

EXHIBIT A

Term Sheet for Global Agreement

SETTLEMENT AGREEMENT AND PLAN SUPPORT AGREEMENT

This Settlement Agreement (the “**Agreement**”) is entered into as of May 29, 2014 by and between ISR Group, Incorporated (“**ISR**” or “**Debtor**”), TCFI IG, LLC (“**TCFI**”) and the Official Committee of Unsecured Creditors of ISR Group, Incorporated (the “**Committee**”). Debtor, TCFI and Committee are sometimes individually referred to herein as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, ISR is the debtor-in-possession in Case No. 14-11077-JLC (the “**Bankruptcy Case**”), a Chapter 11 bankruptcy case pending in the United States Bankruptcy Court for the Western District of Tennessee, Eastern Division; and

WHEREAS, ISR filed (a) Debtor’s Motion For Interim and Final Orders, Pursuant to Sections 105, 361, 362, 364 and 507 of the Bankruptcy Code, (I) Approving Postpetition Financing, (2) Authorizing Use of Cash Collateral, (3) Granting Liens and Providing Superpriority Administrative Expense Status, (4) Granting Adequate Protection, (5) Modifying Automatic Stay, and (6) Scheduling a Final Hearing (the “**DIP Financing Motion**”) and (b) Debtor’s Motion for Entry of Orders Approving Bidding Procedures, Approving the Sale of Substantially All of the Debtor’s Assets Free and Clear of Claims, Liens and Encumbrances, and Granting Related Relief (the “**Sale Motion**”); and

WHEREAS, on May 27, 2014, the Committee filed an objection to the DIP Financing Motion and the Sale Motion and requested a continuance of both motions (the “**Objection**”); and

WHEREAS, after substantial negotiation, the Parties resolved the Objection and agreed upon the general terms of a joint liquidating plan for ISR (the “**Plan**”).

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, including the promises and mutual agreements contained in this Agreement, subject to the Bankruptcy Court’s approval of this Agreement pursuant to Federal Rule of Bankruptcy Procedure 9019, the Parties hereby agree as follows:

1. Bidding Procedure and Sale

- A. In lieu of the bidding procedures proposed in the Sale Motion, the Committee will consent to a private sale (the “**Sale**”) of all of ISR’s assets (excluding Chapter 5 causes of action and other causes of action other than Retained Causes of Action as defined in the Debtor in Possession Financing Amendment and First Amendment to Loan Agreement) (the “**ISR Assets**”) to TCFI or such entity as TCFI shall form for the purpose of purchasing the ISR Assets (“**Buyer**”) in complete and full satisfaction of all obligations owing by Debtor to TCFI or any of its affiliates (subject only to TCFI’s residual interest in the Liquidating Trust as contemplated by Paragraph 4.E.). TCFI and its affiliates will be released by the Debtor and its estate of all claims effective as of the Closing (defined below). ISR will amend the Sale Motion pursuant to the terms herein and take appropriate steps to notice a hearing on the amended Sale Motion to occur before June

14, 2014. The Committee will support entry of an order granting the Sale Motion on the terms contemplated by this Agreement and will not oppose the relief sought in the Sale Motion. Closing of the Sale shall occur on or before June 14, 2014 or as soon thereafter as is possible based upon the Court's approval of the Sale Motion ("**Closing**").

- B. At closing of the Sale, TCFI will escrow \$100,000 for the benefit of the Debtor's unsecured creditors to be distributed pursuant to the Plan.

2. DIP Financing

The Committee will consent to the terms of the proposed DIP financing as modified in the DIP Financing Agreement, attached hereto as **Exhibit A**, the DIP Financing Order, attached hereto as **Exhibit B**.

3. Terms of the Plan

- A. The Plan will include the relevant terms contained within this Agreement and will be in form and substance reasonably acceptable to the Committee. Subject to the foregoing, the Committee will support and not object to the Plan. The Committee will not support any other plan for the Debtor unless it contains all material terms of this Agreement.
- B. TCFI agrees to pay all of the costs and expenses listed below, regardless of the occurrence of an Event of Default under the terms of the DIP Financing Agreement or DIP Financing Order.
 - 1. Administrative expense claims and all other items included in the Revised DIP Budget, including \$75,000 for payment of Committee professional fees and expenses, and budgeted amounts for professional fees and expenses of the Debtor, and budgeted amounts for fees of the United States Trustee;
 - 2. Employee priority wage claims (not to exceed \$375,000.00);
 - 3. Property tax claims (not to exceed \$52,000); and
 - 4. The cure obligations for executory contracts assumed by Buyer pursuant to the asset purchase agreement for the Sale (not to exceed \$100,000); provided, however, in no event will Debtor or its estate be required by Buyer to assume any executory contracts in connection with the Sale which would result in cure obligations in excess of \$100,000 unless Buyer has expressly agreed to pay such additional amounts). All such payments shall be paid directly to contract counterparties.
- C. The amounts described in this Section 3 will be estimated in an amount to be agreed upon by the Parties and shall be deposited with the Debtor at Closing to be paid by the Debtor at the appropriate time, or paid directly to the appropriate third party.

