to any non-consensual use of Cash Collateral or non-consensual priming of the Prepetition Liens.

I. **Section 552.** In light of the subordination of their Liens and super-priority administrative claims to (i) the Carve-Out in the case of the DIP Secured Parties, and (ii) the Carve-Out and the DIP Liens in the case of the Prepetition Secured Parties, each of the DIP Secured Parties and the Prepetition Secured Parties is entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and, subject to the entry of the Final Order, the "equities of the case" exception shall not apply.

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

(i) The DIP Secured Parties have indicated a willingness to provide postpetition secured financing via the DIP Facility to the Borrower in accordance with the DIP Loan Documents and this Interim Order.

(ii) The terms and conditions of the DIP Facility pursuant to the DIP Loan Documents and this Interim Order, and the fees paid and to be paid thereunder, are fair, reasonable, and the best available under the circumstances, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and consideration.

(iii) The DIP Facility and DIP Loan Documents were negotiated in good faith and at arm's length among the Debtors and the DIP Secured Parties with the assistance and

counsel of their respective advisors, and all of the DIP Obligations shall be deemed to have been extended by the DIP Secured Parties and their affiliates for valid business purposes and uses and in good faith, as that term is used in section 364(e) of the Bankruptcy Code, and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and the DIP Liens, the DIP Super-Priority Claims and the other DIP Protections shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event this Interim Order or any other order or any provision hereof or thereof is vacated, reversed, amended or modified, on appeal or otherwise.

K. **Relief Essential; Best Interest**. For the reasons stated above, the Debtors have requested immediate entry of this Interim Order pursuant to Bankruptcy Rules 4001(b)(2), 4001(c)(2) and the Local Rules. Absent granting the relief set forth in this Interim Order, the Debtors' estates and their ability to successfully reorganize will be immediately and irreparably harmed. Consummation of the DIP Facility and authorization of the use of Cash Collateral in accordance with this Interim Order and the DIP Loan Documents is therefore in the best interests of the Debtors' estates and consistent with their fiduciary duties.

NOW, THEREFORE, on the DIP Motion and the record before this Court with respect to the DIP Motion, and with the consent of the Debtors, the Prepetition Secured Agent, the requisite majority of the Prepetition Secured Lenders and the DIP Secured Parties to the form and entry of this Interim Order, and good and sufficient cause appearing therefor,

IT IS ORDERED that:

1. **Motion Granted**. The DIP Motion is hereby granted in accordance with the terms and conditions set forth in this Interim Order and the DIP Loan Documents. Any objections to the DIP Motion with respect to the entry of this Interim Order that have not been

withdrawn, waived or settled, and all reservations of rights included therein, are hereby denied and overruled.

2. **DIP Loan Documents and DIP Protections**.

(a) Approval of DIP Loan Documents. The Debtors are expressly and immediately authorized to establish the DIP Facility, to execute, deliver and perform under the DIP Loan Documents and to incur the DIP Obligations (as defined below) in accordance with, and subject to, the terms of this Interim Order and the DIP Loan Documents, and to execute, deliver and perform under all other instruments, certificates, agreements and documents which may be required or necessary for the performance by the applicable Debtors under the DIP Facility and the creation and perfection of the DIP Liens described in, and provided for, by this Interim Order and the DIP Loan Documents. The Debtors are hereby authorized, and upon execution of the DIP Credit Agreement, directed to do and perform all acts and pay the principal, interest, fees, expenses and other amounts described in the DIP Loan Documents as such become due pursuant to the DIP Loan Documents and this Interim Order, including, without limitation, all closing fees, administrative fees, commitment fees and reasonable attorneys', financial advisors', and accountants' fees, and disbursements arising under the DIP Loan Documents and this Interim Order, which amounts shall not be subject to further approval of this Court and shall be non-refundable; provided, however, that the payment of the fees and expenses of the Lender Professionals (as defined below) shall be subject to the provisions of paragraph 18(a). Upon their execution and delivery, the DIP Loan Documents shall represent valid and binding obligations of the applicable Debtors enforceable against such Debtors in accordance with their terms. Each officer of a Debtor acting singly is hereby authorized to execute and deliver each of

the DIP Loan Documents, such execution and delivery to be conclusive of their respective authority to act in the name of and on behalf of the Debtors.

(b) DIP Obligations. For purposes of this Interim Order, the term "***DIP Obligations***" shall mean all amounts owing under the DIP Credit Agreement and other DIP Loan Documents (including, without limitation, all "Obligations" as defined in the DIP Credit Agreement) and shall include the principal of, interest on, fees, costs, expenses and other charges owing in respect of, such amounts (including, without limitation, any reasonable attorneys', accountants', financial advisors' and other fees, costs and expenses that are chargeable or reimbursable under the DIP Loan Documents), and any obligations in respect of indemnity claims, whether contingent or otherwise.

(c) Authorization to Incur DIP Obligations. To enable the Debtors to continue to operate their business, during the period from the entry of this Interim Order through and including the date of entry of the Final Order (the "***Interim Period***"), and subject to the terms and conditions of this Interim Order and the DIP Loan Documents, including, without limitation, the Budget Covenants as defined and contained in paragraph 2(e) below, the Borrower is hereby authorized to borrow under and pursuant to the terms of the DIP Facility in an aggregate outstanding principal amount not to exceed $15,000,000.00 and to use Cash Collateral (following the expiration of the Interim Period, the Borrower's authority to borrow further DIP Loans, if any, and use further Cash Collateral will be governed by the terms of the Final Order). The Debtors shall only be allowed to draw on the loans available under the DIP Facility when the aggregate amount of Cash Collateral on hand held by the Debtors would not exceed $15,000,000.00 before and after giving effect to such draw and the substantially contemporaneous uses of proceeds thereof, except that for the first five (5) Business Days after

the Closing Date there shall be no such limitation. Any amounts repaid under the DIP Facility may not be reborrowed. All DIP Obligations shall be unconditionally guaranteed, on a joint and several basis, by the Guarantors, as further provided in the DIP Loan Documents.

(d) Approved Budget. Attached hereto as **Exhibit 2** is a rolling 13-week cash flow budget (the "***Initial Approved Budget***") which reflects on a line-item basis the Debtors' projected cumulative cash receipts, expenses and disbursements, unused availability under the DIP Facility and A/R Facility and unrestricted cash on hand (collectively, "***Aggregate Liquidity***"), in each case, on a weekly basis. On each eight week anniversary of the first day of the week in which the Closing Date occurs, the Debtors shall deliver to the DIP Agent an updated "rolling" 13-week budget (each such updated budget, a "***Supplemental Approved Budget***") without further notice, motion or application to, order of, or hearing before, this Court, supplementing and replacing the Approved Budget or Supplemental Approved Budget, as applicable, then in effect commencing from the end of the previous week through and including thirteen weeks thereafter in form and substance acceptable to the DIP Agent and the Majority DIP Lenders; provided that unless and until the DIP Agent and Majority DIP Lenders have approved of such updated budget, the Debtors shall still be subject to and be governed by the terms of the Approved Budget or Supplemental Approved Budget, as applicable, then in effect and the DIP Agent, Prepetition Secured Agent, DIP Lenders and Prepetition Secured Lenders shall, as applicable, have no obligation to fund to such updated "rolling budget" or permit the use of Cash Collateral with respect thereto. The aggregate, without duplication, of all items in the Initial Approved Budget and any Supplemental Approved Budgets shall constitute an "***Approved Budget***."

(e) Budget Covenants. For each 4-week period set forth in the Approved Budget, tested on a weekly basis by reference to the Variance Report (as defined below), the aggregate cumulative expenditures and disbursements (excluding debt service, professional fees and Capital Expenditures) by the Debtors shall not exceed one hundred twenty percent (120%) of the aggregate cumulative amount budgeted for such cumulative time period pursuant to the Approved Budget. The Debtors shall provide to the DIP Agent, so as actually to be received on or prior to the Friday following the end of each week commencing with the Friday of the fourth week after the Closing Date a variance report (a "***Variance Report***") certified by the chief financial officer of the Borrower, in form acceptable to the DIP Agent and the Majority DIP Lenders in their sole discretion, setting forth (i) the actual cash receipts, expenditures and disbursements for such immediately preceding calendar week on a line-item basis and the Aggregate Liquidity as of the end of such calendar week, and (ii) the variance in dollar amounts of the actual expenditures and disbursements (excluding debt service, professional fees and Capital Expenditures) for each 4-week period from those reflected for the corresponding period in the Approved Budget.

(f) Events of Default. The occurrence of any of the following events, unless waived in writing by the Prepetition Secured Agent and Prepetition Secured Lenders holding a majority of the loans (including accrued and unpaid interest) outstanding under the Prepetition Secured Credit Agreement shall constitute an event of default (collectively, the "***Prepetition Secured Party Events of Default***"):

(i) the failure to obtain the Final Order within forty (40) days after the Petition Date;

(ii) the failure to obtain entry of a final securitization order substantially contemporaneously with the entry of the Final Order;

(iii) (A) the incurrence or payment by the Debtors of expenses (x) other than the itemized amounts set forth in the Approved Budget or (B) in excess of the variances permitted by the DIP Credit Agreement, or (ii) other violation of the terms and condition of paragraph 2(e) above (each a "***Budget Default***");

(iv) the obtaining after the Petition Date of credit or the incurring of Indebtedness that is (i) secured by a security interest, mortgage or other lien on all or any portion of the Collateral which is equal or senior to any security interest, mortgage or other lien of the Prepetition Secured Agent and the Prepetition Secured Lenders, or (ii) entitled to priority administrative status which is equal or senior to that granted to the Prepetition Secured Agent and Prepetition Secured Lenders herein, unless used to refinance the Prepetition Obligations in full;

(v) the entry of a final order by the Court, other than the Final Order, granting relief from or modifying the automatic stay of section 362 of the Bankruptcy Code (i) to allow any creditor to execute upon or enforce a lien on or security interest in any Collateral in excess of $1,000,000 or (ii) with respect to any lien of or the granting of any lien on any Collateral to any state or local environmental or regulatory agency or authority, (in each case with a value in excess of $1,000,000) which in either case would have a material adverse effect on the business, operations, property, assets, or condition, financial or otherwise, of the Debtors;

(vi) reversal, vacatur, or modification (without the express prior written consent of the Prepetition Secured Agent, in its sole discretion) of this Interim Order;

(vii) dismissal of any of the Cases or conversion of any of the Cases to chapter 7 cases, or appointment of a chapter 11 trustee or examiner with enlarged powers or other responsible person in any of the Cases;

(viii) upon written notice from the Prepetition Secured Agent, any material misrepresentation of a material fact made after the Petition Date by any of the Debtors or their agents to the Prepetition Secured Agent or Prepetition Secured Lenders, or to agents for the Prepetition Secured Agent or Prepetition Secured Lenders, about the financial condition of the Debtors, or any of them, the nature, extent, location or quality of any Collateral, or the disposition or use of any Collateral, including Cash Collateral;

(ix) upon written notice from the Prepetition Secured Agent, the material failure to make adequate protection payments or other payments to the Prepetition Secured Agent and Prepetition Secured Lenders as set forth herein when due and such failure shall remain unremedied for more than three (3) business days after notice thereof;

(x) the failure by the Debtors to perform, in any respect, any of the material terms, provisions, conditions, covenants, or obligations under this Interim Order

and such failure shall continue unremedied for more than three (3) Business Days after receipt by the Debtors of notice thereof;

(xi) the failure to obtain an order from the Court approving the Solicitation Materials (as defined in the Lock-up Agreement) and setting a hearing to confirm the Plan or a plan of reorganization incorporating a Higher and Better Bid (as defined in the Lock-Up Agreement) within forty (40) days after the Petition Date, or as soon thereafter as the Court's schedule permits;

(xii) the failure to commence a hearing to consider confirmation of the Plan or any plan of reorganization incorporating a Higher and Better Bid by the taking of a material amount of testimony by the Court within forty (40) days after the date that the Solicitation Materials are approved;

(xiii) the Court's order confirming the Plan or any plan of reorganization incorporating a Higher and Better Bid (the "***Confirmation Order***") shall not have been entered by the Court within thirty (30) days after the date that the hearing to consider confirmation of the Plan or any plan of reorganization incorporating a Higher and Better Bid shall have commenced, or as soon thereafter as the Court's schedule permits, but in any event not later than thirty-five (35) days after the date the hearing to consider confirmation of the Plan or any plan of reorganization incorporating a Higher and Better Bid shall have commenced;

(xiv) the effective date of the Plan or any plan of reorganization incorporating a Higher and Better Bid shall not have occurred within twenty (20) days after the date that the Plan or any plan of reorganization incorporating a Higher and Better Bid is confirmed; and

(xv) any breach by the Debtors of their covenants and other undertakings in the DIP Credit Agreement or the Lock-up Agreement.

(g) Interest, Fees, Costs and Expenses. The DIP Obligations shall bear interest at the rates, and be due and payable (and paid), as set forth in, and in accordance with the terms and conditions of, this Interim Order and the DIP Loan Documents, in each case without further notice, motion or application to, order of, or hearing before, this Court. The Debtors shall pay on demand all fees, costs, expenses (including reasonable and documented legal and other professional fees and expenses of the DIP Agent) and other charges payable under the terms of the DIP Loan Documents, including, without limitation, (A) a $50,000 arranging fee (the "***Arranging Fee***") payable to the DIP Agent, which shall be fully earned on the date hereof and

payable on the date of entry of this Interim Order; (B) a non-refundable $50,000 per three months agency fee (the "***Agency Fee***"), payable in advance on the date of entry of this Interim Order and each 3 month anniversary thereafter, to the DIP Agent ; (C) the $600,000 balance of the $1,200,000 upfront facility fee (the "***Upfront Facility Fee***") payable to the DIP Agent for prompt distribution to the DIP Lenders on a pro rata basis; and (D) an unused facility fee (the "***Unused Facility Fee***") equal to 1.0% per annum (calculated on the basis of a 360-day year and actual days elapsed) on the average daily unused balance of the DIP Facility, payable monthly in arrears to the DIP Agent for prompt distribution to the DIP Lenders on a pro rata basis.

(h) Use of DIP Facility and Proceeds of DIP Loans. The Borrower shall apply the proceeds of all DIP Loans solely in accordance with Section 9.28 of the DIP Credit Agreement. Without limiting the foregoing, the Debtors shall not be permitted to make any payments on account of any prepetition debt or obligation prior to the effective date of the Plan (as defined below) or any other chapter 11 plan or plans with respect to any of the Debtors, except with respect to (a) the prepetition obligations as set forth in this Interim Order; (b) as provided in the First Day Orders, which First Day Orders shall be in form and substance acceptable to the DIP Agent; (c) as provided in the motions, orders and requests for relief, each in form and substance acceptable by the DIP Secured Parties and the Prepetition Secured Parties prior to the request for such relief; and (d) or as otherwise provided in the DIP Credit Agreement.

(i) Conditions Precedent. The DIP Secured Parties shall have no obligation to make any DIP Loan during the Interim Period unless and until all conditions precedent to the making of any such DIP Loan or under the DIP Loan Documents and this Interim Order have been satisfied in full or waived by the requisite DIP Secured Parties in accordance with the DIP Loan Documents and this Interim Order, including the following conditions precedent:

a) The filing of the Plan, Disclosure Statement and other solicitation materials in respect of the Plan with this Court on the Petition Date. The Disclosure Statement and such other solicitation materials shall be materially consistent with the Plan and the Lock-up Agreement.

b) The entry of the Interim Securitization Order, in form and substance acceptable to the DIP Agent. The Debtors have filed herewith a motion for entry of an interim order (the "***Interim Securitization Order***") authorizing the Debtors to enter into an amendment and waiver to the A/R Facility (as defined in the DIP Credit Agreement) and authorizing the transactions contemplated thereby.

c) The initiation of proceedings by North Star Manufacturing (London) Ltd. pursuant to the Companies' Creditors Arrangement Act (Canada) in the Ontario Superior Court of Justice in Toronto, Ontario, Canada on the Petition Date.

(j) DIP Liens. As security for the DIP Obligations, the following security interests and liens, which shall immediately and without any further action by any Person, be valid, binding, permanent, perfected, continuing, enforceable and non-avoidable upon the date the Court enters this Interim Order, are hereby are granted by the Debtors to the DIP Agent for its own benefit and the ratable benefit of the DIP Secured Parties on all property of the Debtors, now existing or hereinafter acquired, including, without limitation, all cash and cash equivalents (whether maintained with any of the DIP Agent or otherwise), and any investment in such cash or cash equivalents, money, inventory, goods, accounts receivable, other rights to payment, intercompany loans and other investments, investment property, contracts, contract rights, properties, plants, equipment, machinery, general intangibles, payment intangibles, accounts, deposit accounts, documents, instruments, chattel paper, documents of title, letters of credit,

letter of credit rights, supporting obligations, leases and other interests in leaseholds, real property, fixtures, patents, copyrights, trademarks, trade names, other intellectual property, intellectual property licenses, capital stock of subsidiaries (subject to the restriction set forth below), tax and other refunds, insurance proceeds, commercial tort claims, Avoidance Action Proceeds (as defined below and solely upon entry of the Final Order), rights under section 506(c) of the Bankruptcy Code (solely upon entry of the Final Order), all other Collateral (except Excluded Property as such term is defined in the Security Agreement) and all other "property of the estate" (within the meaning of the Bankruptcy Code) of any kind or nature, real or personal, tangible, intangible or mixed, now existing or hereafter acquired or created, and all rents, products, substitutions, accessions, profits, replacements and cash and non-cash proceeds of all of the foregoing; provided, however, that notwithstanding any provision herein or in any DIP Loan Document to the contrary, no Debtor organized under U.S. law shall be required to pledge in excess of 65% of the voting stock of its direct foreign subsidiaries (other than North Star Manufacturing (London) Ltd., 100% of the capital and/or voting stock of which shall be pledged) or any of the capital stock of its indirect foreign subsidiaries (all of the foregoing collateral collectively referred to as the "***DIP Collateral***," and all such Liens granted to the DIP Agent as provided in the DIP Loan Documents and for the ratable benefit of the DIP Secured Parties pursuant to this Interim Order and the DIP Loan Documents, the "***DIP Liens***"):

> (I) pursuant to section 364(c)(2) of the Bankruptcy Code, a perfected, binding, continuing, enforceable, non-avoidable, first priority Lien on all unencumbered DIP Collateral and, solely upon entry of the Final Order, proceeds ("***Avoidance Action Proceeds***") of the Debtors' claims and causes of action under sections 502(d), 544, 545, 547, 548, 549, 550 and 553 of the Bankruptcy Code and any other avoidance or similar action under the Bankruptcy Code or similar state law ("***Avoidance Actions***"), whether received by judgment, settlement or otherwise;
>
> (II) pursuant to section 364(c)(3) of the Bankruptcy Code, a perfected junior Lien upon all DIP Collateral that is subject to (x) valid, enforceable, non-

avoidable and perfected Liens in existence on the Petition Date that, after giving effect to any intercreditor or subordination agreement, are senior in priority to the Prepetition Liens, and (y) valid, enforceable and non-avoidable Liens in existence on the Petition Date that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code and after giving effect to any intercreditor or subordination agreement, are senior in priority to the Prepetition Liens, other than, in the case of clause (II)(x) or (II)(y), Liens which are expressly stated to be primed by the Liens to be granted to the DIP Agent described in clause (III) below (subject to such exception, the "***Prepetition Prior Liens***"); and

(III) pursuant to section 364(d)(1) of the Bankruptcy Code, a perfected first priority, senior priming Lien on all DIP Collateral (including, without limitation, Cash Collateral) that is senior and priming to (x) the Prepetition Liens and (y) any Liens that are junior to the Prepetition Liens, after giving effect to any intercreditor or subordination agreements (the Liens referenced in clauses (x) and (y), collectively, the "***Primed Liens***"); provided, however, that the Liens described in this subsection (III) shall be junior to the Carve-Out and the Prepetition Prior Liens.

(k) DIP Lien Priority. Notwithstanding anything to the contrary contained in this Interim Order or the other DIP Loan Documents, for the avoidance of doubt, the DIP Liens granted to the DIP Agent for the ratable benefit of the DIP Secured Parties shall in each and every case be first priority senior Liens that (i) are subject only to the Prepetition Prior Liens, and to the extent provided in the provisions of this Interim Order and the DIP Loan Documents, shall also be subject to the Carve-Out, and (ii) except as provided in sub-clause (i) of this clause (k), are senior to all prepetition and postpetition Liens of any other person or entity (including, without limitation, the Primed Liens and the Adequate Protection Replacement Liens). The DIP Liens and the DIP Super-Priority Claims (as defined below) (A) shall not be subject to sections 510, 549, 550 or 551 of the Bankruptcy Code or, subject to entry of the Final Order, section 506(c) of the Bankruptcy Code or the "equities of the case" exception of section 552 of the Bankruptcy Code, (B) shall not be subordinate to, or *pari passu* with, (x) any Lien that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code or (y) any intercompany or affiliate Liens of the Debtors, and (C) shall be valid and

enforceable against any trustee or any other estate representative appointed in the Cases, upon the conversion of any of the Cases to a case under chapter 7 of the Bankruptcy Code or in any other proceedings related to any of the foregoing (each, a "***Successor Case***"), and/or upon the dismissal of any of the Cases.

(l) Enforceable Obligations. The DIP Loan Documents shall constitute and evidence the valid and binding DIP Obligations of the applicable Debtors, which DIP Obligations shall be enforceable against such Debtors, their estates and any successors thereto (including, without limitation, any trustee or other estate representative in any Successor Case), and their creditors, in accordance with their terms. No obligation, payment, transfer or grant of security under the DIP Credit Agreement, the other DIP Loan Documents or this Interim Order shall be stayed, restrained, voidable, avoidable or recoverable under the Bankruptcy Code or under any applicable law (including, without limitation, under sections 502(d), 544, 547, 548 or 549 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law), or subject to any avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual or otherwise) counterclaim, cross-claim, defense or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity.

(m) Super-Priority Administrative Claim Status. In addition to the DIP Liens granted herein, effective immediately upon entry of this Interim Order, except with respect to Avoidance Actions, all of the DIP Obligations shall constitute allowed super-priority administrative claims pursuant to section 364(c)(1) of the Bankruptcy Code, which shall have priority, subject only to the payment of the Carve-Out, over all administrative expense claims, adequate protection and other diminution claims (including the Adequate Protection Super-

Priority Claims), unsecured claims and all other claims against the applicable Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses or other claims of the kinds specified in, or ordered pursuant to, sections 105, 326, 328, 330, 331, 503(a), 503(b), 506(c) (subject to the entry of the Final Order), 507(a), 507(b), 546, 726, 1113 and 1114 or any other provision of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment Lien or other non-consensual Lien, levy or attachment (the "***DIP Super-Priority Claims***"). The DIP Super-Priority Claims shall for purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code, shall be against each Debtor on a joint and several basis, and shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof. Other than as provided in the DIP Credit Agreement and this Interim Order with respect to the Carve-Out, no costs or expenses of administration, including, without limitation, professional fees allowed and payable under sections 328, 330, and 331 of the Bankruptcy Code, or otherwise, that have been or may be incurred in these proceedings, or in any Successor Cases, and no priority claims are, or will be, senior to, prior to or on a parity with the DIP Liens and the DIP Super-Priority Claims or the DIP Obligations, or with any other claims of the DIP Secured Parties arising hereunder.

3. **Authorization to Use Cash Collateral and Proceeds of the DIP Facility**.

Subject to the terms and conditions of this Interim Order and the DIP Loan Documents, including without limitation, the Budget Covenants set forth in paragraph 2(e), (a) the Debtors are authorized to use proceeds of DIP Loans from and after the Closing Date, and (b) the Debtors are authorized to use Cash Collateral, and each Debtor shall be prohibited from any time using proceeds of DIP Loans or Cash Collateral except in accordance with the terms and conditions of this Interim Order and the DIP Loan Documents. The DIP Agent and Majority DIP Lenders may

terminate the applicable Debtors' right to use proceeds of DIP Loans, DIP Collateral, Prepetition Collateral and Cash Collateral without further notice, motion or application to, order of, or hearing before, the Court, subject in all respects to paragraph 14 below, (i) automatically upon the occurrence of the Delayed Draw Term Loan Commitment Termination Date, or (ii) immediately upon notice to such effect by the DIP Agent to the Debtors after the occurrence and during the continuance of an Event of Default. The Prepetition Secured Agent and requisite majority of the Prepetition Secured Lenders holding a majority of the loans (including accrued and unpaid interest) outstanding under the Prepetition Secured Credit Agreement may terminate the consensual Cash Collateral use arrangement contained herein without further notice, motion or application to, order of, or hearing before, the Court, upon the occurrence of a Prepetition Secured Party Events of Default. The earliest date upon which the consensual Cash Collateral use arrangement described in this Interim Order is terminated pursuant to this paragraph 3 being the "***Cash Collateral Termination Date***").

4. **Adequate Protection for Prepetition Secured Parties**. As adequate protection for, and in an aggregate amount equal to, the diminution in value (collectively, "***Diminution in Value***") of the respective interests of the Prepetition Secured Parties in the respective Prepetition Collateral (including Cash Collateral) from and after the Petition Date, calculated in accordance with section 506(a) of the Bankruptcy Code, resulting from the use, sale or lease by the Debtors of the applicable Prepetition Collateral (including Cash Collateral), the granting of the DIP Liens, the subordination of the Prepetition Liens thereto and to the Carve-Out, and the imposition or enforcement of the automatic stay of section 362(a), the Prepetition Secured Parties shall receive the following adequate protection (collectively referred to as the "***Prepetition Secured Parties' Adequate Protection***"):

(a) Adequate Protection Replacement Liens. Solely to the extent of any aggregate postpetition Diminution in Value of the prepetition interests of the Prepetition Secured Parties in the applicable Prepetition Collateral, the Prepetition Secured Parties are hereby granted, subject to the terms and conditions set forth below, pursuant to sections 361, 363(e) and 364 of the Bankruptcy Code, replacement Liens upon all of the DIP Collateral, including, solely upon entry of the Final Order, any Avoidance Actions Proceeds (such adequate protection replacement liens, the "***Adequate Protection Replacement Liens***"), which Adequate Protection Replacement Liens on such DIP Collateral shall be subject and subordinate only to the DIP Liens, the Prepetition Prior Liens, and the payment of the Carve-Out and shall rank in the same relative priority and right as the Prepetition Liens do with respect to the Prepetition Collateral, in each case, to the extent expressly provided in the DIP Loan Documents and this Interim Order. In addition, if the effective date of the Plan shall have occurred by the date set forth in the Lock-up Agreement, the Adequate Protection Replacement Liens shall be deemed satisfied and discharged without any further consideration beyond the distributions to be provided under the Plan to the Prepetition Secured Parties. Notwithstanding the foregoing, if the effective date of the Plan shall not have occurred prior to the date set forth in the preceding sentence, then with respect to any plan of reorganization for the Debtors that may be confirmed in these Cases, the Adequate Protection Replacement Liens shall not be deemed satisfied and discharged unless the holders of Prepetition Obligations representing at least two-thirds in amount and more than one-half in number of all claims in respect of such Prepetition Obligations have agreed to some other manner of satisfaction of such Adequate Protection Replacement Liens.

(b) Adequate Protection Super-Priority Claims. Solely to the extent of Diminution in Value, the Prepetition Secured Parties are hereby granted allowed super-priority

administrative claims (such adequate protection super-priority claims, the "***Adequate Protection Super-Priority Claims***"), except with respect to Avoidance Actions, pursuant to section 507(b) of the Bankruptcy Code, junior only to the DIP Super-Priority Claims and the Carve-Out to the extent provided herein and in the DIP Loan Documents and payable from and having recourse to all of the DIP Collateral; provided, however, that the Prepetition Secured Parties shall not receive or retain any payments, property or other amounts in respect of the Adequate Protection Super-Priority Claims unless and until (x) all DIP Obligations have been paid in full in cash and (y) all credit commitments under the DIP Loan Documents have been irrevocably terminated (the conditions described in clauses (x) and (y), collectively, "***Paid in Full***" or "***Payment in Full***"). Subject to the relative priorities set forth above, the Adequate Protection Super-Priority Claims against each Debtor shall be against each Debtor on a joint and several basis. In addition, if the effective date of the Plan shall have occurred by the date set forth in the Lock-up Agreement, the Adequate Protection Super-Priority Claims shall be deemed satisfied and discharged without any further consideration beyond the distributions to be provided under the Plan to the Prepetition Secured Parties. Notwithstanding the foregoing, if the effective date of the Plan shall not have occurred prior to the date set forth in the preceding sentence, then with respect to any plan of reorganization for the Debtors that may be confirmed in these Cases, the Adequate Protection Super-Priority Claims shall be paid in full in cash on the effective date of such plan of reorganization unless the holders of Prepetition Obligations representing at least two-thirds in amount and more than one-half in number of all claims in respect of such Prepetition Obligations have agreed to some other manner of satisfaction of such Adequate Protection Super-Priority Claims.

(c) Interest and Professional Fees. As further adequate protection, and without limiting any rights of the Prepetition Secured Agent and the Prepetition Secured Lenders under section 506(b) of the Bankruptcy Code which are hereby preserved, and in consideration, and as a requirement, for obtaining the consent of the Prepetition Secured Parties to the entry of this Interim Order and the Debtors' consensual use of Cash Collateral as provided herein, the Debtors shall (i) pay or reimburse currently the Prepetition Secured Agent for any and all of its accrued and past-due fees, costs, expenses and charges to the extent payable under the Prepetition Loan Documents, (ii) on the last day of each calendar month commencing after the Closing Date pay to the Prepetition Secured Agent for prompt distribution to the Prepetition Secured Lenders a portion of the interest accruing under the Prepetition Secured Credit Agreement calculated based on the three-month LIBOR rate set at the beginning of such applicable month and calculated without giving effect to the 3.00% LIBOR floor contained in the Prepetition Secured Credit Agreement (it being understood that the balance of the accruing interest (including any interest accruing as a result of such LIBOR floor) will be periodically added to the principal amount of the Prepetition Obligations in accordance with the Prepetition Secured Credit Agreement) and (iii) pay currently all reasonable and documented fees, costs and expenses of one primary counsel and local counsel (as necessary) for each of the Prepetition Secured Agent and the ad-hoc group of Prepetition Secured Lenders constituting the Majority Term Lenders (as defined in the Prepetition Secured Credit Agreement) and one financial advisor to be retained by the Prepetition Secured Agent for the benefit of the Prepetition Secured Lenders, in the case of each of sub-clauses (i), (ii) and (iii) above, all whether accrued prepetition or postpetition and without further notice, motion or application to, order of, or hearing before, this Court.

(d) Notice of Professional Fees. None of the fees, costs and expenses incurred by professionals engaged by the DIP Agent, the Prepetition Secured Agent or the ad-hoc group of the Prepetition Secured Lenders constituting the Majority Term Lenders (as defined in the Prepetition Secured Credit Agreement) shall be subject to Court approval or U.S. Trustee guidelines, and no recipient of any such payment shall be required to file with respect thereto any interim or final fee application with this Court; provided, that such professionals shall submit copies of their respective professional fee invoices to the Debtors, the U.S. Trustee and counsel for the Committee (and any subsequent trustee of the Debtors' estates). Such invoices may be redacted to the extent necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege or of any benefits of the attorney work product doctrine. The U.S. Trustee and the Committee (and any subsequent trustee of the Debtors' estates) may object to the reasonableness of the fees, costs and expenses included in any professional fee invoice submitted by such professionals; provided that, any such objection shall be forever waived and barred unless (i) it is filed with this Court and served on counsel to the DIP Agent and the Debtors no later than ten (10) days after the objecting party's receipt of the applicable professional fee invoice and (ii) it describes with particularity the specific basis for the objection. Any hearing on an objection to payment of any fees, costs and expenses set forth in a professional fee invoice shall be limited to the reasonableness or necessity of the particular items or categories of the fees, costs and expenses which are the subject of such objection. The Debtors shall indemnify the DIP Agent and the DIP Lenders (and other applicable parties) to the extent set forth in the DIP Loan Documents, including, without limitation, as provided in Section 13.03(b) of the DIP Credit Agreement. All

such unpaid fees, costs, expenses, charges and indemnities that have not been disallowed by this Court on the basis of an objection filed by the U.S. Trustee or the Committee (or any subsequent trustee of the Debtors' estates) in accordance with the terms hereof shall constitute DIP Obligations and shall be secured by the DIP Collateral as specified in this Interim Order. Any and all fees, commissions, costs and expenses paid prior to the Petition Date by any Debtor to the DIP Agent or DIP Lenders in connection with or with respect to the DIP Facility, DIP Credit Agreement or other DIP Loan Documents are hereby approved in full and non-refundable.

(e) Right to Seek Additional Adequate Protection. Under the circumstances and given that the above-described adequate protection is consistent with the Bankruptcy Code, including section 506(b) thereof, the Court finds that the adequate protection provided herein is reasonable and sufficient to protect the interests of the Prepetition Secured Parties. However, any Prepetition Secured Party may request further or different adequate protection, and the Debtors or any other party in interest may contest any such request; provided that any such further or different adequate protection shall at all times be subordinate and junior to the claims and Liens of the DIP Secured Parties granted under this Interim Order and the DIP Loan Documents.

(f) Consent to Priming and Adequate Protection. The Prepetition Secured Agent and the requisite majority of the Prepetition Secured Lenders consent to the Prepetition Secured Parties' Adequate Protection and the priming provided for herein; provided, however, that such consent of the Prepetition Secured Parties to the priming of their Prepetition Liens, the use of Cash Collateral, and the sufficiency of the Prepetition Secured Parties' Adequate Protection provided for herein is expressly conditioned upon the entry of this Interim Order and such consent shall not be deemed to extend to any other replacement financing or debtor-in-

possession financing other than the DIP Facility provided under the DIP Loan Documents; and provided, further, that such consent shall be of no force and effect in the event this Interim Order is not entered or is entered and subsequently reversed, modified, stayed or amended (unless such reversal, modification, stay or amendment is acceptable to the Prepetition Secured Agent and the requisite majority of the Prepetition Secured Lenders; provided, that modifications to the form or substance of the Interim Order made in response to objections of other creditors or Court rulings shall be acceptable to a majority in principal holdings of those Prepetition Secured Lenders present (or otherwise represented by counsel) at the hearing at which the Interim Order is modified) or the DIP Loan Documents and DIP Facility as set forth herein are not approved; and provided, further, that in the event of the occurrence of the Delayed Draw Term Loan Commitment Termination Date, nothing herein shall alter the burden of proof set forth in the applicable provisions of the Bankruptcy Code at any hearing concerning the continued use of Prepetition Collateral (including Cash Collateral) by the Debtors.

5. **Automatic Postpetition Lien Perfection**. This Interim Order shall be sufficient and conclusive evidence of the validity, enforceability, perfection and priority of the DIP Liens and the Adequate Protection Replacement Liens without the necessity of (a) filing or recording any financing statement, deed of trust, mortgage, or other instrument or document which may otherwise be required under the law of any jurisdiction or (b) taking any other action to validate or perfect the DIP Liens and the Adequate Protection Replacement Liens or to entitle the DIP Liens and the Adequate Protection Replacement Liens to the priorities granted herein. Notwithstanding the foregoing, each of the DIP Agent and Prepetition Secured Agent (in the latter case, solely with respect to the Adequate Protection Replacement Liens) may, each in their sole discretion, file financing statements, mortgages, security agreements, notices of Liens and

other similar documents, and is hereby granted relief from the automatic stay of section 362 of the Bankruptcy Code in order to do so, and all such financing statements, mortgages, security agreements, notices and other agreements or documents shall be deemed to have been filed or recorded at the time and on the Petition Date. The applicable Debtors shall execute and deliver to the DIP Agent and/or the Prepetition Secured Agent, as applicable, all such financing statements, mortgages, notices and other documents as such parties may reasonably request to evidence and confirm the contemplated priority of, the DIP Liens and the Adequate Protection Replacement Liens, as applicable, granted pursuant hereto. Without limiting the foregoing, each of the DIP Agent and Prepetition Secured Agent, each in its discretion, may file a photocopy of this Interim Order as a financing statement with any recording officer designated to file financing statements or with any registry of deeds or similar office in any jurisdiction in which any Debtor has real or personal property, and in such event, the subject filing or recording officer shall be authorized to file or record such copy of this Interim Order. Subject to the entry of the Final Order, any provision of any lease, loan document, easement, use agreement, proffer, covenant, license, contract, organizational document, or other instrument or agreement that requires the payment of any fees or obligations to any governmental entity or non-governmental entity in order for the Debtors to pledge, grant, mortgage, sell, assign, or otherwise transfer any fee or leasehold interest or the proceeds thereof or other DIP Collateral, is and shall be deemed to be inconsistent with the provisions of the Bankruptcy Code, and shall have no force or effect with respect to the Liens on such leasehold interests or other applicable DIP Collateral or the proceeds of any assignment and/or sale thereof by any Debtor, in favor of the DIP Secured Parties in accordance with the terms of the DIP Loan Documents and this Interim Order. To the extent that any Prepetition Secured Agent is the secured party under any account control agreements, listed

as loss payee under any of the Debtors' insurance policies or is the secured party under any Prepetition Loan Document, the DIP Agent shall also be deemed to be the secured party under such account control agreements, loss payee under the Debtors' insurance policies and the secured party under each such Prepetition Loan Document, shall have all rights and powers attendant to that position (including, without limitation, rights of enforcement) and shall act in that capacity and distribute any proceeds recovered or received first, for the benefit of the DIP Secured parties in accordance with the DIP Loan Documents and second, subsequent to Payment in Full of all DIP Obligations, for the benefit of the Prepetition Secured Parties. The Prepetition Secured Agent shall serve as agent for the DIP Agent for purposes of perfecting their respective Liens on all DIP Collateral that is of a type such that perfection of a Lien therein may be accomplished only by possession or control by a secured party.

6. **Reservation of Certain Third Party Rights and Bar of Challenges and Claims**. The Debtors' Stipulations shall be binding upon the Debtors in all circumstances. The Debtors' Stipulations shall be binding upon each other party in interest, including any Committee, unless (i) such Committee or any other party in interest other than the Debtors obtains the authority to commence and commences, or if the Cases are converted to cases under chapter 7 prior to the expiration of the Challenge Period (as defined below), the chapter 7 trustee in such Successor Cases commences on or before 60 days after entry of the Final Order (such time period shall be referred to as the "***Challenge Period***," and the date that is the next calendar day after the termination of the Challenge Period, in the event that no objection or challenge is raised during the Challenge Period, shall be referred to as the "***Challenge Period Termination Date***"), (x) a contested matter or adversary proceeding challenging or otherwise objecting to the admissions, stipulations, findings or releases included in the Debtors' Stipulations, or (y) a

contested matter or adversary proceeding against any or all of the Prepetition Secured Parties in connection with or related to the Prepetition Obligations, or the actions or inactions of any of the Prepetition Secured Parties arising out of or related to the Prepetition Obligations, or otherwise, including, without limitation, any claim against the Prepetition Secured Parties in the nature of a "lender liability" causes of action, setoff, counterclaim or defense to the Prepetition Obligations (including but not limited to those under sections 506, 544, 547, 548, 549, 550 and/or 552 of the Bankruptcy Code or by way of suit against any of the Prepetition Secured Parties) (the objections, challenges, actions and claims referenced in clauses (x) and (y), collectively, the "***Claims and Defenses***") and (ii) this Court rules in favor of the plaintiff in any such timely and properly commenced contested matter or adversary proceeding; provided, that as to the Debtors, for themselves and not their estates, all such Claims and Defenses are irrevocably waived and relinquished as of the Petition Date. If no Claims and Defenses have been timely asserted in any such adversary proceeding or contested matter, then, upon the Challenge Period Termination Date, and for all purposes in these Cases and any Successor Case, (i) all payments made to the Prepetition Secured Parties pursuant to this Interim Order or otherwise shall not be subject to counterclaim, set-off, subordination, recharacterization, defense or avoidance, (ii) any and all such Claims and Defenses by any party in interest shall be deemed to be forever released, waived and barred, (iii) the Prepetition Obligations shall be deemed to be an allowed claim, a portion of which shall be allowed as a secured claim within the meaning of section 506 of the Bankruptcy Code, and (iv) the Debtors' Stipulations, including the release provisions therein, shall be binding on all parties in interest, including any Committee. Notwithstanding the foregoing, to the extent any Claims and Defenses are timely asserted in any such adversary proceeding or contested matter, (i) the Debtors' Stipulations and the other provisions in clauses (i) through (iv)

in the immediately preceding sentence shall nonetheless remain binding and preclusive on any Committee (and any subsequent trustee of the Debtors' estates) and on any other party in interest from and after the Challenge Period Termination Date, except to the extent that such Debtors' Stipulations or the other provisions in clauses (i) through (iv) of the immediately preceding sentence were expressly challenged in such adversary proceeding or contested matter, and (ii) any portion of the Debtors' Stipulations or other provisions in clauses (i) through (iv) in the immediately preceding sentence that is the subject of a timely filed Claim and Defense shall become binding and preclusive on any Committee (and any subsequent trustee of the Debtors' estates) and or any other party in interest to the extent set forth in any order of the Court resolving such Claim and Defense. The Challenge Period in respect of the Prepetition Secured Credit Facility may be extended by written agreement of the Prepetition Secured Agent and the ad-hoc group of Prepetition Secured Lenders constituting the Majority Term Lenders (as defined in the Prepetition Secured Credit Agreement) in their sole discretion. Nothing in this Interim Order vests or confers on any person or entity, including any Committee, standing or authority to pursue any cause of action belonging to any or all of the Debtors or their estates, including, without limitation, any Claim and Defense or other claim against any Prepetition Secured Parties or the DIP Secured Parties.

7. **Carve-Out**. Subject to the terms and conditions contained in this paragraph 7, each of the DIP Liens, DIP Super-Priority Claims, Prepetition Liens, Adequate Protection Replacement Liens and Adequate Protection Super-Priority Claims shall be subject and subordinate to payment of the Carve-Out (as defined below):

(a) For purposes of this Interim Order, "***Carve-Out***" means (i) all unpaid fees required to be paid in these Cases to the clerk of the Bankruptcy Court and to the office of the

United States Trustee under 28 U.S.C. §1930(a), whether arising prior to or after the delivery of the Carve-Out Trigger Notice; (ii) all reasonable unpaid fees, costs and disbursements of professionals retained by the Debtors in these Cases (collectively, the "***Debtors' Professionals***") that are incurred prior to the delivery by the DIP Agent of a Carve-Out Trigger Notice, are allowed by the Court under sections 105(a), 330 and 331 of the Bankruptcy Code or otherwise and remain unpaid after application of any retainers and any available funds remaining in the Debtors' estates for such creditors; (iii) all reasonable unpaid fees, costs and disbursements of professionals retained by the Committee in these Cases (collectively, the "***Committee's Professionals***") and all reasonable unpaid expenses of the members of any Committee ("***Committee Members***") that are incurred prior to the delivery by the DIP Agent of a Carve-Out Trigger Notice, are allowed by the Court under sections 105(a), 330 and 331 of the Bankruptcy Code or otherwise and remain unpaid after application of any available funds remaining in the Debtors' estates for such creditors and in an aggregate amount (for both Committee Members and the Committee's Professionals) not to exceed $250,000; (iv) all reasonable unpaid fees, costs and disbursements of the Debtors' Professionals that are incurred after the delivery of a Carve-Out Trigger Notice, are allowed by the Court under sections 105(a), 330 and 331 of the Bankruptcy Code or otherwise and remain unpaid after application of any retainers and any available funds remaining in the Debtors' estates for such creditors and in an aggregate amount not to exceed $1,000,000 (the "***Debtors' Professionals Carve-Out Cap***"); (v) all reasonable unpaid fees, costs and disbursements of the Committee Professionals and all reasonable unpaid expenses of Committee Members that are incurred after the delivery of a Carve-Out Trigger Notice, are allowed by the Court under sections 105(a), 330 and 331 of the Bankruptcy Code or otherwise and remain unpaid after application of any retainers and any available funds remaining

in the Debtors' estates for such creditors and in an aggregate amount (for both Committee Members and the Committee's Professionals) not to exceed $50,000 (the "***Committee Carve-Out Cap***" and together with the Debtors' Professionals Carve-Out Cap, the "***Post-Default Carve-Out Cap***"); and (vi) the costs and administrative expenses not to exceed $150,000 in the aggregate that are permitted to be incurred by any chapter 7 trustee pursuant to any order of the Court following any conversion of any Cases pursuant to section 1112 of the Bankruptcy Code (clauses (i), (ii), (iii), (iv), (v) and (vi), collectively, the "***Carve-Out***"). The term "***Carve-Out Trigger Notice***" shall mean a written notice delivered by the DIP Agent to the Debtors' lead counsel, the U.S. Trustee, counsel for the Prepetition Secured Parties, and lead counsel to any Committee appointed in these Cases, which notice may be delivered at any time following the occurrence and during the continuation of any Event of Default under the DIP Loan Documents, expressly stating that the Carve-Out is invoked..

(b) Following the delivery of the Carve-Out Trigger Notice after the occurrence and during the continuance of any Event of Default under the DIP Loan Documents, any payments actually made pursuant to Bankruptcy Code sections 327, 328, 330, 331, 503 or 1103 or otherwise, to such Professionals or Committee Members shall (i) not be paid from the proceeds of any DIP Loan, DIP Collateral, Prepetition Collateral or Cash Collateral until such time as all retainers, if any, held by such Professionals or Committee Members have been reduced to zero, and (ii) in the case of any payments made on account of any fees and expenses described in clauses (iv) and (v) of the definition of Carve-Out, reduce the Post-Default Carve-Out Cap on a dollar-for-dollar basis. So long as no Carve-Out Trigger Notice has been delivered, the Debtors shall be permitted to pay compensation and reimbursement of expenses, as applicable, of the Debtors' Professionals, Committee's Professionals and Committee

Members, in each case, allowed and payable under 11 U.S.C. §§ 328, 330 and 331, as the same may be due and payable, and any such compensation and expenses previously paid, or accrued but unpaid, prior to the delivery of the Carve-Out Trigger Notice shall not reduce the Post-Default Carve-Out Cap.

(c) The DIP Agent shall be entitled to establish and maintain reserves against borrowing availability under the DIP Facility on account of the Carve-Out in accordance with the terms of the DIP Credit Agreement.

(d) Notwithstanding any provision in this paragraph 7 to the contrary, no portion of the Carve-Out, Cash Collateral, Prepetition Collateral, DIP Collateral or proceeds of the DIP Facility shall be utilized for the payment of professional fees and disbursements to the extent restricted under paragraph 15 hereof.

(e) Nothing herein shall be construed as consent to the allowance of any professional fees or expenses of any of the Debtors, any Committee, any other official or unofficial committee in these Cases, or of any other person or entity, or shall affect the right of any DIP Secured Party or any Prepetition Secured Party to object to the allowance and payment of such fees and expenses.

8. **Waiver of Section 506(c) Claims**. Subject to the entry of the Final Order, as a further condition of the DIP Facility and any obligation of the DIP Secured Parties to make credit extensions pursuant to the DIP Loan Documents (and their consent to the payment of the Carve-Out to the extent provided herein), no costs or expenses of administration of the Cases or any Successor Case shall be charged against or recovered from or against any or all of the DIP Secured Parties, the Prepetition Secured Parties, the DIP Collateral, the Prepetition Collateral, and the Cash Collateral pursuant to section 506(c) of the Bankruptcy Code or otherwise, without

the prior written consent of the DIP Agent or the Prepetition Secured Agent, as the case may be, and no such consent shall be implied from any other action, inaction, or acquiescence of any or all of the DIP Secured Parties and the Prepetition Secured Parties.

9. **After-Acquired Property**. Except as otherwise provided in this Interim Order, pursuant to section 552(a) of the Bankruptcy Code, all property acquired by the Debtors on or after the Petition Date is not, and shall not be, subject to any Lien of any person or entity resulting from any security agreement entered into by the Debtors prior to the Petition Date including, without limitation, in respect of the Prepetition Secured Credit Facility, except to the extent that such property constitutes proceeds of property of the Debtors that is subject to a valid, enforceable, perfected, and unavoidable Lien as of the Petition Date which is not subject to subordination under the Bankruptcy Code or other provisions or principles of applicable law.

10. **Protection of DIP Secured Parties' Rights**.

(a) Unless the requisite DIP Secured Parties under the DIP Loan Documents shall have provided their prior written consent or all DIP Obligations have been Paid in Full (or will be Paid in Full upon entry of a final, non-appealable order approving indebtedness described in clause (ii) of subsection (b) below), there shall not be entered in these proceedings, or in any Successor Case, any order which authorizes any of the following: (i) the obtaining of credit or the incurring of indebtedness that is secured by a security, mortgage, or collateral interest or other Lien on all or any portion of the DIP Collateral and/or that is entitled to administrative priority status, in each case which is superior to or *pari passu* with the DIP Liens, DIP Super-Priority Claims and other DIP Protections granted pursuant to this Interim Order to the DIP Secured Parties; or (ii) the use of Cash Collateral for any purpose other than to Pay in Full the DIP Obligations or as otherwise permitted in the DIP Loan Documents and this Interim Order.

(b) The Debtors (and/or their legal and financial advisors in the case of clauses (ii) through (iv) below) will (i) maintain books, records and accounts to the extent and as required by the DIP Loan Documents, (ii) reasonably cooperate, consult with, and provide to the DIP Agent the ad-hoc group of Prepetition Secured Lenders constituting the Majority Term Lenders (as defined in the Prepetition Secured Credit Agreement) all such information as required or allowed under the DIP Loan Documents or the provisions of this Interim Order, (iii) permit representatives of the DIP Agent the ad-hoc group of Prepetition Secured Lenders constituting the Majority Term Lenders (as defined in the Prepetition Secured Credit Agreement) such rights to visit and inspect any of the Debtors' respective properties, to examine and make abstracts or copies from any of their respective books and records, to conduct a collateral audit and analysis of their respective inventory and accounts, to tour the Debtors' business premises and other properties, and to discuss, and provide advice with respect to, their respective affairs, finances, properties, business operations and accounts with their respective officers, employees and independent public accountants as and to the extent required by the DIP Loan Documents, and (iv) permit the DIP Agent, the ad-hoc group of Prepetition Secured Lenders constituting the Majority Term Lenders (as defined in the Prepetition Secured Credit Agreement) and their respective representatives to consult with the Debtors' management and advisors on matters concerning the general status of the Debtors' businesses, financial condition and operations.

11. **Proceeds of Subsequent Financing**. Without limiting the provisions and protections of paragraph 10 above, and except as provided in the Interim Securitization Order (or any final order with respect thereto), if at any time prior to the Payment in Full of all DIP Obligations (including subsequent to the confirmation of the Plan or any other Chapter 11 plan or plans with respect to any of the Debtors), the Debtors' estates, any trustee, any examiner with

enlarged powers or any responsible officer subsequently appointed shall obtain credit or incur debt pursuant to sections 364(b), 364(c), 364(d) or any other provision of the Bankruptcy Code in violation of the DIP Loan Documents, then all of the cash proceeds derived from such credit or debt and all Cash Collateral shall immediately be turned over to the DIP Agent until Payment in Full of the DIP Obligations.

12. **Cash Collection**. From and after the date of the entry of this Interim Order, all collections and proceeds of any DIP Collateral or Prepetition Collateral or services provided by any Debtor and all Cash Collateral which shall at any time come into the possession, custody or control of any Debtor, or to which any Debtor is now or shall become entitled at any time, shall be promptly deposited in the same bank accounts into which the collections and proceeds of the Prepetition Collateral were deposited under the Prepetition Secured Credit Agreement (or in such other accounts as are designated by DIP Agent from time to time).

13. **Disposition of DIP Collateral**. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral without the prior written consent of the requisite DIP Secured Parties under the DIP Loan Documents (and no such consent shall be implied from any other action, inaction or acquiescence by any DIP Secured Party or any order of this Court), except for (a) as permitted in the DIP Loan Documents and this Interim Order and (b) approved by the Court to the extent required under applicable bankruptcy law.

14. **Rights and Remedies Upon Event of Default**.

(a) Any automatic stay otherwise applicable to the DIP Secured Parties is hereby modified, without requiring prior notice to or authorization of this Court, to the extent necessary to permit the DIP Secured Parties to exercise the following remedies immediately upon the

occurrence and during the continuance of an Event of Default: (i) terminate the Delayed Draw Term Loan Commitments; (ii) declare the principal amount then outstanding of, and the accrued interest on, the Delayed Draw Term Loans and all other amounts payable by the Debtors under the DIP Loan Documents to be forthwith due and payable, whereupon such amounts shall be immediately due and payable without presentment, demand, protest or other formalities of any kind, all of which are hereby expressly waived by the Debtors; (iii) terminate the DIP Facility and any DIP Loan Document as to any future liability or obligation of the DIP Secured Parties, but without affecting any of the DIP Obligations or the DIP Liens securing the DIP Obligations; (iv) declare a termination, reduction or restriction on the ability of the Obligators to use any Cash Collateral, including Cash Collateral derived solely from the proceeds of DIP Collateral (any such declaration to be made to the Debtors, the respective lead counsel to any Committee and the United States Trustee and to be referred to herein as a "***Termination Declaration***" and the date which is the earliest to occur of any such Termination Declaration being herein referred to as the "***Termination Declaration Date***"); (v) reduce any claim to judgment; (vi) take any other action permitted by law; and/or (vii) take any action permitted to be taken by the Security Documents during the existence of an Event of Default.

(b) Three (3) Business Days following a Termination Declaration Date, the DIP Agent shall have relief from the automatic stay and may foreclose on all or any portion of the DIP Collateral, collect accounts receivable and apply the proceeds thereof to the DIP Obligations, occupy the Debtors' premises to sell or otherwise dispose of the DIP Collateral or otherwise exercise remedies against the DIP Collateral permitted by applicable nonbankruptcy law. During the 3 Business Day period after a Termination Declaration Date, the Debtors and any Committee shall be entitled to an emergency hearing before the Court for the sole purpose of

contesting whether an Event of Default has occurred and section 105 of the Bankruptcy Code may not be invoked by the Debtor in an effort to restrict or preclude any DIP Secured Party from exercising any rights or remedies set forth in this Interim Order or the DIP Loan Documents. Unless during such period the Court determines that an Event of Default has not occurred and/or is not continuing, the automatic stay, as to the DIP Secured Parties, shall automatically terminate at the end of such 3 Business Day period, without further notice or order. During such 3 Business Day period, the Debtors may not use Cash Collateral except to pay payroll and other expenses critical to keep the business of the Debtors operating in accordance with the Approved Budget.

(c) All proceeds realized in connection with the exercise of the rights and remedies of the DIP Secured Parties shall be turned over to the DIP Agent for application to the other DIP Obligations under, and in accordance with the provisions of, the DIP Loan Documents until Payment in Full of the DIP Obligations; provided, that in the event of the liquidation of the Debtors' estates after an Event of Default and the termination of the Delayed Draw Term Loan Commitments, the unused amount of the Carve-Out shall be funded into a segregated account exclusively (i) first, from proceeds of any unencumbered assets of the Debtors, and (ii) then from Cash Collateral received by any DIP Agent subsequent to the date of termination of the Delayed Draw Term Loan Commitments and prior to the distribution of any such Cash Collateral to any other parties in interest.

(d) Subject to entry of the Final Order, and notwithstanding anything contained herein to the contrary, and without limiting any other rights or remedies of the DIP Agent or the other DIP Secured Parties contained in this Interim Order or the DIP Loan Documents, or otherwise available at law or in equity, and subject to the terms of the DIP Loan Documents,

upon three (3) Business Days' written notice to the Debtors and any landlord, lienholder, licensor or other third party owner of any leased or licensed premises or intellectual property that an Event of Default under the DIP Loan Documents has occurred and is continuing, the DIP Agent (i) may, unless otherwise provided in any separate agreement by and between the applicable landlord or licensor and the DIP Agent (the terms of which shall be reasonably acceptable to the parties thereto), enter upon any leased or licensed premises of the Debtors for the purpose of exercising any remedy with respect to Collateral located thereon and (ii) shall be entitled to all of the Debtors' rights and privileges as lessee or licensee under the applicable license and to use any and all trademarks, trade names, copyrights, licenses, patents or any other similar assets of the Debtors, which are owned by or subject to a Lien of any third party and which are used by Debtors in their businesses, in either the case of subparagraph (i) or (ii) of this paragraph 14(d) without interference from lienholders or licensors thereunder, subject to such lienholders or licensors rights under applicable law, provided, however, that the DIP Agent, on behalf of the DIP Secured Parties, shall pay only rent and additional rent, fees, royalties or other obligations of the Debtors that first arise after the written notice referenced above from the DIP Agent and that are payable during the period of such occupancy or use by such DIP Agent calculated on a *per diem* basis. Nothing herein shall require the Debtors, the DIP Agent or the other DIP Secured Parties to assume any lease or license under Bankruptcy Code section 365(a) as a precondition to the rights afforded to the DIP Agent and the other DIP Secured Parties in this paragraph 14(d).

(e) The automatic stay imposed under Bankruptcy Code section 362(a) is hereby modified pursuant to the terms of this Interim Order and the DIP Loan Documents as necessary to (i) permit the Debtors to grant the Adequate Protection Replacement Liens and the DIP Liens and to incur all liabilities and obligations to the Prepetition Secured Parties and the DIP Secured

Parties under the DIP Loan Documents, the DIP Facility and this Interim Order, (ii) authorize the DIP Secured Parties and the Prepetition Secured Parties to retain and apply payments hereunder, and (iii) otherwise to the extent necessary to implement and effectuate the provisions of this Interim Order.

15. **Restriction on Use of Proceeds**. Notwithstanding anything herein to the contrary, no proceeds from the DIP Facility, DIP Collateral, Cash Collateral (including any prepetition retainer funded by any or all of the Prepetition Secured Parties), Prepetition Collateral, or any portion of the Carve-Out may be used by any of the Debtors, any Committee, and any trustee or other estate representative appointed in the Chapter 11 Cases or any Successor Case, or any other person, party or entity to (or to pay any professional fees and disbursements incurred in connection therewith) (a) request authorization to obtain postpetition loans or other financial accommodations pursuant to Bankruptcy Code section 364(c) or (d), or otherwise, other than from the DIP Secured Parties; (b) investigate (except as set forth below), assert, join, commence, support or prosecute any action for any claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination or similar relief against, or adverse to the interests of, in any capacity, any or all of the DIP Secured Parties, the Prepetition Secured Parties, and their respective officers, directors, employees, agents, attorneys, affiliates, assigns, or successors, with respect to any transaction, occurrence, omission, action or other matter (including formal discovery proceedings in anticipation thereof), including, without limitation, (i) any Claims and Defenses, any Avoidance Actions or other actions arising under chapter 5 of the Bankruptcy Code; (ii) any so-called "lender liability" claims and causes of action; (iii) any action with respect to the validity, enforceability, priority and extent of the DIP Obligations and/or the Prepetition Obligations, or

the validity, extent, and priority of the DIP Liens, the Prepetition Liens, or the Adequate Protection Replacement Liens (or the value of any of the Prepetition Collateral or DIP Collateral); (iv) any action seeking to invalidate, set aside, avoid or subordinate, in whole or in part, the DIP Liens, the other DIP Protections, the Prepetition Liens, the Adequate Protection Replacement Liens or the other Prepetition Secured Parties' Adequate Protection; (v) except to contest the occurrence or continuation of any Event of Default as permitted in paragraph 14, any action seeking, or having the effect of, preventing, hindering or otherwise delaying any or all of the DIP Secured Parties' and the Prepetition Secured Parties' assertion, enforcement or realization on the Cash Collateral or the DIP Collateral in accordance with the DIP Loan Documents, the Prepetition Loan Documents or this Interim Order; and/or (vi) any action seeking to modify any of the rights, remedies, priorities, privileges, protections and benefits granted to any or all of the DIP Secured Parties and the Prepetition Secured Parties hereunder or under the DIP Loan Documents or the Prepetition Loan Documents; provided, however, up to $30,000 in the aggregate of the Carve-Out, any DIP Collateral, any Prepetition Collateral, any Cash Collateral or proceeds of the DIP Facility may be used by the Committee (to the extent such committee is appointed) to investigate (but not prosecute) the extent, validity and priority of the Prepetition Obligations, the Prepetition Liens or any other claims against the Prepetition Secured Parties so long as such investigation occurs within sixty (60) days after entry of the Final Order.

16. **Proofs of Claim**. Upon entry of the Final Order, the Prepetition Secured Agent and Prepetition Secured Lenders will not be required to file proofs of claim in any of the Cases or Successor Cases for any claim allowed herein, and Prepetition Secured Parties shall not be required to file a verified statement pursuant to Bankruptcy Rule 2019. The Debtors'

Stipulations in paragraph D herein shall be deemed to constitute a timely filed proof of claim for the Prepetition Secured Agent and the Prepetition Secured Lenders. Notwithstanding any order entered by the Court in relation to the establishment of a bar date in any of the Cases or Successor Cases to the contrary, the Prepetition Secured Agent for the benefit of itself and the Prepetition Secured Lenders is hereby authorized and entitled, in its sole discretion, but not required, to file (and amend and/or supplement, as it sees fit) a proof of claim and/or aggregate proofs of claim in each of the Cases or Successor Cases for any claim allowed herein.

17. **Preservation of Rights Granted under the Interim Order**.

(a) No Non-Consensual Modification or Extension of Interim Order. Unless all DIP Obligations shall have been Paid in Full, the Debtors shall not seek, and it shall constitute an Event of Default (resulting, among other things, in the termination of the Debtors' right to use Cash Collateral), if there is entered (i) an order amending, supplementing, extending or otherwise modifying this Interim Order or (ii) an order converting or dismissing any of the Cases, in each case, without the prior written consent of the DIP Agent and the Majority DIP Lenders, and no such consent shall be implied by any other action, inaction or acquiescence.

(b) Dismissal. If any order dismissing any of the Cases under section 1112 of the Bankruptcy Code or otherwise is at any time entered, such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code), to the fullest extent permitted by law, that (i) the DIP Protections and the Prepetition Secured Parties' Adequate Protection shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until all DIP Obligations have been Paid in Full and all Prepetition Secured Parties' Adequate Protection have been paid in full in cash or otherwise satisfied in full (and that all DIP Protections and the Prepetition Secured Parties' Adequate Protection shall, notwithstanding such dismissal, remain

binding on all parties in interest), and (ii) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing such DIP Protections and the Prepetition Secured Parties' Adequate Protection.

(c) Modification of Interim Order. Based on the findings set forth in this Interim Order and in accordance with section 364(e) of the Bankruptcy Code, which is applicable to the DIP Facility contemplated by this Interim Order, in the event any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated or stayed by a subsequent order of this Court or any other court, the DIP Secured Parties shall be entitled to the protections provided in section 364(e) of the Bankruptcy Code, and no such reversal, modification, vacatur or stay shall affect (i) the validity, priority or enforceability of any DIP Protections and the Prepetition Secured Parties' Adequate Protection granted or incurred prior to the actual receipt of written notice by the DIP Agent or the Prepetition Secured Agent, as the case may be, of the effective date of such reversal, modification, vacatur or stay or (ii) the validity or enforceability of any Lien or priority authorized or created hereby or pursuant to the DIP Loan Documents with respect to any DIP Obligations and the Prepetition Secured Parties' Adequate Protection. Notwithstanding any such reversal, modification, vacatur or stay, any use of Cash Collateral or any DIP Obligations or Prepetition Secured Parties' Adequate Protection incurred or granted by the Debtors prior to the actual receipt of written notice by the DIP Agent or Prepetition Secured Agent, as applicable, of the effective date of such reversal, modification, vacatur or stay shall be governed in all respects by the original provisions of this Interim Order, and the DIP Secured Parties and the Prepetition Secured Parties shall be entitled to all of the DIP Protections and Prepetition Secured Parties' Adequate Protection, as the case may be, and all other rights, remedies, Liens, priorities, privileges, protections and benefits granted in section

364(e) of the Bankruptcy Code, this Interim Order and pursuant to the DIP Loan Documents with respect to all uses of Cash Collateral and all DIP Obligations and Prepetition Secured Parties' Adequate Protection.

(d) Survival of Interim Order. The provisions of this Interim Order and the DIP Loan Documents, any actions taken pursuant hereto or thereto, and all of the DIP Protections, the Prepetition Secured Parties' Adequate Protection, and all other rights, remedies, Liens, priorities, privileges, protections and benefits granted to any or all of the DIP Secured Parties and the Prepetition Secured Parties shall survive, and shall not be modified, impaired or discharged by, the entry of any order confirming any plan of reorganization in any Case, converting any Case to a case under chapter 7, dismissing any of the Cases, withdrawing of the reference of any of the Cases or any Successor Case or providing for abstention from handling or retaining of jurisdiction of any of the Cases in this Court, or terminating the joint administration of these Cases or by any other act or omission. The terms and provisions of this Interim Order, including all of the DIP Protections, Prepetition Secured Parties' Adequate Protection and all other rights, remedies, Liens, priorities, privileges, protections and benefits granted to any or all of the DIP Secured Parties and the Prepetition Secured Parties, shall continue in full force and effect notwithstanding the entry of any such order, and such DIP Protections and Prepetition Secured Parties' Adequate Protection shall continue in these proceedings and in any Successor Case, and shall maintain their respective priorities as provided by this Interim Order. Subject to the provisions of this Interim Order and the DIP Loan Documents that permit the treatment of the DIP Obligations under the DIP Facility pursuant to the Plan or any other Chapter 11 plan with respect to any of the Debtors, the DIP Obligations shall not be discharged by the entry of an

order confirming the Plan or any other such Chapter 11 plan, the Debtors having waived such discharge pursuant to section 1141(d)(4) of the Bankruptcy Code.

18. **Other Rights and Obligations**.

(a) Expenses. As provided in the DIP Loan Documents, the applicable Debtors will pay all reasonable expenses incurred by the DIP Agent (including, without limitation, the reasonable fees and disbursements of all counsel for GEBFS and any internal or third-party appraisers, consultants and auditors advising any DIP Agent) in connection with the preparation, execution, delivery and administration of the DIP Loan Documents, this Interim Order, any Final Order and any other agreements, instruments, pleadings or other documents prepared or reviewed in connection with any of the foregoing, whether or not any or all of the transactions contemplated hereby or by the DIP Loan Documents are consummated. Payment of such fees shall not be subject to allowance by this Court. Professionals for the DIP Agent and the Prepetition Secured Agent (collectively, the "***Lender Professionals***") shall not be required to comply with the U.S. Trustee fee guidelines or submit invoices to the Court, U.S. Trustee, any Committee or any other party-in-interest absent further court order. Copies of invoices submitted to the Debtors by such Lender Professionals shall be forwarded by the Debtors to the U.S. Trustee, counsel for any Committee, and such other parties as the Court may direct. The invoices shall be sufficiently detailed to enable a determination as to the reasonableness of such fees and expenses (without limiting the right of the various professionals to redact privileged, confidential, or sensitive information). If the Debtors, U.S. Trustee or counsel for any Committee object to the reasonableness of the fees and expenses of any of the Lender Professionals and cannot resolve such objection within ten (10) days of receipt of such invoices, the Debtors, U.S. Trustee or the Committee, as the case may be, shall file and serve on such

Lender Professionals an objection with the Court (the "***Fee Objection***") limited to the issue of reasonableness of such fees and expenses. The Debtors shall timely pay in accordance with the terms and conditions of this Interim Order the undisputed fees, costs and expenses reflected on any invoice to which a Fee Objection has been timely filed.

(b) Binding Effect. Subject to paragraph 6 above, the provisions of this Interim Order, including all findings herein, and the DIP Loan Documents shall be binding upon all parties in interest in these Cases, including, without limitation, the DIP Secured Parties, the Prepetition Secured Parties, any Committee and the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code or any other fiduciary or responsible person appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors), whether in any of the Cases, in any Successor Cases, or upon dismissal of any such Case or Successor Case; provided, however, that the DIP Secured Parties and the Prepetition Secured Parties shall have no obligation to permit the use of Cash Collateral or to extend any financing to any chapter 7 or chapter 11 trustee or other responsible person appointed for the estates of the Debtors in any Case or Successor Case.

(c) No Waiver. Neither the failure of the Prepetition Secured Parties to seek relief or otherwise exercise their rights and remedies under this Interim Order, the Prepetition Loan Documents or otherwise (or any delay in seeking or exercising same), nor the failure of the DIP Secured Parties to seek relief or otherwise exercise their respective rights and remedies under this Interim Order, the DIP Loan Documents or otherwise (or any delay in seeking or exercising same), shall constitute a waiver of any of such parties' rights hereunder, thereunder,

or otherwise. Except as expressly provided herein, nothing contained in this Interim Order (including, without limitation, the authorization of the use of any Cash Collateral) shall impair or modify any rights, claims or defenses available in law or equity to any Prepetition Secured Party or any DIP Secured Party, including, without limitation, rights of a party to a swap agreement, securities contract, commodity contract, forward contract or repurchase agreement with a Debtor to assert rights of setoff or other rights with respect thereto as permitted by law (or the right of a Debtor to contest such assertion). Except as prohibited by this Interim Order and the Lock-up Agreement, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair, the ability of the Prepetition Secured Parties or the DIP Secured Parties under the Bankruptcy Code or under non-bankruptcy law to (i) request conversion of the Cases to cases under Chapter 7, dismissal of the Cases, or the appointment of a trustee in the Cases, (ii) propose, subject to the provisions of section 1121 of the Bankruptcy Code, any Chapter 11 plan or plans with respect to any of the Debtors, or (iii) exercise any of the rights, claims or privileges (whether legal, equitable or otherwise) of the DIP Secured Parties or the Prepetition Secured Parties, respectively. Except to the extent otherwise expressly provided in this Interim Order, neither the commencement of the Cases nor the entry of this Interim Order shall limit or otherwise modify the rights and remedies of the Prepetition Secured Parties with respect to non-Debtor entities or their respective assets, whether such rights and remedies arise under the Prepetition Secured Credit Facility or the Prepetition Loan Documents, applicable law, or equity.

(d) No Third Party Rights. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, or incidental beneficiary. In determining to make any loan (whether under

the DIP Credit Agreement or otherwise) or to permit the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Loan Documents, the DIP Secured Parties and the Prepetition Secured Parties shall not (i) be deemed to be in control of the operations of the Debtors, or (ii) owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates.

(e) No Marshaling. Neither the DIP Secured Parties nor the Prepetition Secured Parties shall be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral or the Prepetition Collateral, as applicable.

(f) Amendments. The Debtors are authorized and empowered, without further notice and hearing or approval of this Court, to amend, modify, supplement or waive any provision of the DIP Loan Documents in accordance with the provisions thereof, in each case unless such amendment, modification, supplement or waiver (i) increases the interest rate (other than as a result of the imposition of the default rate), (ii) increases the aggregate lending commitments of all of the DIP Lenders in respect of the DIP Facility, (iii) changes the Delayed Draw Term Loan Commitment Termination Date, or (iv) adds or amends (in any respect unfavorable to the Debtors) any Event of Default. No waiver, modification, or amendment of any of the provisions hereof shall be effective unless set forth in writing, signed by on behalf of all the Debtors and the DIP Agent (after having obtained the approval of the requisite DIP Secured Parties as provided in the DIP Loan Documents) and, except as provided herein, approved by this Court.

(g) Inconsistency. In the event of any inconsistency between the terms and conditions of the DIP Loan Documents and of this Interim Order, the provisions of this Interim Order shall govern and control.

(h) Enforceability. This Interim Order shall constitute findings of fact and conclusions of law pursuant to the Bankruptcy Rule 7052 and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon execution hereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062 or 9024 or any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Interim Order shall be immediately effective and enforceable upon its entry, and there shall be no stay of execution or effectiveness of this Interim Order.

(i) Headings. Paragraph headings used herein are for convenience only and are not to affect the construction of or to be taken into consideration in interpreting this Interim Order.

19. **Final Hearing**.

(a) The Final Hearing to consider entry of the Final Order and final approval of the DIP Facility is scheduled for **[•]**, 2010, at **[•]** (prevailing Eastern time) at the United States Bankruptcy Court for the District of Delaware. The proposed Final Order shall be substantially the same as the Interim Order except that those provisions in the Interim Order that are subject to the entry of the Final Order shall be included in the Final Order without such qualification. If no objections to the relief sought in the Final Hearing are filed and served in accordance with this Interim Order, no Final Hearing may be held, and a separate Final Order may be presented by the Debtors and entered by this Court.

(b) Final Hearing Notice. On or before **[•]**, 2010 the Debtors shall serve, by United States mail, first-class postage prepaid, (such service constituting adequate notice of the Final Hearing) (i) notice of the entry of this Interim Order and of the Final Hearing (the "***Final Hearing Notice***") and (ii) a copy of this Interim Order, on the parties having been given notice of

the Interim Hearing and to any other party that has filed a request for notices with this Court and to any Committee after the same has been appointed, or Committee counsel, if the same shall have been appointed. The Final Hearing Notice shall state that any party in interest objecting to the entry of the proposed Final Order shall file written objections with the Clerk of the Bankruptcy Court no later than [•], 2010, which objections shall be served so that the same are received on or before such date by: (a) counsel for the Debtors, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn: Richard M. Cieri and Joshua A. Sussberg, richard.cieri@kirkland.com and joshua.sussberg@kirkland.com; (b) co-counsel for the Debtors, Klehr Harrison Harvey Branzburg LLP, 919 N. Market St., Suite 1000, Wilmington, Delaware 19801, Attn: Domenic E. Pacitti, dpacitti@klerh.com; (c) counsel for the DIP Secured Parties, Latham & Watkins LLP, 233 S. Wacker Drive, Suite 5800, Chicago, IL 60606, Attn: David S. Heller and Douglas Bacon, david.heller@lw.com and douglas.bacon@lw.com; (d) co-counsel for the DIP Secured Parties, Reed Smith LLP, 1201 Market St., Suite 1500, Wilmington, Delaware 19801, Attn: Kurt F. Gwynne, KGwynne@ReedSmith.com; (e) counsel for the ad-hoc group of the Prepetition Secured Lenders, Wachtell, Lipton, Rosen & Katz, Attn: Scott K. Charles and Michael S. Benn, SKCharles@wlrk.com and MSBenn@wlrk.com; (f) counsel to any Committee; and (g) the Office of the United States Trustee for the District of Delaware, and such objections shall be filed with the Clerk of the United States Bankruptcy Court for the District of Delaware, in each case to allow actual receipt of the foregoing no later than [•], 2010, at 4:00 p.m. (prevailing Eastern time).

20. **Retention of Jurisdiction**. The Bankruptcy Court has and will retain jurisdiction to enforce this Interim Order according to its terms.

Dated: January _____, 2010

Wilmington, Delaware

UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

The DIP Credit Agreement

ATRIUM COMPANIES, INC.,
as a debtor-in-possession,
as Borrower,

and

THE GUARANTORS PARTY HERETO

SENIOR SECURED PRIMING AND SUPERPRIORITY
DEBTOR-IN-POSSESSION CREDIT AGREEMENT

Dated as of January 20, 2010

VARIOUS FINANCIAL INSTITUTIONS AND OTHER PERSONS
FROM TIME TO TIME PARTIES HERETO,
as the Lenders,

GE BUSINESS FINANCIAL SERVICES INC.,
as the Administrative Agent and the Collateral Agent,

and

GE CAPITAL MARKETS INC.,
as the Sole Lead Arranger and Bookrunner,

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SENIOR SECURED PRIMING AND SUPERPRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT

THIS SENIOR SECURED PRIMING AND SUPERPRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT, dated as of January 20, 2010, is among ATRIUM COMPANIES, INC., a Delaware corporation ("Borrower"), ATRIUM CORPORATION, a Delaware corporation ("Parent"), ACIH, INC., a Delaware corporation ("Holdings"), the Subsidiary Guarantors, each of the foregoing as a debtor-in-possession in the Chapter 11 Cases, each of the lenders that is a signatory hereto identified under the caption "LENDERS" on the signature pages hereto) or that, pursuant to Section 13.06(b), shall become a "Lender" hereunder (collectively, the "Lenders"), GE BUSINESS FINANCIAL SERVICES INC. (f/k/a Merrill Lynch Business Financial Services Inc.) (in its individual capacity, "GE Business Finance"), as the administrative agent (in such capacity, the "Administrative Agent") for the Lenders and as the collateral agent (in such capacity, the "Collateral Agent") for the Creditors, and GE CAPITAL MARKETS INC., as the sole lead arranger and bookrunner (in such capacity, the "Lead Arranger").

W I T N E S S E T H:

WHEREAS, Atrium Companies, Inc., ACIH, Inc., the Subsidiary Guarantors, GE Business Finance, as administrative agent and collateral agent, and the lenders party hereto are parties to the Second Amended and Restated Credit Agreement dated as of October 15, 2008 (as heretofore amended, supplemented and modified, the "Pre-Petition Credit Agreement");

WHEREAS, on January 20, 2010 (the "Petition Date"), Borrower, Holdings, Parent and the Subsidiary Guarantors (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code (each, a "Chapter 11 Case" and collectively, the "Chapter 11 Cases") with the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court");

WHEREAS, on the Petition Date, North Star Manufacturing (London) Ltd. commenced a voluntary reorganization case under the Companies' Creditors Arrangement Act in the Ontario Superior Court of Justice in Toronto, Canada;

WHEREAS, from and after the Petition Date, the Debtors are continuing to operate their respective businesses and manage their respective properties as debtors in possession under Sections 1107 and 1108 of the Bankruptcy Code; and

WHEREAS, the Borrower has requested that the Lenders provide a senior secured priming and superpriority delayed draw term loan credit facility (the "DIP Facility") in an aggregate principal amount not to exceed $40,000,000, the proceeds of which will be used (i) to pay related transaction costs, fees and expenses, (ii) to provide working capital from time to time for the Borrower and its Subsidiaries, and (iii) for other general corporate purposes.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, the parties hereto agree as follows:

Section 1. Definitions, Accounting Matters and Rules of Construction; Limited Waiver.

1.01 Certain Defined Terms. As used herein, the following terms shall have the following meanings:

"ABR Loans" shall mean Loans that bear interest at rates based upon the Alternate Base Rate.

"Account" shall mean any account (as that term is defined in Section 9-106 of the UCC) of any Company arising from the sale or lease of goods or rendering of services.

"Act" see Section 13.16.

"Additional DIP Collateral" see Section 9.12.

"Adjusted Net Income" shall mean, for any period, the consolidated net income (loss) for such period, of Borrower and its Consolidated Subsidiaries calculated on a consolidated basis in accordance with GAAP, adjusted by excluding (to the extent taken into account in the calculation of such consolidated net income (loss)) the effect of (a) gains or losses for such period from Dispositions not in the ordinary course of business and Excluded Dispositions not in the ordinary course of business, and the tax consequences thereof, (b) any non-recurring or extraordinary items of income or expense for such period and the tax consequences thereof (including expenses related to the Transactions); provided that an item will not be considered "non-recurring" if it is in the ordinary course of continuing operations, (c) the portion of net income (loss) of any Person (other than a Subsidiary) in which Borrower or any Subsidiary has an ownership interest, except to the extent of the amount of cash dividends or other cash distributions actually paid to Borrower or (subject to clause (d) below) any Subsidiary during such period to the extent not in excess of Borrower's or such Subsidiary's proportionate interest in such Person's consolidated net income for such period, (d) the net income of any Subsidiary to the extent that the declaration or payment of dividends or similar distribution by such Subsidiary was not for the relevant period permitted (without giving effect to any non-permanent waiver), directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to such Subsidiary or its stockholders, (e) any unrealized gains or losses relating to hedging transactions and mark-to-market in foreign currencies or Swap Contracts, (f) any non-cash impairment charges resulting from intangible assets, and (g) any net after-tax income or loss from discontinued operations and any net after-tax gains or losses on disposal of discontinued operations.

"Administrative Agent" see the introduction to this Agreement.

"Administration Charge" shall mean a CCAA Charge in the amount of no more than $500,000 to secure the payment of professional fees and expenses as more particularly described in the Initial CCAA Order.

"Advance Date" see Section 4.06.

"Ad-Hoc Group" see Section 7.01(vii).

"Affiliate" shall mean, with respect to any Person, any other Person which directly or indirectly controls, or is under common control with, or is controlled by, such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise). Notwithstanding the foregoing, solely for purposes of Section 9.15, no Company shall be deemed an Affiliate of any other Company. No Creditor will be deemed to be an Affiliate of any Company solely by reason of its relationship with such Company arising from the Credit Documents; and no Creditor (as defined in the Pre-Petition Credit Agreement) nor any holder of the New Subordinated Notes will be deemed to be an Affiliate of any Company solely by reason of its relationship with such Company arising from the Pre-Petition Credit Agreement, Plan Support Agreement and New Subordinated Notes Documents.

"Affiliate Transaction" see Section 9.15.

"Agent" shall mean any of the Administrative Agent or the Collateral Agent.

"Aggregate Liquidity" see Section 9.11(c).

"Agreement" shall mean, on any date, this Senior Secured Priming and Superpriority Debtor-in Possession Credit Agreement as originally in effect on the Closing Date and as thereafter from time to time amended, supplemented, amended and restated or otherwise modified from time to time and in effect on such date.

"Alternate Base Rate" shall mean for any day, a rate per annum equal to the highest of (a) the rate last quoted by The Wall Street Journal as the "Prime Rate" in the United States or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by Administrative Agent) or any similar release by the Federal Reserve Board (as determined by Administrative Agent), (b) the sum of 3% per annum and the Federal Funds Rate, and (c) the sum of (x) LIBOR calculated for each such day based on an Interest Period of three months determined two (2) Business Days prior to such day, plus (y) the excess of the Applicable Margin for LIBOR Loans over the Applicable Margin for ABR Loans, in each instance, as of such day. Any change in the Base Rate due to a change in any of the foregoing shall be effective on the date of such change in the Federal Funds Rate or LIBOR for an Interest Period of three months.

"Anti-Terrorism Laws" see Section 8.23.

"Applicable Lending Office" shall mean, for each Lender and for each Type of Loan, the "Lending Office" of such Lender (or of an Affiliate of such Lender) designated for such type of Loan on the signature pages hereof or such other office of such Lender (or of an Affiliate of such Lender) as such Lender may from time to time specify in writing to the Administrative Agent and Borrower as the office by which its Loans of such Type are to be made and maintained.

"Applicable Margin" shall mean 8.50% for Loans maintained as ABR Loans and 9.50% for Loans maintained as LIBOR Loans.

"Approved Budget" shall mean the aggregate, without duplication, of all items that are set forth in the Initial Approved Budget and any Supplemental Approved Budget.

"Approved Fund" shall mean any (i) investment company, fund, trust, securitization vehicle or conduit that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course or (ii) any Person (other than a natural person) which temporarily warehouses loans for any Lender or any entity described in the preceding clause (i) and that, with respect to each of the preceding clauses (i) and (ii), is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) a Person (other than a natural person) or an Affiliate of a Person (other than a natural person) that administers or manages a Lender.

"A/R Availability" see definition of "Funding Availability" in the A/R Facility Documentation.

"A/R Facility" shall mean Borrower's existing receivables securitization facility established pursuant to the A/R Facility Documentation.

"A/R Facility Amendments" shall mean (i) the Seventh Amendment and Waiver to Securitization Agreements, dated as of January 20, 2010, by and among Borrower, as the servicer; Atrium Funding Corp. II, as the SPV; General Electric Capital Corporation, as administrative agent and the advancing institution; and Aluminum Screen Manufacturers, Inc., Borrower, Atrium Door and Window Company - West Coast, Atrium Door and Window Company of Arizona, Atrium Door and Window Company of the Northeast, Atrium Door and Window Company of the Northwest, Atrium Door and Window Company of the Rockies, Atrium Extrusion Systems, Inc., Atrium Florida, Inc., Atrium Vinyl, Inc., Atrium Windows and Doors of Ontario, Inc., Champion Window, Inc., Superior Engineered Products Corporation, and Thermal Industries, Inc., as originators, and (ii) the Seventh Amendment Fee Letter, dated as of January 20, 2010, by and between Atrium Funding Corp. II and General Electric Capital Corporation.

"A/R Facility Documentation" shall mean, collectively, the Existing A/R Facility Documentation, as amended by the A/R Facility Amendments and as may be further amended from time to time.

"Availability" means, as of any date of determination, the amount, if any, by which (a) the aggregate amount of the unused portion of the Delayed Draw Term Loan Commitments as in effect at such time exceeds (b) the Carve-Out Reserve.

"Avoidance Actions" see Section 2.13(b).

"Bankruptcy Code" shall mean the Federal Bankruptcy Code of 1978, as amended.

"Bankruptcy Court" see the Recitals to this Agreement.

"Benefit Plan" shall mean at any time an employee pension benefit plan (other than a Multiemployer Plan) which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code or Section 302 of ERISA and is maintained or contributed to by any member of the ERISA Group or with respect to which any Company could incur liability.

"Borrower" see the introduction to this Agreement.

"Business Day" shall mean any day (a) on which commercial banks are not authorized or required to close in Chicago or New York City and (b) if such day relates to a borrowing of, a payment or prepayment of principal of or interest on, a Continuation or Conversion of or into, or an Interest Period for, a LIBOR Loan or a notice by Borrower with respect to any such borrowing, payment, prepayment, Continuation, Conversion or Interest Period, that is also a day on which dealings in Dollar deposits are carried out in the London interbank market.

"Canadian DIP Charge" shall mean a CCAA Charge to secure the Obligations which shall rank in priority to all other Liens.

"Capital Expenditures" shall mean, for any period, any direct or indirect expenditures of Borrower and the Subsidiaries which should be capitalized on the consolidated balance sheet of Borrower and the Subsidiaries in accordance with GAAP in respect of the purchase or other acquisition of fixed or capital assets (including, without limitation, securities), excluding (i) normal replacement and maintenance programs properly charged to current operations, (ii) any expenditure made with the Net Available Proceeds of any Disposition to the extent such Net Available Proceeds are not required to be applied to the prepayment of the Loans in accordance with Section 2.10(a)(iv), (iii) any expenditure made with the proceeds of any Excluded Disposition, (iv) expenditures in an amount not to exceed the sum of (x) the Net Available Proceeds of any Casualty Event to the extent such Net Available Proceeds are not required to be applied to the prepayment of the Loans in accordance with Section 2.10(a)(i) and (y) the amount of any applicable insurance deductibles with respect to such Casualty Event to the extent such amount is applied as set forth in clause (x) of Section 2.10(a)(i) within the period specified therein, (v) the purchase price of equipment to the extent that the consideration therefor consists of used or surplus equipment being traded in at such time or the proceeds of a concurrent sale of such used or surplus equipment, in each case in the ordinary course of business, (vi) any deposits required to be made in connection with the purchase or other acquisition of fixed or capital assets; provided, however, that such a deposit shall no longer be excluded from Capital Expenditures if used to purchase or acquire fixed or capital assets, (vii) option exercise costs to acquire Property and the costs of improvements to such Property so long as such Property is sold within the same fiscal year and (viii) any capitalized interest.

"Capital Lease" as applied to any Person, shall mean any lease of any Property by that Person as lessee which, in conformity with GAAP, is required to be classified and accounted for as a capital lease on the balance sheet of that Person.

"Capital Lease Obligations" shall mean, for any Person, all obligations of such Person to pay rent or other amounts under a Capital Lease, and, for purposes of this Agreement, the

amount of such obligations shall be the capitalized amount thereof, determined in accordance with GAAP.

"Carve-Out" see definition in the DIP Orders.

"Carve-Out Reserve" shall mean, as of any date of determination, the sum of (a) the amount described in clause (ii) of the Carve-Out as of such date, plus (b) $250,000, plus (c) the amount of the Post-Default Carve-Out Cap (as defined in the DIP Orders) as of such date, plus (d) the difference between $150,000 and the costs and administrative expenses described in clause (vi) of the Carve-Out incurred prior to such date.

"Cash Equivalents" shall mean (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one year from the date of acquisition; (b) certificates of deposit, time deposits, repurchase agreements, reverse repurchase agreements or overnight bank deposits having maturities of twelve months or less from the date of acquisition issued by any Lender or by any commercial bank organized under the laws of the United States of America or any state thereof having combined capital and surplus of not less than $500,000,000 and rated at least A-1 by S&P and P-1 by Moody's; (c) bankers acceptances or commercial paper of an issuer rated at least A-1 by S&P and P-1 by Moody's, or carrying an equivalent rating by a nationally recognized rating agency, if one or both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within six months from the date of acquisition; and (d) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, as amended, (ii) are rated AAA by S&P and Aaa by Moody's and (iii) have portfolio assets of at least $5,000,000,000.

"Casualty Event" shall mean, with respect to any Property (including Real Property) of any Person, any loss of title with respect to Real Property or any loss of or damage to or destruction of, or any condemnation or other taking (including by any Governmental Authority) of, such Property (including Real Property) for which such Person or any of its Subsidiaries receives insurance proceeds or proceeds of a condemnation award or other compensation; provided, however, no such event shall constitute a Casualty Event if such proceeds or other compensation in respect thereof is less than $500,000. "Casualty Event" shall include but not be limited to any taking of any Real Property of any Company or any part thereof, in or by condemnation or other eminent domain proceedings pursuant to any law, general or special, or by reason of the requisition (other than for temporary purposes) of the use or occupancy of any Real Property of any Company or any part thereof, by any Governmental Authority, civil or military.

"CCAA" shall mean the *Companies' Creditors Arrangement Act*, as amended.

"CCAA Charges" shall mean charges on all of the undertaking, Property and assets of North Star of whatsoever nature or kind and wherever located created by the Initial CCAA Order.

"CCAA Court" shall mean the Ontario Superior Court of Justice (Commercial List).

"CCAA Proceeding" shall mean proceedings commenced by North Star under the CCAA in the CCAA Court.

"CERCLA" see Section 8.11.

"Chapter 11 Cases" see the Recitals to this Agreement.

"Closing Date" shall mean the date on which all of the conditions precedent set forth in Section 7.01 are satisfied or waived by Administrative Agent and the Majority Lenders, but not later than January 25, 2010.

"Code" shall mean the United States Internal Revenue Code of 1986, as amended from time to time, and the U.S. Treasury Regulations promulgated thereunder.

"Collateral Agent" see the introduction to this Agreement.

"Commission" shall mean the United States Securities and Exchange Commission.

"Commitments" shall mean the Delayed Draw Term Loan Commitments.

"Companies" shall mean the Obligors and their respective Subsidiaries; and "Company" shall mean any of them.

"Consolidated EBITDA" shall mean, for any Measurement Period, the remainder of (A) the sum (without duplication) of the amounts for such period of (i) Adjusted Net Income, (ii) income tax expense to the extent deducted in determining Adjusted Net Income for such period, (iii) the sum of (a) all interest expense to the extent deducted in determining Adjusted Net Income for such period, plus (b) an amount equal to the interest (or other fees in the nature of interest or discount accrued and paid or payable in cash) for such period on the Permitted Receivables Transaction, plus (c) Permitted Securitization Fees paid or payable in cash for such period to the extent deducted in determining Adjusted Net Income for such period (without duplication of any such amounts added back pursuant to any other clause of this definition), (iv) depreciation expenses and amortization expense to the extent deducted in determining Adjusted Net Income for such period, (v) the non-cash component of any item of expense to the extent deducted in determining Adjusted Net Income for such period, other than to the extent reflecting a reserve for write-downs or write-offs of Accounts or Inventory (other than in connection with the discontinuation of a line of business) or to the extent requiring an accrual or reserve for future cash expenses in accordance with GAAP, (vi) the amortization or expensing resulting from the application of purchase accounting to the extent deducted in determining Adjusted Net Income, (vii) to the extent deducted in determining Adjusted Net Income, the cash portion of stock compensation expense related to the departure from Parent or any of its Subsidiaries of any Person owning any Equity Interests of Parent up to a maximum of $15.0 million, (viii) expenses resulting from changes in accounting methods, (ix) the non-cash portion of stock compensation expense to the extent not requiring any cash expenses in the relevant Measurement Period, (x) non-capitalized acquisition or transaction expenses, all as determined on a consolidated basis for Borrower and its Consolidated Subsidiaries in accordance with GAAP and (xi) expenses constituting a portion of the Carve-Out, minus (B) the sum of cash dividends and other distributions paid by Borrower pursuant to Sections 9.10(b).

Consolidated EBITDA shall be calculated on a Pro Forma Basis to give effect to the Transactions and Dispositions (other than any Dispositions in the ordinary course of business) consummated during the relevant Measurement Period as if each such Disposition had been consummated on the day prior to the first day of such period.

"Consolidated Subsidiary" shall mean, for any Person, each Subsidiary of such Person (whether now existing or hereafter created or acquired) the financial statements of which shall be (or should have been) consolidated with the financial statements of such Person in accordance with GAAP.

"Contingent Obligation" shall mean, as to any Person, any direct or indirect liability of such Person, whether or not contingent, with or without recourse, (a) with respect to any Indebtedness, lease, dividend or other obligation (the "primary obligations") of another Person (the "primary obligor"), including any obligation of such Person (i) to purchase, repurchase or otherwise acquire such primary obligations or any security therefor, (ii) to advance or provide funds for the payment or discharge of any such primary obligation, or to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency or any balance sheet item, level of income or financial condition of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (iv) otherwise to assure or hold harmless the holder of any such primary obligation against loss in respect thereof (each of (i)-(iv), a "Guaranty Obligation"); (b) with respect to any Surety Instrument issued for the account of such Person or as to which such Person is otherwise liable for reimbursement of drawings or payments; (c) to purchase any materials, supplies or other property from, or to obtain the services of, another Person if the relevant contract or other related document or obligation requires that payment for such materials, supplies or other property, or for such services, shall be made regardless of whether delivery of such materials, supplies or other property is ever made or tendered, or such services are ever performed or tendered; or (d) in respect of any Swap Contract; provided, however, that the term Contingent Obligation shall not include endorsements of instruments for deposit or collection or standard contractual indemnities entered into, in each case in the ordinary course of business. The amount of any Contingent Obligation shall (x) in the case of a Guaranty Obligation, be deemed equal to the stated or determinable amount of the primary obligation in respect of which such Guaranty Obligation is made or, if not stated or if indeterminable, the maximum reasonably anticipated liability in respect thereof, and (y) in the case of other Contingent Obligations, be equal to the maximum reasonably anticipated liability in respect thereof.

"Continue," "Continuation" and "Continued" shall refer to the continuation pursuant to Section 2.09 of a LIBOR Loan from one Interest Period to the next Interest Period.

"Contractual Obligation" shall mean as to any Person, any provision of any security issued by such Person or of any mortgage, security agreement, pledge agreement, indenture, credit agreement, securities purchase agreement, debt instrument, contract, agreement, instrument or other undertaking to which such Person is a party or by or to which it or any of its Property is bound or subject.

"Control Agreement" shall have the meaning assigned to such term in the Security Agreement.

"Convert," "Conversion" and "Converted" shall refer to a conversion pursuant to Section 2.09 of one Type of Loan into another Type of Loan, which may be accompanied by the transfer by a Lender (at its sole discretion) of a Loan from one Applicable Lending Office to another.

"Covered Taxes" see Section 5.06(a).

"Credit Documents" shall mean, collectively, this Agreement, the Notes, the DIP Orders, each Security Document and each other agreement, certificate, document or instrument delivered in connection with any Credit Document, whether or not specifically mentioned herein or therein.

"Creditor" shall mean (i) any Agent and (ii) any Lender.

"Debt Issuance" shall mean the incurrence by any Company of any Indebtedness after the Closing Date (other than as permitted by Section 9.08).

"Debtors" see the introduction to this Agreement.

"Default" shall mean any event or condition that constitutes an Event of Default or that would become, with notice or lapse of time or both, an Event of Default.

"Defaulted Lender" means any Lender (a) that has failed to fund any payments required to be made by it under the Credit Documents within two (2) Business Days after any such payment is due, (b) that has given verbal or written notice to the Borrower, Administrative Agent or any Lender or has otherwise publicly announced that such Lender believes it will fail to fund all payments required to be made by it or fund all purchases of participations required to be funded by it under this Agreement and the other Credit Documents or (c) with respect to which one or more Lender-Related Distress Events has occurred with respect to such Person or any Person that directly or indirectly controls such Lender and Administrative Agent has (or Majority Lenders have) determined that such Lender may become a Defaulted Lender. For purposes of this definition, control of a Person shall have the same meaning as in the second sentence of the definition of Affiliate.

"Delayed Draw Term Loan Commitment" shall mean, for each Lender, the obligation of such Lender to make Delayed Draw Term Loans in an aggregate principal amount at any one time outstanding up to but not exceeding the amount recorded by the Administrative Agent from time to time in the Register (as the same may be reduced from time to time pursuant to Section 2.04 or changed pursuant to Section 13.06(b)). The aggregate principal amount of the Delayed Draw Term Loan Commitments on the Closing Date is $40,000,000.

"Delayed Draw Term Loan Commitment Percentage" shall mean, with respect to any Lender, the ratio of (a) the amount of the Delayed Draw Term Loan Commitment of such Lender to (b) the aggregate amount of the Delayed Draw Term Loan Commitments of all of the Lenders.

"Delayed Draw Term Loan Commitment Termination Date" shall mean the earlier of

(a) the Final Maturity Date;

(b) the date on which the Delayed Draw Term Loan Commitments are terminated in full or reduced to zero pursuant to the terms of this Agreement (other than pursuant to Section 2.04(c));

(c) the effective date of a joint plan of reorganization in the Chapter 11 Cases; or

(d) the date on which a sale of all or substantially all of the Debtors' assets is consummated under Section 363 of the Bankruptcy Code.

"Delayed Draw Term Loans" see Section 2.01(a).

"Delayed Draw Term Loan Notes" shall mean the promissory notes provided for by Section 2.08(a) and all promissory notes delivered in substitution or exchange therefor, in each case as the same shall be modified and supplemented and in effect from time to time.

"DIP Collateral" see the definition in the Interim Order or the Final Order, as applicable.

"DIP Orders" shall mean the Interim Order and the Final Order, as applicable, and the Initial CCAA Order.

"DIP Facility" see the Recitals to this Agreement.

"Directors' Charge" shall mean a CCAA Charge to secure liabilities of the directors and officers of North Star not to exceed $1,000,000.

"Disclosure Statement" shall mean the disclosure statement in respect of the Plan in the form of Exhibit M.

"Disposition" shall mean (i) any conveyance, sale, lease, assignment, transfer or other disposition (including by way of merger or consolidation and including any sale-leaseback transaction) of any Property (including receivables and Equity Interests of any Person owned by any Company) (whether now owned or hereafter acquired) by any Company to any Person (other than to another Company), (ii) any issuance or sale by any Subsidiary of its Equity Interests to any Person (other than to another Company) and (iii) any liquidating or other non-ordinary course dividend or distribution or return of Investment received by any Company in respect of any joint venture or similar enterprise, excluding, however, in each case, any Excluded Disposition.

"Disposition Event" shall mean the receipt by any Company of cash proceeds or cash distributions of any kind from Property received in consideration for a Disposition.

"Disqualified Capital Stock" shall mean, with respect to any Person, any Equity Interest of such Person that, by its terms (or by the terms of any security into which it is convertible or

for which it is exchangeable), or upon the happening of any event, matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (other than solely for Qualified Capital Stock), pursuant to a sinking fund obligation or otherwise, or is redeemable at the sole option of the holder thereof (other than solely for Qualified Capital Stock) or exchangeable or convertible into debt securities of the issuer thereof at the sole option of the holder thereof, in whole or in part, on or prior to the date which is 90 days after the Final Maturity Date.

"Dividend Payment" shall mean dividends (in cash, Property or obligations) on, or other payments or distributions on account of, or the setting apart of money for a sinking or other analogous fund for, or the purchase, redemption, retirement or other acquisition of, any Equity Interests or Equity Rights of any Company, but excluding dividends paid through the issuance of additional shares of Qualified Capital Stock and any redemption or exchange of any Qualified Capital Stock of such Company through the issuance of Qualified Capital Stock of such Company.

"Dollars" and "$" shall mean lawful money of the United States of America.

"E-System" means any electronic system approved by Administrative Agent, including Intralinks® and ClearPar® and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by Agent, any of its Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

"Eligible Person" shall mean (i) a commercial bank organized under the laws of the United States, or any state thereof, and having a combined capital and surplus of at least $100,000,000; (ii) a commercial bank organized under the laws of any other country that is a member of the Organization for Economic Cooperation and Development (the "OECD"), or a political subdivision of any such country, and having a combined capital and surplus in a dollar equivalent amount of at least $100,000,000; provided, however, that such bank is acting through a branch or agency located in the country in which it is organized or another country that is also a member of the OECD; (iii) an insurance company, mutual fund or other entity which is regularly engaged in making, purchasing or investing in loans or securities or other financial institution organized under the laws of the United States, any state thereof, any other country that is a member of the OECD or a political subdivision of any such country with assets, or assets under management, in a dollar equivalent amount of at least $100,000,000; (iv) any Affiliate of a Lender or an Approved Fund of a Lender; and (v) any other entity (other than a natural person) which is an "accredited investor" (as defined in Regulation D under the United States Securities Act of 1933, as amended) which extends credit or buys loans in the ordinary course including, but not limited to, insurance companies, mutual funds and investment funds. With respect to any Lender, any Approved Fund in respect thereof shall be treated as a single Eligible Person.

"Embargoed Person" see Section 9.33.

"Employee Benefit Plan" shall mean an employee benefit plan (as defined in Section 3(3) of ERISA) that is maintained or contributed to by any ERISA Entity or with respect to which Borrower or a Subsidiary could incur liability.

"Environment" shall mean ambient air, indoor air, soil, surface water, ground water, drinking water, land or subsurface strata and natural resources such as wetlands, flora and fauna.

"Environmental Claim" shall mean, with respect to any Person, any written notice, claim, demand or other communication (collectively, a "claim") by any other Person alleging such Person's liability for any costs, cleanup costs, response, corrective action or other costs, damages to natural resources or other Property, personal injuries, fines or penalties arising out of or resulting from (i) the presence, Release or threatened Release into the Environment, of any Hazardous Material at any location, whether or not owned by such Person, or (ii) any violation of any Environmental Law. The term "Environmental Claim" shall include, without limitation, any claim by any Person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from the known or suspected presence of Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the Environment.

"Environmental Laws" shall mean any and all applicable laws, rules or regulations of any Governmental Authority, any orders, decrees, judgments or injunctions and the common law in each case relating to pollution or protection of health, safety or the Environment, including without limitation, those relating to Releases or threatened Releases of Hazardous Materials into the Environment, or otherwise relating to the manufacture, processing, generation, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

"Equity Interests" shall mean, with respect to any Person, any and all shares (including any Preferred Stock), interests, participations or other equivalents, including membership interests (however designated, whether voting or non-voting), of capital of such Person, including, if such Person is a partnership, partnership interests (whether general or limited) and any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, such partnership, whether outstanding on or after the Closing Date.

"Equity Issuance" shall mean any of (a) any issuance or sale on or after the Closing Date by Borrower, Parent, or any other Person of which Borrower is a Wholly Owned Subsidiary of (x) any Equity Interests (including any Equity Interests issued upon exercise of any Equity Rights) or any Equity Rights, or (y) any other security or instrument representing an Equity Interest (or the right to obtain any Equity Interest) in the issuing or selling Person, or (b) the receipt by any Company after the Closing Date of any capital contribution (whether or not evidenced by any Equity Interest issued by the recipient of such contribution) other than from any other Company; provided, however, that the issuance of (i) any debt security that is convertible into or exchangeable for Equity Interests or Equity Rights or (ii) any Disqualified Capital Stock shall, for purposes of Section 2.10(a), be a Debt Issuance and not an Equity Issuance. Notwithstanding the foregoing, each of the following shall be deemed not to be an Equity Issuance: (i) any issuance or sale of Equity Interests of any Person (other than Borrower) owned by any Company (which, for the avoidance of doubt, is treated as a Disposition) and (ii) any individual issuance or sale by Parent of Equity Interests of Parent in connection with the consummation of the Plan.

"Equity Rights" shall mean, with respect to any Person, any outstanding subscriptions, options, warrants, commitments, preemptive rights or agreements of any kind (including any

stockholders' or voting trust agreements) for the issuance, sale, registration or voting of, or outstanding securities convertible into, any additional Equity Interests of any class, or partnership or other ownership interests of any type in, such Person.

"ERISA" shall mean the United States Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" shall mean, with respect to any person, any trade or business (whether or not incorporated) that, together with such person, is treated as a single employer under Section 414(b) or (c) of the Code, or solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

"ERISA Entity" shall mean any member of an ERISA Group.

"ERISA Event" shall mean (a) any "reportable event," as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Benefit Plan (other than an event for which the 30-day notice period is waived); (b) the existence with respect to any Benefit Plan of an "accumulated funding deficiency" (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived, the failure to make by its due date a required installment under Section 412(m) of the Code with respect to any Benefit Plan or the failure to make any required contribution to a Multiemployer Plan; (c) the filing pursuant to Section 412(d) of the Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any Benefit Plan; (d) the incurrence by any ERISA Entity of any liability under Title IV of ERISA with respect to the termination of any Benefit Plan; (e) the receipt by any ERISA Entity from the PBGC of any notice relating to an intention of the PBGC to terminate any Benefit Plan or Benefit Plans or to appoint a trustee to administer any Benefit Plan, or the occurrence of any event or condition which is reasonably likely to constitute grounds under ERISA for the PBGC to terminate or appoint a trustee to administer any Benefit Plan; (f) the incurrence by any ERISA Entity of any liability with respect to the withdrawal or partial withdrawal from any Multiemployer Plan; (g) the receipt by an ERISA Entity of any notice, or the receipt by any Multiemployer Plan from any Company of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA; (h) the making of any amendment to any Benefit Plan which could result in the imposition of a lien or the posting of a bond or other security; or (i) the occurrence of a nonexempt prohibited transaction (within the meaning of Section 4975 of the Code or Section 406 of ERISA) which is reasonably likely to result in liability to any Company.

"ERISA Group" shall mean any Company and all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with any Subsidiary are treated as a single employer under Section 414 of the Code.

"Event of Default" see Section 10.

"Exchange Act" shall mean the United States Securities Exchange Act of 1934, as amended.

"Excluded Dispositions" shall mean (i) an exchange of equipment or inventory for other equipment or inventory, provided that the Company effecting such exchange receives at least substantially equivalent value in such exchange for the Property disposed of; (ii) other than for purposes of Section 9.06, any transaction permitted by Section 9.06 (other than clause (g) thereof), any Permitted Lien and any Investment permitted by Section 9.09; (iii) any issuance of Equity Interests by any Subsidiary to directors or nominees if required by applicable law if resulting in de minimis proceeds; and (iv) the sale of inventory in the ordinary course of business.

"Excluded Taxes" see Section 5.06(a).

"Executive Order" see Section 8.23.

"Exempt Lender" see Section 5.06(b).

"Existing A/R Facility Documentation" shall mean that certain Amended and Restated Receivables Sale and Servicing Agreement dated as of December 28, 2007, among Atrium Funding Corp. II, Borrower and each of the Originators listed on the signature pages thereto, as amended, and that certain Amended and Restated Receivables Funding and Administration Agreement dated as of December 28, 2007, among Atrium Funding Corp. II, the Advancing Institutions listed on the signature pages thereto and General Electric Capital Corporation, as amended, as in effect immediately prior to the effectiveness of the A/R Facility Amendments.

"Existing Affiliate Agreements" see Section 9.15.

"Existing Priority Liens" shall mean valid, enforceable and perfected Liens in existence at the time of the commencement of the Chapter 11 Cases and valid and enforceable Liens in existence at the time of such commencement of the Chapter 11 Case that are perfected after such commencement as permitted by Section 546(b) of the Bankruptcy Code, in each case, that are senior to any Liens securing the Pre-Petition Obligations, after giving effect to any subordination or intercreditor agreement.

"fair market value" shall mean, with respect to any asset, a price (after taking into account any liabilities relating to such assets), as determined by Borrower in good faith, that is within a reasonable range of prices which could be negotiated in an arm's-length free market transaction, for cash, between a willing seller and a willing and able buyer, neither of which is under any compulsion to complete the transaction.

"Federal Funds Rate" shall mean, for any day, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided, however, that (a) if the day for which such rate is to be determined is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day and (b) if such rate is not so published for any Business Day, the Federal Funds Rate for such Business Day shall be the average rate quoted to the Administrative

Agent on such Business Day on such transactions by three federal funds brokers of recognized standing, as determined by the Administrative Agent.

"Fee Letter" shall mean that certain confidential Fee Letter, dated as of January 19, 2010 from Borrower to GE Business Finance.

"Final A/R Facility Order" shall mean, collectively, the orders of the Bankruptcy Court entered in the Chapter 11 Cases after a final hearing under Bankruptcy Rule 4001(c)(2) or such other procedures as approved by the Bankruptcy Court which orders shall be satisfactory in form and substance to Administrative Agent in its sole discretion, and which orders are in effect and not stayed, together with all extensions, modifications and amendments thereto, in form and substance satisfactory to Administrative Agent in its sole discretion, which, among other matters but not by way of limitation, provides that the relief granted in the Interim A/R Facility Order is granted on a final basis.

"Final Maturity Date" shall mean the Initial Maturity Date, unless extended to the Outside Maturity Date pursuant to Section 2.12.

"Final Order" shall mean, collectively, the orders of the Bankruptcy Court entered in the Chapter 11 Cases after a final hearing under Bankruptcy Rule 4001(c)(2) or such other procedures as approved by the Bankruptcy Court which orders shall be satisfactory in form and substance to Administrative Agent and the Majority Lenders in their respective sole discretion, and which orders are in effect and not stayed, together with all extensions, modifications and amendments thereto, in form and substance satisfactory to Administrative Agent and the Majority Lenders in their respective sole discretion, which, among other matters but not by way of limitation, provides that the relief granted in the Interim Order is granted on a final basis; provided, however, that modifications to the form or substance of such orders made in response to objections of other creditors of the Debtors or Bankruptcy Court ruling shall be satisfactory to a majority of the principal amount of outstanding Loans and Commitments of those Lenders present (or otherwise represented by counsel) at the hearing at which such orders are finalized and entered instead of the Majority Lenders.

"First Day Orders" shall mean the orders entered by the Bankruptcy Court in the Chapter 11 Cases pursuant to motions and applications filed by the Debtors within five (5) days after the Petition Date, in each case, in form and substance reasonably satisfactory to the Administrative Agent.

"Foreign Plan" shall mean any employee benefit plan, program, policy, arrangement or agreement maintained or contributed to by, or entered into with, Borrower or any Subsidiary with respect to employees employed outside the United States.

"Foreign Subsidiary" shall mean any direct or indirect Subsidiary organized outside of the United States as defined in Section 7701(a)(9) of the Code (or any successor provision), but excluding North Star and its Subsidiaries.

"Funding Date" shall mean the date of the making of any extension of credit hereunder.

"GAAP" shall mean generally accepted accounting principles in effect in the United States of America and set forth as of the relevant date in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the U.S. accounting profession), which are applicable to the circumstances as of the date of determination.

"GE Business Finance" see the introduction to this Agreement.

"Governmental Authority" shall mean any government or political subdivision of the United States or any other country or any agency, authority, board, bureau, central bank, commission, department or instrumentality thereof or therein, including, without limitation, any court, tribunal, grand jury or arbitrator, in each case whether foreign or domestic, or any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to such government or political subdivision.

"Governmental Real Property Disclosure Requirements" shall mean any Requirement of Law of any Governmental Authority requiring notification of the buyer, lessee, mortgagee, assignee or other transferee of any Real Property, facility, establishment or business, or notification, registration or filing to or with any Governmental Authority, in connection with the sale, lease, mortgage, assignment or other transfer (including, without limitation, any transfer of control) of any Real Property, facility, establishment or business, of the actual or threatened presence or Release in or into the Environment, or the use, disposal or handling of Hazardous Material on, at, under or near the Real Property, facility, establishment or business to be sold, leased, mortgaged, assigned or transferred.

"Guarantee" shall mean the guarantee of each Guarantor pursuant to Section 6.

"Guaranteed Obligations" see Section 6.01.

"Guarantors" shall mean Parent, Holdings and each Subsidiary Guarantor.

"Guaranty Obligation" see the definition of "Contingent Obligation."

"Hazardous Material" shall mean any pollutant, contaminant, toxic, hazardous or extremely hazardous substance, constituent or waste, or any other constituent, waste, material, compound or substance subject to regulation or which may result in liability under any Environmental Law including, without limitation, petroleum or any petroleum product, including crude oil or any fraction thereof, polychlorinated biphenyls, urea-formaldehyde insulation and asbestos.

"Holdings" see the introduction to this Agreement.

"Holdings Notes" shall mean senior discount notes due 2012 issued by Holdings pursuant to the Holdings Note Indenture.

"Holdings Notes Indenture" shall mean that certain indenture dated as of December 28, 2004 between Holdings, as issuer, and U.S. Bank National Association, as trustee.

"in the ordinary course of business" shall mean in the ordinary course of business of Borrower and the Subsidiaries and on ordinary business terms.

"incur" shall mean, with respect to any Indebtedness or other obligation of any Person, to create, issue, incur (including by conversion, exchange or otherwise), assume, guarantee or otherwise become liable in respect of such Indebtedness or other obligation or the recording, as required pursuant to GAAP or otherwise, of any such Indebtedness or other obligation on the balance sheet of such Person (and "incurrence," "incurred" and "incurring" shall have meanings correlative to the foregoing). Indebtedness of any Person or any of its Subsidiaries existing at the time such Person becomes a Company (or is merged into or consolidates with any Company), whether or not such Indebtedness was incurred in connection with, or in contemplation of, such Person becoming a Company (or being merged into or consolidated with any Company), shall be deemed incurred at the time any such Person becomes a Company or merges into or consolidates with any Company. Neither the accrual of interest, nor the amortization of financing fees, shall be deemed to be an incurrence.

"Indebtedness" shall mean, for any Person, without duplication, (a) all indebtedness for borrowed money of such Person; (b) all non-contingent (but only so long as non-contingent) obligations issued, undertaken or assumed by such Person as the deferred purchase price of Property or services (other than earn-out payments made in connection with acquisitions and not more than 60 days past due and trade payables and accrued expenses paid on customary terms and not more than 60 days past due and incurred in the ordinary course of business on ordinary terms), excluding payments made in connection with non-compete arrangements; (c) all non-contingent reimbursement or payment obligations of such Person with respect to Surety Instruments (such as, for example, unpaid reimbursement obligations in respect of a drawing under a letter of credit); (d) all obligations of such Person evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of Property or businesses; (e) all indebtedness of such Person created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to Property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such Property), the amount of such indebtedness to be deemed the fair market value of such Property; (f) all Capital Lease Obligations of such Person; (g) all amounts required to be paid by such Person as a guaranteed payment to partners, including any mandatory redemption of shares or interests; (h) all obligations, contingent or otherwise, relative to the face amount of all letters of credit, whether or not drawn, and banker's acceptances issued for the account of such Person; (i) all obligations of such Person under any take-or-pay or other similar arrangements that are not in the ordinary course of business; (j) all obligations of such Person under any Disqualified Capital Stock; (k) all indebtedness of other Persons referred to in clauses (a) through (j) above secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in Property (including accounts and contracts rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such indebtedness, the amount of such indebtedness to be deemed to be the fair market value of such Property; and (l) all Guaranty Obligations of such Person in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (j) above. Indebtedness shall not include accounts extended by suppliers in the ordinary course of business on normal trade terms in connection with the purchase of goods and services. The Indebtedness

of any Person shall include any Indebtedness of any partnership in which such Person is the general partner.

"Indemnitee" see Section 13.03.

"Initial Approved Budget" see Section 7.01(xii).

"Initial CCAA Order" shall mean an order made by the CCAA Court under the CCAA, among other things, commencing the CCAA Proceeding, approving the DIP Facility and granting the Canadian DIP Charge, Administration Charge and Directors' Charge on the assets of North Star, all in form and substance satisfactory to the Administrative Agent and the Majority Lenders.

"Initial Maturity Date" shall mean July 20, 2010.

"Initial Public Offering" shall mean a primary underwritten public offering of the common stock of Parent, other than any public offering or sale pursuant to a registration statement on Form S-8 or a comparable form.

"Intellectual Property" see Section 8.22.

"Intercompany Note" shall mean a promissory note substantially in the form of Exhibit B.

"Interest Period" shall mean, with respect to any LIBOR Loan, each period commencing on the date such LIBOR Loan is made or Converted from an ABR Loan or the last day of the immediately preceding Interest Period for such LIBOR Loan and (subject to the requirements of Sections 2.01(a), 2.01(b) and 2.09) ending on the numerically corresponding day in (subject to Section 2.01(c)) the first calendar month thereafter, except that each Interest Period that commences on the last Business Day of a calendar month (or on any day for which there is no numerically corresponding day in the subsequent calendar month) shall end on the last Business Day of the subsequent calendar month. Notwithstanding the foregoing, (i) if any Interest Period for any Delayed Draw Term Loan would otherwise end after the Delayed Draw Term Loan Commitment Termination Date, such Interest Period shall end on the Delayed Draw Term Loan Commitment Termination Date; (ii) each Interest Period that would otherwise end on a day that is not a Business Day shall end on the next succeeding Business Day (or, if such next succeeding Business Day falls in the next succeeding calendar month, on the immediately preceding Business Day); and (iii) notwithstanding clause (i) above, no Interest Period shall have a duration of less than one month and, if the Interest Period for any LIBOR Loan would otherwise be a shorter period, such Loan shall not be available hereunder as a LIBOR Loan for such period.

"Interest Rate Protection Agreement" shall mean, for any Person, an interest rate swap, cap, floor or collar agreement or similar arrangement between such Person and one or more financial institutions providing for the transfer or mitigation of interest risks either generally or under specific contingencies.

"Interim A/R Facility Order" shall mean, collectively, the orders of the Bankruptcy Court entered in the Chapter 11 Cases after an interim hearing (assuming satisfaction of the standards

prescribed in Section 364 of the Bankruptcy Code and Bankruptcy Rule 4001 and other applicable law), together with all extensions, modifications and amendments thereto, in form and substance satisfactory to the Administrative Agent authorizing, on an interim basis, the Debtors to execute and perform under the A/R Facility Amendments and the transactions contemplated thereby.

"Interim Order" shall mean, collectively, the orders (in substantially the form of Exhibit D and otherwise in form and substance satisfactory to the Administrative Agent and the Majority Lenders) of the Bankruptcy Court entered in the Chapter 11 Cases after an interim hearing (assuming satisfaction of the standards prescribed in Section 364 of the Bankruptcy Code and Bankruptcy Rule 4001 and other applicable law), together with all extensions, modifications, and amendments thereto, in form and substance satisfactory to Administrative Agent and the Majority Lenders in their respective sole discretion; provided, however, that modifications to the form or substance of such orders made in response to objections of other creditors of the Debtors or Bankruptcy Court rulings shall be satisfactory to a majority of the principal amount of outstanding Loans and Commitments of those Lenders present (or otherwise represented by counsel) at the hearing at which such orders are finalized and entered instead of the Majority Lenders.

"Investment" shall mean, for any Person, (a) the acquisition (whether for cash, Property, services or securities or otherwise) of Equity Interests, Equity Rights, bonds, notes, debentures or other debt instruments of any other Person; (b) the making of any deposit with, or advance, loan or other extension of credit to, any other Person (including the purchase of Property from another Person subject to an understanding or agreement, contingent or otherwise, to resell such Property to such Person); (c) any capital contribution to (by means of any transfer of cash or other Property to others or any payment for Property or services for the account or use of others) any other Person; (d) the entering into, or direct or indirect incurrence, of any Guaranty Obligation with respect to Indebtedness or other liability of any other Person; (e) the entering into of any Swap Contract; or (f) any agreement to make any Investment (including any "short sale" or any sale of any securities at a time when such securities are not owned by the Person entering in to such sale).

"Joinder Agreement" shall mean a Joinder Agreement substantially in the form of Exhibit K.

"Lead Arranger" see the introduction to this Agreement.

"Lease" shall mean any lease, sublease, franchise agreement, license, occupancy or concession agreement.

"Lender-Related Distress Event" means, with respect to any Lender or any Person that directly or indirectly controls such Lender (each a "Distressed Person"), (a) a voluntary or involuntary case with respect to such Distressed Person under the Bankruptcy Code or any similar bankruptcy laws of its jurisdiction of formation, (b) a custodian, conservator, receiver or similar official is appointed for such Distressed Person or any substantial part of such Distressed Person's assets, (c) such Distressed Person is subject to a forced liquidation, merger, sale or other change of majority control supported in whole or in part by guaranties or other support

(including, without limitation, the nationalization or assumption of majority ownership or operating control by) of the United States government or other Governmental Authority, or (d) such Distressed Person makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Distressed Person or its assets to be, insolvent or bankrupt. For purposes of this definition, control of a Person shall have the same meaning as in the second sentence of the definition of "Affiliate".

"Lenders" see the introduction to this Agreement.

"LIBOR Base Rate" shall mean, for each Interest Period, the higher of (a) 3.0% per annum or (b) the offered rate per annum for deposits of Dollars for the applicable Interest Period that appears on Reuters Screen LIBOR 01 Page as of 11:00 A.M. (London, England time) two (2) Business Days prior to the first day in such Interest Period. If no such offered rate exists, such rate will be the rate of interest per annum, as determined by Administrative Agent at which deposits of Dollars in immediately available funds are offered at 11:00 A.M. (London, England time) two (2) Business Days prior to the first day in such Interest Period by major financial institutions reasonably satisfactory to Administrative Agent in the London Interbank market for such Interest Period for the applicable principal amount on such date of determination.

"LIBOR Loans" shall mean Loans that bear interest at rates based on rates referred to in the definition of "LIBOR Base Rate" in this Section 1.01.

"LIBOR Rate" shall mean, for any LIBOR Loan for any Interest Period therefor, a rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) determined by the Administrative Agent to be equal to the LIBOR Base Rate for such Loan for such Interest Period divided by 1 minus the Reserve Requirement (if any) for such Loan for such Interest Period.

"Lien" shall mean, with respect to any Property, any mortgage, deed of trust, lien, pledge, claim, charge, security interest or encumbrance of any kind, whether consensual or non-consensual, any other type of preferential arrangement in respect of such Property having the effect of a security interest or any filing consented to by any Company of any financing statement under the UCC or any other similar notice of Lien under any similar notice or recording statute of any Governmental Authority consented to by any Company, including any easement, right-of-way or other encumbrance on title to Real Property, and any agreement to give any of the foregoing. For purposes of the Credit Documents, a Person shall be deemed to own subject to a Lien any Property that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement (other than an operating lease) relating to such Property.

"LLC" shall mean ATR Acquisition, LLC, a Delaware limited liability company.

"Loans" shall mean the Delayed Draw Term Loans.

"Losses" of any Person shall mean the losses, liabilities, claims (including those based upon negligence, strict or absolute liability and liability in tort), damages, reasonable expenses, obligations, penalties, actions, judgments, encumbrances, liens, penalties, fines, suits, reasonable and documented costs or disbursements of any kind or nature whatsoever (including reasonable

fees and expenses of counsel in connection with any Proceeding commenced or threatened in writing, whether or not such Person shall be designated a party thereto) at any time (including following the payment of the Obligations) incurred by, imposed on or asserted against such Person.

"Majority Lenders" shall mean Lenders holding at least a majority of the sum of (a) the aggregate principal amount of outstanding Delayed Draw Term Loans plus (b) the aggregate undrawn Delayed Draw Term Loan Commitments then in effect. For the purposes of determining Majority Lenders, the Loans and Commitments held by Defaulted Lenders shall be excluded from the total Loans and Commitments outstanding.

"Management Agreement" shall mean the management agreement dated as of December 10, 2003 among Parent, Borrower and JLK Operations, Inc., as such agreement may be amended and in effect from time to time in accordance with its terms and this Agreement.

"Margin Stock" shall mean margin stock within the meaning of Regulations T, U and X.

"Material Adverse Effect" shall mean, any of (a) a material adverse effect, or any condition or event that has resulted or could reasonably be expected to result in a material adverse effect, on the business, condition (financial or otherwise), results of operations, assets or liabilities of the Debtors, taken as a whole, (b) a material adverse effect on the ability of the Obligors to perform any of their material obligations under any Credit Document, (c) an adverse effect on the legality, binding effect or enforceability of any material provision of any Credit Document or any of the material rights and remedies of the Lenders, the Administrative Agent or the Collateral Agent thereunder or (d) a material adverse effect on the DIP Collateral or the Liens in favor of the Collateral Agent on the DIP Collateral or the priority of such Liens.

"Measurement Period" shall mean the most recent trailing twelve months of Borrower for which financial statements have been, or should have been, provided pursuant to Section 9.01(c).

"Monthly Date" shall mean the last Business Day of each calendar month in each year, commencing with the last Business Day of February 2010.

"Moody's" shall mean Moody's Investors Service, Inc.

"Multiemployer Plan" shall mean at any time a multiemployer plan within the meaning of Section 4001(a)(3) of ERISA (i) to which any member of the ERISA Group is then making or accruing an obligation to make contributions while a member of the ERISA Group, (ii) to which any member of the ERISA Group has within the preceding five plan years made contributions, including for these purposes any Person which ceased to be a member of the ERISA Group during such five year period, or (iii) with respect to which any Company is reasonably likely to incur liability.

"NAIC" shall mean the National Association of Insurance Commissioners.

"Net Available Proceeds" shall mean:

(i) in the case of any Disposition Event, the amount of Net Cash Payments received by any Company in connection with such Disposition Event;

(ii) in the case of any Casualty Event, the aggregate amount of proceeds of insurance, condemnation awards and other compensation received by any Company in respect of such Casualty Event net of (A) fees and expenses payable to any Person other than an Affiliate of any Company incurred by such Company in connection with recovery thereof, (B) repayments of Indebtedness (other than Indebtedness hereunder) to the extent secured by a Lien on such Property, and (C) any taxes (including income, transfer, stamp, duty, customs, withholding and any other taxes) paid or payable by any Company in respect of the amount so recovered (after application of all credits and other offsets); and

(iii) in the case of any Equity Issuance or any Debt Issuance, the aggregate amount of all cash received by the Person effecting such transaction in respect thereof net of all investment banking fees, discounts and commissions, legal fees, consulting fees, accountants' fees, underwriting discounts and commissions and other customary fees and expenses payable to any Person other than an Affiliate of any Company, actually incurred and satisfactorily documented in connection therewith.

"Net Cash Payments" shall mean, with respect to any Disposition Event, the aggregate amount of all cash payments (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as and when received) received by any Company directly or indirectly in connection with such Disposition Event; provided, however, that Net Cash Payments shall be net (without duplication) of (i) the amount of all fees and expenses paid to any Person other than an Affiliate of any Company by any Company in connection with such Disposition Event (the "Relevant Disposition"); (ii) any taxes (including income, transfer, stamp, duty, customs, withholding and any other taxes) paid or estimated to be payable by any Company as a result of the Relevant Disposition (after application of all credits and other offsets); (iii) any repayments by any Company of any Indebtedness required to be repaid as a condition to the consummation of such Relevant Disposition; (iv) amounts required to be paid to any Person (other than any Company) owning a beneficial interest in the assets subject to such Relevant Disposition; and (v) any option exercise costs to acquire such Property.

"New 11% Subordinated Notes" shall mean the 11.0% senior subordinated notes due 2012 in the aggregate principal amount not to exceed $42,280,223 (plus the aggregate amount of "PIK Interest" added to the principal balance of such notes in accordance with the New Subordinated Notes Indenture or paid through the issuance of PIK Notes in accordance with the New Subordinated Notes Indenture) issued by Borrower pursuant to the New Subordinated Notes Indenture.

"New 15% Subordinated Notes" shall mean the 15.0% senior subordinated notes due 2012 in the aggregate principal amount not to exceed $185,988,748 (plus the aggregate amount of "PIK Interest" added to the principal balance of such notes in accordance with the New Subordinated Notes Indenture or paid through the issuance of PIK Notes in accordance with the

New Subordinated Notes Indenture) issued by Borrower pursuant to the New Subordinated Notes Indenture.

"New Subordinated Notes Documents" shall mean the New Subordinated Notes, the New Subordinated Notes Indenture, the guaranties of the Guarantors issued with respect thereto, the Senior Subordinated Exchange Agreement and those provisions of the Senior Subordinated Debt Documents which survive the Closing Date pursuant to the terms of the Senior Subordinated Exchange Agreement.

"New Subordinated Notes Indenture" shall mean that certain indenture dated as of the Closing Date among the Borrower, as issuer, the Guarantors, as guarantors, and U.S. Bank National Association, as trustee.

"New Subordinated Notes" shall mean the New 11% Subordinated Notes and the New 15% Subordinated Notes.

"Non-U.S. Lender" see Section 5.06(b).

"North Star" means North Star Manufacturing (London) Ltd., a corporation organized under the laws of Ontario, Canada.

"Notes" shall mean the Delayed Draw Term Loan Notes.

"Notice of Assignment" shall mean a notice of assignment pursuant to Section 13.06 substantially in the form of Exhibit H.

"Notice of Borrowing" shall mean a notice of borrowing substantially in the form of Exhibit I.

"Obligations" shall mean all amounts, direct or indirect, contingent or absolute, of every type or description (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), and at any time existing, owing to any Creditor, or any of its Related Parties or their respective permitted successors, transferees or assignees, or any Indemnitee, pursuant to the terms of any Credit Document or secured by any of the Security Documents, whether or not the right of such Person to payment in respect of such obligations and liabilities is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured and whether or not such claim is discharged, stayed or otherwise affected by any bankruptcy case or insolvency or liquidation proceeding.

"Obligors" shall mean Borrower and the Guarantors.

"OFAC" see Section 8.23.

"Officer's Certificate" shall mean, as applied to any corporation, a certificate executed on behalf of such corporation by its Chairman of the Board (if an officer), its Chief Executive Officer, its Chief Financial Officer, its President or one of its Vice Presidents (or an equivalent officer) or its Treasurer or any Assistant Treasurer in their official (and not individual)

capacities; provided, however, that every Officer's Certificate with respect to the compliance with a condition precedent to the making of any Loan or the taking of any other action hereunder shall include (i) a statement that the officers making or giving such Officer's Certificate have read such condition and any definitions or other provisions contained in this Agreement relating thereto, and (ii) a statement as to whether, in the opinion of the signers, such condition has been complied with.

"Operating Plan" see Section 7.01(xvii).

"Orders" shall mean the Interim Order, the Final Order and the Initial CCAA Order.

"Organic Document" shall mean, relative to any Person, its certificate of incorporation, its by-laws, its partnership agreement, its memorandum and articles of association, share designations or similar organization documents and all shareholder agreements, voting trusts and similar arrangements applicable to any of its authorized shares of Equity Interests.

"Other Taxes" see Section 5.06(c).

"Outside Maturity Date" shall mean October 20, 2010.

"Parent" see the introduction to this Agreement.

"Participant" see Section 13.06(c).

"Payment Account" shall mean the account specified by the Administrative Agent to Borrower from time to time into which all payments by or on behalf of Borrower to the Administrative Agent under the Credit Documents shall be made.

"Payor" see Section 4.06.

"PBGC" shall mean the United States Pension Benefit Guaranty Corporation or any successor thereto.

"Permits" see Section 8.17.

"Permitted Holders" shall mean (i) the LLC and any other investment entity managed or controlled by Kenner & Company, Inc. and/or its Affiliates, (ii) UBS Capital Americas II, LLC and/or its Affiliates, (iii) ML Global Private Equity Fund, L.P. and/or its Affiliates, (iv) any partners, members or investors (either directly or indirectly through any investment partnerships or entities) in the entities described in clauses (i), (ii) and (iii) above who are distributees of investments held by the entities described in clauses (i), (ii) and (iii) above, (v) any immediate family members or lineal descendents, or trusts or other entities for their benefit in respect of the Persons described in clauses (i), (ii), (iii) and (iv) above, and (vi) any Affiliates in respect of the Persons described in clauses (i), (ii), (iii) and (iv) above.

"Permitted Investments" shall mean, for any Person: (a) direct obligations of the United States of America or Canada, or of any agency thereof, or obligations guaranteed as to principal and interest by the United States of America or Canada, or by any agency thereof, in either case

maturing not more than one year from the date of acquisition thereof by such Person; (b) time deposits, certificates of deposit or bankers' acceptances (including eurodollar deposits) issued by any bank or trust company organized under the laws of the United States of America or any state thereof or Canada or any province or territory thereof and having capital, surplus and undivided profits of at least $500,000,000 and a deposit rating of investment grade; (c) commercial paper rated A-1 or better by S&P or P-1 or better by Moody's or R1-low or better by DBRS Limited, respectively, maturing not more than 180 days from the date of acquisition thereof by such Person; (d) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clause (a) above entered into with a bank meeting the qualifications described in clause (b) above; (e) securities with maturities of six months or less from the date of acquisition issued or fully guaranteed by any state, province, commonwealth or territory of the United States of America or Canada, or by any political subdivision or taxing authority thereof, and rated at least A by S&P or A by Moody's or A by DBRS Limited; or (f) money market mutual funds that invest primarily in the foregoing items.

"Permitted Liens" see Section 9.07.

"Permitted Receivables Transaction" shall mean the transaction providing for the sale or financing of Accounts (other than between Qualified Subsidiaries) pursuant to the A/R Facility.

"Permitted Securitization Fees" shall mean any fees or expenses (other than interest or fees in the nature of interest or discount) paid in connection with the Permitted Receivables Transaction, including without limitation placement fees, attorney's fees, accountant's fees, rating agency fees and other out-of-pocket costs.

"Person" shall mean any individual, corporation, company, voluntary association, partnership, limited liability company, joint venture, trust, unincorporated organization or government (or any agency, instrumentality or political subdivision thereof).

"Petition Date" see the Recitals to this Agreement.

"Plan" shall mean the joint plan of reorganization attached as an exhibit to the Plan Support Agreement, as amended pursuant to and in accordance with the terms of the Plan Support Agreement.

"Plan Support Agreement" shall mean that Restructuring and Lock-Up Agreement made and entered as of January 20, 2010, by and among the Debtors and each of the Pre-Petition Lenders party thereto (solely in its capacity as a lender thereunder and not in its capacity as a holder of any other claim or interest against the Debtors).

"Pre-Petition Agent" shall mean "Agent" under and as such term is defined in the Pre-Petition Credit Agreement.

"Pre-Petition Credit Agreement" see the Recitals to this Agreement.

"Pre-Petition Credit Documents" has the meaning assigned to the term "Credit Documents" in the Pre-Petition Credit Agreement.

"Pre-Petition Lenders" shall mean the "Lenders" (including the "Issuing Lenders") under and as such terms are defined in the Pre-Petition Credit Agreement.

"Pre-Petition Obligations" has the meaning assigned to the term "Obligations" in the Pre-Petition Credit Agreement.

"Preferred Stock" shall mean, with respect to any Person, any and all preferred or preference Equity Interests (however designated) of such Person, whether now outstanding or issued after the Closing Date.

"Primed Liens" shall mean (a) the Liens that secured the Pre-Petition Obligations and (b) any Liens that are junior to the Liens referenced in clause (a), after giving effect to any intercreditor or subordination agreement or applicable law.

"Principal Office" shall mean the principal office of the Administrative Agent, located on the Closing Date at 500 W. Monroe Street, 17th Floor, Chicago, Illinois 60661, or such other office as may be designated by the Administrative Agent.

"Pro Forma Basis" shall mean on a basis in accordance with GAAP.

"Proceeding" shall mean any claim, counterclaim, action, judgment, suit, hearing, governmental investigation, arbitration or proceeding, including by or before any Governmental Authority and whether judicial or administrative.

"Property" shall mean any right, title or interest in or to property or assets of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible and including Equity Interests or other ownership interests of any Person.

"Qualified Capital Stock" shall mean with respect to any Person any Equity Interest of such Person that is not Disqualified Capital Stock.

"Qualified Subsidiary" shall mean any Wholly Owned Subsidiary that is an Obligor.

"Real Property" shall mean all right, title and interest of any Company (including, without limitation, any leasehold estate) in and to a parcel of real property owned or operated by any Company, whether by lease, license or other use agreement, together with, in each case, all improvements and appurtenant fixtures, equipment, personal property, easements and other property and rights incidental to the ownership, lease or operation thereof or thereon.

"Receivables Co." shall mean Atrium Funding Corp. II, a Delaware corporation.

"redeem" shall mean redeem, repurchase, repay, defease or otherwise acquire or retire for value; and "redemption" and "redeemed" have correlative meanings.

"refinance" shall mean refinance, renew, extend, replace, defease or refund, in whole or in part, including successively; and "refinancing" and "refinanced" have correlative meanings.

"Refund" see Section 5.06(e).

"Register" see Section 2.08(c).

"Regulation D" shall mean Regulation D (12 C.F.R. Part 204) of the Board of Governors of the United States Federal Reserve System.

"Regulations T, U and X" shall mean, respectively, Regulation T (12 C.F.R. Part 220), Regulation U (12 C.F.R. Part 221) and Regulation X (12 C.F.R. Part 224) of the Board of Governors of the United States Federal Reserve System (or any successor), as the same may be modified and supplemented and in effect from time to time.

"Related Parties" see Section 11.01.

"Release" shall mean any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the Environment.

"Relevant Disposition" see the definition of "Net Cash Payments."

"Replaced Lender" see Section 2.11.

"Replacement Lender" see Section 2.11.

"Required Payment" see Section 4.06.

"Requirement of Law" shall mean as to any Person, the Certificate of Incorporation and By-Laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its Property or to which such Person or any of its Property is subject.

"Reserve Requirement" shall mean, for any Interest Period for any LIBOR Loan, the daily average during such Interest Period of the aggregate maximum reserve requirement (expressed as a decimal) then imposed under Regulation D of the Board of Governors of the Federal Reserve System (or any successor thereto) for "Eurocurrency liabilities" (as such term is used in Regulation D).

"Responsible Officer" shall mean the Chairman of the Board of Borrower (if an officer), the Chief Executive Officer of Borrower or the President of Borrower or, with respect to financial matters, the Chief Financial Officer of Borrower, any Vice President-Finance of Borrower or the Treasurer (or an equivalent officer) of Borrower.

"Returns" see Section 8.09.

"S&P" shall mean Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc.

"Security Agreement" shall mean the Security Agreement dated as of the Closing Date, among the Obligors (other than North Star) and the Collateral Agent, as the same hereafter may be amended in accordance with the terms thereof and hereof, the Security Agreement dated as of

the Closing Date, between North Star and the Collateral Agent, as the same hereafter may be amended in accordance with the terms thereof and hereof, and such other agreements reasonably acceptable to the Collateral Agent as shall be necessary to comply with applicable Requirements of Law and effective to grant to the Collateral Agent a perfected first priority security interest (subject to Permitted Liens) in the DIP Collateral covered thereby.

"Security Documents" shall mean each Security Agreement, the DIP Orders and each other security document, pledge agreement or similar instrument permitted or required by applicable local law to grant a valid, perfected security interest in any property or asset, and all UCC and other financing statements or instruments of perfection permitted or required by this Agreement, Security Agreements or any other Security Document to be filed with respect to the security interests in Property and fixtures created pursuant to the Security Agreement or any other Security Document and any other document or instrument utilized to pledge as collateral for the Obligations any Property of whatever kind or nature.

"Settlement Date" see Section 11.07(a).

"Subordinated Debt" shall mean the Indebtedness evidenced by the New Subordinated Notes (and the subordinated Guaranties thereof pursuant to the Subordinated Debt Documents) and any other Indebtedness of any Company that is subordinated to any other Indebtedness of such Company.

"Subordinated Debt Documents" shall mean, collectively, each of the loan agreements, indentures, note purchase agreements, promissory notes, guarantees, and other instruments and agreements (including registration rights agreements) evidencing the terms of Subordinated Debt (including, without limitation, the New Subordinated Note Documents).

"Subordination Provisions" see Section 10(l).

"Subsidiary" shall mean, with respect to any Person, any corporation, partnership or other entity of which at least a majority of the securities or other ownership interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or other persons performing similar functions of such corporation, partnership or other entity (irrespective of whether or not at the time securities or other ownership interests of any other class or classes of such corporation, partnership or other entity shall have or might have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person. Unless the context clearly requires otherwise, all references to any Subsidiary shall mean a Subsidiary of Borrower.

"Subsidiary Guarantor" shall mean each Subsidiary listed on Schedule 1.01(b) and each direct and indirect Wholly Owned Subsidiary that guarantees the payment of the Obligations of Borrower under the Credit Documents pursuant to Section 9.20.

"Supplemental Approved Budget" means, in respect of the Approved Budget then in effect, supplemental or replacement budgets delivered and approved by the Administrative Agent and Majority Lenders in accordance with Section 9.01(q) (covering any time period covered by a prior budget or covering additional time periods).

"Surety Instruments" shall mean all letters of credit (including standby and commercial), bankers' acceptances, bank guarantees, surety bonds and similar instruments.

"Swap Contract" shall mean any agreement entered into in the ordinary course of business (as a bona fide hedge and not for speculative purposes) (including any master agreement and any agreement, whether or not in writing, relating to any single transaction) prior to the Petition Date that is an interest rate swap agreement, basis swap, forward rate agreement, commodity swap, commodity option, forward commodity purchase agreement, equity or equity index swap or option, bond option, interest rate option, foreign exchange agreement, rate cap, collar or floor agreement, currency swap agreement, cross-currency rate swap agreement, swaption, currency option or any other similar agreement (including any option to enter into any of the foregoing) and is designed to protect the Obligors against fluctuations in interest rates, currency exchange rates, or similar risks (including any Interest Rate Protection Agreement entered into pursuant to Section 9.18) but excluding all forward commitments for the purchase of materials and utilities used in the ordinary course of business of Borrower and its Subsidiaries and not for speculative purposes.

"Taxes" shall mean any and all present or future taxes, imposts, duties, charges, fees, levies or other charges or assessments of whatever nature, including, but not limited to, income, gross receipts, excise, real or personal property, sales, withholding, social security, retirement, unemployment, occupation, use, service, license, net worth, payroll, franchise, and transfer and recording, imposed by the Internal Revenue Service or any taxing authority (whether domestic or foreign, including any federal, state, U.S. possession, county, local or foreign government or any subdivision or taxing agency thereof), whether computed on a separate, consolidated, unitary, combined or any other basis, including interest, fines, penalties or additions to tax attributable to or imposed on or with respect to any such taxes, charges, fees, levies or other assessments.

"Tax Sharing Agreement" shall mean the Restated and Amended Tax Sharing Agreement, dated as of October 25, 2000, among D and W Holdings, Inc., Borrower and the direct and indirect Subsidiaries of Borrower signatory thereto, as amended and in effect on the Closing Date, as such may be amended and in effect from time to time in accordance with its terms and this Agreement.

"Termination Declaration" see Section 10.

"Termination Declaration Date" see Section 10.

"Transaction Documents" shall mean, collectively, the Credit Documents, the A/R Facility Amendments and all other agreements furnished pursuant to or in connection with the Transactions, in each case as amended, supplemented, amended and restated or otherwise modified from time to time in accordance with this Agreement.

"Transactions" shall mean, collectively, (i) the effectiveness of this Agreement, (ii) the effectiveness of the A/R Facility Amendments and (iii) the payments of fees, commissions and expenses in connection with each of the foregoing.

"Type" see Section 1.03.

"UCC" shall mean the Uniform Commercial Code as in effect from time to time in the State of New York; provided that if, with respect to any UCC financing statement or by reason of any provisions of law, the perfection or the effect of perfection or non-perfection of the security interests granted to the Collateral Agent pursuant to the applicable Credit Document is governed by the Uniform Commercial Code as in effect in a jurisdiction of the United States other than New York, then "UCC" shall mean the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of each Credit Document and any UCC financing statement relating to such perfection or effect of perfection or non-perfection.

"Unaudited Financial Statements" see Section 7.01(i)(6).

"U.S. Lender" see Section 5.06(b).

"Variance Report" see Section 9.01(r).

"Wholly Owned Subsidiary" shall mean, with respect to any Person, any corporation, partnership or other entity of which all of the Equity Interests (other than, in the case of a corporation, directors' qualifying shares or nominee shares required under applicable law) are directly or indirectly owned or controlled by such Person or one or more Wholly Owned Subsidiaries of such Person or by such Person and one or more Wholly Owned Subsidiaries of such Person. Unless the context clearly requires otherwise, all references to any Wholly Owned Subsidiary shall mean a Wholly Owned Subsidiary of Borrower.

"Withdrawal Liability" shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part 1 of Subtitle E of Title IV of ERISA.

"Working Capital" shall mean an amount determined for Borrower and the Subsidiaries (determined on a consolidated basis without duplication in accordance with GAAP) equal to the sum of all current assets (other than cash) less the sum of all current liabilities (other than the current portion of long-term Indebtedness and the current portion of deferred tax assets or liabilities).

Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Statement of Financial Accounting Standards 159 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of any Obligor or any Subsidiary of any Obligor at "fair value", as defined therein.

1.02 Accounting Terms and Determinations. Except as otherwise provided in this Agreement, all computations and determinations as to accounting or financial matters (including financial covenants) shall be made in accordance with GAAP consistently applied for all applicable periods, and all accounting or financial terms shall have the meanings ascribed to such terms by GAAP. All financial statements to be delivered pursuant to this Agreement shall be prepared in accordance with GAAP. All financial covenants are to be calculated in accordance with GAAP as in effect on the Closing Date unless such modifications are agreed to by the parties hereto. Notwithstanding any other provision contained herein, all terms of an accounting

or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Financial Accounting Standards Board Accounting Standards Codification 825-10 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of any Obligor or any Subsidiary of any Obligor at "fair value" (as defined therein).

1.03 Types of Loans. Loans hereunder are distinguished by "Type." The "Type" of a Loan refers to whether such Loan is an ABR Loan or a LIBOR Loan, each of which constitutes a Type.

1.04 Rules of Construction.

(a) In this Agreement and each other Credit Document, unless the context clearly requires otherwise (or such other Credit Document clearly provides otherwise), references to (i) the plural include the singular, the singular the plural and the part the whole; (ii) Persons include their respective permitted successors and assigns or, in the case of governmental Persons, Persons succeeding to the relevant functions of such Persons; (iii) agreements (including this Agreement), promissory notes and other contractual instruments include subsequent amendments, assignments, and other modifications thereto, but only to the extent such amendments, assignments or other modifications thereto are not prohibited by their terms or the terms of any Credit Document; (iv) statutes and related regulations include any amendments of same and any successor statutes and regulations; and (v) time shall be a reference to Chicago time. Where any provision herein refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

(b) In this Agreement and each other Credit Document, unless the context clearly requires otherwise (or such other Credit Document clearly provides otherwise), (i) "amend" shall mean "amend, restate, amend and restate, supplement or modify"; and "amended," "amending" and "amendment" shall have meanings correlative to the foregoing; (ii) in the computation of periods of time from a specified date to a later specified date, "from" shall mean "from and including"; "to" and "until" shall mean "to but excluding"; and "through" shall mean "to and including"; (iii) "hereof," "herein" and "hereunder" (and similar terms) in this Agreement or any other Credit Document refer to this Agreement or such other Credit Document, as the case may be, as a whole and not to any particular provision of this Agreement or such other Credit Document; (iv) "including" (and similar terms) shall mean "including without limitation" (and similarly for similar terms); (v) "or" has the inclusive meaning represented by the phrase "and/or"; (vi) "satisfactory to" any Creditor shall mean in form, scope and substance and on terms and conditions reasonably satisfactory to such Creditor; (vii) references to "the date hereof" shall mean the Closing Date; and (viii) "asset" and "Property" shall have the same meaning and effect and refer to all tangible and intangible assets and property, whether real, personal or mixed and of every type and description.

(c) In this Agreement unless the context clearly requires otherwise, any reference to (i) an Annex, Exhibit or Schedule is to an Annex, Exhibit or Schedule, as the case may be, attached to this Agreement and constituting a part hereof, and (ii) a Section or other subdivision is to a Section or such other subdivision of this Agreement.

(d) No doctrine of construction of ambiguities in agreements or instruments against the interests of the party controlling the drafting thereof shall apply to any Credit Document.

Section 2. Commitments, Fees, Register, Prepayments and Replacement of Lenders; Extension of Initial Maturity Date; Super Priority Nature of Obligations and Creditors' Liens.

2.01 Loans.

(a) Delayed Draw Term Loans. Each Lender severally agrees, on the terms and conditions of this Agreement, to make delayed draw term loans (the "Delayed Draw Term Loans") to Borrower in Dollars during the period from and including the Closing Date to and including the Initial Maturity Date in an aggregate principal amount at any one time outstanding not exceeding the amount of the Delayed Draw Term Loan Commitment of such Lender as in effect from time to time, minus, such Lender's Delayed Draw Term Loan Commitment Percentage of the Carve-Out Reserve as in effect at such time; provided, however, that until the Final Order has been entered by the Bankruptcy Court, in no event shall the aggregate principal amount of Delayed Draw Term Loans outstanding exceed $15,000,000. Subject to the terms and conditions of this Agreement, on and after the Closing Date, Borrower may Convert Delayed Draw Term Loans of one Type into Delayed Draw Term Loans of another Type (as provided in Section 2.09) or Continue Delayed Draw Term Loans of one Type as Delayed Draw Term Loans of the same Type (as provided in Section 2.09). Delayed Draw Term Loans that are repaid or prepaid may not be reborrowed.

(b) [Reserved].

(c) Limit on LIBOR Loans. No more than 10 separate Interest Periods in respect of LIBOR Loans may be outstanding at any one time.

2.02 Borrowings. Borrower shall give the Administrative Agent notice of each borrowing hereunder as provided in Section 4.05. The form of such notice of borrowing shall be substantially in the form of Exhibit I. Administrative Agent shall make Loans available to Borrower, subject to the terms and conditions of this Agreement, by depositing the same, in immediately available funds, in an account designated by Borrower.

2.03 [Reserved].

2.04 Termination and Reductions of Commitments.

(a) The aggregate amount of Delayed Draw Term Loan Commitments shall be automatically and permanently reduced by the aggregate amount of Delayed Draw Term Loans made by the Lenders immediately after giving effect to such Loans. The aggregate amount of the Delayed Draw Term Loan Commitments shall be automatically and permanently reduced to zero on the Delayed Draw Term Loan Commitment Termination Date.

(b) Borrower shall have the right at any time or from time to time (without premium or penalty except breakage costs (if any)) (i) so long as no Delayed Draw Term Loans will be outstanding as of the date specified for termination, to terminate the Delayed Draw Term

Loan Commitments, and (ii) to reduce the aggregate amount of the Delayed Draw Term Loan Commitments of all the Lenders; provided, however, that (x) Borrower shall give notice of each such termination or reduction as provided in Section 4.05, and (y) each partial reduction shall be in an aggregate amount at least equal to $1.0 million (or a larger multiple of $1.0 million) or, if less, the remaining Delayed Draw Term Loan Commitments.

(c) The aggregate amount of the Delayed Draw Term Loan Commitments shall be automatically and permanently reduced to zero on the Initial Maturity Date.

(d) The Commitments once terminated or reduced may not be reinstated.

2.05 Fees.

(a) Borrower shall pay to the Administrative Agent for the account of each Lender (and the Administrative Agent shall promptly pay to each such Lender in accordance with Section 11.07(a) hereof) an unused line fee on the daily average amount of such Lender's Delayed Draw Term Loan Commitment, for the period from and including the Closing Date to and including the earlier of the date such Delayed Draw Term Loan Commitment is terminated and the Initial Maturity Date, at a rate per annum (calculated on the basis of a 360-day year and actual days elapsed) equal to 1.00%. Any accrued unused line fee under this Section 2.05(a) shall be payable in arrears on each Monthly Date and on the Delayed Draw Term Loan Commitment Termination Date.

(b) Borrower agrees to pay to the Administrative Agent, for its own account, the fees in the amounts and on the dates set forth in the Fee Letter.

2.06 Lending Offices. The Loans of each Type made by each Lender shall be made and maintained at such Lender's Applicable Lending Office for Loans of such Type. No Lender shall (unless required by law or if the failure to do so would adversely affect such Lender) change its Applicable Lending Office for LIBOR Loans if such change would increase Borrower's net costs or expenses hereunder materially (including withholding payments).

2.07 Several Obligations of Lenders. The failure of any Lender to make any Loan to be made by it on the date specified therefor shall not relieve any other Lender of its obligation to make its Loan on such date, but neither any Lender nor the Administrative Agent shall be responsible for the failure of any other Lender to make a Loan to be made by such other Lender, and no Lender shall have any obligation to the Administrative Agent or any other Lender for the failure by such Lender to make any Loan required to be made by such Lender.

2.08 Notes; Register.

(a) Each Lender may request Notes to be issued in connection with its Delayed Draw Term Loan Commitments by written notice to the Administrative Agent. The Delayed Draw Term Loans made or to be made by any Lender who has requested a Note shall be evidenced by one or more promissory notes of Borrower, substantially in the form of Exhibit A, payable to such Lender and otherwise duly completed.

(b) The date, amount, Type, interest rate and duration of Interest Period (if applicable) of each Loan made by each Lender to Borrower, and each payment made on account of the principal thereof, shall be recorded by such Lender on its books and, prior to any transfer of any Note evidencing the Loans held by it, endorsed by such Lender on the schedule attached to such Note or any continuation thereof; provided, however, that the failure of such Lender to make any such recordation or endorsement or any error in making any such recordation or endorsement shall not affect the obligations of Borrower to make a payment when due of any amount owing hereunder or under such Note.

(c) Borrower hereby designates the Administrative Agent to serve as its agent, solely for purposes of this Section 2.08, to maintain a register (the "Register") on which it will record the name and address of each Lender, the Commitment from time to time of each of the Lenders, the principal amount of the Loans made by each of the Lenders and each repayment in respect of the principal amount of the Loans of each Lender. Failure to make any such recordation or any error in such recordation shall not affect Borrower's obligations in respect of such Loans. The entries in the Register shall be conclusive, in the absence of manifest error, and Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register as the owner of a Loan or other obligation hereunder as the owner thereof for all purposes of this Agreement and the other Credit Documents, notwithstanding any notice to the contrary. The Register shall be composed of the Administrative Agent's computer records that show the current status of the Loans without reference as to status on any previous date. The Register shall be available for inspection by Borrower and (solely with respect to its Commitments and Loans) any Lender at any reasonable time and from time to time upon reasonable prior notice and the Administrative Agent shall make electronic copies of the Register available to Borrower promptly via email upon request by Borrower.

2.09 Optional Prepayments and Conversions or Continuations of Loans. Subject to Section 4.04, Borrower shall have the right to prepay Loans, in whole or in part, without penalty or premium, or to Convert Loans of one Type into Loans of another Type or to Continue Loans of one Type as Loans of the same Type, at any time or from time to time to be applied as specified by Borrower; provided, however, that: (a) Borrower shall give the Administrative Agent notice of each such prepayment, Conversion or Continuation as provided in Section 4.05 (and, upon the date specified in any such notice of prepayment, the amount to be prepaid shall become due and payable hereunder); and (b) if LIBOR Loans are prepaid or Converted other than on the last day of an Interest Period for such Loans, Borrower shall at such time pay all expenses and costs required by Section 5.05. Each notice of Conversion or Continuation shall be substantially in the form of Exhibit J.

Notwithstanding the foregoing, and without limiting the rights and remedies of the Lenders under Section 10, in the event that any Event of Default shall have occurred and be continuing, the Administrative Agent may (and at the request of the Majority Lenders shall) suspend the right of Borrower to Convert any Loan into a LIBOR Loan, or to Continue any Loan as a LIBOR Loan, in which event all outstanding LIBOR Loans shall be Converted (on the last day(s) of the respective Interest Periods therefor) to ABR Loans.

2.10 Mandatory Prepayments.

(a) Borrower shall prepay the Delayed Draw Term Loans (subject to Section 5.05, without penalty or premium) (and/or permanently reduce Delayed Draw Term Loan Commitments) as follows (each such prepayment and reduction to be effected in each case in the manner, order and to the extent specified in subsection (b) below of this Section 2.10):

(i) Casualty Events. On or prior to the third Business Day after the date on which any Company receives any Net Available Proceeds from any Casualty Event, in an aggregate principal amount equal to 100% of such Net Available Proceeds; provided, however, that (x) so long as no Event of Default then exists or would arise therefrom, such Net Available Proceeds shall not be required to be so applied on such date to the extent that Borrower has delivered an Officer's Certificate to the Administrative Agent on or prior to such date stating that such proceeds shall be used to (1) repair, replace or restore any Property in respect of which such Net Available Proceeds were paid or (2) fund the substitution of other Property used or usable in the business of Borrower and the Subsidiaries, in each case within 90 days following the date of the receipt of such Net Available Proceeds and (y) if all or any portion of such Net Available Proceeds not required to be applied to the prepayment of Delayed Draw Term Loans (or reduction of Delayed Draw Term Loan Commitments) pursuant to the preceding proviso is not so used within 90 days after the date of the receipt of such Net Available Proceeds, such remaining portion shall be paid by Borrower to the Administrative Agent and applied by the Administrative Agent on the last day of such period as specified in Section 2.10(b).

(ii) [Reserved]

(iii) [Reserved]

(iv) Disposition Events. On or prior to the third Business Day after the date of receipt by any Company of any Net Available Proceeds from any Disposition Event on or after the Closing Date, in an aggregate principal amount equal to 100% of the Net Available Proceeds from such Disposition Event.

(v) Other Required Prepayments. If the terms of any agreement, instrument or indenture (including, without limitation the New Subordinated Notes Indenture) pursuant to which any Indebtedness pari passu with or junior in right of payment to the Loans is outstanding (or pursuant to which such Indebtedness is guaranteed) require prepayment of such Indebtedness out of the proceeds of any Disposition or otherwise unless such proceeds are used to prepay other Indebtedness, then, to the extent not otherwise required by this Section 2.10(a), the Loans shall be repaid in an amount not less than the minimum amount that would be required to be prepaid not later than the latest time as and upon such terms so that such other Indebtedness will not be required to be prepaid pursuant to the terms of the agreement, indenture or instrument or guarantee governing such other Indebtedness.

(b) Application. The amount of any required prepayments described in Section 2.10(a) shall be applied as follows: first, to costs and expenses of the Administrative Agent and Lenders that are reimbursurable hereunder; second, to accrued fees and interest

payable hereunder; and third, to prepay the Delayed Draw Term Loans on a pro rata basis (in accordance with the respective outstanding principal amounts thereof).

2.11 Replacement of Lenders. Borrower shall have the right, if no Default then exists, to replace any Lender (the "Replaced Lender") with one or more other Eligible Persons reasonably acceptable to the Administrative Agent (collectively, the "Replacement Lender") if (x) such Lender is charging Borrower increased costs pursuant to Section 5.01 or 5.06 in excess of those being charged generally by the other Lenders or such Lender becomes incapable of making LIBOR Loans as provided in Section 5.03 and/or (y) as provided in Section 13.04(ii), such Lender refuses to consent to certain proposed amendments, waivers or modifications with respect to this Agreement; provided, however, that (i) at the time of any replacement pursuant to this Section 2.11, the Replacement Lender shall enter into one or more assignment agreements in accordance with Section 13.06(b) (and with all fees payable pursuant to Section 13.06 to be paid by the Replacement Lender) pursuant to which the Replacement Lender shall acquire all of the Commitments and outstanding Loans of the Replaced Lender and, in connection therewith, shall pay to the Replaced Lender, an amount equal to the sum of (A) the principal of, and all accrued interest on, all outstanding Loans of the Replaced Lender and (B) all accrued, but theretofore unpaid, fees owing to the Replaced Lender pursuant to Section 2.05, and (ii) all obligations of Borrower owing to the Replaced Lender (other than those specifically described in clause (i) above in respect of which the assignment purchase price has been, or is concurrently being, paid, but including any amounts which would be paid to a Lender pursuant to Section 5.05 if Borrower were prepaying a LIBOR Loan) shall be paid in full by Borrower to such Replaced Lender concurrently with such replacement. Notwithstanding the foregoing, with respect to a Lender that is a Defaulted Lender, the Borrower or Administrative Agent may obtain a Replacement Lender and execute an Assignment on behalf of such Defaulted Lender at any time and without prior notice to such Defaulted Lender and cause its Loans and Commitments to be sold and assigned at par. Upon the execution of the applicable assignment agreement, the payment of amounts referred to in clauses (i) and (ii) above and, if so requested by the Replacement Lender, delivery to the Replacement Lender of Notes executed by Borrower, the Replacement Lender shall become a Lender hereunder and the Replaced Lender shall cease to constitute a Lender hereunder and be released of all its obligations as a Lender, except with respect to indemnification provisions applicable to the Replaced Lender under this Agreement, which shall survive as to such Replaced Lender.

2.12 Extension of Initial Maturity Date. If on or prior to the fifth (5^{th}) Business Day prior to the Initial Maturity Date the Borrower requests that the Final Maturity Date be extended and the Majority Lenders within two (2) Business Days of such request provide Borrower with written notice that they have (a) determined in their sole and absolute discretion that the Debtors are diligently pursuing the confirmation of the Plan in good faith, (b) determined in their sole and absolute discretion that no Default or Event of Default exists or is continuing under the DIP Facility, and (c) received and approved an updated "rolling" budget supplementing and replacing the Approved Budget then in effect covering the period through the Outside Maturity Date, then the Borrower may elect that the Final Maturity Date be extended from the Initial Maturity Date to the Outside Maturity Date at no cost to the Borrower or Guarantors (other than the payment of interest, fees, and expenses due under the Credit Documents and the Fee Letter while the Delayed Draw Term Loans are outstanding, current cash payment of a portion of the interest due under the Pre-Petition Credit Agreement on the last day of each calendar month thereafter equal

to the three-month LIBOR Rate set at the beginning of such applicable month, calculated without a LIBOR floor, with all other interest due under the Pre-Petition Credit Agreement being capitalized and added to the outstanding principal balance of the applicable Pre-Petition Secured Obligations and current cash payment of all fees and other amounts due from time to time under the Pre-Petition Credit Agreement (including without limitation the fees and expenses of one primary counsel and local counsel (as necessary) for each of the Pre-Petition Agent and the Ad-Hoc Group) and one financial advisor to be retained by the Pre-Petition Agent for the benefit of the Pre-Petition Lenders) by providing irrevocable written notice to the Administrative Agent not later than 5:00 p.m. (Chicago time) on the third (3rd) Business Day prior to the Initial Maturity Date.

2.13 Super Priority Nature of Obligations and Creditors' Liens.

(1) The Obligors hereby covenant, represent and warrant that, upon entry of the Interim Order (and the Final Order, as applicable) and subject to Section 2.13(2), the Initial CCAA Order, and subject to the Orders, the Obligations of the Obligors under the Credit Documents:

(a) pursuant to Section 364(c)(1) of the Bankruptcy Code, shall at all times constitute allowed administrative expense claims in the Chapter 11 Case having priority over all administrative expenses of the kind specified in Sections 503(b) or 507(b) of the Bankruptcy Code;

(b) pursuant to Section 364(c)(2) of the Bankruptcy Code and section 11.2 of the CCAA, shall at all times be secured by a perfected first priority Lien on all real and personal, tangible and intangible, property of the Obligors, including, but not limited to (i) proceeds of claims and causes of action arising under sections 502(d), 544, 545, 547, 548, 549, 550, 551, 553(b), 723(a) or 724(a) of the Bankruptcy Code (collectively, the "Avoidance Actions"), (ii) any Obligor's rights under Section 506(c) of the Bankruptcy Code and (iii) tax and other refunds (it being understood that the Liens so granted on the property described in sub-clauses (i) and (ii) above shall be subject to the entry of the Final Order);

(c) pursuant to Section 364(c)(3) of the Bankruptcy Code and section 11.2 of the CCAA, shall be secured by a perfected Lien upon all real and personal, tangible and intangible, property of the Obligors that are subject to an Existing Priority Lien as of the Petition Date, junior to such Existing Priority Lien; and

(d) pursuant to Section 364(d)(1) of the Bankruptcy Code and section 11.2 of the CCAA, shall be secured by a perfected first priority Lien, senior and priming to the Primed Liens, on all real and personal, tangible and intangible, property of the Obligors; provided, however, that the Liens described in this subsection (d) shall be junior to the Carve-Out, the Existing Priority Liens, the Administration Charge and the Directors' Charge.

(2) Notwithstanding Section 2.13(1), on a temporary basis until a further order is obtained from the CCAA Court on notice to affected secured creditors, the Initial CCAA Order may provide that the Lien in favour of the Collateral Agent is subject in priority to Liens in existence as of the date of the Initial CCAA Order that have priority over the Liens that secure the Pre-Petition Obligations. Without delay and in any event within 30 days after the date of the

Initial CCAA Order, the Obligors must obtain an order of the CCAA Court, on notice to all secured creditors likely to be affected by such order, amending the Initial CCAA Order so that the Lien in favour of the Collateral Agent has the priority required by Section 2.13(1).

Section 3. Payments of Principal and Interest.

3.01 Repayment of Delayed Draw Term Loans. Borrower hereby promises to pay in cash to the Administrative Agent for the account of each Lender the entire outstanding principal amount of such Lender's Delayed Draw Term Loans, and each Delayed Draw Term Loan shall mature, on the Delayed Draw Term Loan Commitment Termination Date.

3.02 Interest.

(a) Borrower hereby promises to pay to the Administrative Agent for the account of each Lender interest in cash on the unpaid principal amount of each Loan made by such Lender for the period from and including the date of such Loan to but excluding the date such Loan shall be paid in full at the following rates per annum:

(i) during such periods as such Loan is an ABR Loan, the Alternate Base Rate (as in effect from time to time), plus the Applicable Margin; and

(ii) during such periods as such Loan is a LIBOR Loan, for each Interest Period relating thereto, the LIBOR Rate for such Loan for such Interest Period, plus the Applicable Margin.

(b) While an Event of Default exists, all amounts owed by any Obligor under the Credit Documents (including such interest accruing before and after judgment) shall bear interest at a rate per annum equal to (x) in the case of principal of any Loans, the rate which is 2% in excess of the rate then borne by such Loans and (y) in the case of interest and such other amounts, the rate which is 2% in excess of the rate otherwise applicable to ABR Loans which are Delayed Draw Term Loans from time to time. Interest which accrues under this paragraph shall be payable on demand.

(c) Accrued interest on each Loan shall be payable (i) in the case of an ABR Loan, monthly on the Monthly Dates, (ii) in the case of a LIBOR Loan, on the last day of each Interest Period therefor and (iii) in the case of any Loan, upon the payment or prepayment thereof or the Conversion of such Loan to a Loan of another Type (but only on the principal amount so paid, prepaid or Converted), except that interest payable at the rate set forth in Section 3.02(b) shall be payable from time to time on demand.

Section 4. Payments; Pro Rata Treatment; Computations; Etc.

4.01 Payments.

(a) Except to the extent otherwise provided herein, all payments of principal, interest, and other amounts to be made by Borrower under this Agreement and the Notes, and, except to the extent otherwise provided therein, all payments to be made by the Obligors under any other Credit Document, shall be made in Dollars, in immediately available funds, without

deduction, setoff or counterclaim, to the Administrative Agent at its account at the Principal Office, not later than 12:00 p.m. Chicago time on the date on which such payment shall become due (each such payment made after such time on such due date to be deemed to have been made on the next succeeding Business Day).

(b) Borrower shall, at the time of making each payment under this Agreement or any Note for the account of any Lender, specify (in accordance with Section 2.09 and 2.10, if applicable) to the Administrative Agent (which shall so notify the intended recipient(s) thereof) the Loans or other amounts payable by Borrower hereunder to which such payment is to be applied (and in the event that Borrower fails to so specify, or if an Event of Default has occurred and is continuing, the Administrative Agent may distribute such payment to the Lenders for application to the Obligations under the Credit Documents in such manner as it or the Majority Lenders, subject to Section 4.02, may determine to be appropriate).

(c) If the due date of any payment under this Agreement or any Note would otherwise fall on a day that is not a Business Day, such date shall be extended to the next succeeding Business Day, and interest shall be payable for any principal so extended for the period of such extension.

4.02 Pro Rata Treatment. Except to the extent otherwise provided herein: (a) each borrowing of Loans from the Lenders under Section 2.01 shall be made from the relevant Lenders, each payment of commitment fee under Section 2.05 in respect of Delayed Draw Term Loan Commitments shall be made for account of the relevant Lenders, and each termination or reduction of the amount of the Commitments under Section 2.04 shall be applied to the respective Commitments of the relevant Lenders, pro rata according to the amounts of their respective Delayed Draw Term Loan Commitments; (b) except as otherwise provided in Section 5.04, LIBOR Loans having the same Interest Period shall be allocated pro rata among the relevant Lenders according to the amounts of their respective Delayed Draw Term Loan Commitment Percentage; (c) each prepayment of principal of Delayed Draw Term Loans by Borrower shall be made for account of the relevant Lenders pro rata in accordance with the respective unpaid outstanding principal amounts of the Loans held by them; and (d) each payment of interest on Delayed Draw Term Loans by Borrower shall be made for account of the relevant Lenders pro rata in accordance with the amounts of interest on such Loans then due and payable to the respective Lenders.

4.03 Computations. Interest on LIBOR Loans and commitment fees and letter of credit fees shall be computed on the basis of a year of 360 days and actual days elapsed (including the first day but excluding the last day) occurring in the period for which such amounts are payable and interest on ABR Loans shall be computed on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed (including the first day but excluding the last day) occurring in the period for which such amounts are payable. Notwithstanding the foregoing, for each day that the Alternate Base Rate is calculated by reference to the Federal Funds Rate, interest on ABR Loans shall be computed on the basis of a year of 360 days and actual days elapsed (including the first day but excluding the last day).

4.04 Minimum Amounts. Except for mandatory prepayments made pursuant to Section 2.10 and Conversions or prepayments made pursuant to Section 5.04, each borrowing

and Conversion of principal of Loans shall be in an amount at least equal to $3,000,000 (or, if less, the remaining aggregate principal amount thereof) and in multiples of $1,000,000 in excess thereof and each prepayment of principal of Loans shall be in an amount at least equal to $1,000,000 (or, if less, the remaining aggregate principal amount thereof) and in multiples of $100,000 in excess thereof (borrowings, Conversions or prepayments of or into Loans of different Types at the same time hereunder to be deemed separate borrowings, Conversions and prepayments for purposes of the foregoing, one for each Type).

4.05 Certain Notices. Notices by Borrower to the Administrative Agent of terminations or reductions of the Commitments, of borrowings, Conversions, Continuations and optional prepayments of Loans and of Types of Loans shall be irrevocable and shall be effective only if received by the Administrative Agent not later than the Chicago time specified in the table below on the number of Business Days prior to the date of the relevant termination, reduction, borrowing, Conversion, Continuation or prepayment or the first day of such Interest Period specified in the table below.

NOTICE PERIODS

Notice	Number of Business Days Prior
Termination or reduction of Commitments	3 (12:00 p.m.)
Borrowing of Loans	3 (11:00 a.m.)
Optional prepayment, Conversions and Continuations of Loans	3 (11:00 a.m.)

Each such notice of termination or reduction shall specify the amount of the Commitments to be terminated or reduced. Each such notice of borrowing, Conversion, Continuation or prepayment shall specify the amount (subject to Section 4.04) of each Loan to be borrowed, Converted, Continued or prepaid and the date of borrowing, Conversion, Continuation or prepayment (which shall be a Business Day). In the event that Borrower fails to select the Type of Loan within the time period and otherwise as provided in this Section 4.05, such Loan (if outstanding as a LIBOR Loan) will be automatically Converted into an ABR Loan on the last day of the then current Interest Period for such Loan or (if outstanding as an ABR Loan) will remain as, or (if not then outstanding) will be made as, an ABR Loan.

4.06 Non-Receipt of Funds by the Administrative Agent. Unless the Administrative Agent shall have received written notice from a Lender or Borrower (the "Payor") prior to the date on which the Payor is to make payment to the Administrative Agent of (in the case of a Lender) the proceeds of a Loan to be made by such Lender hereunder or a payment to the Administrative Agent for the account of one or more of the Lenders hereunder (such payment being herein called the "Required Payment"), which notice shall be effective upon receipt, that the Payor does not intend to make the Required Payment to the Administrative Agent, the Administrative Agent may assume that the Required Payment has been made and may, in reliance upon such assumption (but shall not be required to), make the amount thereof available to the intended recipient(s) on such date; and, if the Payor has not in fact made the Required

Payment to the Administrative Agent, the recipient(s) of such payment shall, on demand, repay to the Administrative Agent the amount so made available together with interest thereon in respect of each day during the period commencing on the date (the "Advance Date") such amount was so made available by the Administrative Agent until the date the Administrative Agent recovers such amount at a rate per annum equal to the Federal Funds Rate for such day and, if such recipient(s) shall fail promptly to make such payment, the Administrative Agent shall be entitled to recover such amount, on demand, from the Payor, together with interest as aforesaid; provided, however, that if neither the recipient(s) nor the Payor shall return the Required Payment to the Administrative Agent within three Business Days of the date such demand was made, then, retroactively to the Advance Date, the Payor and the recipient(s) shall each be obligated to pay interest on the Required Payment as follows (without double recovery):

(i) if the Required Payment shall represent a payment to be made by Borrower to the Lenders, Borrower and the recipient(s) shall each be obligated retroactively to the Advance Date to pay interest in respect of the Required Payment at the rate set forth in Section 3.02(b) (without duplication of the obligation of Borrower under Section 3.02 to pay interest on the Required Payment at the rate set forth in Section 3.02(b)), it being understood that the return by the recipient(s) of the Required Payment to the Administrative Agent shall not limit such obligation of Borrower under Section 3.02 to pay interest at the rate set forth in Section 3.02(b) in respect of the Required Payment and

(ii) if the Required Payment shall represent proceeds of a Loan to be made by the Lenders to Borrower, the Payor and Borrower shall each be obligated retroactively to the Advance Date to pay interest in respect of the Required Payment pursuant to Section 3.02, it being understood that the return by Borrower of the Required Payment to the Administrative Agent shall not limit any claim Borrower may have against the Payor in respect of such Required Payment.

4.07 Right of Setoff; Sharing of Payments; Etc.

(a) Each Obligor agrees that, in addition to (and without limitation of) any right of setoff, banker's lien or counterclaim a Lender may otherwise have, each Lender shall be entitled, at its option (to the fullest extent permitted by law), to set off and apply any deposit (general or special, time or demand, provisional or final), or other indebtedness, held by it for the credit or account of such Obligor at any of its offices, in Dollars or in any other currency, against any principal of or interest on any of such Lender's Loans or any other amount payable to such Lender hereunder that is not paid when due (regardless of whether such deposit or other indebtedness is then due to such Obligor), in which case it shall promptly notify such Obligor and the Administrative Agent thereof; provided, however, that such Lender's failure to give such notice shall not affect the validity thereof.

(b) Each of the Lenders agrees that, if it should receive (other than pursuant to Section 5) any amount hereunder (whether by voluntary payment, by realization upon security, by the exercise of the right of setoff or banker's lien, by counterclaim or cross action, by the enforcement of any right under the Credit Documents, or otherwise) which is applicable to the payment of the principal of, or interest on, the Loans or fees, of a sum which with respect to the

related sum or sums received by other Lenders is in a greater proportion than the total of such amounts then owed and due to such Lender bears to the total of such amounts then owed and due to all of the Lenders immediately prior to such receipt, then such Lender receiving such excess payment shall purchase for cash without recourse or warranty from the other Lenders an interest in the Obligations of the respective Obligor to such Lenders in such amount as shall result in a proportional participation by all of the Lenders in such amount; provided, however, that if all or any portion of such excess amount is thereafter recovered from such Lender, such purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest. Borrower consents to the foregoing arrangements.

(c) Borrower agrees that any Lender so purchasing such a participation may exercise all rights of setoff, banker's lien, counterclaim or similar rights with respect to such participation as fully as if such Lender were a direct holder of Loans or other amounts (as the case may be) owing to such Lender in the amount of such participation.

(d) Nothing contained herein shall require any Lender to exercise any such right or shall affect the right of any Lender to exercise, and retain the benefits of exercising, any such right with respect to any other indebtedness or obligation of any Obligor. If, under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a setoff to which this Section 4.07 applies, such Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders entitled under this Section 4.07 to share in the benefits of any recovery on such secured claim.

Section 5. Yield Protection, Etc.

5.01 Additional Costs.

(a) If the adoption of, or any change in, any Requirement of Law or in the interpretation or application thereof or compliance by any Lender with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority or the NAIC made subsequent to the Closing Date:

(i) shall subject any Lender to any tax of any kind whatsoever with respect to this Agreement, any Note, or any Lender's participation therein, or any LIBOR Loan made by it or change the basis of taxation of payments to such Lender in respect thereof by any Governmental Authority (except for taxes covered by or expressly excluded from coverage by Section 5.06 and changes in the rate of tax on the overall net income or taxable income for any applicable minimum tax or alternative minimum tax of such Lender or its Applicable Lending Office, or any affiliate thereof or franchise tax by any Governmental Authority);

(ii) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans or other extensions of credit by, or any other acquisition of funds by, any office of such Lender which is not otherwise included in the determination of the LIBOR Rate hereunder; or

(iii) shall impose on such Lender any other condition (excluding taxes);

and the result of any of the foregoing is to increase the cost to such Lender, by an amount which such Lender deems to be material, of making, converting into, continuing or maintaining LIBOR Loans or to reduce any amount receivable hereunder in respect thereof then, in any such case, Borrower shall promptly pay such Lender, upon its written demand, any additional amounts necessary to compensate such Lender for such increased cost or reduced amount receivable; provided, however, that a Lender that is an assignee or transferee of an interest under this Agreement pursuant to Section 2.11 or 13.06 that was already a Lender hereunder immediately prior to such assignment or transfer shall be entitled to additional amounts pursuant to this Section 5.01 on the assigned or transferred interest only to the same extent as the assignor Lender. If any Lender becomes entitled to claim any additional amounts pursuant to this subsection, it shall promptly notify Borrower, through the Administrative Agent, of the event by reason of which it has become so entitled. A certificate as to any additional amounts setting forth the calculation of such additional amounts pursuant to this Section 5.01 submitted by such Lender, through the Administrative Agent, to Borrower shall be conclusive in the absence of clearly demonstrable error. Without limiting the survival of any other covenant hereunder, this Section 5.01 shall survive the termination of this Agreement and the payment of the Notes and all other amounts payable hereunder.

(b) In the event that any Lender shall have determined that the adoption of any law, rule, regulation or guideline regarding capital adequacy (or any change after the date hereof therein or in the interpretation or application thereof) or compliance by any Lender or any corporation controlling such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) from any central bank or Governmental Authority or the NAIC, in each case, made subsequent to the date hereof including, without limitation, the issuance of any final rule, regulation or guideline, does or shall have the effect of reducing the rate of return on such Lender's or such corporation's capital as a consequence of its obligations hereunder to a level below that which such Lender or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Lender's such corporation's policies with respect to capital adequacy) by an amount deemed by such Lender to be material, then from time to time, after submission by such Lender to Borrower (with a copy to the Administrative Agent) of a written request therefor, Borrower shall promptly pay to such Lender such additional amount or amounts as will compensate such Lender for such reduction.

(c) Each Lender shall notify Borrower of any event that will entitle such Lender to compensation under paragraph (a) or (b) of this Section 5.01 as promptly as practicable, but in any event within 90 days after such Lender obtains actual knowledge thereof; provided, however, that (i) if any Lender fails to give such notice within 90 days after it obtains actual knowledge of such an event, such Lender shall, with respect to compensation payable pursuant to this Section 5.01 in respect of any costs resulting from such event, only be entitled to payment under this Section 5.01 for costs incurred from and after the date 90 days prior to the date that such Lender does give such notice and (ii) each Lender will designate a different Applicable Lending Office for the Loans of such Lender affected by such event if such designation will avoid the need for, or reduce the amount of, such compensation and will not, in the sole opinion of such Lender, be disadvantageous to such Lender. Each Lender will furnish to Borrower at the time of request for compensation under paragraph (a) or (b) of this Section 5.01

a certificate setting forth the basis, amount and reasonable detail of computation of each request by such Lender for compensation under paragraph (a) or (b) of this Section 5.01, which certificate shall, except for demonstrable error, be final, conclusive and binding for all purposes.

5.02 Limitation on Types of Loans. Anything herein to the contrary notwithstanding, if, on or prior to the determination of any LIBOR Base Rate for any Interest Period:

(i) the Administrative Agent determines, which determination shall be conclusive, absent manifest error, that quotations of interest rates for the relevant deposits referred to in the definition of "LIBOR Base Rate" in Section 1.01 are not being provided in the relevant amounts or for the relevant maturities for purposes of determining rates of interest for LIBOR Loans as provided herein; or

(ii) if the Majority Lenders determine, which determination shall be conclusive, that the relevant rates of interest referred to in the definition of "LIBOR Base Rate" in Section 1.01 upon the basis of which the rate of interest for LIBOR Loans for such Interest Period is to be determined are not likely adequate to cover the cost to the applicable Lenders of making or maintaining LIBOR Loans for such Interest Period,

then the Administrative Agent shall give Borrower and each Lender prompt notice thereof, and so long as such condition remains in effect, the affected Lenders shall be under no obligation to make additional LIBOR Loans (but shall make their portion of any additional Borrowings as ABR Loans), to Continue LIBOR Loans or to Convert ABR Loans into LIBOR Loans and Borrower shall, on the last day(s) of the then current Interest Period(s) for the outstanding LIBOR Loans, either prepay such Loans of such affected Lenders or Convert such Loans of such affected Lenders into ABR Loans in accordance with Section 2.09.

5.03 Illegality. Notwithstanding any other provision of this Agreement, in the event that any change in any Requirement of Law or in the interpretation or application thereof shall make it unlawful for any Lender or its Applicable Lending Office to honor its obligation to make or maintain LIBOR Loans (and, in the sole opinion of such Lender, the designation of a different Applicable Lending Office would either not avoid such unlawfulness or would be disadvantageous to such Lender), then such Lender shall promptly notify Borrower thereof (with a copy to the Administrative Agent) and such Lender's obligation to make or Continue, or to Convert Loans of any other Type into, LIBOR Loans shall be suspended until such time as such Lender may again make and maintain LIBOR Loans (in which case the provisions of Section 5.04 shall be applicable).

5.04 Treatment of Affected Loans. If the obligation of any Lender to make LIBOR Loans or to Continue, or to Convert ABR Loans into, LIBOR Loans shall be suspended pursuant to Section 5.03, such Lender's LIBOR Loans shall be automatically Converted into ABR Loans on the last day(s) of the then current Interest Period(s) for such LIBOR Loans (or on such earlier date as such Lender may specify to Borrower with a copy to the Administrative Agent as is required by law) and, unless and until such Lender gives notice as provided below that the circumstances specified in Section 5.03 which gave rise to such Conversion no longer exist:

(i) to the extent that such Lender's LIBOR Loans have been so Converted, all payments and prepayments of principal which would otherwise be applied to such Lender's LIBOR Loans shall be applied instead to its ABR Loans; and

(ii) all Loans which would otherwise be made or Continued by such Lender as LIBOR Loans shall be made or Continued instead as ABR Loans and all ABR Loans of such Lender which would otherwise be Converted into LIBOR Loans shall remain as ABR Loans.

If such Lender gives notice to Borrower with a copy to the Administrative Agent that the circumstances specified in Section 5.03 which gave rise to the Conversion of such Lender's LIBOR Loans pursuant to this Section 5.04 no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when LIBOR Loans are outstanding, such Lender's ABR Loans shall be automatically Converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding LIBOR Loans, to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding LIBOR Loans and by such Lender are held pro rata (as to principal amounts, Types and Interest Periods) in accordance with their respective Commitments.

5.05 Compensation.

(a) Borrower agrees to indemnify each Lender and to hold each Lender harmless from any loss or expense which such Lender may sustain or incur as a consequence of (1) default by Borrower in payment when due of the principal amount of or interest on any LIBOR Loan, (2) default by Borrower in making a borrowing of, Conversion into or Continuation of LIBOR Loans after Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (3) default by Borrower in making any prepayment after Borrower has given a notice thereof in accordance with the provisions of the Agreement, or (4) the making of a payment or a prepayment of LIBOR Loans on a day which is not the last day of an Interest Period with respect thereto, including in each case, any such loss (excluding loss of margin) or expense arising from the reemployment of funds obtained by it or from fees payable to terminate the deposits from which such funds were obtained.

(b) For the purpose of calculation of all amounts payable to a Lender under this Section 5.05 each Lender shall be deemed to have actually funded its relevant LIBOR Loan through the purchase of a deposit bearing interest at the LIBOR Rate in an amount equal to the amount of the LIBOR Loan and having a maturity comparable to the relevant Interest Period; provided, however, that each Lender may fund each of its LIBOR Loans in any manner it sees fit, and the foregoing assumption shall be utilized only for the calculation of amounts payable under this subsection. Any Lender requesting compensation pursuant to this Section 5.05 will furnish to the Administrative Agent and Borrower a certificate setting forth the basis and amount of such request and such certificate, absent manifest error, shall be conclusive. Without limiting the survival of any other covenant hereunder, this covenant shall survive the termination of this Agreement and the payment of the Notes and all other amounts payable hereunder.

5.06 Net Payments.

(a) All payments made by Borrower or any Guarantor hereunder or under any Note or any Guarantee will be made without setoff, counterclaim or other defense. Except as provided in Section 5.06(b), all such payments will be made free and clear of, and without deduction or withholding for, any Taxes now or hereafter imposed by any Governmental Authority or by any political subdivision or taxing authority thereof or therein with respect to such payments (but excluding any Excluded Tax) and all interest, penalties or similar liabilities with respect thereto (all such Taxes (other than Excluded Taxes) being referred to collectively as "Covered Taxes"). If any Covered Taxes are so levied or imposed, Borrower and each Guarantor, as the case may be, agrees (on a joint and several basis) to pay the full amount of such Covered Taxes, and such additional amounts as may be necessary so that every payment of all amounts due under this Agreement, the Guarantees or under any Note, after withholding or deduction for or on account of any Covered Taxes (including any Covered Taxes attributable to any amounts under this Section 5.06), will not be less than the amount provided for herein or in such Note or Guarantee. Borrower and each Guarantor, as the case may be, will furnish to the Administrative Agent within 45 days after the date the payment of any Covered Taxes is due pursuant to applicable law certified copies of tax receipts or other documentation reasonably satisfactory to such Lender or Administrative Agent, as the case may be, evidencing such payment by Borrower or any Guarantor. Borrower and the Guarantors agree (jointly and severally) to indemnify and hold harmless each Lender, and the Administrative Agent and reimburse such Lender or Administrative Agent, promptly upon its written request, for the amount of any Covered Taxes so levied or imposed and paid by such Lender or Administrative Agent and any liability (including penalties, additions to tax, interest and expenses) arising therefrom or with respect thereto whether or not such Covered Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided that if any Obligor determines in good faith that a reasonable basis exists for contesting any Covered Taxes or Other Taxes for which an increase in the amount of such payment is made or for which indemnification has been demanded pursuant to this Section 5.06, such Lender or the Administrative Agent, as applicable, shall cooperate with such Obligor in challenging such Covered Taxes or Other Taxes at such Obligor's expense if so requested by such Obligor in writing.

"Excluded Taxes" shall mean any Tax (other than any Other Taxes) imposed on or measured by the net income or net profits of a Lender pursuant to the laws of the jurisdiction in which it is organized or the jurisdiction in which the principal office or Applicable Lending Office of such Lender is located or any jurisdiction in which such Lender conducts business (other than a business deemed to arise solely from the transactions contemplated herein) or any subdivision thereof or therein.

(b) Each Lender that is not a United States person (as such term is defined in Section 7701(a)(30) of the Code) for U.S. federal income tax purposes (a "Non-U.S. Lender") agrees to deliver to Borrower and the Administrative Agent on or prior to the Closing Date or, in the case of a Non-U.S. Lender that is an assignee or transferee of an interest under this Agreement pursuant to Section 2.11 or 13.06 (unless the respective Non-U.S. Lender was already a Lender hereunder immediately prior to such assignment or transfer), on the date of such assignment or transfer to such Non-U.S. Lender, (i) two accurate and complete original signed copies of Internal Revenue Service Form W-8ECI or W-8BEN claiming eligibility of the Non-U.S. Lender for benefits of an income tax treaty to which the United States is a party (or successor forms) certifying to such Non-U.S. Lender's entitlement to a complete exemption from

United States withholding tax with respect to payments to be made under this Agreement and under any Note (or, with respect to any assignee Lender, an exemption at least as extensive as the assigning Lender), or (ii) if the Non-U.S. Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code and cannot deliver either Internal Revenue Service Form W-8BEN or W-8ECI pursuant to clause (i) above, (x) a certificate substantially in the form of Exhibit L (any such certificate, a "Section 5.06 Certificate") and (y) two accurate and complete original signed copies of Internal Revenue Service Form W-8 BEN (or successor form) certifying to such Lender's entitlement to a complete exemption from United States withholding tax with respect to payments to be made under this Agreement and under any Note (or, with respect to any assignee Lender, an exemption at least as extensive as the assigning Lender). At the request of Borrower, each Lender that is a United States person (as such term is defined in Section 7701(a)(30) of the Code) for U.S. federal income tax purposes (a "U.S. Lender"), other than a U.S. Lender that is a corporation or financial institution (an "Exempt Lender"), agrees to deliver to Borrower and the Administrative Agent as soon as practicable after the Closing Date, or in the case of a U.S. Lender that is not an Exempt Lender and that is an assignee or transferee of an interest under this Agreement pursuant to Section 2.11 or 13.06 (unless the respective U.S. Lender was already a Lender hereunder immediately prior to such assignment or transfer), on the date of such assignment or transfer to such U.S. Lender, two accurate and complete original signed copies of Internal Revenue Service Form W-9 (or successor form) in order to demonstrate such Lender's entitlement to a complete exemption from United States back-up withholding tax with respect to payments to be made under this Agreement and under any Note. In addition, each Lender agrees that from time to time after the Closing Date, when a lapse in time or change in circumstances renders the previous certification obsolete or inaccurate in any material respect, it will deliver to Borrower and the Administrative Agent two new accurate and complete original signed copies of Internal Revenue Service Form W-8ECI, Form W-8BEN, and a Section 5.06 Certificate, or Form W-9 (if a Form W-9 was previously provided to Borrower and the Administrative Agent pursuant to Borrower's request), as the case may be, and such other forms as may be required in order to confirm or establish the entitlement of such Lender to a continued exemption from or reduction in United States withholding tax with respect to payments under this Agreement and any Note, or it shall immediately notify Borrower and the Administrative Agent of its inability to deliver any such form or certificate, in which case such Lender shall not be required to deliver any such form or certificate pursuant to this Section 5.06(b). Notwithstanding, anything to the contrary in this Section 5.06, no Lender shall be required under this Section 5.06(b) to deliver any such form or certificate if a change any applicable law, treaty, regulation, or administrative order, notice or pronouncement, or in the official interpretation thereof, has occurred prior to the date on which such delivery would otherwise be required that renders any such form or certificate inapplicable or would prevent the Lender from duly completing and delivering any such form or certificate with respect to it and such Lender so advises Borrower. Neither Borrower nor any Guarantor shall be required to indemnify any Non-U.S. Lender, or to pay any additional amounts to any Non-U.S. Lender, in respect of any Covered Taxes to the extent that the obligation to pay such Covered Taxes would not have arisen but for a failure by such Non-U.S. Lender to comply with the provisions of this Section 5.06(b). Notwithstanding anything to the contrary contained in the preceding sentence or elsewhere in this Section 5.06 and except as set forth in Section 13.06(b), Borrower agrees to pay additional amounts and to indemnify each Lender in the manner set forth in Section 5.06(a) (without regard to the identity of the jurisdiction requiring the deduction or withholding) in respect of any

amounts deducted or withheld by it as described in the immediately preceding sentence as a result of any changes after the Closing Date in any applicable law, treaty, governmental rule, regulation, guideline or order, or in the interpretation thereof, relating to the deducting or withholding of income or similar Covered Taxes.

(c) In addition, Borrower agrees to pay and indemnify and hold harmless each Lender and Administrative Agent from any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies which arise from any payment made hereunder or under the Notes or from the execution, delivery, enforcement or registration of, or otherwise with respect to, this Agreement or the Notes or Guarantee, and all interest and penalties or similar liabilities and related expenses with regard thereto (hereinafter referred to as "Other Taxes").

(d) Any Lender claiming any additional amounts payable pursuant to this Section 5.06 agrees to use (at the Obligors' expense) reasonable efforts (consistent with its internal policy and legal and regulatory restrictions) to change the jurisdiction of its Applicable Lending Office if it would avoid the need for, or reduce the amount of, any such additional amounts that may thereafter accrue; provided, however, that such change of the Applicable Lending Office, and the filing of any certificates or forms contemplated by the immediately succeeding sentence, would not, in the reasonable judgment of such Lender, be otherwise disadvantageous to such Lender. Each Lender shall submit to Borrower or any applicable Governmental Authority all certificates or forms relating to Taxes reasonably requested of it by Borrower pursuant to applicable provisions of the Code, treaties or regulations; provided that no Lender shall have any obligation under this paragraph (d) with respect to any Tax imposed by any jurisdiction other than the United States if in the reasonable judgment of such Lender such compliance would subject such Lender to any material unreimbursed cost or expense or would otherwise be disadvantageous to such Lender in any material respect.

(e) If Borrower or any Guarantor pays any amount under this Section 5.06 to a Lender and such Lender determines in its sole and absolute discretion that it has actually received in connection therewith any refund (a "Refund"), such Lender shall pay to such Borrower or such Guarantor, as the case may be, an amount that the Lender shall, in its sole and absolute discretion, determine is equal to the net of all out-of-pocket expenses and after tax, which was obtained by the Lender as a consequence of such Refund; provided, however, that (i) Borrower and the Guarantors (jointly and severally), upon the request of the applicable Lender, agree to repay as soon as reasonably practicable the amount paid over to such Borrower or Guarantor (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to such Lender in the event such Lender is required to repay such refund to such Governmental Authority, or such Lender loses the benefits of the Refund in question; (ii) such Lender shall not be required to make any payment under this Section 5.06(e) if an Event of Default shall have occurred and be continuing; (iii) any taxes that are imposed on a Lender as a result of a disallowance or reduction (including through the expiration of any tax credit carryover or carryback of such Lender that otherwise would not have expired) of any Refund with respect to which such Lender has made a payment to Borrower or any Guarantor pursuant to this Section 5.06(e) shall be treated as a tax for which Borrower or any Guarantor is obligated to indemnify such Lender pursuant to this Section 5.06 without any exclusions or defenses; and (iv) nothing in

this Section 5.06(e) shall require the Lender to disclose any confidential information to Borrower or any Guarantor (including its tax returns).

Section 6. Guarantee.

6.01 The Guarantee. The Guarantors hereby jointly and severally guarantee as a primary obligor and not as a surety to each Lender and Agent and their respective successors and assigns the prompt payment in full when due (whether at stated maturity, by acceleration or otherwise) of the principal of and interest and fees with respect to the Loans made by the Lenders to, and the Notes held by each Lender of, Borrower and all other Obligations from time to time owing to the Lenders, Indemnitees, or Agents by Borrower under this Agreement and under the Notes and by any Obligor under any of the other Credit Documents, in each case strictly in accordance with the terms thereof (such obligations being herein collectively called the "Guaranteed Obligations"). The Guarantors hereby jointly and severally agree that if Borrower shall fail to pay in full when due (whether at stated maturity, by acceleration or otherwise) any of the Guaranteed Obligations, the Guarantors will promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

6.02 Obligations Unconditional. The obligations of the Guarantors under Section 6.01 are absolute, irrevocable and unconditional, joint and several, irrespective of the value, genuineness, validity, regularity or enforceability of the obligations of Borrower under this Agreement, the Notes or any other agreement or instrument referred to herein or therein, or any substitution, release or exchange of any other guarantee of or security for any of the Guaranteed Obligations, and, to the fullest extent permitted by applicable law, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or Guarantor (except for payment in full). Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Guarantors hereunder which shall remain absolute, irrevocable and unconditional under any and all circumstances as described above:

(i) at any time or from time to time, without notice to the Guarantors, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;

(ii) any of the acts mentioned in any of the provisions of this Agreement or the Notes or any other agreement or instrument referred to herein or therein shall be done or omitted;

(iii) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be amended in any respect, or any right under this Agreement, the Notes or any other Credit Document or any other agreement or instrument referred to herein or therein shall be amended or waived in any respect or any other guarantee of any of the Guaranteed Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;

(iv) any lien or security interest granted to, or in favor of, any Lender or Agent as security for any of the Guaranteed Obligations shall fail to be perfected; or

(v) the release of any other Guarantor.

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

6.03 Reinstatement. The obligations of the Guarantors under this Section 6 shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of Borrower in respect of the Guaranteed Obligations is rescinded or must be otherwise restored by any holder of any of the Guaranteed Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise (and whether as a result of any demand, settlement, litigation or otherwise). The Guarantors jointly and severally agree that they will indemnify each Agent and each Lender on demand for all reasonable costs and expenses (including reasonable fees of counsel) incurred by such Agent or such Lender in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar law, other than any costs or expenses resulting from the gross negligence or bad faith of such Creditor.

6.04 Subrogation; Subordination. Each Guarantor hereby agrees that until the indefeasible payment and satisfaction in full in cash of all Guaranteed Obligations and the expiration and termination of the Commitments of the Lenders under this Agreement it shall not exercise any right or remedy arising by reason of any performance by it of its guarantee in Section 6.01, whether by subrogation or otherwise, against Borrower or any other Guarantor of

any of the Guaranteed Obligations or any security for any of the Guaranteed Obligations. The payment of any amounts due with respect to any indebtedness of Borrower or any other Guarantor now or hereafter owing to any Guarantor by reason of any payment by such Guarantor under the Guarantee in this Section 6 is hereby subordinated to the prior indefeasible payment in full in cash of the Guaranteed Obligations. Each Guarantor agrees that it will not demand, sue for or otherwise attempt to collect any such indebtedness of Borrower to such Guarantor until the Obligations shall have been indefeasibly paid in full in cash and all Commitments of the Lenders under this Agreement have expired or been terminated. If, notwithstanding the foregoing sentence, any Guarantor shall prior to the indefeasible payment in full in cash of the Guaranteed Obligations and expiration or termination of all Commitments of the Lenders under this Agreement collect, enforce or receive any amounts in respect of such indebtedness, such amounts shall be collected, enforced and received by such Guarantor as trustee for the Agents and the Lenders and be paid over to the Administrative Agent on account of the Guaranteed Obligations without affecting in any manner the liability of such Guarantor under the other provisions of the guaranty contained herein.

6.05 Remedies. The Guarantors jointly and severally agree that, as between the Guarantors and the Lenders, the obligations of Borrower under this Agreement and the Notes may be declared to be forthwith due and payable as provided in Section 10 (and shall be deemed to have become automatically due and payable in the circumstances provided in said Section 10) for purposes of Section 6.01 notwithstanding any stay, injunction or other prohibition preventing such declaration (or such obligations from becoming automatically due and payable) as against Borrower and that, in the event of such declaration (or such obligations being deemed to have become automatically due and payable), such obligations (whether or not due and payable by Borrower) shall forthwith become due and payable by the Guarantors for purposes of Section 6.01.

6.06 Instrument for the Payment of Money. Each Guarantor hereby acknowledges that the guarantee in this Section 6 constitutes an instrument for the payment of money, and consents and agrees that any Lender or Agent, at its sole option, in the event of a dispute by such Guarantor in the payment of any moneys due hereunder, shall have the right to bring a motion-action under New York CPLR Section 3213.

6.07 Continuing Guarantee. The guarantee in this Section 6 is a continuing guarantee, and shall apply to all Guaranteed Obligations whenever arising.

6.08 General Limitation on Guarantee Obligations. In any action or proceeding involving any state corporate law, or any state, Federal or foreign bankruptcy, insolvency, reorganization or other law affecting the rights of creditors generally, if the obligations of any Guarantor under Section 6.01 would otherwise be held or determined to be void, voidable, invalid or unenforceable, or subordinated to the claims of any other creditors, on account of the amount of its liability under Section 6.01, then, notwithstanding any other provision to the contrary, the amount of such liability shall, without any further action by such Guarantor, any Lender, any Agent or any other Person, be automatically limited and reduced to the highest amount that is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding.

Section 7. Conditions Precedent.

7.01 Effectiveness of Credit Agreement. The occurrence of the Closing Date and effectiveness of the Credit Documents and the obligation of the Lenders to make any Loan hereunder is subject to the satisfaction of the conditions precedent that:

(i) Documentation and Evidence of Certain Matters. The Administrative Agent shall have received the following documents, each duly executed where appropriate (with sufficient conformed copies for each Lender), each of which shall be reasonably satisfactory to the Administrative Agent (and to the extent specified below, to each Lender) in form and substance:

(1) Corporate Documents. Certified true and complete copies of the charter and by-laws and all amendments thereto (or equivalent documents) of each Obligor (including each Person to become an Obligor on the Closing Date) and of all corporate authority for each Obligor (including board of director resolutions and evidence of the incumbency, including specimen signatures, of officers) with respect to the execution, delivery and performance of such of the Credit Documents to which such Obligor is intended to be a party and each other document to be delivered by such Obligor from time to time in connection herewith and the extensions of credit hereunder and the consummation of the Transactions, certified as of the Closing Date as complete and correct copies thereof by the Secretary or an Assistant Secretary of such Obligor.

(2) Officer's Certificate. An Officer's Certificate of Borrower, dated the Closing Date, to the effect set forth in Sections 7.02(i) and 7.02(ii) and to the effect that all conditions precedent to the making of such extension of credit have been satisfied (except to the extent that any such condition is required to be satisfactory to, or determined by, any Agent, the Lenders or the Majority Lenders or otherwise waived by the Administrative Agent and the Majority Lenders).

(3) The Credit Agreement. This Agreement, duly executed and delivered by (i) each Obligor, (ii) Agents and (iii) the Lenders.

(4) Notes. The Notes, duly completed and executed for each Lender that has requested Notes by written notice to the Administrative Agent prior to the Closing Date.

(5) Transaction Documents, etc. Copies of each of the Transaction Documents (as well as all other closing documentation executed or delivered in connection therewith), any management or similar agreement entered into by any Obligor or any executive officer or director thereof with Parent or any of its Affiliates, and all exhibits, appendices, annexes and schedules to any thereof, each certified by a senior officer of Borrower as true, complete and correct copies thereof and each in form and substance reasonably satisfactory to the Administrative Agent.

(6) Financial Statements. The following documents reasonably satisfactory to the Lenders: (i) unaudited consolidated balance sheets and related statements of income and cash flows of Borrower prepared in accordance with GAAP for the nine-month period ending September 30, 2009 and (ii) unaudited income statements for the months ending October 31, 2009 and November 30, 2009 (and together with the financial statements described in the preceding clause (i), the "Unaudited Financial Statements"). The Unaudited Financial Statements shall be certified by the chief financial or accounting Responsible Officer of Borrower.

(ii) Debtors-in-Possession. Each of the Obligors shall be a debtor and a debtor-in-possession in the Chapter 11 Cases.

(iii) Interim Order. Entry by the Bankruptcy Court of the Interim Order, no later than 5 days after the Petition Date in form and substance satisfactory to Administrative Agent and the Majority Lenders; provided, however, that modifications to the form or substance of such orders made in response to objections of other creditors of the Debtors or Bankruptcy Court ruling shall be satisfactory to a majority of the principal amount of outstanding Loans and Commitments of those Lenders present (or otherwise represented by counsel) at the hearing at which such orders are finalized and entered instead of the Majority Lenders.

(iv) Good Standing Certificates. The Administrative Agent shall have received from each Obligor a copy of a good standing certificate (from such Obligor's jurisdiction of organization and each jurisdiction in which such Obligor is qualified to do business (except for such other jurisdictions where the failure to so qualify would not reasonably be expected to result in a Material Adverse Effect)) dated a date reasonably close to the Closing Date and, from each Obligor's jurisdiction of organization only, a bring-down good standing certificate dated the date prior to the Closing Date.

(v) Plan Support Agreement. The Plan Support Agreement shall not have been breached by the Debtors and shall be in full force and effect.

(vi) No Material Adverse Effect. Except as otherwise acceptable to the Administrative Agent and Majority Lenders, since the Petition Date, (a) no litigation shall have commenced which challenges the Obligations or the Pre-Petition Obligations and (b) no Material Adverse Effect shall have occurred other than those resulting from the commencement of the Cases.

(vii) Payment of Fees and Expenses of Agents. All accrued out-of-pocket fees and expenses of the Agents and the Lenders in connection with the Pre-Petition Credit Agreement and the Credit Documents (including without limitation the reasonable fees and expenses of Latham & Watkins LLP, counsel to the Administrative Agent and the Collateral Agent (and appropriate local counsel to the Administrative Agent and Collateral Agent in respect of security interest matters), the reasonable fees and expenses of one counsel to the ad-hoc group of Pre-Petition Lenders constituting Majority Term Lenders (as defined in the Pre-Petition Credit Agreement) (the "Ad-Hoc Group") and the

fees and expenses of appraisers, consultants and other advisors engaged by the Administrative Agent and the Collateral Agent) shall have been paid, in each case to the extent invoiced through the Closing Date.

(viii) Compliance with Applicable Laws. The Transactions and the extensions of credit under this Agreement shall be in compliance in all material respects with all applicable laws and regulations (including Regulations T, U and X). Holdings and its Subsidiaries shall be in compliance, in all material respects, with all applicable foreign and U.S. federal, state and local laws and regulations, including all applicable Environmental Laws.

(ix) Personal Property Requirements. The Collateral Agent shall have received each Security Agreement duly executed by the applicable Obligors.

(x) First Day Orders. The First Day Orders shall have been entered in the Chapter 11 Cases.

(xi) Initial Approved Budget. The Administrative Agent and Majority Lenders shall have received the initial cash flow budget, depicting on a weekly and line-item basis (a) cash receipts, (b) expenses and disbursements (including, without limitation, ordinary course operating expenses, expenses related to the Chapter 11 Cases and the voluntary reorganization proceeding commenced by North Star under the Companies' Creditors Arrangement Act in the Toronto Superior Court of Justice in Ontario, Canada, capital expenditures, asset sales and fees and expenses of the Administrative Agent and the Pre-Petition Agent (including counsel therefor) and any other fees and expenses relating to the DIP Facility) and (c) Aggregate Liquidity, in each case, for the first 13 weeks from the first day of the week in which the Closing Date occurs, to be attached to the Interim Order which shall be in form and substance reasonably satisfactory to the Administrative Agent and Majority Lenders (the "Initial Approved Budget").

(xii) Officer's Certificate. An Officer's Certificate dated the Closing Date stating that as of the Closing Date:

(a) None of the execution, delivery and performance by each of the Obligors of any Transaction Document to which it is a party and the consummation of the transactions herein and therein contemplated will (i) conflict with or result in a breach of, or require any consent (which has not been obtained and is in full force and effect) under (a) any Organic Document of any Company, or (b) any applicable Requirement of Law or any order, writ, injunction or decree of any Governmental Authority binding on any Company, or any term or provision of any Contractual Obligation of any Company, except in respect of defaults occasioned by the filing of the Chapter 11 Cases and defaults resulting from obligations with respect to which the Bankruptcy Code prohibits a Company from complying or permits a Company not to comply, or (ii) constitute (with due notice or lapse of time or both) a default under any such Contractual Obligation, except in respect of defaults occasioned by the filing of the Chapter 11 Cases and defaults resulting from obligations with respect to which the Bankruptcy Code

prohibits a Company from complying or permits a Company not to comply, or (iii) result in the creation or imposition of any Lien (except for the Liens created pursuant to the Security Documents) upon any Property of any Company pursuant to the terms of any such Contractual Obligation, except with respect to each of the foregoing (other than (i)(a)) which is not (either individually or in the aggregate) reasonably likely to have a Material Adverse Effect.

(b) Each of the Obligors has all necessary corporate power, authority and legal right to execute, deliver and perform its obligations under each Transaction Document to which it is a party and to consummate the transactions herein and therein contemplated; the execution, delivery and performance by each of the Obligors of each Transaction Document to which it is a party and the consummation of the transactions herein and therein contemplated have been duly authorized by all necessary corporate action on its part; each of the Transaction Documents to which it is a party when executed and delivered by such Obligor will constitute, its legal, valid and binding obligation, enforceable against each of the Obligors in accordance with its terms.

(c) No authorizations, approvals or consents of, and no filings or registrations with, any Governmental Authority or any securities exchange are necessary for the execution, delivery or performance by any Obligor of the Transaction Documents to which it is a party or for the legality, validity or enforceability thereof or for the consummation of the transactions therein contemplated, except for orders, consents, filings and authorizations that have been maintained or made and are in full force and effect.

(d) There does not exist any judgment, order or injunction prohibiting or imposing material adverse conditions upon any of the Transactions or the performance by any Obligor of its obligations under the Transaction Documents.

(xiii) Financial Officer Certificate. A certificate dated the Closing Date signed by the Chief Financial Officer of Borrower stating that as of the Closing Date:

(a) Borrower has heretofore furnished to the Lenders the consolidated balance sheets and related statements of income, stockholders' equity and cash flows of Borrower as of and for the nine-month period ended September 30, 2009 and for the comparable period of the preceding fiscal year and the unaudited income statements for the months ending October 31, 2009 and November 30, 2009. Such financial statements have been prepared in accordance with GAAP consistently applied and present fairly and accurately the financial condition and results of operations and cash flows of Borrower and its Subsidiaries as of such dates and for such periods.

(b) [Reserved].

(c) Except as set forth in the financial statements or other information referred to in Section 7.01(xiii)(a), as of the Closing Date there are no material

liabilities of any Company of any kind, whether accrued, contingent, absolute, determined, determinable or otherwise, and there is no existing condition, situation or set of circumstances which is reasonably likely to result in such a liability, other than:

(i) liabilities incurred in the ordinary course of business consistent with past practice since September 30, 2009 which in the aggregate are not reasonably likely to have a Material Adverse Effect; and

(ii) liabilities under this Agreement and the other Credit Documents or the Transaction Documents or liabilities incurred in connection with the transactions contemplated hereby.

(xiv) A/R Facility Matters. The A/R Facility Amendments in form and substance satisfactory to the Administrative Agent shall have been duly executed and delivered by the parties thereto and the Bankruptcy Court shall have entered the Interim A/R Facility Order in the Chapter 11 Cases.

(xv) Pre-Petition Credit Agreement. The lenders under the Pre-Petition Credit Agreement shall have received payment in full of the cash interest payment due December 31, 2009 under the Pre-Petition Credit Agreement.

(xvi) Operating Plan. The Administrative Agent and Majority Lenders shall have received and approved an operating plan for the Borrower's 2010 fiscal year approved by its board of directors (the "Operating Plan") including without limitation (a) a forecasted consolidated balance sheet and a forecasted consolidated statement of income and cash flows of Borrower and its Consolidated Subsidiaries for such fiscal year, (b) forecasted consolidated balance sheet and forecasted consolidated statements of income of Borrower and its Consolidated Subsidiaries for each month of such fiscal year, (c) forecasted statements of income for each month of such fiscal year of (i) R.G. Darby, Inc. and its Subsidiaries, (ii) North Star and its Subsidiaries and (iii) the other Debtors, and (d) forecasted EBITDA levels and capital expenditures for each month, in each case, together with an explanation of the assumptions on which such forecasts are based.

(xvii) Plan and Disclosure Statement. The Debtors shall have filed the Disclosure Statement and Plan with the Bankruptcy Court on the Petition Date.

(xviii) Fee Letter. The Fee Letter shall have been executed and delivered.

(xix) Upfront Facility Fee. In addition to the fees otherwise described herein, the Borrower shall have paid the upfront facility fee equal to $1,200,000, $600,000 of which shall have been paid upon Borrower's acceptance of the Delayed Draw Term Loan Commitments and $600,000 of which shall have been paid on the Closing Date, in each case to the Administrative Agent for prompt distribution to the Lenders on a pro rata basis.

(xx) PATRIOT Act. Each Lender shall have received all information reasonably requested by such Lender from Borrower in order to enable such Lender to satisfy its obligations referenced in Section 13.16.

(xxi) Initial CCAA Order. The making by the CCAA Court of the Initial CCAA Order, no later than 5 days after the Petition Date in form and substance satisfactory to Administrative Agent and the Majority Lenders; provided, however, that modifications to the form or substance of such orders made in response to objections of other creditors of the Debtors or the CCAA Court ruling shall be satisfactory to a majority of the principal amount of outstanding Loans and Commitments of those Lenders present (or otherwise represented by counsel) at the hearing at which such orders are finalized and entered instead of the Majority Lenders.

7.02 Extensions of Credit Under This Agreement. Except as otherwise expressly provided herein, no Lender shall be obligated to make any Loan to Borrower upon the occasion of each borrowing hereunder, if, as of the date thereof:

(i) any representation or warranty by any Obligor contained herein or in any other Credit Document is untrue or incorrect in any material respect as of such date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were untrue or incorrect in any material respect as of such earlier date), and Administrative Agent or Majority Lenders have determined not to make such Loan as a result of the fact that such warranty or representation is untrue or incorrect in any material respect;

(ii) any Default or Event of Default has occurred and is continuing or would result after giving effect to any Loan, and Administrative Agent or Majority Lenders shall have determined not to make any Loan as a result of that Default or Event of Default;

(iii) before giving effect to such Loan, the amount of such Loan exceeds the Delayed Draw Term Loan Commitments then in effect minus the Carve-Out Reserve then in effect;

(iv) if such date is on or after the fifth (5^{th}) Business Day following the Closing Date, before and after giving effect to any Loan and the contemporaneous uses of proceeds thereof, the Obligors' cash on hand and on deposit would exceed $15,000,000; or

(v) (a) if such date is on or after the 40th day following the Petition Date, the Bankruptcy Court shall not have entered the Final Order, (b) if the Interim Order has expired, the Bankruptcy Court shall not have entered the Final Order, (c) the Interim Order or the Final Order, as the case may be, shall have been vacated, stayed, reversed, modified or amended without the Administrative Agent's and Majority Lenders' consent or shall otherwise not be in full force and effect or (d) any such order in any respect shall be the subject of a stay pending either appeal or a motion for reconsideration thereof.

The request by Borrower and the acceptance by the Borrower of the proceeds of any Loan shall be deemed to constitute, as of the date thereof, a representation and warranty by the Borrower that the conditions in this Section 7.02 have been satisfied.

Section 8. Representations and Warranties.

Each of the Obligors represents and warrants to the Creditors that, on the Closing Date and at and as of each Funding Date (in each case immediately before and immediately after giving effect to the transactions contemplated to occur on such date (including the Transactions)):

8.01 Corporate Existence. Each Obligor and each Subsidiary: (a) is a corporation, partnership or other entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization; (b) has all requisite corporate or other power and authority, and has all governmental licenses, authorizations, consents and approvals necessary to own its Property and carry on its business as now being conducted, except as would not, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect; and (c) is qualified to do business and is in good standing in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure to be so qualified and in good standing individually or in the aggregate is reasonably likely to have a Material Adverse Effect.

8.02 Financial Condition; Etc. Since the Closing Date, there has been no Material Adverse Effect or any event, change or circumstance which could reasonably be expected to cause or evidence, either individually or together with any other events, changes and circumstances, a Material Adverse Effect other than the filing of the Chapter 11 Cases.

8.03 Litigation. Except as disclosed on Schedule 8.03, there is no Proceeding pending against, or to the knowledge of any Company threatened in writing against or affecting, any Company or any of its respective Properties before any Governmental Authority that has a reasonable likelihood of being adversely determined and that, if determined or resolved adversely to such Company in accordance with the plaintiff's demands, is reasonably likely to have (individually or in the aggregate) a Material Adverse Effect.

8.04 No Breach; No Default.

(a) None of the execution, delivery and performance by each of the Obligors of any Credit Document to which it is a party and the consummation of the transactions herein and therein contemplated will (i) conflict with or result in a breach of, or require any consent (which has not been obtained and is in full force and effect) under (a) any Organic Document of any Company, or (b) any applicable Requirement of Law or any order, writ, injunction or decree of any Governmental Authority binding on any Company, or any term or provision of any Contractual Obligation of any Company, except in respect of defaults occasioned by the filing of the Chapter 11 Cases and defaults resulting from obligations with respect to which the Bankruptcy Code prohibits a Company from complying or permits a Company not to comply, or (ii) constitute (with due notice or lapse of time or both) a default under any such Contractual Obligation, except for defaults occasioned by the filing of the Chapter 11 Cases and defaults

resulting from obligations with respect to which the Bankruptcy Code prohibits a Company from complying or permits a Company not to comply or (iii) result in the creation or imposition of any Lien (except for the Liens created pursuant to the Security Documents) upon any Property of any Company pursuant to the terms of any such Contractual Obligation, except with respect to each of the foregoing (other than (i)(a)) which is not (either individually or in the aggregate) reasonably likely to have a Material Adverse Effect.

(b) No Company is in default under or with respect to any Contractual Obligation or any order, award or decree of any Governmental Authority or arbitrator binding upon it or any of its Property in any respect which is likely to have (individually or in the aggregate) a Material Adverse Effect, except for defaults and events of default occasioned by the filing of the Chapter 11 Cases and defaults and events of default resulting from obligations with respect to which the Bankruptcy Code prohibits a Company from complying or permits the Company not to comply.

(c) No Default has occurred and is continuing.

8.05 Action. Upon entry by the Bankruptcy Court of the Interim Order (or the Final Order, when applicable) and the Initial CCAA Order, each of the Obligors has all necessary corporate power, authority and legal right to execute, deliver and perform its obligations under each Credit Document to which it is a party and to consummate the transactions herein and therein contemplated; the execution, delivery and performance by each of the Obligors of each Credit Document to which it is a party and the consummation of the transactions herein and therein contemplated have been duly authorized by all necessary corporate action on its part; and this Agreement has been duly and validly executed and delivered by each of the Obligors and constitutes, and each of the Notes and the other Credit Documents to which it is a party when executed and delivered by such Obligor (in the case of the Notes, for value) will constitute, its legal, valid and binding obligation, enforceable against each of the Obligors in accordance with its terms.

8.06 Approvals. No authorizations, approvals or consents of, and no filings or registrations with, any Governmental Authority or any securities exchange are necessary for the execution, delivery or performance by any Obligor of the Credit Documents to which it is a party or for the legality, validity or enforceability hereof or thereof or for the consummation of the transactions herein and therein contemplated, except for filings and recordings in respect of the Liens created pursuant to the Security Documents and entry by the Bankruptcy Court of the Interim Order, the Initial CCAA Order or the Final Order (when applicable).

8.07 Representations and Warranties in Transaction Documents. The representations and warranties of each Company set forth in each Transaction Document were, in each case, true and correct in all material respects as of the time such representations and warranties were made or deemed made. As of the Closing Date, to the best knowledge of each Company, the representations and warranties of each party other than the Companies to each Transaction Document contained therein were true and correct in all material respects on the date made.

8.08 ERISA. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability could be reasonably

expected to occur, could reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations of all underfunded Benefit Plans (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of all such underfunded Benefit Plans by an amount that could reasonably be expected to have a Material Adverse Effect. Each Company is in compliance in all material respects with the presently applicable provisions of ERISA and the Code with respect to each Employee Benefit Plan maintained by such Company. Using actuarial assumptions and computation methods consistent with subpart 1 of subtitle E of Title IV of ERISA, the aggregate liabilities of any ERISA Entity to all Multiemployer Plans in the event of a complete withdrawal therefrom, as of the close of the most recent fiscal year of each such Multiemployer Plan, would not reasonably be expected to result in a Material Adverse Effect.

Each Foreign Plan has been maintained in substantial compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders and has been maintained, where required, in good standing with applicable regulatory authorities, except where failure to do so would not be expected to have a Material Adverse Effect. Neither Borrower nor any Subsidiary have incurred any obligation in connection with the termination of or withdrawal from any Foreign Plan which could reasonably be expected to result in a Material Adverse Effect. The present value of the accrued benefit liabilities (whether or not vested) under each Foreign Plan which is funded, determined as of the end of the most recently ended fiscal year of Borrower or Subsidiary, as applicable, on the basis of actuarial assumptions, each of which is, and which collectively are, reasonable, did not exceed the current value of the assets of such Foreign Plan by an amount that could reasonably be expected to have a Material Adverse Effect, and for each Foreign Plan which is not funded, the obligations of such Foreign Plan, to the extent such obligations are material, are properly accrued.

8.09 Taxes. (i) Each Company has timely filed or caused to be timely filed all U.S. federal income tax returns and all other returns, statements, forms and reports for taxes (the "Returns"), domestic or foreign, required to be filed by it, except for those returns the failure of which to be filed would not reasonably be expected to have a Material Adverse Effect, and has timely paid all Taxes payable by it which have become due or any assessments made against it or any of its Property and all other Taxes, fees or other charges imposed on it or any of its Property by any Governmental Authority (other than those which, in the aggregate, are not substantial in amount or those the amount or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Company, as the case may be, and which contested Tax individually or in the aggregate could not reasonably be expected to result in a Material Adverse Effect); the Returns accurately reflect in all material respects all liability for Taxes of the relevant Company for the periods covered thereby; and no Tax lien has been filed (except with respect to taxes not yet due and payable) and, to the best knowledge of the Obligors, no action, suit, proceeding, investigation, audit or claim is being asserted or has been threatened in writing or otherwise by any authority with respect to any such Tax, fee or other charge, except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and (ii) no Company has entered into an agreement or waiver extending any statute of limitations relating to the payment or collection of Taxes of any Company.

8.10 Investment Company Act; Other Restrictions. No Company is an "investment company," or a company "controlled" by an "investment company," within the meaning of the United States Investment Company Act of 1940, as amended. No Obligor is subject to regulation under any law or regulation which limits its ability to incur Indebtedness, other than Regulation X of the Board of Governors of the Federal Reserve System.

8.11 Environmental Matters. Except as disclosed on Schedule 8.11 and except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect: (i) each Company is in compliance with and in the last two years has been in compliance with, and is not subject to liability under, any Environmental Laws applicable to it and there are no Environmental Laws which would reasonably be expected to result in material expenditures by any Company, and no such Environmental Laws would reasonably be expected to interfere in any material way with current or projected operations of any Company; (ii) no Company has received written notice that it or any of its predecessors in interest has been or may be identified as a potentially responsible party under the United States Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), or any other Environmental Law, nor has any Company received notice that any Hazardous Materials that it or any of its predecessors in interest has used, generated, stored, treated, handled, transported or disposed of, or arranged for disposal or treatment of, have been found at any site at which any Person is conducting or plans to conduct any action pursuant to any Environmental Law, and no Company, or to the knowledge of the Obligors, any of their respective predecessors in interest, has disposed of, arranged for the disposal or treatment of, or otherwise released Hazardous Materials at any site at which any Person is conducting or plans to conduct any action under Environmental Law; (iii) no properties now or formerly owned, leased or operated by any Company or any of their respective predecessors in interest, are (x) listed or proposed for listing on the National Priorities List under CERCLA or (y) listed on the Comprehensive Environmental Response, Compensation and Liability Information System List promulgated pursuant to CERCLA or (z) included on any similar lists maintained by any Governmental Authority; (iv) there are no past or present events, conditions, activities, practices or actions, or any agreements, judgments, decrees or orders by which any Company or any of its predecessors in interest is bound, which would reasonably be expected to prevent any Company's compliance with any Environmental Law, or which would reasonably be expected to give rise to any liability of any Company under any Environmental Law, including, without limitation, liability under CERCLA or similar state or foreign laws; (v) no Lien has been asserted or recorded, or to the knowledge of the Obligors, threatened, under any Environmental Law with respect to any asset, facility, inventory or property currently owned, leased or operated by any Company; (vi) there has been no Release or threat of Release of Hazardous Material at, on, from, under or affecting any real property now or previously owned, operated or leased by any Company or, to the knowledge of the Obligors, any predecessor in interest; and (vii) no Company is subject to any Environmental Claim and, to the knowledge of the Obligors, no Environmental Claim is threatened.

8.12 Environmental Investigations. All material environmental investigations, studies, audits, assessments and data which are in the possession, custody or control of any Company relating (i) to the current or prior business, operations, facilities or Property of any Company or any of their respective predecessors in interest or (ii) to any facility, Property or other asset now

or previously owned, operated, leased or used by any Company or any of their respective predecessors in interest have been made available to the Administrative Agent and the Lenders.

8.13 Use of Proceeds. No Company is engaged principally, or as one of its important activities, in the business of extending credit for the purpose, whether immediate, incidental or ultimate, of buying or carrying Margin Stock and no part of the proceeds of any extension of credit hereunder will be used directly or indirectly and whether immediately, incidentally or ultimately to purchase or carry any Margin Stock or to extend credit to others for such purpose or to refund Indebtedness originally incurred for such purpose. Borrower will use the proceeds of all Loans solely for purposes permitted by Section 9.28.

Following application of the proceeds of each extension of credit hereunder, not more than 25 percent of the value of the assets (either of Borrower only or of Borrower and its Consolidated Subsidiaries) will be Margin Stock. If requested by any Lender or the Administrative Agent, Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form U-1 referred to in Regulation U.

8.14 Subsidiaries. As of the Closing Date (after giving effect to the Transactions), none of Borrower or Holdings has any Subsidiaries or interests in partnerships, joint ventures or business trusts other than the entities set forth on Schedule 8.14. Borrower and Holdings own, as of the Closing Date, the percentage of the issued and outstanding Equity Interests or other evidences of the ownership of each of their respective Subsidiaries, partnerships or joint ventures listed on Schedule 8.14 as set forth on such Schedule. Except as set forth on Schedule 8.14, no such Subsidiary, partnership or joint venture has issued any securities convertible into shares of its Equity Interests (or other evidence of ownership) or any Equity Rights to acquire such shares or securities convertible into such shares (or other evidence of ownership), and the outstanding stock and securities (or other evidence of ownership) of such Subsidiaries, partnerships or joint ventures are owned by Borrower or Holdings free and clear of all Liens and Equity Rights of others of any kind whatsoever, except for Liens pursuant to the Security Documents. Holdings does not have any direct Equity Interest in any Person other than Borrower.

8.15 Properties. Each of the Companies (i) has good title to and beneficial ownership of all Property owned by it, including all the Property reflected in the most recent financial statements provided hereunder (except Property sold or otherwise disposed of since the date thereof in the ordinary course of business or as otherwise not prohibited by the Credit Documents), or acquired after the date thereof, free and clear of all Liens, except Permitted Liens and (ii) is the lessee of all leasehold estates and, except as disclosed on Schedule 8.15, is in possession of the Properties purported to be leased thereunder, and each such lease is valid without default thereunder by the lessee or, to the knowledge of the Obligors, the lessor. Title to all Property of any Company is held by such Company free and clear of all Liens except for Permitted Liens. The Real Property listed on Schedule 8.15 constitutes, as of the Closing Date, all of the Real Property owned or leased by any Company as of the Closing Date and such schedule describes the type of interest therein held by such Company.

8.16 [Reserved].

8.17 Licenses and Permits; Compliance with Laws. The Companies hold all governmental permits, licenses, authorizations, consents and approvals necessary for the Companies to own, lease, and operate their respective Properties and to operate their respective businesses as now being conducted (collectively, the "Permits"), except for Permits the failure of which to obtain is not reasonably likely to have a Material Adverse Effect. None of the Permits has been modified in any way that is reasonably likely to have a Material Adverse Effect. All Permits are in full force and effect except where the failure to be in full force and effect is not reasonably likely to have a Material Adverse Effect.

Each Company is in material compliance with all applicable statutes, laws, ordinances, rules, orders and regulations of any Governmental Authority in all jurisdictions in which it is presently doing business, and each Company will comply with all such laws and regulations which may be imposed in the future in jurisdictions in which it may then be doing business, in each case other than those the non-compliance with which would not (individually or in the aggregate) reasonably be expected to have a Material Adverse Effect. There does not exist any judgment, order or injunction prohibiting or imposing material adverse conditions upon the performance by any Obligor of its obligations under the Credit Documents and all applicable laws.

8.18 True and Complete Disclosure. The information, reports, financial statements, exhibits and schedules furnished in writing by or on behalf of any Obligor to any Creditor in connection with the negotiation, preparation or delivery of this Agreement and the other Credit Documents or included herein or therein or delivered pursuant hereto or thereto or pursuant to any information memorandum distributed in connection with the syndication of the Commitments and Loans, including all filings made with the Commission by Borrower or any Company but in each case excluding all projections, whether prior to or after the Closing Date, when taken as a whole, do not, as of the date such information was furnished, contain any untrue statement of material fact or omit to state a material fact necessary in order to make the statements herein or therein, in light of the circumstances under which they were made, not materially misleading. The projections and pro forma financial information furnished at any time by any Obligor to any Creditor pursuant to this Agreement have been prepared in good faith based on assumptions believed by Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount and no Obligor makes any representation as to the ability of any Company to achieve the results set forth in any such projections. Each Obligor understands that all such statements, representations and warranties shall be deemed to have been relied upon by the Lenders as a material inducement to make each extension of credit hereunder.

8.19 [Reserved].

8.20 Contracts. Except for defaults occasioned by the filing of the Chapter 11 Cases and defaults resulting from obligations with respect to which the Bankruptcy Code prohibits a Company from complying or permits a Company not to comply, no Company is in default under any material contract or agreement to which it is a party or by which it is bound, nor, to Borrower's knowledge, does any condition exist that, with notice or lapse of time or both, would

constitute such default, excluding in any case such defaults that are not reasonably likely to have a Material Adverse Effect. Schedule 8.20 accurately and completely lists (x) all agreements, if any, among the stockholders (or any of their Affiliates other than any Company) of Holdings, Parent or the LLC on the one hand and any Company on the other in effect on the date hereof and (y) all material agreements which are in effect on the date hereof in connection with the conduct of the business of the Companies.

8.21 Labor Matters. Set forth on Schedule 8.21 is a list and description (including dates of termination) of all collective bargaining or similar agreements between or applicable to any Company as of the date hereof and any union, labor organization or other bargaining agent in respect of the employees of any Company on the date indicated on Schedule 8.21. Except as set forth on Schedule 8.21, there are no strikes or other labor disputes against any Company pending or, to the knowledge of any Obligor, threatened which could reasonably be expected to result in a Material Adverse Effect.

8.22 Intellectual Property.

(a) Ownership/No Claims. Each Company owns, or is licensed to use, all patents, patent applications, trademarks, trade names, service marks, copyrights, technology, trade secrets, proprietary information, domain names, know-how and processes necessary for the conduct of its business as currently conducted (the "Intellectual Property"), except for those the failure to own or license which, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. Except as disclosed on Schedule 8.22(a), no claim has been asserted and is pending against any Company by any person challenging or questioning any Company's use of any such Intellectual Property or the validity or effectiveness of any such Intellectual Property, nor does any Obligor know of any valid basis for any such claim. To each Obligor's knowledge, the use of such Intellectual Property by each Company does not infringe the rights of any person, except for such claims and infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(b) Registrations. Except pursuant to licenses and other user agreements entered into by each Obligor in the ordinary course of business that are listed on Schedule 8.22(b)(i), on and as of the date hereof (i) each Obligor owns and possesses the right to use, and has done nothing to authorize or enable any other person to use, any Copyright, Patent or Trademark (as such terms are defined in the Security Agreement) listed on Schedule 8.22(b)(ii) and (ii) all registrations listed on Schedule 8.22(b)(ii) are valid and in full force and effect.

(c) No Violations or Proceedings. To each Obligor's knowledge, on and as of the date hereof, (i) except as set forth on Schedule 8.22(c), there is no material violation by others of any right of such Obligor with respect to any Copyright, Patent or Trademark listed on Schedule 8.22(b)(ii), pledged by it under the name of such Obligor, (ii) such Obligor is not infringing upon any Copyright, Patent or Trademark of any other person other than such infringement that, individually or in the aggregate, would not (or would not reasonably be expected to) result in a Material Adverse Effect on the value or utility of the Intellectual Property or any portion thereof material to the use and operation of the DIP Collateral and (iii) no

proceedings have been instituted or are pending against such Obligor or, to such Obligor's knowledge, threatened, and no claim against such Obligor has been received by such Obligor, alleging any such violation, except as may be set forth on Schedule 8.22(c).

8.23 Anti-Terrorism Laws. No Obligor and, to the knowledge of the Obligors, none of its Affiliates is in violation of any Requirement of Law relating to terrorism or money laundering ("Anti-Terrorism Laws"), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the "Executive Order"), and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56. No Obligor and to the knowledge of the Obligors, no Affiliate or broker or other agent of any Obligor acting or benefiting in any capacity in connection with the Loans is any of the following:

(a) a person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(b) a person owned or controlled by, or acting for or on behalf of, any person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(c) a person with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(d) a person that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order; or

(e) a person that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control ("OFAC") at its official website or any replacement website or other replacement official publication of such list.

No Obligor and, to the knowledge of the Obligors, no broker or other agent of any Obligor acting in any capacity in connection with the Loans (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any person described in paragraph (b) above, (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order, or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

8.24 Reorganization Matters.

(a) The Chapter 11 Cases were commenced on the Petition Date in accordance with applicable law and proper notice thereof and the proper notice, to the extent given or required to be given prior to the date hereof, was given for (x) the motions seeking approval of the Credit Documents and the Interim Order and Final Order, (y) the hearings for the approval of the Interim Order, and (z) the hearings for the approval of the Final Order.

(b) The CCAA Proceedings were commenced in accordance with applicable law and proper notice thereof and the proper notice, to the extent given or required to be given prior to the date hereof, was given in the CCAA Proceeding for seeking approval of the Credit Documents and the Initial CCAA Order including the DIP Charge in accordance with the CCAA.

(c) From and after the entry of the Interim Order, and pursuant to and to the extent permitted in the Interim Order and the Final Order, the Obligations will constitute allowed administrative expense claims in the Chapter 11 Cases having priority over all administrative expense claims and unsecured claims against the Obligors now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expense claims of the kind specified in sections 105, 326, 330, 331, 503(b), 506(c) (subject to the entry of the Final Order), 507(a), 507(b), 546(c), 726, 1114 or any other provision of the Bankruptcy Code or otherwise, as provided under section 364(c)(1) of the Bankruptcy Code, subject, as to priority only, to the Carve-Out.

(d) From and after the entry of the Interim Order and pursuant to and to the extent provided in the Interim Order and the Final Order, the Obligations will be secured by a valid and perfected first priority Lien on all of the DIP Collateral, subject, as to priority only, to the Carve-Out, the Existing Priming Liens, the Administration Charge and the Directors' Charge.

(e) The Initial CCAA Order, the Interim Order (with respect to the period prior to entry of the Final Order) or the Final Order (with respect to the period on and after entry of the Final Order), as the case may be, are in full force and effect have not been reversed, stayed, modified or amended without the Administrative Agent's and Majority Lenders' consent; provided, however, that modifications to the form or substance of such orders made in response to objections of other creditors of the Obligors or Bankruptcy Court ruling shall be satisfactory to a majority of the principal amount of outstanding Loans and Commitments of those Lenders present (or otherwise represented by counsel) at the hearing at which such orders are finalized and entered instead of the Majority Lenders.

Section 9. Covenants.

Each Obligor, for itself and on behalf of its Subsidiaries, covenants and agrees with the Creditors that, so long as any Commitment or Loan is outstanding and until payment in full of all amounts payable by Borrower hereunder:

9.01 Financial Statements, Etc. The Companies shall deliver to the Administrative Agent (and the Administrative Agent shall deliver to each Lender within three Business Days after the receipt thereof):

(a) Quarterly Financials. As soon as available and in any event within 45 days after the end of each quarterly fiscal period of each fiscal year, consolidated statements of operations of Borrower and its Consolidated Subsidiaries for such period, consolidated statements of operations, cash flows, stockholders' equity and EBITDA reconciliation of Borrower and its Consolidated Subsidiaries for the period from the beginning of the respective fiscal year to the end of such period, and the related

consolidated balance sheet of Borrower and its Consolidated Subsidiaries as of the end of such period, setting forth in each case in comparative form the corresponding consolidated statements of operations and cash flows for the corresponding periods in the preceding fiscal year accompanied by a narrative management report for the period covered by such financial statements and a certificate of a Responsible Officer of Borrower, which certificate shall state that said consolidated financial statements fairly present the consolidated financial condition, results of operations and cash flows of Borrower and its Consolidated Subsidiaries in accordance with GAAP, consistently applied, as at the end of, and for, such period (subject to normal year-end audit adjustments);

(b) Annual Financials. As soon as available and in any event within 120 days after the end of the 2009 fiscal year, consolidated statements of operations, cash flows and stockholders' equity of Borrower and its Consolidated Subsidiaries for such year and the related consolidated balance sheet of Borrower and its Consolidated Subsidiaries as of the end of such year, setting forth in each case in comparative form the corresponding consolidated information as of the end of and for the preceding fiscal year, accompanied by a narrative management report for the period covered by such financial statements and an opinion thereon of independent certified public accountants of recognized national standing, which opinion shall state that said consolidated financial statements fairly present the consolidated financial condition, results of operations and cash flows of Borrower and its Consolidated Subsidiaries as at the end of, and for, such fiscal year in accordance with GAAP, consistently applied; Borrower shall supply such additional information and detail as to any item or items contained on any such statement that Lenders (to the extent applicable) may reasonably require; all such information will be prepared in accordance with GAAP consistently applied;

(c) Monthly Financials. As soon as available and in any event within 30 days after the end of each monthly fiscal period of each fiscal year, consolidated statements of operations of Borrower and its Consolidated Subsidiaries for such period, consolidated statements of operations, stockholders' equity and EBITDA reconciliation of Borrower and its Consolidated Subsidiaries for the period from the beginning of the respective fiscal year to the end of such period, and the related consolidated balance sheet of Borrower and its Consolidated Subsidiaries as of the end of such period, setting forth in each case in comparative form the corresponding consolidated statements of operations for the corresponding periods in the preceding fiscal year accompanied by a narrative management report for the period covered by such financial statements and a certificate of a Responsible Officer of Borrower, which certificate shall state that said consolidated financial statements fairly present the consolidated financial condition, results of operations of Borrower and its Consolidated Subsidiaries in accordance with GAAP, consistently applied, as at the end of, and for, such period (subject to normal year-end audit adjustments);

(d) Compliance Certificate. At the time it furnishes each set of financial statements pursuant to paragraph (a) or (c) above, a certificate of a senior financial officer of Borrower (I) to the effect that no Default has occurred and is continuing (or, if any Default has occurred and is continuing, describing the same in reasonable detail and describing the action that Borrower has taken and proposes to take with respect thereto),

(II) setting forth in reasonable detail the computations necessary (to the extent applicable) to determine whether each Company is in compliance with Sections 9.07, 9.08, 9.09, 9.10 and 9.11 (other than Section 9.11(d)) as of the end of the respective quarterly fiscal period or fiscal month and (III) attaching a report measuring the performance of each of (x) R.G. Darby, Inc. and its Subsidiaries, (y) North Star and its Subsidiaries and (z) the other Debtors against the Operating Plan for such period and against the corresponding period in the preceding fiscal year;

(e) Other Financial Information. Promptly upon delivery thereof to the stockholders of any Company generally or to the holders of the New Subordinated Notes, copies of all financial statements and reports and proxy statements so delivered, and within five days after the same are filed, copies of all financial statements and reports which any Company may make to or file with the Commission or any successor or analogous Governmental Authority or any national securities exchange

(f) Notice of Default. Promptly after any Company knows or has reason to believe that any Default has occurred or that Holdings is in default of any material term or provision of any of the Transaction Documents or any other agreement or instrument relating to or evidencing the Permitted Receivables Transaction of any Company, a notice of such Default or other default describing the same in reasonable detail and, together with such notice or as soon thereafter as possible, a description of the action that the Companies have taken and propose to take with respect thereto;

(g) Environmental Matters. Written notice of any (i) Environmental Claim materially affecting any Company, any Real Property or the operations of any Company, (ii) the occurrence of any Release of any Hazardous Material that is reportable under any Environmental Law, (iii) the commencement of any investigation or clean-up pursuant to or in accordance with any Environmental Law of any Hazardous Material at, on, under, within or emanating from the Real Property or any part thereof, (iv) any matters relating to Hazardous Materials or Environmental Laws that may impair, or threaten to impair, Lenders' security interest in the Real Property or any Obligor's ability to perform any of its obligations under this Agreement when such performance is due or (v) any other condition, circumstance, occurrence or event which could reasonably be expected to result in a material liability of any Company under any Environmental Law;

(h) Auditors' Reports. Promptly upon receipt thereof, copies of all reports submitted to any Company by independent certified public accountants in connection with each annual, interim or special audit of such Company's books made by such accountants, including, without limitation, any management letter commenting on any Company's internal controls submitted by such accountants to management at any time;

(i) [Reserved].

(j) Lien Matters. Written notice of (1) the incurrence of any Lien (other than Permitted Liens) on, or claim asserted against any of, the DIP Collateral or (2) the occurrence of any other event which is reasonably likely to result in a Material Adverse Effect of the type described in clause (d) of the definition thereof;

(k) Notice of Material Adverse Effect. Written notice of the occurrence of any event or condition which has had or has resulted in any Material Adverse Effect;

(l) Governmental Filings and Notices. Promptly after request by the Administrative Agent, copies of any other reports or documents that were filed by any Company with any Governmental Agency;

(m) ERISA Information. Promptly upon the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, is reasonably likely to result in liability to the Companies in an aggregate amount exceeding $250,000, a written notice specifying the nature thereof, what action Borrower, its Subsidiaries or other ERISA Entity have taken, are taking or propose to take with respect thereto, and, when known, any action taken or threatened by the Internal Revenue Service, Department of Labor, PBGC or Multiemployer Plan sponsor with respect thereto;

(n) ERISA Filings, Etc. Upon request by the Administrative Agent, copies of: (i) each Schedule B (Actuarial Information) to the annual report (Form 5500 Series) filed by Borrower, its Subsidiaries or ERISA Affiliates with the Internal Revenue Service with respect to each Benefit Plan; (ii) the most recent actuarial valuation report for each Benefit Plan; (iii) all notices received by Borrower or any of its Subsidiaries or ERISA Affiliates from a Multiemployer Plan sponsor or any governmental agency concerning an ERISA Event; and (iv) such other documents or governmental reports or filings relating to any Employee Benefit Plan as the Administrative Agent shall reasonably request;

(o) Subordinated Debt Notices. Promptly following the mailing or receipt of any notice or report delivered under the terms of any Subordinated Debt, copies of such notice or report;

(p) Name and Location Changes. Promptly, written notice of any change (i) in such Company's corporate name or in any trade name used to identify it in the conduct of its business or in the ownership of its properties, (ii) in the location of such Obligor's chief executive office, its principal place of business, any office in which it maintains books or records relating to DIP Collateral owned by it or any office or facility at which DIP Collateral owned by it is located (including the establishment of any such new office or facility), (iii) in such Company's identity or corporate structure, (iv) resulting in any tangible DIP Collateral being located in any jurisdiction in which a financing statement must be, but has not been, filed in order to perfect the DIP Collateral Agent's Liens, or (v) in such Company's Federal Taxpayer Identification Number (to the extent applicable); each Company will not effect or permit any change referred to in the preceding sentence unless all filings have been made under the UCC or otherwise that are required in order for the Collateral Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the DIP Collateral;

(q) Supplemental Approved Budget. On each eight week anniversary of the first day of the week in which the Closing Date occurs, an updated "rolling" 13-week budget supplementing and replacing the Approved Budget then in effect commencing from the end of the previous week through and including thirteen weeks thereafter in form

and substance acceptable to the Administrative Agent and the Majority Lenders; provided that unless and until the Administrative Agent and Majority Lenders have approved such updated budget, the Obligors shall still be subject to and be governed by the terms of the Approved Budget then in effect and the Agents and Lenders shall have no obligation to fund based on such updated budget;

(r) Variance Report. On a weekly basis commencing with the last Business Day of the fourth calendar week ending after the Closing Date, a variance report (a "Variance Report") certified by the chief financial officer of Borrower, in form reasonably acceptable to the Administrative Agent and the Majority Lenders, setting forth (i) the actual cash receipts, expenditures and disbursements for such immediately preceding calendar week on a line-item basis and the Aggregate Liquidity as of the end of such calendar week, (ii) the variance in dollar amounts of the actual expenditures and disbursements (excluding debt service, professional fees and Capital Expenditures) for each 4-week period from those reflected for the corresponding period in the Approved Budget and (iii) the variance in dollar amounts of the actual expenditures and disbursements in respect of professional fees for each 4-week period from those reflected for the corresponding period in the Approved Budget.

(s) Miscellaneous. Promptly, such financial and other information with respect to any Company as any Creditor may from time to time reasonably request.

9.02 Litigation, Etc. Borrower shall promptly give to the Administrative Agent and each Lender notice of all Proceedings, and any material development thereof, affecting any Company, except Proceedings which could not reasonably be expected to have (individually or in the aggregate) a Material Adverse Effect.

9.03 Existence; Compliance with Law; Payment of Taxes; Inspection Rights; Performance of Obligations; Etc. Each Company shall (i) preserve and maintain its legal existence and all of its material rights, privileges and franchises (provided, however, that nothing in this Section 9.03 shall prohibit any transaction expressly permitted under Section 9.06); (ii) except as is not reasonably likely to have (individually or in the aggregate) a Material Adverse Effect, comply with the requirements of all applicable laws, rules, regulations and orders of Governmental Authorities; (iii) except as is not reasonably likely to have (individually or in the aggregate) a Material Adverse Effect, timely file true, accurate and complete tax returns required by all Governmental Authorities and pay and discharge all Taxes, assessments and governmental charges or levies imposed on it or on its income or profits or on any of its Property prior to the date on which any penalties attach thereto (except for any such Tax, assessment, charge or levy the payment of which is being contested in good faith and by proper proceedings and against which adequate reserves are being maintained in accordance with GAAP); (iv) maintain all of its Properties used or useful in its business in good working order and condition, ordinary wear and tear excepted, except to the extent that the failure to do so with respect to any such Property is not reasonably likely to have (individually or in the aggregate) a Material Adverse Effect; (v) permit representatives of any Creditor during normal business hours and upon reasonable notice to examine, copy and make extracts from its books and records, to inspect its Properties, and to discuss its business and affairs with its officers and employees, all to the extent reasonably requested by such Creditor; (vi) allow the Administrative Agent to

consult with Borrower's independent public accountants and auditors with respect to the financial affairs of the Companies (and the Administrative Agent is expressly authorized to disclose any information obtained to the Lenders) and authorize such accountants to disclose to the Administrative Agent and the Lenders any and all financial statements and other supporting financial documents and schedules including copies of any management letter with respect to the business, financial condition and other affairs of the Companies; at the request of the Administrative Agent, Borrower shall deliver a letter addressed to such accountants instructing them to comply with the provisions of this Section 9.03(vi); (vii) perform in all respects all of its Contractual Obligations, except where such failure to so perform, singly or in the aggregate with all other such failures, is not reasonably likely to have a Material Adverse Effect; and (viii) keep proper books of record and accounts, in which full and correct entries shall be made of all financial transactions and the Property and business of each Company in accordance with GAAP in effect from time to time or as otherwise required by applicable rules and regulations of any Governmental Authority having jurisdiction over such Company.

9.04 Insurance.

(a) Each Company shall maintain, with financially sound and reputable insurers, insurance of the kinds and in the amounts customarily insured against by companies engaged in the same or similar businesses and similarly situated (including business interruption insurance) and any insurance required by law. Each Company shall pay all insurance premiums payable by it as and when due. Borrower will advise the Administrative Agent and the Collateral Agent promptly of any material policy cancellation, reduction or amendment. Borrower will not, and will not permit any Subsidiary to, materially modify any of the provisions of any policy with respect to casualty insurance without delivering the original copy of the endorsement reflecting such modification to the Administrative Agent and the Collateral Agent. With respect to the DIP Collateral, each Company shall also maintain all insurance coverage that may be required under any other Credit Document in such form, amounts and coverage as is reasonably satisfactory to the Administrative Agent and the Collateral Agent.

(b) All policies of insurance required to be maintained by any Obligor must name the Collateral Agent on behalf of the Creditors as loss payee (in the case of property insurance) or additional insured (in the case of liability insurance), as applicable, or certificate holder (in the case of workers' compensation insurance) and must provide that no cancellation, non-renewal or modification (including reduced coverage) of the policies will be made without thirty days' prior written notice to the Collateral Agent and if the insurance carrier shall have received written notice from the Administrative Agent of the occurrence and continuance of an Event of Default, the insurance carrier shall pay all proceeds otherwise payable to any Obligor under such policies directly to the Collateral Agent.

(c) The Obligors shall give immediate written notice of any loss in excess of $1.0 million to the insurance carrier and to the Administrative Agent and the Collateral Agent. Each Obligor hereby irrevocably authorizes and empowers the Administrative Agent, as its attorney-in-fact coupled with an interest, if any Default shall have occurred or such loss is reasonably likely to be materially adverse to the Lenders, to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action rising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom

the Administrative Agent's expenses incurred in the collection of such proceeds. Nothing contained in this Section 9.04(c), however, shall require the Administrative Agent to incur any expense or take any action hereunder.

(d) Each policy of insurance obtained or maintained by any Company shall: (i) be written by financially responsible companies selected by Borrower and having an A.M. Best rating of "A" or better and being in a financial size category of XII or larger, or by other companies reasonably acceptable to the Administrative Agent; (ii) waive all rights of subrogation of the insurers against the Creditors; (iii) waive any right of the insurers to set off or counterclaim or to make any other deduction, whether by way of attachment or otherwise, as against any Creditor; (iv) waive all claims for insurance premiums or commissions or additional premiums or assessments against the Creditors; and (v) provide that, except in the case of third-party liability insurance, the proceeds of any loss affecting any Property which is DIP Collateral (including Real Property) or interests therein shall be applied in accordance with the terms of this Agreement.

(e) If at any time the area in which any Real Property is located is designated (i) a "flood hazard area" on any Flood Insurance Rate Map published by the Federal Emergency Management Agency (or any successor agency), Borrower shall obtain flood insurance in such total amount as the Administrative Agent or the Majority Lenders may from time to time reasonably require, and otherwise comply with the National Flood Insurance Program as set forth in the Flood Disaster Protection Act of 1973, as amended from time to time, or (ii) a "Zone 1" area, Borrower shall obtain earthquake insurance in such total amount as the Administrative Agent or the Majority Lenders may reasonably require; provided, however, that Borrower shall not, unless required by applicable law pertaining to Borrower or any Creditor, be required to obtain any insurance described in this Section 9.04(e) if not available at commercially reasonable rates.

9.05 Limitation on Lines of Business. No Company shall directly or indirectly engage to any material extent in any line or lines of business activity other than the business of the type conducted by Borrower and the Subsidiaries as of the Closing Date or any business related, ancillary or complementary thereto.

9.06 Limitation on Fundamental Changes, Acquisitions and Dispositions. No Company shall, directly or indirectly, in a single transaction or series of transactions, on or after the Closing Date, (1) merge, consolidate or amalgamate with or into any Person, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), (2) effect any acquisition of the (i) Equity Interests (by merger or purchase) of any company or (ii) all or substantially all of the assets of any company or business, or (3) effect any Disposition (or agree to do any of the foregoing). Notwithstanding the foregoing provisions of this Section 9.06, each of the following shall be permitted:

(a) purchases and sales of Property to be sold or used in the ordinary course of business;

(b) the pledge of the DIP Collateral pursuant to the Security Documents and the incurrence of any Permitted Lien;

(c) the merger, consolidation, dissolution or liquidation of (1) any Subsidiary with or into (i) Borrower if Borrower shall be the continuing or surviving corporation or (ii) any Qualified Subsidiary (excluding Thermal Industries, Inc.) if such Qualified Subsidiary shall be the continuing or surviving corporation, (2) any Subsidiary that is not a Qualified Subsidiary with or into any other Subsidiary that is not a Qualified Subsidiary and (3) Parent with or into Holdings so long as the survivor remains obligated under this Agreement and the other Credit Documents;

(d) Dispositions by (1) any Company to Borrower or to any Qualified Subsidiary (excluding Thermal Industries, Inc.) or (2) any Subsidiary that is not a Qualified Subsidiary to any other Subsidiary that is not a Qualified Subsidiary;

(e) Dispositions of used, worn out, obsolete or surplus Property by any Company in the ordinary course of business;

(f) sale or discount, in each case without recourse, of accounts receivable past due arising in the ordinary course of business, but only in connection with the compromise or collection thereof; provided, however, that in no event may any Company enter into any factoring or securitization program with respect to receivables other than pursuant to Section 9.06(o);

(g) any Disposition by Borrower or any Subsidiary for fair market value not to exceed $500,000 in the aggregate since the Closing Date; provided, however, that the Net Available Proceeds therefrom are applied as specified in Section 2.10(a)(iv);

(h) **[Reserved]**;

(i) **[Reserved]**;

(j) transfers resulting from any casualty or condemnation of Property;

(k) licenses or sublicenses by any Company of software, trademarks and other intellectual property and general intangibles and leases, licenses or subleases of other property in the ordinary course of business and which do not materially interfere with the business of any Company, and any lease or sublease of the properties listed on Schedule 9.06(k);

(l) any consignment arrangements or similar arrangements for the sale of assets in the ordinary course of business of any Company;

(m) **[Reserved]**;

(n) the making of Investments permitted by Section 9.09 and the liquidation in the ordinary course of business of (A) Permitted Investments and (B) Investments made pursuant to Section 9.09(a);

(o) the sale, transfer or discount of Accounts and related assets pursuant to the Permitted Receivables Transaction; provided, however, that no Default or Event of Default shall then exist or would arise therefrom; and

(p) Dispositions pursuant to Section 9.30;

provided, that all Dispositions permitted hereby (other than those permitted by clauses (d), (e) and (f) above) shall be made for an amount not less than the fair market value (as determined in good faith by the board of directors of Borrower) of such Property at the time of such Disposition. To the extent the Majority Lenders waive the provisions of this Section 9.06 with respect to the sale or other disposition of any DIP Collateral, or any DIP Collateral is sold or otherwise disposed of as permitted by this Section 9.06 (other than to any Obligor), such DIP Collateral in each case shall be sold or otherwise disposed of free and clear of the Liens created by the Security Documents and the Administrative Agent shall take such actions as are appropriate in connection therewith.

9.07 Limitation on Liens and Related Matters. No Company shall, directly or indirectly, create, incur, assume or suffer to exist any Lien upon or with respect to any of its Property, whether now owned or hereafter acquired, or assign any right to receive income, or file or permit the filing of any financing statement under the UCC or any other similar notice of Lien under any similar recording or notice statute, except the following, which are herein collectively referred to as "Permitted Liens":

(a) Liens securing the Obligations and Pre-Petition Obligations;

(b) Liens imposed by any Governmental Authority for taxes, assessments or charges not yet due or which are being contested in good faith and by appropriate proceedings if adequate reserves with respect thereto are maintained on the books of the relevant Company, in accordance with GAAP;

(c) Liens imposed by law which were incurred in the ordinary course of business, such as carriers', warehousemen's, landlords' and mechanics' Liens and other similar Liens arising in the ordinary course of business, in each case for sums the payment of which is not required by Section 9.03;

(d) pledges or deposits under workers' compensation, unemployment insurance and other social security legislation or the deposits securing the liability to insurance carriers and entered into in the ordinary course of business;

(e) pledges or deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(f) easements, rights-of-way, restrictions or minor defects or irregularities in title incurred in the ordinary course of business and encumbrances consisting of zoning restrictions, easements, licenses, restrictions on the use of Real Property or minor imperfections in title thereto which, in the aggregate, are not material in amount, and

which do not in any case materially detract from the value of the Real Property subject thereto or interfere with the ordinary conduct of the business of any Company;

(g) [Reserved];

(h) [Reserved];

(i) Liens securing reimbursement obligations in respect of letters of credit permitted to be incurred pursuant to Section 9.08(l) solely on cash or Cash Equivalents deposited with the issuer of such letters of credit;

(j) [Reserved];

(k) Liens consisting of judgment or judicial attachment Liens (including prejudgment attachment) which do not otherwise result in an Event of Default under Section 10(e);

(l) Liens securing obligations in respect of Capital Leases solely on Property subject to such Capital Leases;

(m) leases or subleases granted to third Persons not interfering in any material respect with the business of any Company;

(n) Liens arising from UCC financing statements regarding leases permitted by this Agreement;

(o) any interest or title of a lessor or sublessor under any lease permitted by this Agreement;

(p) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of custom duties in connection with the importation of goods so long as such Liens attach only to the imported goods;

(q) Liens arising out of consignment or similar arrangements for the sale of goods entered into by any Company in the ordinary course of business;

(r) Liens created under the Credit Documents securing the obligations owing to the Creditors;

(s) any extension, renewal or replacement of the foregoing; provided, however, that the Liens permitted by this Section 9.07(s) shall not cover any additional principal amount of Indebtedness or Property (other than like Property substituted for Property covered by such Lien);

(t) Liens on Accounts or related assets of the Receivables Co. created in connection with the Permitted Receivables Transaction; and

(u) the Administration Charge and the Directors' Charge.

provided, however, that no consensual Liens shall be permitted to exist, directly or indirectly, on any Pledged Securities (as defined in the Security Agreement), other than Liens granted pursuant to the Security Documents.

Except with respect to (i) specific Property encumbered pursuant to a Permitted Lien or (ii) specific Property to be sold pursuant to an executed agreement with respect to a Disposition consummated in accordance with this Agreement, no Company will directly or indirectly enter into any agreement on or after the Closing Date prohibiting or restricting in any manner (directly or indirectly and including by way of covenant, representation or warranty or event of default) the creation or assumption of any Lien upon its Property, whether now owned or hereafter acquired, except pursuant to the Credit Documents and the Transaction Documents.

9.08 Prohibition on Disqualified Capital Stock; Limitation on Indebtedness and Contingent Obligations. No Company shall directly or indirectly issue or permit to be outstanding any of its Disqualified Capital Stock, other than Disqualified Capital Stock issued to and held by Borrower or any Qualified Subsidiary. No Company shall, directly or indirectly, incur any Indebtedness or any Contingent Obligation, except (each of which shall be given independent effect) for the following:

(a) the Loans and the other Obligations (including the Guarantees) under the Credit Documents;

(b) [Reserved];

(c) [Reserved];

(d) the Pre-Petition Obligations;

(e) (x) Indebtedness and Contingent Obligations of Borrower or any Subsidiary owing to Borrower or any Qualified Subsidiary and (y) Indebtedness and Contingent Obligations of any Subsidiary that is not a Qualified Subsidiary owed to any other Subsidiary that is not a Qualified Subsidiary; provided, however, that (1) such Indebtedness shall be evidenced by an Intercompany Note which (other than if issued by or held by a Foreign Subsidiary) shall be pledged to the Collateral Agent on behalf of the Creditors pursuant to the Security Agreement and (2) such Indebtedness and Contingent Obligations shall not be held by any Person other than Borrower or a Qualified Subsidiary and shall not be subordinate to any other Indebtedness or Contingent Obligations or other obligation of the obligor unless also subordinated to the Loans on terms no less favorable to the Lenders than that of any other creditor;

(f) Contingent Obligations in respect of operating leases;

(g) Indebtedness and Contingent Obligations arising from honoring a check, draft or similar instrument against insufficient funds; provided, however, that such Indebtedness is extinguished within two Business Days of its incurrence;

(h) Swap Contracts;

(i) Contingent Obligations of Borrower, Holdings or any Subsidiary in respect of Indebtedness or other liabilities of Borrower or any Subsidiary to the extent that the existence of such Indebtedness or other liabilities is not prohibited under this Agreement;

(j) Contingent Obligations in connection with Dispositions permitted under Section 9.06, arising in connection with indemnification and other agreements in respect of any contract relating to such Disposition, not to exceed the consideration received by Borrower or any Subsidiary in connection with such sale and excluding, however, in all cases any Contingent Obligation with respect to any obligation of any third person incurred in connection with the acquisition of the Property which is the subject of such Disposition;

(k) Indebtedness and Contingent Obligations of Borrower and the Subsidiaries secured by Liens permitted under Section 9.07(l) (and extensions, renewals or replacements thereof pursuant to Section 9.07(s)) not exceeding the amount outstanding as of the Petition Date plus an additional $3,000,000 in the aggregate for Borrower and the Subsidiaries collectively;

(l) reimbursement obligations in respect of letters of credit not exceeding $5,000,000 in the aggregate at any time outstanding;

(m) **[Reserved]**;

(n) Indebtedness and Contingent Obligations of the Receivables Co. incurred in connection with the Permitted Receivables Transaction consisting of (i) Indebtedness in an aggregate amount at any time not to exceed $60.0 million and (ii) Indebtedness of any Company to the Receivables Co. in connection with the Permitted Receivables Transaction; and

(o) Guaranty Obligations of any Company in respect of recourse events in connection with the Permitted Receivables Transaction.

All intercompany debt shall be unsecured and subordinate in right of payment (to the same extent as the subordination provisions set forth in Exhibit B hereto) to the Obligations. Each Obligor, by its execution and delivery of this Agreement, hereby agrees to subordinate its right of payment under any intercompany debt owed to it by Borrower or any Subsidiary to the full and complete payment and performance of the Obligations. No Obligor shall incur any Subordinated Debt unless such Subordinated Debt shall be subordinated to the Obligations at least to the same extent and for so long as such Subordinated Debt is subordinated to any other Indebtedness pursuant to documentation reasonably acceptable to the Administrative Agent.

9.09 Limitation on Investments; Limitation on Creation of Subsidiaries. No Company shall, directly or indirectly, make or permit to remain outstanding any Investment (other than pursuant to the Transactions on the Closing Date), except for the following:

(a) operating deposit accounts and certificates of deposit with banks in the ordinary course of business;

(b) Permitted Investments;

(c) Investments by any Company in Borrower or any Qualified Subsidiary or in any Subsidiary if as a result thereof or in connection therewith such Subsidiary becomes a Qualified Subsidiary (provided, that no Investment will be permitted in respect of any Subsidiary with respect to which Borrower has not complied with Section 9.20);

(d) Investments outstanding on the Closing Date and identified on Schedule 9.09 and any renewals, amendments and replacements thereof that do not increase the amount thereof;

(e) Investments that constitute Indebtedness or Contingent Obligations permitted under Section 9.08;

(f) advances, loans or extensions of credit by any Company to (1) employees of any Company in the ordinary course of business outstanding on the Petition Date, (2) employees of any Company in the ordinary course of business for travel and entertainment and relocation expenses; provided, however, that the aggregate amount of all such loans, advances and extensions of credit shall not at any time exceed in the aggregate $250,000 (without giving effect to any write-down or write-off thereof) and (3) employees of any Company in connection with stock option plans so long as (x) such loans do not involve cash payments by any Company and (y) no Company incurs any obligations at any time to repurchase the stock so purchased;

(g) extensions of credit in the nature of accounts receivable or notes receivable arising from the sale or lease of goods or services in the ordinary course of business;

(h) pledges or deposits required in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security or similar legislation;

(i) pledges or deposits in connection with (i) the non-delinquent performance of bids, trade contracts (other than for borrowed money), leases or statutory obligations, (ii) contingent obligations on surety or appeal bonds, and (iii) other non-delinquent obligations of a like nature, in each case incurred in the ordinary course of business;

(j) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business;

(k) **[Reserved]**;

(l) Investments by any Subsidiary (other than a Qualified Subsidiary) in any other Subsidiary (other than a Qualified Subsidiary);

(m) Capital Expenditures other than purchases of a fee ownership interest in Real Property, which do not violate any other provision of this Agreement;

(n) **[Reserved]**;

(o) **[Reserved]**;

(p) Investments for the creation of any Wholly Owned Foreign Subsidiary which is a foreign sales corporation consisting of de minimis capitalization;

(q) Investments by Foreign Subsidiaries in high quality investments of the type similar to Permitted Investments made outside the United States; and

(r) any Investment which, in the good faith judgment of such Company, is reasonably necessary in connection with, and pursuant to, the Permitted Receivables Transaction.

No Company shall, directly or indirectly, create or acquire any Subsidiary without the prior written consent of the Majority Lenders, which consent shall not be unreasonably withheld.

9.10 Limitation on Dividend Payments. No Company shall, directly or indirectly, declare or make any Dividend Payment at any time, except:

(a) any Subsidiary may declare and make Dividend Payments to Borrower or any Qualified Subsidiary to the extent made pro rata to all holders of Equity Interests thereof; and

(b) so long as no Default has occurred and is continuing or would arise therefrom, Borrower may make Dividend Payments to Holdings and Holdings may make Dividend Payments to Parent if the proceeds thereof are used at the time of such Dividend Payment by Holdings or Parent, as applicable (and Holdings may use such Dividend Payments by Borrower as set forth below), to pay out-of-pocket expenses, for administrative, legal and accounting services provided by third parties that are reasonable and customary and incurred in the ordinary course of business for the professional services, or to pay franchise fees and similar costs, in any such case of either Holdings or Parent provided, however, that the aggregate cash consideration paid, or distributions made pursuant to this clause (b) shall not exceed $250,000 in the aggregate from and after the Closing Date.

9.11 Financial Covenants.

(a) Minimum Consolidated EBITDA. Consolidated EBITDA shall not, for the Measurement Period ending as of the last day of each calendar month, be less than $45,000,000.

(b) Maximum Capital Expenditures. Capital Expenditures shall not, for the Measurement Period ending on any date set forth in the table below, exceed the amount set forth opposite such date in the table below:

Date	Amount
January 31, 2010	$14,040,000
February 28, 2010	$15,480,000
March 31, 2010	$16,200,000
April 30, 2010	$17,040,000
May 31, 2010	$18,120,000
June 30, 2010	$18,360,000
July 31, 2010	$19,320,000
August 31, 2010	$20,880,000
September 30, 2010	$21,600,000

(c) Minimum Aggregate Liquidity. Availability plus A/R Availability plus unrestricted cash on deposit in any deposit account of the Obligors (such aggregate amount, "Aggregate Liquidity") shall not be less than $5,000,000 at any time.

(d) Approved Budget Compliance. Subject to the terms and conditions set forth below, the proceeds of Loans made under this Agreement shall be used by the Borrower solely for the purposes and up to the amounts set forth in the Approved Budget for the applicable line item during the applicable period and:

(i) for each 4-week period set forth in the Approved Budget, tested on a weekly basis by reference to the Variance Report, the aggregate cumulative expenditures and disbursements (excluding debt service, professional fees and Capital Expenditures) by the Obligors shall not exceed one hundred twenty percent (120%) of the aggregate cumulative amount budgeted for such cumulative time period pursuant to the Approved Budget; provided, the expenditures and disbursements described therein shall only be paid at the time such expenditures and disbursements are due and payable and may not be voluntarily prepaid or otherwise applied to any prior or subsequent 4-week period in the Approved Budget;

(ii) except for cumulative calculations in any measurement period as expressly set forth above, no unused portion of any line item in the Approved Budget may be carried forward or carried backward to the same or any other line item for any prior or subsequent 4-week period in the Approved Budget; and

(iii) the Agents (x) may assume that the Obligors will comply with each Approved Budget to the extent required by this Section 9.11(d), (y) shall have no duty to monitor such compliance and (z) shall not be obligated to pay (directly or indirectly from the DIP Collateral) any unpaid expenses incurred or authorized to be incurred pursuant to the Approved Budget. The line items in the Approved Budget for payment of interest, expenses and other amounts to the Agents and other Creditors are estimates only, and the Obligors remain obligated to pay any and all Obligations in accordance with the terms of the Credit Documents, the Interim Order and the Final Order. Nothing in the Approved

Budget shall constitute an amendment or other modification of this Agreement or any of such restrictions or other lending limits set forth therein.

9.12 Pledge of Additional DIP Collateral. Promptly, and in any event within 30 days, after the acquisition of any Property (other than Real Property) of the type that would have constituted DIP Collateral at the Closing Date (including the Equity Interests of any Subsidiary hereafter created or acquired owned directly by Borrower or any Qualified Subsidiary) (the "Additional DIP Collateral") and after the creation or acquisition of any Wholly Owned Subsidiary or other Subsidiary (so long as such creation or acquisition is by Borrower or any Qualified Subsidiary), each Obligor shall take all action reasonably necessary or desirable, if any, including the execution and delivery of all such agreements, assignments, documents, registers and instruments (including amendments to the Credit Documents) and the filing of appropriate financing statements or other documents under the provisions of the UCC or applicable requirements of any Governmental Authority in each of the offices where such filing is necessary or appropriate, and the delivery of appropriate equity certificates or control agreements, to grant (in the reasonable judgment of the Collateral Agent or the Majority Lenders) to the Collateral Agent for the benefit of the Creditors a duly perfected first priority Lien on such Property pursuant to the appropriate Security Documents subject to Liens permitted under Section 9.07(g) or (h); provided, however, that not more than 65% of the capital stock of any Foreign Subsidiary (limited to "first-tier" Foreign Subsidiaries) (other than North Star, 100% of the voting and/or capital stock of which shall be pledged) need be pledged. Notwithstanding the foregoing, the provisions of this paragraph shall not apply to the Receivables Co. or any Equity Interest therein, so long as the Permitted Receivables Transaction with respect thereto is in effect.

The costs of all actions taken by the parties in connection with the pledge of Additional DIP Collateral, including reasonable costs of counsel for the Agents, shall be paid by the Obligors promptly following written demand.

9.13 Security Interests; Further Assurances. Each Obligor shall, promptly, upon the reasonable request of the Collateral Agent or any Lender, at Borrower's expense, execute, acknowledge and deliver, or cause the execution, acknowledgment and delivery of, and thereafter register, file or record, or cause to be registered, filed or recorded, in an appropriate governmental office, any document or instrument supplemental to or confirmatory of the Security Documents or otherwise deemed by the Collateral Agent reasonably necessary or desirable for the continued validity, perfection and priority of the Liens on the DIP Collateral covered thereby, or obtain any consents, including, without limitation, landlord or similar lien waivers and consents, as may be reasonably necessary or appropriate in connection therewith.

Each Obligor shall deliver or cause to be delivered to the Collateral Agent from time to time such other documentation, consents, authorizations, approvals and orders in form and substance reasonably satisfactory to the Collateral Agent as the Collateral Agent shall reasonably deem necessary to perfect or maintain the Liens on the DIP Collateral.

If any Lender determines in good faith that it is required by any Governmental Authority or any Requirement of Law to obtain appraisals as to the market value of any Real Property constituting DIP Collateral, Borrower shall obtain such appraisals as soon as practicable but in

any event not less than 60 days after request therefor, at the sole cost and expense of Borrower and in conformity with the requirements of such Governmental Authority and all Requirements of Law, as from time to time in effect.

If an Event of Default shall have occurred and be continuing, upon the reasonable request of the Administrative Agent, Borrower will obtain and deliver to the Administrative Agent appraisal reports in form and substance and from appraisers satisfactory to the Administrative Agent, stating (a) the then current fair market, orderly liquidation and forced liquidation values of all or any portion of the equipment or real estate owned by any Company and (b) the then current business value of each Company. All such appraisals shall be conducted and made at the reasonable expense of Borrower.

Upon the exercise by any Agent or the Lenders of any power, right, privilege or remedy pursuant to any Credit Document which requires any consent, approval, registration, qualification or authorization of any Governmental Authority, each Obligor shall execute and deliver all applications, certifications, instruments and other documents and papers that the Agents or the Lenders may be so required to obtain.

9.14 Compliance with Environmental Laws. (a) Each Company shall comply with all Environmental Laws, and will keep or cause all Property to be kept free of any Liens under Environmental Laws, unless failure to do so could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or subject any Agent or Lender to any material risk of damages or liability; (b) in the event of the presence of any Hazardous Material at, on, under, within or emanating from any Real Property which would reasonably be expected to result in liability under or a violation of any Environmental Law, in each case which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, each Company shall undertake, and/or use its best efforts to cause any of its respective tenants or occupants to undertake, at no expense to any Lender, any action required pursuant to Environmental Laws to mitigate and eliminate such adverse effect; provided, however, that no Company shall be required to comply with any order or directive of a Governmental Authority which is being contested in good faith and by proper proceedings so long as it has maintained adequate reserves with respect to such compliance to the extent required in accordance with GAAP; (c) each Company shall promptly notify the Administrative Agent of the occurrence of any event specified in clause (b) of this Section 9.14 and shall periodically thereafter keep the Administrative Agent informed of any material actions taken in response to such event and the results of such actions; and (d) at the written request of the Administrative Agent at any time and from time to time, each Obligor will provide, at such Obligor's sole cost and expense, an environmental site assessment (including, without limitation, the results of any soil or groundwater or other testing, conducted if the Administrative Agent directs that such testing be conducted) concerning any Real Property now or hereafter owned, leased or operated by any Company, conducted by an environmental consulting firm proposed by such Obligor and approved by the Administrative Agent indicating the presence or absence of Hazardous Materials and the potential cost of any required investigation or other response or any corrective action in connection with any Hazardous Materials on, at, under, within or emanating from such Real Property and the potential cost of any required investigation, response or corrective action to address any such Hazardous Materials; provided, however, that such request may be made only if (a) there has occurred and is continuing an Event of Default, (b) the Administrative Agent

reasonably believes that any Company or any such Real Property or operations are not in material compliance with Environmental Law or (c) circumstances exist that reasonably could be expected to form the basis of an Environmental Claim against such Company or any such Real Property or result in material expenditures by any Company, in each case which could, individually or in the aggregate, have a Material Adverse Effect. If any Obligor fails to provide the same within 60 days after such request was made, the Administrative Agent may but is under no obligation to conduct the same, and such Obligor shall grant and hereby grants to the Administrative Agent and its agents access to such Real Property and specifically grants the Administrative Agent an irrevocable non-exclusive license, subject to the rights of tenants, to undertake such an assessment, all at such Obligor's sole cost and expense.

9.15 Limitation on Transactions with Affiliates. No Company shall, directly or indirectly, enter into or permit to exist any transaction (including, without limitation, the purchase, sale, lease or exchange of any Property, the rendering of any service, or a merger or consolidation) with or for the benefit of any Affiliate (an "Affiliate Transaction") unless such Affiliate Transaction is (i) otherwise not prohibited under this Agreement; (ii) in the ordinary course of such Company's business, and (iii) on fair and reasonable terms that are not less favorable to such Company than those that are reasonably obtainable at the time in an arm's-length transaction with a Person that is not such an Affiliate; provided, however, that, other than with respect to clauses (b), (f), (j) or (k) of this Section 9.15, so long as no Default under Sections 10(a) or (j) or Section 10(d) arising by virtue of a default in the performance of any obligation in Section 2.13(2), 9.05, 9.06, 9.07, 9.08, 9.09, 9.10, 9.11, 9.15, 9.25, 9.28, 9.29, 9.30, 9.34, 9.35, 9.37, 9.38, 9.39, 9.41 or 9.42 hereof shall have occurred and be continuing or would arise therefrom, the following shall be permitted: (a) Dividend Payments permitted by Section 9.10; (b) reasonable fees and compensation paid to, and customary indemnity and reimbursement provided on behalf of, officers, directors and employees of any Company in the ordinary course of business; (c) loans or advances to employees permitted by Section 9.09; (d) **[Reserved]**; (e) **[Reserved]**; (f) transactions and agreements in existence on the Closing Date and described with particularity on Schedule 9.15 (as such agreements are in effect on the Closing Date, the "Existing Affiliate Agreements") and the transactions pursuant to the Existing Affiliate Agreements; provided, however, that no bonus payments or similar compensation payable with respect to the 2009 fiscal year of the Companies shall be permitted under this clause (f) except as provided for in Exhibit B to the Plan Support Agreement; (g) **[Reserved]**; (h) the Permitted Receivables Transaction; (i) payments to directors not to exceed $25,000 per annum plus reimbursement of directors out-of-pocket expenses; or (j) stock option agreements entered into by Parent and certain officers, directors, employees and management of Parent and any of its Subsidiaries, in each case in form and substance reasonably satisfactory to Administrative Agent and Majority Lenders; provided, however, that no bonus payments or similar compensation payable with respect to the 2009 fiscal year of the Companies shall be permitted under this clause (j) except as provided for in Exhibit B to the Plan Support Agreement. Without limiting the generality of the foregoing, no Company shall pay any bonuses or similar compensation with respect to the 2010 fiscal year of the Companies unless such payment is approved in writing by the Administrative Agent and the Majority Lenders.

9.16 Limitation on Accounting Changes; Limitation on Investment Company Status. No Company shall make or permit, any change in (i) accounting policies or reporting practices, except immaterial changes and except as required by GAAP or (ii) its fiscal year end

(December 31 of each year). No Obligor shall be or become an investment company subject to the registration requirements under the United States Investment Company Act of 1940, as amended.

9.17 Limitation on Modifications of Certain Documents, Etc. No Company shall, directly or indirectly, consent to any modification, supplement or waiver of, or amend, in any manner which could reasonably be expected to be materially adverse to the Lenders, any of the provisions of any Organic Document, Transaction Document or the Management Agreement.

9.18 [Reserved].

9.19 Limitation on Certain Restrictions Affecting Subsidiaries. No Company (other than a Foreign Subsidiary) shall, directly or indirectly, create or otherwise cause or suffer to exist or become effective any direct or indirect encumbrance or restriction on the ability of such Company to (a) pay dividends or make any other distributions on such Company's Equity Interests or any other interest or participation in its profits owned by any other Company, or pay any Indebtedness or any other obligation owed to any other Company, (b) make Investments in or to any other Company, or (c) transfer any of its Property to any other Company. The foregoing shall not prohibit (i) any such encumbrances or restrictions existing under or by reason of (A) applicable law, (B) the Credit Documents, (C) the New Subordinated Notes Indenture as in effect on the Closing Date, and (D) any agreement entered into by the Receivables Co. in connection with the Permitted Receivables Transaction, (ii) restrictions on the transfer of assets subject to a Permitted Lien, (iii) customary restrictions on subletting or assignment of any lease governing a leasehold interest of any Company, and (iv) with respect to restrictions described in clause (c) only, restrictions on the transfer of any Property subject to a Disposition permitted under this Agreement.

9.20 Additional Obligors. Upon any Obligor creating or acquiring any Wholly Owned Subsidiary (other than a Foreign Subsidiary) after the Closing Date, Borrower shall (i) cause each such Wholly Owned Subsidiary to execute and deliver all such agreements, guarantees, documents and certificates (including any amendments to the Credit Documents and a Joinder Agreement) as the Administrative Agent may reasonably request and do such other acts and things as the Administrative Agent may reasonably request in order to have such Wholly Owned Subsidiary guarantee the Obligations in accordance with the terms of the Credit Documents, (ii) promptly (I) execute and deliver to the Administrative Agent such amendments to the Security Documents as the Administrative Agent deems necessary or advisable in order to grant to the Collateral Agent, for the benefit of the Creditors, a perfected first priority security interest in the Equity Interests and debt securities or other instruments evidencing indebtedness of such new Wholly Owned Subsidiary and required to be pledged pursuant to the Security Agreement, (II) deliver to the Collateral Agent the certificates representing such Equity Interests and debt securities or other instruments evidencing indebtedness, together with (A) in the case of such Equity Interests, undated stock powers endorsed in blank, and (B) in the case of such debt securities or other instruments evidencing indebtedness, undated note powers endorsed in blank and affixed to such debt securities or other instruments, in each case executed and delivered by a responsible officer of Borrower or such Subsidiary, as the case may be, (III) cause such new Wholly Owned Subsidiary to take such actions necessary or advisable to grant to the Collateral Agent for the benefit of the Creditors a perfected first priority security interest in the collateral

described in the Security Agreement with respect to such new Wholly Owned Subsidiary (subject to Permitted Liens), including, without limitation, the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Security Agreement or by law or as may be reasonably requested by the Collateral Agent, and (IV) if reasonably requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent. Notwithstanding the foregoing, the provisions of this Section 9.20 shall not apply to the Receivables Co., so long as the Permitted Receivables Transaction with respect thereto is in effect.

9.21 Limitation on Designation of Designated Senior Indebtedness. Borrower shall not, nor shall it permit any Subsidiary to, designate any Indebtedness or other obligation, other than Indebtedness under the Pre-Petition Credit Documents, as "Designated Senior Indebtedness" or any comparable designation that confers upon the holders of such Indebtedness or other obligation (or any Person acting on their behalf) the right to initiate blockage periods under any Indebtedness or other obligation of Borrower and its Subsidiaries.

9.22 [Reserved].

9.23 Limitation on Activities of Holdings. Holdings shall not conduct any business, incur any obligations (other than the Credit Documents, the agreements contemplated by Section 9.15 to which it is a party, as in effect on the Closing Date, and corporate overhead (including, without limitation, fees and expenses incidental to an Initial Public Offering) and Indebtedness incurred pursuant to Section 9.08(b), (c), or (p)) or hold or acquire any assets (other than (i) the Equity Interests of Borrower or any other Person of which Borrower is a Wholly Owned Subsidiary and (ii) cash received in accordance with this Agreement) and shall have no operations other than holding such Equity Interests and activities reasonably related thereto.

9.24 Limitation on Issuance or Dispositions of Equity Interests of Companies. Borrower shall not issue any of its Equity Interests or Equity Rights or permit any Person to own any of its Equity Interests or Equity Rights other than Holdings or any parent or indirect parent thereof. Holdings shall not, directly or indirectly, effect any Disposition of any Equity Interests or Equity Rights of Borrower other than the pledge thereof pursuant to the Security Agreement. No Company shall effect the Disposition of any Equity Interests of any Subsidiary unless (i) all Equity Interests owned by such Company are sold pursuant thereto in accordance with the Credit Documents, upon which sale the Guarantee of such Subsidiary shall be automatically deemed to be released, or (ii) an Investment in an amount equal to the fair market value of the remaining Equity Interests owned by such Company in such Subsidiary after giving effect to such Disposition would have been permitted to be made at such time pursuant to Section 9.09 (at the time of such sale an Investment shall be deemed made in such Subsidiary in an amount equal to the fair market value of such Equity Interests).

9.25 Limitation on Payments or Prepayments of Subordinated Debt or Modification of Debt Documents. No Company shall, directly or indirectly:

(a) (i) make any payment or prepayment (optional or otherwise) on or redemption of or any payments in redemption, defeasance or repurchase of any New

Subordinated Notes (whether in cash, securities or other Property), or make any other payment under or in respect of the New Subordinated Notes Documents, or (ii) make any payment or prepayment (optional or otherwise) on or redemption of or any payments in redemption, defeasance or repurchase of any other Subordinated Debt or any Holdings Notes (whether in cash, securities or other Property);

(b) (i) amend, supplement, waive or otherwise modify any provisions of the New Subordinated Notes or the other New Subordinated Notes Documents in violation of the subordination provisions of the New Subordinated Notes Indenture or (ii) amend, supplement, waive or otherwise modify any of the provisions of any other Subordinated Debt or the Holdings Notes:

(1) which shortens the fixed maturity, or increases the rate or shortens the time of payment of interest on, or increases the amount or shortens the time of payment of any principal or premium payable whether at maturity, at a date fixed for prepayment or by acceleration or otherwise of such Subordinated Debt or Holdings Notes, or increases the amount of, or accelerates the time of payment of, any fees payable in connection therewith;

(2) which relates to the affirmative or negative covenants, events of default, redemption or repurchase provisions, or remedies under the documents or instruments evidencing any such Indebtedness and the effect of which is to subject any Company to any more onerous or more restrictive provisions taken as a whole; or

(3) which otherwise materially adversely affects the interests of the Lenders as senior creditors or the interests of the Lenders under this Agreement or any other Credit Document in any respect.

9.26 Casualty and Condemnation. Each Obligor will furnish to the Administrative Agent and the Lenders prompt written notice of any casualty or other insured damage to any material portion of the DIP Collateral or the commencement of any action or proceeding for the taking of any material portion of the DIP Collateral or any part thereof or interest therein under power of eminent domain or by condemnation or similar proceeding.

9.27 Tax Sharing Arrangements. No Company shall enter into or permit to exist any amendment to the Tax Sharing Agreement or any other tax sharing agreement or similar arrangement that is material or is adverse to the Lenders unless the same shall have been reviewed by, and consented to, by the Administrative Agent.

9.28 Use of Proceeds. Borrower shall apply the proceeds of all Loans solely as follows: (a) to pay costs and expenses of the Transactions, (b) to pay costs and expenses in connection with the Chapter 11 Cases in accordance with and as set forth in the Approved Budget, (c) to pay Obligations hereunder as and when due and payable, (d) to pay such pre-petition obligations as the Bankruptcy Court may approve, (e) for working capital and other general corporate purposes of Borrower and its Subsidiaries not in contravention of any

Requirement of Law and not in violation of this Agreement and (f) for Capital Expenditures to the extent set forth in the Approved Budget and permitted by Section 9.11(b).

9.29 Rating of Loans. (i) To the extent requested by a Lender, Borrower shall provide to such Lender the information, to the extent reasonably obtainable by Borrower, and take all commercially reasonable action necessary, to enable Moody's and S&P to provide a private rating to such Lender on the Loans and (ii) reimburse such Lender all of the fees, costs and expenses paid by it to Moody's and S&P to obtain such private rating; provided, however, that Borrower shall have no reimbursement obligation to a Lender unless such Lender holds at least five percent (5.0%) of the Loans and Commitments of all Lenders.

9.30 Sale and Leaseback. No Company shall, directly or indirectly enter into any agreement or arrangement providing for the sale or transfer by it of any property (now owned or hereafter acquired) to a Person and the subsequent lease or rental of such property or other similar property from such Person.

9.31 Account Maintenance. R.G. Darby Company, Inc. and Total Trim, Inc. shall not have cash available for withdrawal in excess of $500,000 in the aggregate in all of their Deposit Accounts, Securities Accounts and Commodities Accounts (each as defined in the Security Agreement) at Compass Bank, Bank Independent and/or any other bank or financial institution that are not subject to Control Agreements for a period in excess of one Business Day. Other than with respect to cash subject to a Lien permitted pursuant to Section 9.01(i), no Company shall have cash available for withdrawal in excess of $200,000 at any time in any Deposit Account, Securities Account or Commodities Account that is not subject to a Control Agreement and is not specified in the first sentence of this Section 9.31 (except that North Star may have cash available for withdrawal of up to $2,000,000 in the aggregate at any time in such accounts) and all Companies shall not have cash available for withdrawal in excess of $2.5 million in the aggregate in all such accounts at any time.

9.32 Anti-Terrorism Law; Anti-Money Laundering. No Obligor shall (a) directly or indirectly, (i) knowingly conduct any business or engage in making or receiving any contribution of funds, goods or services to or for the benefit of any person described in Section 8.23, (ii) knowingly deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or any other Anti-Terrorism Law, or (iii) knowingly engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law (and the Obligors shall deliver to the Lenders any certification or other evidence requested from time to time by any Lender in its reasonable discretion, confirming the Obligor's compliance with this Section 9.32) or (b) cause or permit any of the funds of such Obligor that are used to repay the Loans to be derived from any unlawful activity with the result that the making of the Loans would be in violation of any Requirement of Law.

9.33 Embargoed Person. No Obligor shall cause or permit (a) any of the funds or properties of the Obligors that are used to repay the Loans to constitute property of, or be beneficially owned directly or indirectly by, any person subject to sanctions or trade restrictions under United States law ("Embargoed Person" or "Embargoed Persons") that is identified on (1) the "List of Specially Designated Nationals and Blocked Persons" maintained by OFAC

and/or on any other similar list maintained by OFAC pursuant to any authorizing statute including, but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 *et seq.*, The Trading with the Enemy Act, 50 U.S.C. App. 1 *et seq.*, and any Executive Order or Requirement of Law promulgated thereunder, with the result that the investment in the Obligors (whether directly or indirectly) is prohibited by a Requirement of Law, or the Loans made by the Lenders would be in violation of a Requirement of Law, or (2) the Executive Order, any related enabling legislation or any other similar Executive Orders or (b) any Embargoed Person to have any direct or indirect interest, of any nature whatsoever in the Obligors, with the result that the investment in the Obligors (whether directly or indirectly) is prohibited by a Requirement of Law or the Loans are in violation of a Requirement of Law.

9.34 Bankruptcy Covenants. Notwithstanding anything in the Credit Documents to the contrary, Obligors shall comply with all covenants, terms and conditions and otherwise perform all obligations set forth in the DIP Orders.

9.35 Chapter 11 Cases and CCAA Proceedings. The Obligors will use commercially reasonable efforts to obtain the approval of the Bankruptcy Court and the CCAA Court of this Agreement and the other Credit Documents.

9.36 Notices with respect to the Chapter 11 Cases and CCAA Proceedings. In connection with the Chapter 11 Cases and the CCAA Proceedings, Borrower shall give the proper notice for (x) the motions seeking approval of the Credit Documents and the Interim Order, the Initial CCAA Order and Final Order, (y) the hearings for the approval of the Interim Order and the Initial CCAA Order, and (z) the hearings for the approval of the Final Order, to the Persons specified in such motions and the Interim Order, the Initial CCAA Order or the Final Order, as applicable. Borrower shall give, on a timely basis as specified in the Interim Order, the Initial CCAA Order or the Final Order, as applicable, all notices required to be given to all parties specified in the Interim Order or Final Order, as applicable.

9.37 Plan Confirmation Timeline.

(a) The Obligors shall use their commercially reasonable efforts to obtain confirmation of, and shall confirm and consummate the Plan in accordance with the terms of the Plan Support Agreement.

(b) On the Petition Date, the Obligors shall have filed the Plan and Disclosure Statement with the Bankruptcy Court.

(c) On or before the date which is one hundred twenty (120) days following the Petition Date, the Obligors shall have commenced the evidentiary case for confirmation of the Plan in the Bankruptcy Court.

9.38 Chapter 11 Claims. No Obligor shall, and no Obligor shall permit any of its Affiliates to incur, create, assume, suffer to exist or permit (other than those existing, and disclosed to the Administrative Agent, on the date hereof) any administrative expense, unsecured claim, or other super-priority claim or Lien (except for the Carve-Out and Existing Priority Liens) that are *pari passu* with or senior to the claims of the Creditors against the Obligors

hereunder, or apply to the Bankruptcy Court for authority to do so (unless otherwise consented to in writing by the Administrative Agent and the Majority Lenders).

9.39 The DIP Orders. No Obligor shall, and no Obligor shall permit any of its Affiliates to make or permit to be made any change, amendment or modification, or any application or motion for any change, amendment or modification, to the Interim Order, the Initial CCAA Order or the Final Order, other than as approved by the Administrative Agent and Majority Lenders; provided, however, that modifications to the form or substance of such orders made in response to objections of other creditors of the Obligors or Bankruptcy Court ruling shall be satisfactory to a majority of the principal amount of outstanding Loans and Commitments of those Lenders present (or otherwise represented by counsel) at the hearing at which such orders are finalized and entered instead of the Majority Lenders.

9.40 Critical Vendor and Other Payments. No Obligor shall, and no Obligor shall permit any of its Affiliates to make (i) any pre-petition "critical vendor" payments or other payments on account of any creditor's pre-petition unsecured claims, (ii) payments on account of claims or expenses arising under section 503(b)(9) of the Bankruptcy Code, (iii) payments in respect of a reclamation program or (iv) payments under any management incentive plan or on account of claims or expenses arising under Section 503(c) of the Bankruptcy Code, except in each case in amounts and on terms and conditions that (a) are approved by order of the Bankruptcy Court or the CCAA Court, as applicable, and (b) are permitted by the Approved Budget.

9.41 Sale Process. Borrower shall direct its advisors, including without limitation Moelis & Company, to conduct an open and thorough marketing process of the Debtors to strategic and non-strategic non-Affiliate purchasers in connection with the Plan, and Borrower and such advisors shall promptly and in good faith provide all information reasonably requested by any such non-Affiliate purchaser subject to such non-Affiliate purchaser's executing a confidentiality agreement in form and substance reasonably satisfactory to Borrower. Borrower shall further direct its advisors, including without limitation Moelis & Company, to provide oral status reports on such marketing process (including, without limitation, expressions of interest) to Agent and Lenders upon the reasonable request of Agent or Majority Lenders.

9.42 Return of Inventory. No Obligor shall, and no Obligor shall permit any of its Affiliates to enter into any agreement to return any of its Inventory outside the ordinary course of business to any of its creditors for application against any pre-petition Indebtedness, pre-petition trade payables or other pre-petition claims under Section 546(h) of the Bankruptcy Code.

Section 10. Events of Default. If one or more of the following events (herein called "Events of Default") shall occur and be continuing (or solely with respect to clause (n) such event shall have occurred):

(a) (i) Borrower shall default in the payment when due (whether at stated maturity upon prepayment or repayment or acceleration or otherwise) of any principal of or interest on any Loan or (ii) Borrower shall default in the payment when due of any fee or any other amount payable by it hereunder or under any other Credit Document and

such default under this clause (ii) shall have continued unremedied for three or more Business Days; or

(b) Except for defaults occasioned by the filing of any Chapter 11 Case or the CCAA Proceedings and defaults resulting from obligations with respect to which the Bankruptcy Code prohibits any Company from complying or permits any Company not to comply, any Company shall default in the payment when due of any principal of or interest on any of its Indebtedness (other than the Loans) aggregating $1,000,000 or more, beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created, after giving effect to any consents or waivers relating thereto obtained before the expiration of any such period of grace; or any event specified in any note, agreement, indenture or other document evidencing or relating to any Indebtedness aggregating $1,000,000 or more if the effect of such event (after giving effect to any consents or waivers relating thereto obtained before the expiration of any such period of grace) is to cause, or (with the giving of any notice or the lapse of time or both) to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, such Indebtedness to become due, or to be prepaid in full (whether by redemption, purchase, offer to purchase or redeem, defeasance or otherwise), prior to its stated maturity; or

(c) Any representation or warranty made or deemed made in any Credit Document (or in any modification or supplement thereto) by any Obligor or in any certificate furnished to any Creditor pursuant to the provisions thereof, shall prove to have been false or misleading as of the time made, deemed made or furnished in any material respect; or

(d) Any Obligor shall default in the performance of any of its obligations under any of Sections 2.13(2), 9.01(f), 9.05 through 9.13, 9.15, 9.16, 9.19, 9.21, 9.23 through 9.25, 9.28, 9.30 or 9.34 through 9.42; or any Obligor shall default in the performance of its obligations under Section 9.31 and such default shall continue unremedied for five Business Days; or Borrower or any other Obligor shall default in the performance of any of its other obligations in this Agreement, the Security Documents or the Fee Letter and such default shall continue unremedied for a period of thirty days after written notice thereof to such Obligor or Borrower by the Administrative Agent or any Lender; or

(e) A final post-petition judgment or judgments for the payment of money in excess of $1,000,000 in the aggregate (exclusive of judgment amounts to the extent covered by insurance) shall be rendered by one or more courts, administrative tribunals or other bodies having jurisdiction against any Company and the same shall not be discharged (or provision shall not be made for such discharge), vacated or bonded pending appeal, or a stay of execution thereof shall not be procured, within 60 days from the date of entry thereof and such Company shall not, within said period of 60 days, or such longer period during which execution of the same shall have been stayed, appeal therefrom and cause the execution thereof to be stayed during such appeal; or

(f) An ERISA Event or noncompliance with respect to Foreign Plans shall have occurred that, when taken together with all other ERISA Events and noncompliance with respect to Foreign Plans that have occurred, is reasonably likely to result in liability of any Company in an aggregate amount exceeding $1,000,000; or

(g) Parent at any time ceases to own directly or indirectly 100% of the Equity Interests of Borrower; or

(h) Any Security Document after delivery thereof by any Obligor at any time (other than by reason of the express release thereof pursuant to Section 13.04(i)(d)) shall cease to be in full force and effect or shall for any reason fail to create or cease to maintain a valid and duly perfected first priority security interest in and Lien upon (subject to Permitted Liens) any material portion of the DIP Collateral, or any such Lien or security interest shall be asserted by any Obligor not to be a valid, perfected, first priority (subject to Permitted Liens) security interest in or Lien on the DIP Collateral covered thereby; provided that there shall be no Event of Default under this clause (h) to the extent such Event of Default arises solely from the gross negligence or willful misconduct of the Collateral Agent; or

(i) Any Guarantee of an Obligor ceases to be in full force and effect (other than by reason of the express release thereof pursuant to Section 13.04(i)(d)) or any of the Guarantors repudiates or attempts to repudiate, any of its obligations under any of the Guarantees; or

(j) Any Credit Document or any material provision thereof shall at any time and for any reason be declared by a court of competent jurisdiction to be null and void, or a Proceeding shall be commenced by any Obligor, or by any Governmental Authority, seeking to establish the invalidity or unenforceability thereof (exclusive of questions of interpretation of any provision thereof), or any Obligor shall repudiate or deny that it has any liability or obligation for the payment of principal or interest or other obligations purported to be created under any Credit Document; or

(k) Any non-monetary judgment, order or decree is entered against any Company which is reasonably likely to have a Material Adverse Effect, and there shall be any period of 60 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(l) The subordination provisions relating to any Subordinated Debt (the "Subordination Provisions") shall fail in any material respect to be enforceable by the Pre-Petition Lenders (which have not effectively waived the benefits thereof) in accordance with the terms thereof, or any Pre-Petition Obligation shall fail to constitute Senior Debt or any similar or comparable designation (as defined in any Subordinated Debt), or any Obligor shall, directly or indirectly, disavow or contest in any manner any of the Subordination Provisions;

(m) Any event or circumstance shall occur which permits or requires the persons purchasing, or financing the purchase of, Accounts under the Permitted

Receivables Transaction (the Indebtedness or obligations under which aggregates to $1,000,000 or more) to stop so purchasing or financing such Accounts, other than by reason of the occurrence of the stated expiry date of the Permitted Receivables Transaction, the operation of "clean down" provisions thereof or the voluntary termination thereof by any Company; provided that (A) any notices or cure periods that are conditions to the rights of such Persons to stop purchasing, or financing the purchase of, such Accounts have been given or have expired, as the case may be and (B) such event or circumstance is not cured or waived or otherwise ceases to exist (other than by termination of the Permitted Receivables Transaction) by the 45th day after the later of the occurrence of such event or circumstance or the date of the giving of such notice and the end of such cure period;

(n) Permitted Holders directly or indirectly transfer or otherwise dispose of any Equity Interests of Parent, which direct or indirect transfer or disposition causes an "ownership change" for purposes of Section 382 of the Code; or

(o) the occurrence of any of the following in any Chapter 11 Case or in the CCAA Proceeding:

(i) the bringing of a motion, taking of any action or the filing of any plan of reorganization or disclosure statement attendant thereto by the Debtors in any Chapter 11 Case, or the entry of an order (a) to obtain additional financing under Section 364(c) or Section 364(d) of the Bankruptcy Code or otherwise from any Person other than the Lenders not otherwise permitted by this Agreement, (b) to authorize any Person to recover from any portions of the DIP Collateral any costs or expenses of preserving or disposing of such DIP Collateral under any law including Section 506(c) of the Bankruptcy Code, or (c) except as provided in the Final Order, the Initial CCAA Order or the Interim Order, to use cash collateral without the Majority Lenders' prior written consent under Section 363(c) of the Bankruptcy Code;

(ii) without the prior written consent of the Majority Lenders, the dismissal of any Chapter 11 Case or the conversion of any Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code (or any Debtor applies for, consents to, or acquiesce in, any such relief);

(iii) the entry of an order which has not been withdrawn, dismissed or reversed (a) appointing an interim or permanent trustee or the appointment of an examiner, in each case in any Chapter 11 Case, with expanded powers to operate or manage the financial affairs, business or reorganization of any Debtor (or any Debtor applies for, consents to, or acquiesces in, any such relief), (b) appointing a receiver or receiver and manager of any material part of the assets and undertaking of North Star or any order granting expanded powers to the Monitor appointed in the CCAA Proceedings to operate or manage the financial affairs, business or reorganization of any Debtor (or any Debtor applies for, consents to, or acquiesces in, any such relief), (c) unless otherwise consented to by Administrative Agent and the Majority Lenders, granting relief from or modifying the automatic stay of Section 362 of the Bankruptcy Code or the Initial CCAA Order, as the case may be, (x) to allow any creditor to execute upon or

enforce a Lien on any DIP Collateral or on any other property or assets of a Debtor, in either case in excess of $1,000,000 or (y) with respect to any Lien of, or the granting of any Lien on any DIP Collateral or any other property or assets of a Debtor to, any state or local environmental or regulatory agency or authority, in each case with a value in excess of $1,000,000, (d) amending, supplementing, staying, reversing, vacating or otherwise modifying any of the Interim Order, the Initial CCAA Order, the Final Order, this Agreement or any other Credit Document (unless otherwise consented to in writing by the Agents and the requisite percentage of Lenders), or any Agent's, any Lender's, Pre-Petition Agent's or Pre-Petition Lender's rights, benefits, privileges or remedies under the Interim Order, the Final Order, this Agreement, any other Credit Document or any Pre-Petition Credit Document (unless otherwise consented to in writing by the Agents, Pre-Petition Agents, requisite percentage of the Lenders and requisite percentage of Pre-Petition Lenders) or (e) approving a sale of any assets of any Debtor pursuant to section 363 of the Bankruptcy Code, the CCAA or the Initial CCAA Order or approving bidding procedures therefor, other than any such order that is consented to by the Administrative Agent and the Majority Lenders (such consent not to be unreasonably withheld or delayed);

(iv) filing by any Debtor of a motion or other pleading for reconsideration with respect to the Interim Order, the Initial CCAA Order or Final Order (or any order is entered by the Bankruptcy Court or the CCAA Court granting such relief for reconsideration);

(v) failure of the Bankruptcy Court to enter, within 40 days following the commencement of the Chapter 11 Cases (or such later date as may be agreed to by the Majority Lenders and fixed by the Bankruptcy Court), the Final Order;

(vi) a material breach by any Debtors of any term or condition of the Interim Order, the Initial CCAA Order or Final Order;

(vii) an order having been entered that terminates the Debtors' exclusivity (or having been requested, unless actively contested by the Debtors);

(viii) any Debtor consolidating or combining with any other Person or dissolving, except pursuant to a confirmed plan of reorganization with the prior written consent of Majority Lenders;

(ix) without the prior written consent of the Majority Lenders, the dismissal of the CCAA Proceeding or the commencement of any proceedings under the *Bankruptcy and Insolvency Act* (Canada) (or any Debtor applies for, consents to, or acquiesces in, any such relief);

(x) the challenge by the Debtors (or the support by the Debtors of the challenge by any other Person) to (a) disallow in whole or in part the claim of the Pre-Petition Agents or the Pre-Petition Lenders under the Pre-Petition Credit Agreement or the claim of any Agent or any Lender in respect of Obligations or to challenge the validity, perfection and enforceability of any of the Liens in favor of any of them, or (b)

equitably subordinate or re-characterize in whole or in part the claim of any Agent or any Lender in respect of the Obligations or any Pre-Petition Agent or Pre-Petition Lender in respect of the Pre-Petition Obligations, or in each case the entry of an order by the Bankruptcy Court granting the relief described above;

(xi) [reserved];

(xii) the application by the Debtors for authority to make any payment (by way of adequate protection or otherwise) of principal or interest or otherwise on account of any Indebtedness of the Debtors incurred prior to the Petition Date and outstanding on the Petition Date or other obligations or claims (including trade payables and payments in respect of reclamation claims) of the Debtors without the Administrative Agent's and Majority Lenders' prior written consent, other than pursuant to the First Day Orders in accordance with the Approved Budget or the Interim Order (or the Final Order, when applicable);

(xiii) the entry of an order in any Chapter 11 Case, CCAA Proceeding or any other insolvency proceeding avoiding or requiring repayment of any portion of the Pre-Petition Obligations previously paid by the Debtors to the holders of Pre-Petition Obligations;

(xiv) subject to any applicable cure periods contained in such Order, the failure of Debtors to perform their obligations under the Interim Order, the Initial CCAA Order or the Final Order or the failure of Debtors to provide, or any unenforceability or other failure of (whether resulting from a reversal, stay, vacation or modification of any such order or otherwise), any adequate protection provided to the Pre-Petition Agent or Pre-Petition Lenders under the Pre-Petition Credit Agreement in the First Day Orders or DIP Orders or as otherwise ordered by the Bankruptcy Court;

(xv) the use, remittance or the application of proceeds of DIP Collateral in contravention of the terms of the Credit Documents or the DIP Orders or First Day Orders;

(xvi) the entry of an order in the Chapter 11 Cases authorizing procedures for interim compensation of professionals that is not in form and substance reasonably acceptable to the Administrative Agent and Majority Lenders;

(xvii) without the prior written consent of the Administrative Agent and Majority Lenders, Debtors incur, create, assume, suffer to exist or permit any superpriority claim or Lien in the Chapter 11 Cases that is *pari passu* with or senior to the claims or Liens of the Lenders, Pre-Petition Lenders, Agents and Pre-Petition Agent, other than the Carve-Out and Existing Priority Liens;

(xviii) Debtors requesting or seeking authority for or that approves or provides authority to take any other action or actions materially adverse to any Agent or any Lender or its rights and remedies under the Credit Documents or its interest in the DIP Collateral;

(xix) any or all of the Debtors announcing or informing any other Person of its intention to file a plan of reorganization that contains terms and conditions that are inconsistent in any material respect with the Plan (or any exhibits or supplement attached thereto);

(xx) the filing of any plan of reorganization or disclosure statement attendant thereto, or any direct or indirect amendment to such plan or disclosure statement, by the Debtors or any Affiliate thereof other than the Plan and the exhibits and supplements attached thereto, in each case, as the same may be amended or otherwise modified from time to time in accordance with the terms of the Plan Support Agreement;

(xxi) any breach of the Plan Support Agreement by any party thereto other than Lenders (which breach, in the case of any such party other than the Debtors, shall not have been cured on or before the third Business Day after the occurrence thereof) or any failure of the Plan Support Agreement to remain in full force and effect; or

(xxii) the failure of the Bankruptcy Court to enter the Final A/R Facility Order prior to or simultaneously with the entry of the Final Order; or

(xxiii) (a) the entry of an order which has not been withdrawn, dismissed or reversed reversing, revoking, amending or modifying the Interim A/R Facility Order or Final A/R Facility Order, the impact of which materially adversely affects the Lenders, without the consent of the Administrative Agent and Majority Lenders (or any Debtor applies for, consents to, or acquiesces in, any such relief) or (b) the filing by any Debtor of a motion or other pleading for reconsideration with respect to the Interim A/R Facility Order or Final A/R Facility Order (or any order is entered by the Bankruptcy Court granting such relief for reconsideration).

THEREUPON: in the case of an Event of Default, the Administrative Agent may, and upon written direction of the Majority Lenders shall, by notice to Borrower, (i) terminate the Commitments, (ii) declare the principal amount then outstanding of, and the accrued interest on, the Loans and all other amounts payable by Borrower hereunder and under the Notes (including any amounts payable under Section 5.05 or 5.06) to be forthwith due and payable, whereupon such amounts shall be immediately due and payable without presentment, demand, protest or other formalities of any kind, all of which are hereby expressly waived by Borrower, (iii) terminate the DIP Facility and any Credit Documents as to any future liability or obligation of the Agent and the Lenders, but without affecting any of the Obligations or the Liens securing the Obligations, (iv) declare a termination, reduction or restriction on the ability of the Obligors to use any cash collateral derived solely from the proceeds of any DIP Collateral (any such declaration shall be made to the Obligors, the official committee(s) of creditors of the Obligors and the United States Trustee and shall be referred to herein as a "Termination Declaration", and the date which is the earliest to occur of any such Termination Declaration being herein referred to as the "Termination Declaration Date"), (v) reduce any claim to judgment, (vi) take any other action permitted by law and/or (vii) take any action permitted to be taken by the Security Documents during the existence of an Event of Default.

In addition to the remedies described above and other customary remedies, 3 Business Days following the Termination Declaration Date, the Agent shall have relief from the automatic stay and may foreclose on all or any portion of the DIP Collateral, collect accounts receivable and apply the proceeds thereof to the Obligations, occupy the Obligors' premises to sell or otherwise dispose of the DIP Collateral or otherwise exercise remedies against the DIP Collateral permitted by applicable nonbankruptcy law. During such 3 Business Day period, the Obligors and any statutory committee shall be entitled to an emergency hearing before the Court for the sole purpose of contesting whether an Event of Default has occurred. Unless during such period the Court determines that an Event of Default has not occurred and/or is not continuing, the automatic stay, as to the Lenders and the Agent, shall automatically terminate at the end of such 3 Business Day period, without further notice or order. During such 3 Business Day period, the Obligors may not use cash collateral except to pay payroll and other expenses critical to keep the business of the Obligors operating in accordance with the Budget.

Section 11. The Agents.

11.01 General Provisions. Each of the Lenders hereby irrevocably appoints the Administrative Agent and the Collateral Agent as its agent in each such capacity and authorizes the Administrative Agent and the Collateral Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent and the Collateral Agent by the terms hereof and the Security Documents, together with such actions and powers as are reasonably incidental thereto.

The Lender or other financial institution serving as any Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not such Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with any Company or other Affiliate thereof as if it were not such Agent hereunder.

No Agent shall have any duties or obligations except those expressly set forth herein. Without limiting the generality of the foregoing, (a) no Agent shall be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) no Agent shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby that such Agent is required to exercise in writing by the Majority Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 13.04), and (c) except as expressly set forth herein, no Agent shall have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Company that is communicated to or obtained by the financial institution serving as such Agent or any of its Affiliates in any capacity. No Agent shall be liable for any action taken or not taken by it with the consent or at the request of the Majority Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 13.04) or in the absence of its own gross negligence, bad faith or willful misconduct. No Agent shall be deemed to have knowledge of any Default or Event of Default unless and until written notice thereof is given to the Administrative Agent and such Agent by Borrower or a Lender, and no Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Credit Document, (ii)

the contents of any certificate, report or other document delivered hereunder or under any other Credit Document or in connection herewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement or any other Credit Document or any other agreement, instrument or document or any lien purported to be created thereby, (v) the satisfaction of any condition set forth in Section 7 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to such Agent, (vi) the existence or non-existence of any Event of Default or Default or (vii) the financial condition of any Obligor.

Each Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. Each Agent may consult with legal counsel (who may be counsel for Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. Each Agent may deem and treat the payee of any Note as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with such Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Credit Document unless it shall first receive such advice or concurrence of the Majority Lenders (or, if so specified by this Agreement, all Lenders) as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action (it being understood that this provision shall not release the Administrative Agent from performing any action with respect to Borrower expressly required to be performed by it pursuant to the terms hereof) under this Agreement. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Credit Documents in accordance with a request of the Majority Lenders (or, if so specified by this Agreement, all Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans. Notwithstanding the instructions of the Majority Lenders (or such other applicable portion of the Lenders), the Administrative Agent shall have no obligation to take any action if it believes in good faith that such action would violate applicable law or expose the Administrative Agent to any liability for which it has not received satisfactory indemnification. In addition, the Administrative Agent shall not be liable for any apportionment or distribution of payments made by it in good faith and if any such apportionment or distribution is subsequently determined to have been made in error the sole recourse of any Lender to whom payment was due but not made, shall be to recover from other Lenders any payment in excess of the amount to which they are determined to be entitled (and such other Lenders hereby agree to return to such Lender any such erroneous payments received by them).

Each Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by such Agent and reasonably acceptable to Borrower. Each Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Affiliates, directors, officers, employees, agents and advisors ("Related Parties"). The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of each Agent and any such sub-agent,

and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities of such Agent.

Subject to the appointment and acceptance of a successor Agent as provided in this paragraph, any Agent may resign at any time by notifying the Lenders and Borrower, and at any time that Majority Lenders request the resignation of a Defaulted Lenders that is an Agent, such Agent shall be deemed to have resigned. Upon any such resignation, the Majority Lenders shall have the right to appoint a successor which, so long as no Event of Default is continuing, shall be reasonably acceptable to Borrower. If no successor shall have been so appointed by the Majority Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent which, so long as no Event of Default is continuing, shall be reasonably acceptable to Borrower. Upon the acceptance of its appointment as Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations hereunder. The fees payable by Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between Borrower and such successor. After the Agent's resignation hereunder, the provisions of this Section 11 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as such Agent.

Each Lender acknowledges that it has, independently and without reliance upon any Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon any Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any related agreement or any document furnished hereunder or thereunder. No Agent shall be deemed a trustee or other fiduciary on behalf of any party.

11.02 Indemnification. Each Lender agrees to indemnify and hold harmless each Agent (to the extent not reimbursed under Section 13.03, but without limiting the obligations of Borrower under Section 13.03), ratably in accordance with the aggregate principal amount of the respective Commitments of and/or Loans held by the Lenders (or, if all of the Commitments shall have been terminated or expired, ratably in accordance with the aggregate outstanding amount of the Loans held by the Lenders), for any and all liabilities (including, without limitation, pursuant to any Environmental Law), obligations, losses, damages, fines, penalties, actions, judgments, deficiencies, claims, demands, suits, costs, expenses (including reasonable attorneys' and experts' fees) or disbursements of any kind and nature whatsoever that may be imposed on, incurred by or asserted against such Agent (including by any Lender) arising out of or by reason of any investigation in or in any way relating to or arising out of any Credit Document or any other documents contemplated by or referred to therein for any action taken or omitted to be taken by such Agent under or in respect of any of the Credit Documents or other such documents or the transactions contemplated thereby (including the costs and expenses that Borrower is obligated to pay under Section 13.03, but excluding, unless a Default (including, without limitation, under Section 10(d)) has occurred and is continuing, normal administrative

costs and expenses incident to the performance of its agency duties hereunder) or the enforcement of any of the terms hereof or thereof or of any such other documents; provided, however, that no Lender shall be liable for any of the foregoing to the extent they are determined by a court of competent jurisdiction in a final and nonappealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of the party to be indemnified. The agreements set forth in this Section 11.02 shall survive the payment of all Loans and other obligations hereunder and shall be in addition to and not in lieu of any other indemnification agreements contained in any other Credit Document. If any indemnity furnished to the Administrative Agent for any purpose shall, in the reasonable opinion of the Administrative Agent, be insufficient or become impaired, the Administrative Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against even if so directed by the Majority Lenders until such additional indemnity is furnished.

11.03 Consents Under Other Credit Documents. Except as otherwise provided in this Agreement and the other Credit Documents, the Administrative Agent may, with the prior consent of the Majority Lenders (but not otherwise), consent to any modification, supplement or waiver under any of the other Credit Documents.

11.04 Assistance by Lenders. Each of the Lenders shall provide full assistance and cooperation to the Agents and each Lender hereby grants express and exclusive foreclosing and mortgage enforcement authority to the Collateral Agent with respect to the DIP Collateral.

11.05 Agency for Perfection. The Administrative Agent and each Lender hereby appoint each other Lender as agent for the purpose of perfecting the Administrative Agent's security interest in assets which, in accordance with the UCC in any applicable jurisdiction, can be perfected by possession or control. Should any Lender (other than the Administrative Agent) obtain possession or control of any such assets, such Lender shall notify the Administrative Agent thereof, and, promptly upon the Administrative Agent's request therefor, shall deliver such assets to the Administrative Agent in accordance with the Administrative Agent's instructions or transfer control to the Administrative Agent in accordance with the Administrative Agent's instructions. Each Lender agrees that it will not have any right individually to enforce or seek to enforce any Security Document or to realize upon any DIP Collateral for the Loans unless instructed to do so by the Administrative Agent, it being understood and agreed that such rights and remedies may be exercised only by the Administrative Agent.

11.06 Right to Perform, Preserve and Protect. If any Obligor fails to perform any obligation hereunder or under any other Credit Document, the Administrative Agent itself may, but shall not be obligated to, cause such obligation to be performed at Borrower's expense. The Administrative Agent is further authorized by Borrower and the Lenders to make expenditures from time to time which the Administrative Agent, in its reasonable business judgment, deems necessary to (i) preserve or protect the business conducted by Borrower, the DIP Collateral, or any portion thereof and/or (ii) enhance the likelihood of, or maximize the amount of, repayment of the Loans and other Obligations. Borrower hereby agrees to reimburse the Administrative Agent promptly after demand for any and all costs, liabilities and obligations reasonably incurred by the Administrative Agent pursuant to this Section 11.06. Each Lender hereby agrees to indemnify the Administrative Agent upon demand for any and all costs, liabilities and

obligations incurred by the Administrative Agent pursuant to this Section 11.06, in accordance with the provisions of Section 11.02.

11.07 Disbursements of Delayed Draw Term Loans; Payment.

(a) *Delayed Draw Term Loan Advances, Payments and Settlements; Interest and Fee Payments.*

(i) Nothing in this Section 11.07 or elsewhere in this Agreement or the other Credit Documents shall be deemed to require the Administrative Agent to advance funds on behalf of any Lender or to relieve any Lender from its obligation to fulfill its commitments hereunder or to prejudice any rights that the Administrative Agent or Borrower may have against any Lender as a result of any default by such Lender hereunder.

(ii) [reserved].

(iii) At least once each calendar week or more frequently at Administrative Agent's election (each, a "Settlement Date"), the Administrative Agent shall advise each Lender by telephone, facsimile or e-mail of the amount of such Lender's pro rata share of principal, interest and fees paid for the benefit of Lenders with respect to each applicable Delayed Draw Term Loan. Administrative Agent shall pay to each Lender not later than 2:00 p.m. (New York time) on the next Business Day following each Settlement Date such Lender's pro rata share of principal, interest and fees paid by the Borrower since the previous Settlement Date for the benefit of such Lender on the Delayed Draw Term Loans held by it; provided, that, in the case such Lender is a Defaulted Lender, the Administrative Agent shall be entitled to set off the funding short-fall against that Defaulted Lender's respective share of all payments received from Borrower until the Obligations are paid in full.

(iv) The provisions of this Section 11.07(a) shall be deemed to be binding upon the Administrative Agent and the Lenders notwithstanding the occurrence of any Default or Event of Default, or any insolvency or bankruptcy proceeding pertaining to Borrower or any other Obligor.

(b) [*Reserved*].

(c) *Return of Payments.* If the Administrative Agent determines at any time that any amount received by the Administrative Agent under this Agreement must be returned to Borrower or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Credit Document, the Administrative Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to the Administrative Agent on demand any portion of such amount that Administrative Agent has distributed to such Lender, together with interest at such rate, if any, as the Administrative Agent is required to pay to Borrower or such other Person, without setoff, counterclaim or deduction of any kind.

(d) *Defaulted Lenders*. The failure of any Defaulted Lender to make any Delayed Draw Term Loan or any payment required by it hereunder shall not relieve any other Lender of its obligations to make such Delayed Draw Term Loan or payment, but neither any other Lender nor the Administrative Agent shall be responsible for the failure of any Defaulted Lender to make a Delayed Draw Term Loan or make any other payment required hereunder. Notwithstanding anything set forth herein to the contrary, a Defaulted Lender shall not have any voting or consent rights under or with respect to any Credit Document or constitute a "Lender" (or be included in the calculation of "Majority Lenders" hereunder) for any voting or consent rights under or with respect to any Credit Document.

(e) *Procedures*. Administrative Agent is hereby authorized by each Obligor and each other Creditor to establish procedures (and to amend such procedures from time to time) to facilitate administration and servicing of the Loans and other matters incidental thereto. Without limiting the generality of the foregoing, Administrative Agent is hereby authorized to establish procedures to make available or deliver, or to accept, notices, documents and similar items on, by posting to or submitting and/or completion on, E-Systems.

11.08 Lead Arranger. The Lead Arranger shall not have any right, power, obligation, liability, responsibility or duty under this Agreement (or any other Credit Document) other than those applicable to all Lenders as such. Without limiting the foregoing, the Lead Arranger shall not have or be deemed to have any fiduciary relationship with any other Lender. Each Lender acknowledges that it has not relied, and will not rely, on the Lead Arranger in deciding to enter into this Agreement and each other Credit Document to which it is a party or in taking or not taking action hereunder or thereunder.

Section 12. Application of Proceeds.

Notwithstanding any provision contained herein to the contrary, the proceeds received by the Collateral Agent in respect of any sale of, collection from or other realization upon all or any part of the DIP Collateral pursuant to the exercise by the Collateral Agent of its remedies and all payments received after acceleration of the Obligations shall be applied, in full or in part, together with any other sums then held by the Collateral Agent pursuant to this Agreement, promptly by the Collateral Agent as follows:

(a) First, to the payment in full in cash of all reasonable costs and expenses, fees, commissions and taxes of such sale, collection or other realization including compensation to the Collateral Agent and its agents and counsel, and all reasonable expenses, liabilities and advances made or incurred by the Collateral Agent in connection therewith and all amounts for which the Collateral Agent is entitled to indemnification pursuant to the provisions of any Credit Document, together with interest on each such amount at the highest rate then in effect under this Agreement from and after the date such amount is due, owing or unpaid until paid in full;

(b) Second, to the payment in full in cash of all other reasonable costs and expenses of such sale, collection or other realization including compensation to the other Creditors and their agents and counsel and all reasonable costs, liabilities and advances made or incurred by the other Creditors in connection therewith, in each case, equally and

ratably in accordance with the respective amounts thereof then due and owing, together with interest on each such amount at the highest rate then in effect under this Agreement from and after the date such amount is due, owing or unpaid until paid in full;

(c) Third, without duplication of amounts applied pursuant to clauses (a) and (b) above, to the indefeasible payment in full in cash, pro rata, of interest and other amounts constituting Obligations (other than principal) in each case equally and ratably in accordance with the respective amounts thereof then due and owing;

(d) Fourth, to the indefeasible payment in full in cash, pro rata, of principal amount of the Obligations; and

(e) Fifth, the balance, if any, to the person lawfully entitled thereto (including the applicable Obligor or its successors or assigns) or as a court of competent jurisdiction may direct.

In the event that any such proceeds are insufficient to pay in full the items described in clauses (a) through (e) of this Section 12, the Obligors shall remain liable, jointly and severally, for any deficiency.

Section 13. Miscellaneous.

13.01 Waiver. No failure on the part of any Creditor to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under any Credit Document shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under any Credit Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

13.02 Notices.

(a) All notices, requests and other communications provided for herein and under the Security Documents (including any modifications of, or waivers, requests or consents under, this Agreement) shall be given or made in writing (including by facsimile) delivered to the intended recipient at its address, facsimile number or email address set forth as the "Address for Notices" specified below its name on the signature pages hereof (or as to any Guarantor, as so specified for Borrower) or, as to any party, at such other address, facsimile number or email address as shall be designated by such party in a notice to each other party. Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given when transmitted by facsimile or personally delivered or, in the case of a mailed notice, upon receipt, in each case given or addressed as aforesaid. Any Notice of Borrowing or Notice of Continuation/Conversion shall be deemed to have been received when actually received.

(b) Notices and other communications to the parties hereto may be delivered or furnished by electronic communication (including e-mail and internet or intranet websites) pursuant to procedures approved from time to time by the Administrative Agent, provided, that the foregoing shall not apply to notices sent directly to any Lender if such Lender has notified the Administrative Agent that it is incapable of receiving notices by electronic communication.

The Administrative Agent or Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided, that approval of such procedures may be limited to particular notices or communications.

(c) Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor, provided, that if any such notice or other communication is not sent or posted during normal business hours, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day.

13.03 Expenses, Indemnification, Etc.

(a) The Obligors, jointly and severally, agree to pay or reimburse:

(i) the Lead Arranger, the Administrative Agent, the Collateral Agent and each other Agent for all of their reasonable out-of-pocket costs and expenses (including the reasonable fees and expenses of one legal counsel and one legal counsel in each applicable locality (including, without limitation, Canada) and independent appraisers and consultants reasonably retained by the Administrative Agent) in connection with (1) the extension of credit hereunder, (2) the negotiation or preparation of any modification, supplement or waiver of any of the terms of any Credit Document (whether or not consummated or effective) and (3) the syndication of the Loans and Commitments;

(ii) each of the Lenders and each Agent for all reasonable out-of-pocket costs and expenses of the Lenders and each Agent (including the reasonable fees and expenses of legal counsel) in connection with (1) the negotiation, preparation, execution and delivery of the Credit Documents, including this Agreement, (2) any enforcement or collection proceedings resulting from any Default, including all manner of participation in or other involvement with (x) bankruptcy, insolvency, receivership, foreclosure, winding up or liquidation proceedings, (y) judicial or regulatory proceedings and (z) workout, restructuring or other negotiations or proceedings (whether or not the workout, restructuring or transaction contemplated thereby is consummated), (3) the enforcement of this Section 13.03 and (4) any documentary taxes;

(iii) each Agent for all reasonable costs, expenses, taxes, assessments and other charges incurred in connection with any filing, registration, recording or perfection of any security interest contemplated by any Credit Document or any other document referred to therein; and

(iv) the Ad-Hoc Group for all of their out-of-pocket expenses consisting of the reasonable fees and expenses of one legal counsel incurred in connection with the matters described in the preceding clauses (i) and (ii).

(b) The Obligors, jointly and severally, hereby agree to indemnify each Creditor and their respective Affiliates, directors, trustees, investment advisors, officers, employees, investment advisors, collateral managers, servicers, counsel and agents (each, an "Indemnitee") from, and hold each of them harmless against, and that no Indemnitee will have any liability for, any and all Losses incurred by any of them (including any and all Losses incurred by any Agent or the Lead Arranger to any Lender, whether or not any Creditor is a party thereto) directly or indirectly arising out of or by reason of or relating to the negotiation, execution, delivery, performance, administration or enforcement of any Credit Document, any of the transactions contemplated by the Credit Documents, any breach by any Obligor of any representation, warranty, covenant or other agreement contained in any of the Credit Documents in connection with any of the Transactions, the use or proposed use of any of the Loans or the use of any collateral security for the Loans (including the exercise by any Creditor of the rights and remedies or any power of attorney with respect thereto and any action or inaction in respect thereof), but excluding (i) any such Losses to the extent finally determined by a court of competent jurisdiction in a final and nonappealable judgment to have arisen primarily from the gross negligence or bad faith of the Indemnitee and (ii) claims among the Agents and the Lenders other than to the extent arising out of or as a result of any direct or indirect act or omission of any Obligor or any Affiliate, director, officer, employee or agent thereof. With respect to any such potential liability, the Agent and Lenders shall be entitled to select their own counsel and, in addition to the foregoing indemnity, the Borrower agrees to pay promptly the reasonable fees and expenses of such counsel.

Without limiting the generality of the foregoing, the Obligors, jointly and severally, will indemnify each Creditor and each other Indemnitee from, and hold each Creditor and each other Indemnitee harmless against, any Losses described in the preceding sentence, including, without limitation, reasonable expenses of investigation by engineers, environmental consultants and similar technical personnel reasonably retained by such Creditor, arising under any Environmental Law as a result of (A) the past, present or future operations of any Company (or any predecessor in interest to any Company), (B) the past, present or future condition of any site or facility owned, operated, leased or used at any time by any Company (or any such predecessor in interest), or (C) any Release or threatened Release of any Hazardous Materials at, on, under, within or emanating from any such site or facility, including any such Release or threatened Release that shall occur during any period when any Creditor shall be in possession of any such site or facility following the exercise by such Creditor of any of its rights and remedies hereunder or under any of the Security Documents (except to the extent such Release or threatened Release is caused by the actions of such Creditor); provided, however, that the indemnity hereunder shall be subject to the exclusions from indemnification set forth in the preceding paragraph.

To the extent that the undertaking to indemnify and hold harmless set forth in this Section 13.03 or any other provision of any Credit Document providing for indemnification is unenforceable because it is violative of any law or public policy or otherwise, the Obligors, jointly and severally, shall contribute the maximum portion that each of them is permitted to pay

and satisfy under applicable law to the payment and satisfaction of all indemnified liabilities incurred by any of the Persons indemnified hereunder.

The Obligors also agree that no Indemnitee shall have any liability (whether direct or indirect, in contract or tort or otherwise) for any Losses to any Obligor or any Obligor's security holders or creditors resulting from, arising out of, in any way related to or by reason of any matter referred to in any indemnification or expense reimbursement provisions set forth in this Agreement or any other Credit Document, except to the extent that any Loss is determined by a court of competent jurisdiction in a final nonappealable judgment to have resulted primarily from the gross negligence or bad faith of such Indemnitee.

The Obligors agree that, without the prior written consent of the Agents and the Majority Lenders which consent shall not be unreasonably withheld, no Obligor will settle, compromise or consent to the entry of any judgment in any pending or threatened Proceeding in respect of which indemnification is reasonably likely to be sought under the indemnification provisions of this Section 13.03 (whether or not any Indemnitee is an actual or potential party to such Proceeding), unless such settlement, compromise or consent includes an unconditional written release of each Indemnitee from all liability arising out of such Proceeding and does not include any statement as to an admission of fault, culpability or failure to act by or on behalf of any Indemnitee and does not involve any payment of money or other value by any Indemnitee or any injunctive relief or factual findings or stipulations binding on any Indemnitee.

13.04 Amendments, Etc.

(a) No amendment or waiver of any provision of this Agreement or any other Credit Document, and no consent with respect to any departure by any Obligor therefrom, shall be effective unless the same shall be in writing and signed by Administrative Agent, the Majority Lenders (or by Administrative Agent with the consent of the Majority Lenders), and the Borrower, and then such waiver shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such waiver, amendment, or consent shall, unless in writing and signed by all the Lenders directly affected thereby (or by Administrative Agent with the consent of all the Lenders directly affected thereby), in addition to Administrative Agent and the Majority Lenders (or by Administrative Agent with the consent of the Majority Lenders) and the Borrower, do any of the following:

(i) Increase the Commitment of any Lender or, other than as expressly provided for in Section 2.12, extend the Commitment or maturity date of any Loan of any Lender (or reinstate any Commitment terminated pursuant to Section 10);

(ii) postpone or delay the Final Maturity Date (except as expressly provided for in Section 2.12) any date fixed for, or reduce or waive, any scheduled installment of principal or any payment of interest, fees or other amounts (other than principal) due to the Lenders (or any of them) hereunder or under any other Credit Document (for the avoidance of doubt, mandatory prepayments pursuant to Section 2.10 may be postponed, delayed, waived or modified with the consent of Majority Lenders);

(iii) reduce the principal of, or the rate of interest specified herein (including, without limitation, through any modification to the definition of Applicable Margin) or the amount of interest payable in cash specified herein on any Loan, or of any fees or other amounts payable hereunder or under any other Credit Document;

(iv) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans which shall be required for the Lenders or any of them to take any action hereunder;

(v) change the currency in which any Obligation owing to any Lender is payable;

(vi) amend Section 12 or this Section 13.04 or the definition of Majority Lenders or any provision providing for consent or other action by all Lenders or by certain Lenders; or

(vii) discharge any Obligor from its respective payment Obligations under the Credit Documents, or terminate the Liens under any Credit Document in respect of all or substantially all of the DIP Collateral, except as otherwise may be provided in this Agreement or the other Credit Documents;

it being agreed that all Lenders shall be deemed to be directly affected by an amendment or waiver of the type described in the preceding clauses (iv), (vi) and (vii).

(b) No amendment, waiver or consent shall, unless in writing and signed by Administrative Agent, in addition to the Majority Lenders or all Lenders directly affected thereby, as the case may be (or by Administrative Agent with the consent of the Majority Lenders or all the Lenders directly affected thereby, as the case may be), affect the rights or duties of Administrative Agent under this Agreement or any other Credit Document.

(c) Notwithstanding anything to the contrary contained in this Section 13.04, Administrative Agent and Borrower may amend or modify this Agreement and any other Credit Document to (1) cure any ambiguity, omission, defect or inconsistency therein, or (2) grant a new Lien for the benefit of the Creditors, extend an existing Lien over additional property for the benefit of the Creditors.

13.05 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

13.06 Assignments and Participations.

(a) No Obligor may assign its respective rights or obligations hereunder or under the Notes or any other Credit Document without the prior written consent of all of the Lenders.

(b) Subject to the Plan Support Agreement, each Lender may assign to any Eligible Person any of its Loans, its Notes, and its Commitments (but only with the consent (which shall not be unreasonably withheld, delayed or conditioned) of the Administrative Agent

and, as long as no Event of Default is continuing, the Borrower); provided, however, that (i) no such consent by Borrower or the Administrative Agent shall be required in the case of any assignment to another Lender or any Lender's Affiliate or an Approved Fund of any Lender (in which case, the assignee and assignor Lenders shall give a Notice of Assignment to Borrower and the Administrative Agent); (ii) no consent of Borrower need be obtained if any Event of Default shall have occurred and be continuing; (iii) each assignment, other than to a Lender or any Lender's Affiliate or an Approved Fund of any Lender, shall be in an aggregate amount at least equal to $1.0 million unless the assigning Lender's exposure in respect of all Commitments and/or Loans is reduced to $0 or unless Borrower and the Administrative Agent otherwise agree; (iv) in no event may any such assignment be made to any Obligor or any of its Affiliates without consent of all Lenders. Any assignment of a Loan shall be effective only upon appropriate entries with respect thereto being made in the Register (and each Note shall expressly so provide); and (v) such assignments by Defaulted Lenders shall be subject to Administrative Agent's prior written consent in all instances. Any assignment or transfer of a Loan shall be registered on the Register only upon surrender for registration of assignment or transfer of the Note evidencing such Loan (if a Note was issued in respect thereof), accompanied by a Notice of Assignment, and upon consent thereto by Borrower and the Administrative Agent to the extent required above (none of which consents to be unreasonably withheld), one or more new Notes (if requested by the new Lender) in the same aggregate principal amount shall be issued to the designated assignee and the old Notes shall be returned by the Administrative Agent to Borrower marked "cancelled." Upon execution and delivery by the assignee to Borrower and the Administrative Agent of a Notice of Assignment, and upon consent thereto by Borrower and the Administrative Agent to the extent required above (none of which consents to be unreasonably withheld), and in the case of a Loan, upon appropriate entries being made in the Register the assignee shall have, to the extent of such assignment (unless otherwise provided in such assignment with the consent of the Administrative Agent), the obligations, rights and benefits of a Lender hereunder holding the Commitment(s) and Loans (or portions thereof) assigned to it (in addition to the Commitment(s) and Loans, if any, theretofore held by such assignee) and the assigning Lender shall, to the extent of such assignment, be released from the Commitment(s) (or portion(s) thereof) so assigned. The parties to each assignment shall execute and deliver to the Administrative Agent an agreement substantially in the form of Exhibit N, together with a processing and recordation fee of $3,500 (except, in the case of an assignment to an Affiliate of the assigning Lender or an Approved Fund of the assigning Lender, the processing and recordation fee shall be $1,000). Upon any such assignment, certain rights and obligations of the assigning Lender shall survive as set forth in Section 13.07. At the time of each assignment pursuant to this Section 13.06(b) to any Eligible Person that is not already a Lender hereunder, the respective assignee Lender shall provide to Borrower and the Administrative Agent the appropriate Internal Revenue Service forms (and, if applicable, a Section 5.06 Certificate) described in Section 5.06(b). In addition, notwithstanding anything to the contrary set forth herein or in any of the other Credit Documents, any assignment to an Affiliate of the assigning Lender or to an Approved Fund of the assigning Lender shall be effective between such Lender and its Affiliate or Approved Fund immediately without compliance with the conditions for assignment under this Section 13.06(b), but shall not be effective with respect to Borrower, any Agent, or any Lender, and Borrower, each Agent, and each Lender shall be entitled to deal solely and directly with such assigning Lender under any such assignment, in each case, until the conditions for assignment under this Section 13.06(b) have been complied with.

(c) A Lender may sell or agree to sell to one or more other Eligible Persons a participation in all or any part of any Loans held by it, or in its Commitments, in which event each purchaser of a participation (a "Participant") shall be entitled to the rights and benefits of the provisions of Section 5 (provided, however, that no Participant shall be entitled to receive any greater amount pursuant to Section 5 than the transferor Lender would have been entitled to receive in respect of the participation effected by such transferor Lender had no participation occurred, except in the case of Section 5.06, where (a) the sale of the participation to such Participant is made with Borrower's prior written consent (which shall not be unreasonably withheld) or (b) where the entitlement to greater payments results from a change in law after such Participant became a Participant) with respect to its participation in such Loans and Commitments as if such Participant were a "Lender" for purposes of said Section, but, except as otherwise provided in Section 4.07(c), shall not have any other rights or benefits under this Agreement or any Note or any other Credit Document (the Participant's rights against such Lender in respect of such participation to be those set forth in the agreements executed by such Lender in favor of the Participant). Except as otherwise expressly provided above in this Section 13.06(c), all amounts payable by Borrower to any Lender under Section 5 in respect of Loans and its Commitments shall be no greater than the amount that would have applied if such Lender had not sold or agreed to sell any participation in such Loans and Commitments, and as if such Lender were funding each of such Loan and Commitments in the same way that it is funding the portion of such Loan and Commitments in which no participations have been sold. In no event shall a Lender that sells a participation agree with the Participant to take or refrain from taking any action hereunder or under any other Credit Document, except that such Lender may agree with the Participant that it will not, without the consent of the Participant, agree to any modification or amendment set forth in Section 13.04(a)(i), (ii), (iii), (v) or (vii).

(d) In addition to the assignments and participations permitted under the foregoing provisions of this Section 13.06, any Lender may assign and pledge all or any portion of its Loans and its Notes to any United States Federal Reserve Bank as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by such Federal Reserve Bank and, in the case of a Lender that is an investment fund, any such Lender may assign or pledge all or any portion of its Loans and its Notes to its trustee or other creditors in support of its obligations to its trustee or such other creditors, without notice to or consent of Borrower or the Administrative Agent. No such assignment shall release the assigning Lender from its obligations hereunder.

(e) A Lender may furnish any information concerning any Company in the possession of such Lender from time to time to assignees and participants (including prospective assignees and participants) subject, however, to and so long as the recipient agrees in writing to be bound by the provisions of Section 13.11. In addition, each Agent may furnish any information concerning any Obligor or any of its Affiliates in such Agent's possession to any Affiliate of such Agent, subject, however, to the provisions of Section 13.11. The Obligors shall assist any Lender in effectuating any assignment or participation pursuant to this Section 13.06 in whatever manner such Lender reasonably deems necessary, including participation in meetings with prospective transferees.

13.07 Survival. The obligations of the Obligors under Sections 5.01, 5.05, 5.06 and 13.03, the obligations of each Guarantor under Section 6.03, and the obligations of the Lenders

under Sections 5.06 and 11.02, shall survive the repayment of the Loans and the termination of the Commitments and, in the case of any Lender that may assign any interest in its Commitments or Loans hereunder, shall (to the extent relating to such time as it was a Lender) survive the making of such assignment, notwithstanding that such assigning Lender may cease to be a "Lender" hereunder. In addition, each representation and warranty made, or deemed to be made by a notice of any extension of credit, herein or pursuant hereto shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the Notes and the making of any extension of credit hereunder, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty.

13.08 Captions. The table of contents and captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

13.09 Counterparts; Interpretation; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Credit Documents and the Fee Letter constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 7.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement.

13.10 Governing Law; Submission to Jurisdiction; Waivers; Etc. To the extent not governed by the provisions of the Bankruptcy Code, each Credit Document shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to the principles of conflicts of laws thereof to the extent that the application of the laws of another jurisdiction would be required thereby (except in the case of the other Credit Documents, to the extent otherwise expressly stated therein). Each Obligor hereby irrevocably and unconditionally: (I) submits for itself and its Property in any Proceeding relating to any Credit Document to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the Supreme Court of the State of New York sitting in New York County, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof; (II) consents that any such Proceeding may be brought in any such court and waives trial by jury and any objection that it may now or hereafter have to the venue of any such Proceeding in any such court or that such Proceeding was brought in an inconvenient court and agrees not to plead or claim the same; (III) agrees that service of process in any such Proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to Borrower at its address set forth in Section 13.02 or at such other address of which Administrative Agent shall have been notified

pursuant thereto; and (IV) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction.

13.11 Confidentiality. Each Lender agrees to keep confidential information obtained by it pursuant hereto and the other Credit Documents confidential in accordance with such Lender's customary practices for treatment of its confidential information and agrees that it will only use such information in connection with the transactions contemplated by this Agreement and not disclose any of such information other than (a) to such Lender's Affiliates and its and its Affiliates' respective employees, representatives, directors, attorneys, auditors, agents, professional advisors, trustees or affiliates who are advised of the confidential nature of such information or to any actual or prospective direct or indirect contractual counterparty in swap or derivative agreements or such contractual counterparty's professional advisor (so long as such contractual counterparty or professional advisor to such contractual counterparty agrees to be bound by the provision of this Section 13.11), (b) to the extent such information presently is or hereafter becomes available to such Lender on a non-confidential basis from any source of such information that is in the public domain at the time of disclosure, (c) to the extent disclosure is required by law (including applicable securities laws), regulation, subpoena or judicial order or process (provided that notice of such requirement or order shall be promptly furnished to Borrower unless such notice is legally prohibited) or requested or required by bank, securities, insurance or investment company regulations or auditors or any administrative body or commission (including the Securities Valuation Office of the NAIC) to whose jurisdiction such Lender or its Affiliates may be subject, (d) to any rating agency to the extent required in connection with any rating to be assigned to such Lender, (e) to assignees or participants or prospective assignees or participants who agree to be bound by the provisions of this Section 13.11, (f) to the extent required in connection with any litigation between any Obligor and any Lender with respect to the Loans or this Agreement and the other Credit Documents or (g) with Borrower's prior written consent.

Notwithstanding the foregoing and any other express or implied agreement or understanding to the contrary, any party to this Agreement (and each Affiliate, director, officer, employee, agent or representative of the foregoing or such Affiliate) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transactions contemplated herein and all materials of any kind (including opinions or other tax analyses) that are provided to such party relating to such tax treatment or tax structure (it being understood that this authorization is retroactively effective to the commencement of the first discussions between or among any of the parties hereto regarding the transactions contemplated herein). The foregoing language is not intended to waive any confidentiality obligations otherwise applicable under this Agreement except with respect to the information and materials specifically referenced in the preceding sentence. This authorization does not extend to disclosure of any other information, including (a) the identity of participants or potential participants in the transactions contemplated herein, (b) the existence or status of any negotiations, or (c) any financial, business, legal or personal information of or regarding a party or its Affiliates, or of or regarding any participants or potential participants in the transactions contemplated herein (or any of their respective Affiliates), in each case to the extent such other information is not related to the tax treatment or tax structure of the transactions contemplated herein.

13.12 Independence of Representations, Warranties and Covenants. The representations, warranties and covenants contained herein shall be independent of each other and no exception to any representation, warranty or covenant shall be deemed to be an exception to any other representation, warranty or covenant contained herein unless expressly provided, nor shall any such exception be deemed to permit any action or omission that would be in contravention of applicable law.

13.13 Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement.

13.14 Acknowledgments. The Obligors hereby acknowledge that: (a) this Agreement and the other Credit Documents are the result of negotiation and each of the Obligors has been advised by counsel in connection with the negotiation, execution and delivery of this Agreement and the other Credit Documents; (b) no Creditor has any fiduciary or similar relationship to any Obligor and the relationship between the Creditors on the one hand, and the Obligors, on the other hand, is solely that of debtor and creditor; and (c) no joint venture exists among the Creditors or among the Obligors and the Creditors.

13.15 Limitation on Interest. The Obligors, the Agents and the Lenders intend to contract in strict compliance with applicable usury laws from time to time in effect. In furtherance thereof such Persons stipulate and agree that none of the terms and provisions contained in the Credit Documents shall ever be construed to create a contract to pay, for the use, forbearance or detention of money, interest in excess of the maximum amount of interest permitted to be charged by applicable law from time to time in effect. No Obligor, endorser or other Person hereafter becoming liable for payment of any Obligation shall ever be liable for unearned interest thereon or shall ever be required to pay interest thereon in excess of the maximum amount that may be lawfully contracted for, charged or received under applicable law from time to time in effect, and the provisions of this section shall control over all other provisions of the Credit Documents that may be in conflict or apparent conflict herewith. The Agents and the Lenders expressly disavow any intention to contract for, charge or collect excessive unearned interest or finance charges in the event the maturity of any Obligation is accelerated. If (a) the maturity of any Obligation is accelerated for any reason, (b) any Obligation is prepaid and as a result any amounts held to constitute interest are determined to be in excess of the legal maximum, or (c) an Agent or a Lender shall otherwise collect moneys that are determined to constitute interest that would otherwise increase the interest on any or all of the Obligations to an amount in excess of that permitted to be charged by applicable law then in effect, then all sums determined to constitute interest in excess of such legal limit shall, without penalty, be promptly applied to reduce the then outstanding principal of the related Obligations or, at the option of such Agent or such Lender, as applicable, promptly returned to Borrower upon such determination. In determining whether or not the interest paid or payable, under any specific circumstance, exceeds the maximum amount permitted under applicable law, the Agents and the Lenders and Borrower shall to the greatest extent permitted under applicable law, (i) characterize any non-principal payment as an expense, fee or premium rather than as interest, (ii) exclude voluntary prepayments and the effects thereof, and (iii) amortize, prorate, allocate and

spread the total amount of interest throughout the entire contemplated term of instruments evidencing the Obligations in accordance with the amounts outstanding from time to time thereunder and the maximum legal rate of interest from time to time in effect under applicable law in order to lawfully contract for, charge, or receive the maximum amount of interest permitted under applicable law. In the event applicable law provides for an interest ceiling under Chapter 303 of the Texas Finance Code, as amended, for that day, the ceiling shall be the "weekly ceiling" as defined in Chapter 303 of the Texas Finance Code, as amended; provided that if any applicable law permits greater interest, the law permitting the greatest interest shall apply. As used in this section the term "applicable law" means the laws of the State of Texas or the laws of the United States, whichever allow the greater interest, as such laws now exist or may be changed or amended or come into effect in the future.

13.16 USA PATRIOT Act Notice. Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies Borrower that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies Borrower, which information includes the name, address and tax identification number of Borrower and other information regarding Borrower that will allow such Lender or the Administrative Agent, as applicable, to identify Borrower in accordance with the Act. This notice is given in accordance with the requirements of the Act and is effective as to the Lenders and the Administrative Agent.

13.17 Publication; Advertisement.

(a) No Obligor will directly or indirectly publish, disclose or otherwise use in any public disclosure, advertising material, promotional material, press release or interview, any reference to the name, logo or any trademark of any Agent or any of its respective Affiliates or any reference to this Agreement or the financing evidenced hereby, in any case except (i) as required by law, subpoena or judicial or similar order, in which case the applicable Obligor shall give such Agent prior written notice of such publication or other disclosure or (ii) with such Agent's prior written consent.

(b) Each Lender and each Obligor hereby authorizes GE Business Finance to publish the name of any Obligor (but not any Lender), the existence of the financing arrangements referenced under this Agreement, the primary purpose and/or structure of those arrangements, the amount of credit extended under each facility, the title and role of each party to this Agreement, and the total amount of the financing evidenced hereby in any "tombstone," comparable advertisement or press release which GE Business Finance elects to submit for publication. In addition, each Lender and each Obligor agrees that GE Business Finance may provide lending industry trade organizations with information necessary and customary for inclusion in league table measurements after the Closing Date. With respect to any of the foregoing, GE Business Finance shall provide Borrower and the Administrative Agent with an opportunity to review and confer with GE Business Finance regarding the contents of any such tombstone, advertisement or information, as applicable, prior to its submission for publication and, following such review period, GE Business Finance may, from time to time, publish such information in any media form desired by GE Business Finance, until such time that Borrower shall have requested GE Business Finance cease any such further publication.

13.18 Parties Including Trustees; Bankruptcy Court Proceedings. This Agreement, the other Credit Documents, and all Liens and other rights and privileges created hereby or pursuant hereto or to any other Credit Document shall be binding upon each Obligor, the estate of each Obligor, and any trustee, other estate representative or any successor in interest of any Obligor in any Chapter 11 Case, the CCAA Proceeding, any subsequent case commenced under Chapter 7 of the Bankruptcy Code or any subsequent proceeding under any insolvency law. This Agreement and the other Credit Documents shall be binding upon, and inure to the benefit of, the successors of the Agents and the Lenders and their respective assigns, transferees and endorsees. The Liens created by this Agreement and the other Credit Documents shall be and remain valid and perfected in the event of the substantive consolidation or conversion of any Chapter 11 Case, the CCAA Proceedings, any other bankruptcy case of any Obligor to a case under Chapter 7 of the Bankruptcy Code or any subsequent insolvency proceeding or in the event of dismissal of any Chapter 11 Case or the CCAA Proceedings or the release of any DIP Collateral from the jurisdiction of the Bankruptcy Court or the CCAA Court for any reason, without the necessity that any Agent file financing statements or otherwise perfect its Liens under applicable law. No Obligor may assign, transfer, hypothecate or otherwise convey its rights, benefits, obligations or duties hereunder or under any of the other Credit Documents without the prior express written consent of the Agents and the Lenders. Any such purported assignment, transfer, hypothecation or other conveyance by any Loan Party without the prior express written consent of the Agents and the Lenders shall be void. The terms and provisions of this Agreement are for the purpose of defining the relative rights and obligations of each Obligor, the Agents, and Lenders with respect to the transactions contemplated hereby and no Person shall be a third party beneficiary of any of the terms and provisions of this Agreement or any of the other Credit Documents.

13.19 Pre-Petition Credit Documents. The Borrower, on behalf of itself and the other Obligors, hereby agrees that (i) this Agreement is separate and distinct from the Pre-Petition Credit Agreement and (ii) the Pre-Petition Credit Agreement and other Pre-Petition Credit Documents are in full force and effect. The Borrower further agrees, on behalf of itself and the other Obligors, that by entering into this Agreement, no Lender or Pre-Petition Lender waives any Default or Event of Default under the Pre-Petition Credit Documents or any of their liens, claims, priorities, rights and remedies thereunder.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

ATRIUM COMPANIES, INC.

By: _____
Name:
Title:

Address for Notices:

Atrium Companies, Inc.
5th Floor
3890 West Northwest Highway
Dallas, TX 75220

Attention: Chief Financial Officer

Telecopier No.: (214) 905-9185
Telephone No.: (214) 630-5757
E-mail Address: wayne.terry@atrium.com

and

Attention: General Counsel

Telecopier No.: (214) 905-431
Telephone No.: (214) 630-5757
E-mail Address: phil.ragona@atrium.com

with a copy to:

Kirkland & Ellis LLP
Citigroup Center
153 East 53rd Street
New York, NY 10022
Attention: Leonard Klingbaum
Telecopier No.: (212) 446-4900
Telephone No.: (212) 446-4800
E-mail Address: leonard.klingbaum@kirkland.com

GUARANTORS:

ATRIUM CORPORATION
ACIH, INC.
ATRIUM DOOR AND WINDOW COMPANY – WEST COAST
ATRIUM DOOR AND WINDOW COMPANY OF THE NORTHEAST
ATRIUM DOOR AND WINDOW COMPANY OF THE NORTHWEST
ATRIUM DOOR AND WINDOW COMPANY OF ARIZONA
ATRIUM DOOR AND WINDOW COMPANY OF THE ROCKIES
R.G. DARBY COMPANY, INC.
TOTAL TRIM, INC.
ATRIUM FLORIDA, INC.
ATRIUM VINYL, INC.
THERMAL INDUSTRIES, INC.
ATRIUM EXTRUSION SYSTEMS, INC.
ALUMINUM SCREEN MANUFACTURERS, INC.
ATRIUM ENTERPRISES INC.
SUPERIOR ENGINEERED PRODUCTS CORPORATION
CHAMPION WINDOW, INC.
NORTH STAR MANUFACTURING (LONDON) LTD.
ATRIUM WINDOWS AND DOORS OF ONTARIO, INC.

By: _____
Name:
Title:

GE BUSINESS FINANCIAL SERVICES INC.,
as Administrative Agent, Collateral Agent
and a Lender

By: _____
Name:
Title:

By: _____
Name:
Title:

Address for Notices:

GE Business Finance
500 W. Monroe St., 17th Floor
Chicago, Illinois 60661
Telephone: (312) 441-6845
Facsimile: (312) 463-3848
Attention: Account Manager for Atrium transaction

with a copy to:

GE Business Finance
500 W. Monroe St., 16th Floor
Chicago, Illinois 60661
Telephone: (312) 441-6901
Facsimile: (312) 499-3126
Attention: Senior Counsel – Global Sponsor Finance, for Atrium transaction

_____,
as a Lender

By: _____
Name:
Title:

Address for Notices:

_____
_____
_____

Attention: _____

Telecopier No.: (___) ___-____
Telephone No.: (___) ___-____
E-mail Address: _____

SCHEDULE 1.01(d)

SUBSIDIARY GUARANTORS

Exhibit 2

Initial Approved Budget

As of January 4, 2010

Week #	1	2	3	4	5	6	7	8	9	10	11	12	13
Week Ending	15-Jan-10	22-Jan-10	29-Jan-10	5-Feb-10	12-Feb-10	19-Feb-10	26-Feb-10	5-Mar-10	12-Mar-10	19-Mar-10	26-Mar-10	2-Apr-10	9-Apr-10
Operating Receipts	$ 7,826	$ 7,654	$ 7,517	$ 7,448	$ 7,448	$ 7,449	$ 7,449	$ 7,867	$ 7,966	$ 8,044	$ 7,752	$ 7,883	$ 8,209
Other Receipts	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Receipts	$ 7,826	$ 7,654	$ 7,517	$ 7,448	$ 7,448	$ 7,449	$ 7,449	$ 7,867	$ 7,966	$ 8,044	$ 7,752	$ 7,883	$ 8,209
Net Payroll	$ (1,134)	$ (4,027)	$ (1,121)	$ (2,468)	$ (1,066.7)	$ (2,482)	$ (902)	$ (2,493)	$ (1,002)	$ (2,574)	$ (1,002)	$ (2,552)	$ (1,029)
Payroll Taxes	$ (417)	$ (1,147)	$ (413)	$ (1,004)	$ (365)	$ (995)	$ (303)	$ (914)	$ (313)	$ (954)	$ (314)	$ (927)	$ (323)
Other Payroll	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Leases	$ (41)	$ (28)	$ (142)	$ (1,293)	$ (41)	$ (29)	$ (136)	$ (1,323)	$ (41)	$ (28)	$ (140)	$ (1,253)	$ -
Insurance	$ (37)	$ (37)	$ (37)	$ (1,168)	$ (37)	$ (37)	$ (151)	$ (1,322)	$ (37)	$ (37)	$ (734)	$ (46)	$ (585)
Other Operating Disbursements (purchases)	$ (2,693)	$ (1,738)	$ (2,385)	$ (10,083)	$ (4,214)	$ (5,408)	$ (4,134)	$ (5,129)	$ (5,415)	$ (6,945)	$ (6,919)	$ (6,216)	$ (5,568)
Sales, Use and Other Taxes	$ (585)	$ (585)	$ (585)	$ (220)	$ (220)	$ (220)	$ (220)	$ (252)	$ (252)	$ (252)	$ (252)	$ (244)	$ (231)
Total Disbursements	$ (4,907)	$ (7,561)	$ (4,682)	$ (16,238)	$ (5,944)	$ (9,171)	$ (5,846)	$ (11,434)	$ (7,060)	$ (10,790)	$ (9,361)	$ (11,237)	$ (7,736)
Total Cash Flow from Operations	$ 2,919	$ 93	$ 2,835	$ (8,790)	$ 1,505	$ (1,722)	$ 1,603	$ (3,566)	$ 906	$ (2,746)	$ (1,609)	$ (3,355)	$ 473
CAPEX	$ (625)	$ (625)	$ (625)	$ (500)	$ (500)	$ (500)	$ (500)	$ (326)	$ (326)	$ (326)	$ (326)	$ (332)	$ (341)
Professional Fees	$ (802)	$ (1,138)	$ -	$ -	$ -	$ -	$ -	$ (200)	$ (2,175)	$ (300)	$ (275)	$ (200)	$ (2,175)
U.S. Trustee													
Court Costs													
Total Other Disbursements	$ (1,427)	$ (1,763)	$ (625)	$ (500)	$ (500)	$ (500)	$ (500)	$ (526)	$ (2,501)	$ (626)	$ (601)	$ (532)	$ (2,516)
Total Cash Flow from Operations	$ 1,493	$ (1,670)	$ 2,210	$ (9,290)	$ 1,005	$ (2,222)	$ 1,103	$ (4,093)	$ (1,595)	$ (3,372)	$ (2,210)	$ (3,887)	$ (2,043)
DIP Borrowings (Repayments)	$ -	$ -	$ 15,000	$ -	$ -	$ -	$ -	$ 3,000	$ 3,000	$ 3,000	$ -	$ 3,000	$ -
Change in AR Facility	$ (2,137)	$ (1,636)	$ (1,369)	$ (967)	$ 1	$ 1	$ 1	$ 207	$ 209	$ 166	$ 285	$ 546	$ 778
Change in Letters of Credit	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ (2,500)	$ -	$ -	$ -
Interest Payments	$ -	$ (8,208)	$ -	$ (82)	$ -	$ -	$ -	$ (218)	$ -	$ -	$ -	$ (762)	$ -
Other *	$ -	$ (1,800)	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Financing Disbursements	$ (2,137)	$ (11,644)	$ 13,631	$ (1,049)	$ 1	$ 1	$ 1	$ 2,989	$ 3,209	$ 666	$ 285	$ 2,785	$ 778
DIP Availibility	$ -	$ 40,000	$ 25,000	$ 25,000	$ 25,000	$ 25,000	$ 25,000	$ 22,000	$ 19,000	$ 16,000	$ 16,000	$ 13,000	$ 13,000
Beginning Cash Balance**	$ 21,984	$ 21,340	$ 8,026	$ 23,867	$ 13,528	$ 14,534	$ 12,313	$ 13,417	$ 12,313	$ 13,928	$ 11,222	$ 9,297	$ 8,195
Cash Generated/(Used)	$ (644)	$ (13,314)	$ 15,842	$ (10,339)	$ 1,006	$ (2,221)	$ 1,104	$ (1,103)	$ 1,615	$ (2,706)	$ (1,925)	$ (1,102)	$ (1,265)
Ending Cash Balance ***	$ 21,340	$ 8,026	$ 23,867	$ 13,528	$ 14,534	$ 12,313	$ 13,417	$ 12,313	$ 13,928	$ 11,222	$ 9,297	$ 8,195	$ 6,930
Ending Liquidity	$ 21,340	$ 48,026	$ 48,867	$ 38,528	$ 39,534	$ 37,313	$ 38,417	$ 34,313	$ 32,928	$ 27,222	$ 25,297	$ 21,195	$ 19,930

Assumed: Swap Payments of $2.2MM (due 10/19), $2.4 (due 1/18) are deferred until Exit

* Other - week 2 assumes payment of $1.2MM DIP Facility Fee, $0.1 Arrangement Fees, and $0.5MM AR Securitization Fee.

*** These projections are forward looking and subject to change on a weekly basis.

Exhibit B

Dermont Declaration

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
ATRIUM CORPORATION, *et al.*,[1]	)	Case No. 10-_____ ( )
Debtors.	)	Joint Administration Requested

DECLARATION OF JARED J. DERMONT IN SUPPORT OF THE DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING DEBTORS (A) TO OBTAIN POSTPETITION SECURED FINANCING PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) AND 364(e) AND (B) TO UTILIZE CASH COLLATERAL PURSUANT TO 11 U.S.C. § 363; (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES PURSUANT TO 11 U.S.C. §§ 361, 362, AND 363; AND (III) SCHEDULING A FINAL HEARING PURSUANT TO BANKRUPTCY RULES 4001(B) AND (C)

Pursuant to 28 U.S.C. § 1746, I, Jared J. Dermont, hereby declare as follows under penalty of perjury:

Background

1. I am a Partner and Managing Director in the Restructuring and Recapitalization Group at Moelis & Company LLC ("***Moelis***"), an investment banking firm and the proposed financial advisor and investment banker of the above-captioned debtors and debtors in possession (collectively, the "***Debtors***").

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal taxpayer-identification number, are: Atrium Corporation (4598); ACIH, Inc. (7822); Aluminum Screen Manufacturers, Inc. (6750); Atrium Companies, Inc. (2488); Atrium Door and Window Company - West Coast (2008); Atrium Door and Window Company of Arizona (2044); Atrium Door and Window Company of the Northeast (5384); Atrium Door and Window Company of the Northwest (3049); Atrium Door and Window Company of the Rockies (2007); Atrium Enterprises Inc. (6531); Atrium Extrusion Systems, Inc. (5765); Atrium Florida, Inc. (4562); Atrium Vinyl, Inc. (0120); Atrium Windows and Doors of Ontario, Inc. (0609); Champion Window, Inc. (1143); North Star Manufacturing (London) Ltd. (6148); R.G. Darby Company, Inc. (1046); Superior Engineered Products Corporation (4609); Thermal Industries, Inc. (3452); and Total Trim, Inc. (8042). The Debtors' main corporate address is 3890 W. Northwest Highway, Suite 500, Dallas, Texas 75220.

2. I have over 13 years of mergers and acquisitions and restructuring experience, most recently as a managing director at Rothschild, where I originated and executed numerous in-court and out-of-court restructuring transactions for companies, creditors and regulators across a wide spectrum of industries. Before Rothschild, I was a Vice President in the healthcare mergers and acquisitions group at Banc of America Securities. I began my career at Peter J. Solomon Company where I focused on mergers and acquisitions and restructuring.

3. On August 10, 2009, the Debtors engaged Moelis to act as their financial advisor and investment banker in connection with the Debtors' restructuring initiatives. Since that time, Moelis has worked closely with the Debtors' management and advisors and has become well-acquainted with the Debtors' capital structure, key creditor constituencies and business operations.

4. I submit this Declaration in support of the *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing Debtors (A) to Obtain Postpetition Secured Financing Pursuant to 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) and 364(e) and (B) to Utilize Cash Collateral Pursuant to 11 U.S.C. § 363; (II) Granting Adequate Protection to Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363 and 364; and (III) Scheduling a Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c)* (the "***DIP Motion***"), dated January 20, 2010 (the "***Petition Date***").

5. The statements in this declaration are, except where specifically noted, based on either my personal knowledge or opinion, information that I received from the Debtors' employees or advisors and/or employees of Moelis working directly with me or under my supervision, direction or control, or from the Debtors' records maintained in the ordinary course

of business. If I were called upon to testify, I could and would testify competently to the facts set forth herein. I am authorized to submit this declaration on behalf of the Debtors.

The Debtors' Liquidity Needs

6. Over the past few years, the Debtors have faced a number of financial challenges that placed a strain on their liquidity situation, all of which ultimately led to the filing of these chapter 11 cases. These challenges include, among others, the Debtors' substantial debt obligations and the nearly unprecedented deterioration in the U.S. homebuilding and home-improvement sector, which began in 2007, which together have directly affected the Debtors' ability to satisfy their debt obligations as they come due.

7. Following Moelis' retention by the Debtors and gaining an initial understanding of the Debtors' capital structure and business operations, Moelis – together with the Debtors' management team – analyzed the Debtors' cash needs to determine if there was a need for additional liquidity to support the Debtors' balance sheet restructuring initiatives. More specifically, and considering the ongoing dialogue the Debtors had been engaged in with their senior secured lenders for many months, Moelis considered the incremental liquidity that would be necessary to maintain operations in connection with the filing of these chapter 11 cases and implementation of a swift and permanent de-leveraging.

8. In undertaking this analysis, Moelis considered the Debtors' near-term financial projections, including, without limitation, demand for the Debtors' products and the cost to manufacture such products. The Debtors' management also conferred with key operational divisions to understand essential business metrics in both the near and long-term to help establish the financial projections that were necessary to adequately analyze future liquidity needs.

9. As part of this process, Moelis worked with the Debtors to develop a thirteen-week cash flow forecast, which takes into account anticipated cash receipts and disbursements

during the projected period. The Debtors' thirteen-week cash flow forecast considers a number of factors, including the impact of the chapter 11 filing, material cash disbursements, required vendor payments, cash flows from the Debtors' ongoing operations and the cost of necessary goods and materials.

10. Following Moelis' review and analysis of the Debtors' financial situation, and in connection with ongoing discussions concerning the Debtors' overall de-leveraging efforts, the Debtors entered into extensive, arm's-length negotiations concerning the Debtors' potential incremental liquidity needs with GE Business Financial Services, Inc., in its capacity as agent (the "***Prepetition Agent***"), under Atrium Companies, Inc.'s senior secured credit agreement (the "***Prepetition Credit Agreement***") as well as an ad hoc group of senior secured lenders (together, with the Prepetition Secured Agent, the "***Prepetition Secured Lenders***") concerning the Debtors' potential incremental liquidity needs. The Prepetition Secured Lenders were an obvious source of incremental financing as the incumbent lenders who could provide financing, thereby alleviating a potential "priming fight."

11. Additionally, the parties discussed and contemplated the use of cash collateral, with or without any additional financing, to fund operations during these chapter 11 cases. However, based on the Debtors' financial projections, as well as Moelis' analysis and discussions with the Prepetition Secured Lenders, it was determined that cash collateral alone was insufficient to fund operations and the Debtors' go-forward business plan. Thus, to provide the Debtors with appropriate and necessary financing, the negotiation of adequate liquidity in the form of debtor in possession financing was critical to ensure that operations would continue uninterrupted during the Debtors' restructuring.

The Debtors' Efforts to Obtain Postpetition Financing

12. Beginning in early December, in addition to ongoing discussions with the Prepetition Secured Lenders regarding potential debtor in possession financing, Moelis also approached a broad set of potential lenders, including "traditional lenders" (*e.g.*, money-center banks) and "non-traditional lenders" (*e.g.*, hedge funds). Because of the potential complexity of obtaining postpetition financing that would "prime" the Prepetition Secured Lenders, and the short timeframe in which the Debtors were likely to need access to such financing, Moelis chose to target a group of potential lenders that, in its professional judgment, would be most likely to provide postpetition financing under the specific circumstances and dynamics of these chapter 11 cases.

13. Over the last several weeks, of the eight parties initially contacted, six potential lenders signed confidentiality agreements and conducted initial diligence. Of those six parties, two – one bank and one hedge fund – indicated early on that they did not intend to submit a letter of intent or a term sheet with respect to postpetition financing.

14. The Debtors ultimately received preliminary indications regarding pricing and terms for postpetition financing from three financing sources, as well as a proposal submitted by the Prepetition Agent and certain of the Prepetition Secured Lenders (the "***Proposed DIP Financing***" of the "***Proposed DIP Facility***").

15. Moelis, together with the Debtors' management, analyzed and considered each of the financing proposals. For various reasons, several of which are detailed below, the Debtors determined the Proposed DIP Financing was far superior to any of the other proposals. In fact, a review of the three other term sheets, when compared to the Proposed DIP Financing, revealed

that the Proposed DIP Financing was the only viable financing alternative under the circumstances.

16. First, the Proposed DIP Financing contemplates continued access to the Debtors' prepetition accounts receivable securitization facility (the "***A/R Facility***") – which provides a commitment of up to $60 million. Although the advancing agent and administrative agent under the A/R Facility – General Electric Capital Corporation – is a separate and distinct entity from the Prepetition Agent and the agent under the Proposed DIP Financing, the Debtors understood from early discussions with those parties that the Debtors would not have postpetition access to the A/R Facility if the Debtors pursued postpetition financing with a third party source.

17. Notably, maintaining the A/R Facility minimizes the sizing requirements of the Debtors' postpetition financing needs, thereby minimizing administrative expenses in these chapter 11 cases. Moreover, absent an amendment to the terms of the A/R Facility to provide for its continuation postpetition, the securitization would terminate (by its express terms) and the Debtors would be left without an important source of liquidity, thereby necessitating a significant increase in liquidity needs and the size of any replacement financing facility. As a result, a competing postpetition financing facility would, absent the Debtors' continued access to the A/R Facility, need to be sized at approximately $100 million.

18. Second, because the Proposed DIP Financing is limited in size, the upfront costs, including the commitment and arrangement fees, are comparatively less than the fees associated with alternative sources of financing, including the financing proposals received by the Debtors as part of this process.

19. Third, the Proposed DIP Facility negates a potential "priming" fight, considering that the Debtors have reached a consensus with respect to adequate protection to be provided to

the Prepetition Secured Lenders, whose prepetition liens are being primed by the Proposed DIP Financing. An agreement on adequate protection was highly unlikely under the alternative forms of postpetition financing. In the first instance, none of the third party sources of financing were willing to consider providing postpetition financing without obtaining first-priority priming liens on substantially all of the Debtors' assets. Moreover, all parties made clear to the Debtors and Moelis that they would not seek to provide postpetition financing on a priming basis without the consent of the Prepetition Secured Lenders. At the same time, the Prepetition Secureds indicated to the Debtors that they were not inclined to permit their prepetition liens to be primed on a consensual basis. Any uncertainty with respect to the Debtors' access to postpetition financing, however, would be detrimental to the Debtors' business operations and could impact the Debtors' expeditious exit from chapter 11. As a result, moving forward with a "priming" fight was not in the best interests of the Debtors' estates.

The Proposed DIP Financing

20. Based on the foregoing considerations, the Debtors engaged over the course of the last several weeks in extensive negotiations with the Prepetition Agent and certain of the Prepetition Secured Lenders concerning the terms of the Proposed DIP Financing. The negotiations led up to finalizing the Proposed DIP Facility-related documents and the filing of these chapter 11 cases were hard fought. Ultimately, the Debtors were able to negotiate, and the boards of directors' of each of the Debtors approved, the Proposed DIP Financing that balances the Debtors' liquidity needs with the circumstances of these chapter 11 cases.

21. I participated in the negotiations of the terms of the Proposed DIP Facility. During those negotiations, the Debtors, with the assistance of their advisors, went to great lengths under difficult circumstances to achieve the best deal possible for themselves and their

constituents. The proposed DIP lenders made several key concessions as reflected in the final Proposed DIP Facility. As a result, Moelis believes the Proposed DIP Financing is reasonable and the best available under the circumstances.

22. Specifically, the key terms of the Proposed DIP Financing include the following:

a. **Amount**. $40 million delayed draw term loan, $15 million of which will be made available to the Debtors upon entry of an interim order. Borrowings under the DIP Facility that are repaid cannot be reborrowed.

b. **Interest**. A floating rate equal to the LIBOR Rate plus 950 basis points per annum (payable monthly in arrears)

c. **Term**. Six month term, with the possibility of a three month extension in the sole discretion of the majority lenders' to the extent that the majority lenders determine the Company is diligently pursuing confirmation of the plan in good faith.

d. **Covenants**. (i) A "budget" variance covenant set at not greater than twenty percent in the aggregate for disbursements during the prior four week period tested on a weekly basis; (ii) maintenance of minimum liquidity of $5,000,000; (iii) maintenance of minimum EBITDA (tested monthly on a trailing twelve month basis) of $45,000,000; (iv) maximum capital expenditures (tested monthly on a trailing twelve month basis) at levels set at a twenty percent cushion to the combined actual trailing months included in the trailing twelve months and that portion of such twelve month period reflected in the Company's operating plan.

e. **Priority**. The granting of "priming" liens on substantially all of the Debtors' assets and junior liens on assets subject to certain existing prepetition liens.

f. **Fees**. A $50,000 arranging fee, a non-refundable agency fee of $50,000 per quarter, an upfront facility fee totaling $1.2 million, an unused line fee equal to 1.0%.

g. **Events of Default**. In addition to standard and customary events of defaults, all plan-related milestones in the Lock-Up Agreement are also included as events of default in the proposed DIP Facility.

Conclusion

23. I believe the Proposed DIP Financing represents the best and most favorable financing option for the Debtors under the circumstances. The DIP Facility will provide the Debtors with the liquidity needed during these chapter 11 cases on terms that are appropriate

under the circumstances. Moreover, the Prepetition Secured Agent's agreement to continue to provide the A/R Facility on a postpetition basis will reduce the size of the Debtors' postpetition financing needs, thereby minimizing loan obligations that were likely to be given super-administrative priority in the chapter 11 cases. Accordingly, I believe that the proposed DIP Facility is in the best interests of the Debtors' estates and all stakeholders and should be approved on the terms and conditions described in the DIP Motion.

[*Remainder of this page intentionally left blank.*]

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: 1/20/10.

By: _____

Jared J. Dermont
Managing Director
Moelis & Company LLC