- D. The Debtor and Committee can modify the allocations contained in Paragraph 3.B., provided that any such modification does not diminish the confirmability of the Plan.
- E. Any secured claims against the Debtor or its property that are senior to the secured claims of TCFI (the “**Miscellaneous Secured Claims**”) will either be (i) paid or assumed by TCFI, or (ii) ISR or TCFI will return the collateral securing such claim.
- F. The treatment under the Plan of general unsecured claims against the Debtor shall be as follows:

TCFI or the Buyer will make payments to the Liquidation Trust (defined below) calculated based on its EBITDA as identified in paragraph 3.F.4 for a twelve-month period beginning on October 1, 2014 and ending on September 30, 2015 (the “**EBITDA Sharing Period**”) pursuant to the following terms:

1. For purposes of EBITDA calculations during the EBITDA Sharing Period, “**EBITDA**” means, the sum of net income for such period, plus (i) all interest expense for such period, plus (ii) all federal, state and local taxes actually paid in such period, plus (iii) depreciation expenses for such period, plus (iv) amortization expenses for such period, each calculated in accordance with generally accepted accounting principles consistently applied (“**GAAP**”). For the avoidance of doubt, the following income and expense categories will not be included in the calculation of EBITDA during the EBITDA Sharing Period: (i) one time and non-reoccurring in the ordinary course of business charges and income; (ii) management fees charged by TCFI; (iii) restructuring fees associated with this restructuring; (iv) any payment required by this Settlement Agreement; and (v) extraordinary maintenance expenses related to the physical assets of the business.
2. A report of estimated, unaudited EBITDA payments will be provided to the Liquidation Trustee (defined below) and payment, if any, will be made on or before the end of the month following each quarter during the EBITDA Sharing Period.
3. No later than sixty (60) days after expiration of the EBITDA Sharing Period, Buyer shall provide the Liquidation Trustee with (i) Buyer’s calculation of 12 Month EBITDA, (ii) certification from McGladrey LLP, or such other qualified independent accounting firm as may be selected by Buyer, that Buyer’s calculation of 12 Month EBITDA is accurate and in compliance with GAAP, and (iii) funds in the amount of the difference between the twelve-month EBITDA calculation and the sum of quarterly payments paid to or for the benefit of the Liquidation Trust during the EBITDA Sharing Period. Buyer’s calculation of 12 Month EBITDA (as certified by an independent accounting firm as set forth above) shall be final and not subject to any objection or other challenge by Liquidation Trustee or any other party.

4. The amount of TCFI's EBITDA contribution (the "**Buyer EBITDA Contribution**" or "**Contribution**") shall be calculated as follows:
- a. If Buyer's 12 Month EBITDA is less than \$2.0 million, the Contribution will equal \$0.
 - b. If Buyer's 12 Month EBITDA is equal to or greater than \$2 million but less than \$3 million, the Contribution will equal \$300,000.
 - c. If Buyer's 12 Month EBITDA is equal to or greater than \$3 million but less than \$4 million, the Contribution will equal \$400,000.
 - d. If Buyer's 12 Month EBITDA is equal to or greater than \$4 million but less than \$5 million, the Contribution will equal \$600,000.
 - e. If Buyer's 12 Month EBITDA is equal to or greater than \$5 million but less than \$6 million, the Contribution will equal \$800,000.
 - f. If Buyer's 12 Month EBITDA is equal to or greater than \$6 million but less than \$7 million, the Contribution will equal \$1,000,000.
 - g. If Buyer's 12 Month EBITDA is equal to or greater than \$7 million but less than \$8 million, the Contribution will equal \$1,200,000.
 - h. If Buyer's 12 Month EBITDA equals or exceeds \$8 million, the Contribution will equal 100% of the EBITDA in excess of \$8 million up to a maximum Contribution of \$1,439,000.
- G. Buyer shall maintain insurance on commercially reasonable terms until completion of the EBITDA Sharing Period.

4. Plan Structure

- A. The Plan will create a liquidation trust (the "**Liquidation Trust**"). A liquidation trustee (the "**Liquidation Trustee**") will be selected jointly by the Committee and Debtor.
- B. Any assets remaining after the sale to Buyer, including Chapter 5 causes of action and any other causes of action owned by the Debtor, which are either (i) not released under the terms of the Plan or (ii) not Retained Causes of Action, as that term is defined in the Debtor In Possession Financing Amendment and First Amendment to Loan Agreement, will be transferred to the Liquidation Trust.
- C. The Liquidation Trust will be funded with (i) any unused portion of the \$75,000 available for payment of Committee professionals plus (ii) the Buyer EBITDA Contribution.

- D. To the extent permitted by applicable law, the Plan will include releases and exculpation of the Debtor, the Committee and TCFI along with their respective professionals.
- E. For the avoidance of doubt, after all unsecured claims are paid in full with interest at a market rate, all residual assets in the Liquidation Trust shall be returned to TCFI.
- F. The Debtor and the Buyer will reasonably cooperate with the Committee and the Liquidation Trustee in order to provide access to books and records and other information necessary to investigate and pursue any claims that have been transferred to the Liquidation Trust.

[Signature Page to Follow]

ISR GROUP INCORPORATED

Signature: _____
Printed Name: _____
Title: _____
Date: _____

TCFI IG, LLC

Signature: _____
Printed Name: _____
Title: _____
Date: _____

**COUNSEL TO OFFICIAL COMMITTEE
OF UNSECURED CREDITORS OF
ISR GROUP INCORPORATED**

Signature: _____
Printed Name: _____
Title: _____
Date: _____

EXHIBIT A

**DEBTOR IN POSSESSION FINANCING AMENDMENT
AND FIRST AMENDMENT TO LOAN AGREEMENT**

THIS DEBTOR IN POSSESSION FINANCING AMENDMENT AND FIRST AMENDMENT TO LOAN AGREEMENT (this "**First Amendment**") is dated as of April 29, 2014, and entered into between ISR Group, Incorporated, a Tennessee corporation ("**Group**") and TCFI IG LLC, a Delaware limited liability company (the "**Lender**").

WITNESSETH:

WHEREAS, ISR Group Holdings, Inc., a Delaware corporation ("**Holdings**"; Group and Holdings being collectively referred to as the "**Borrowers**") and PNC Bank, National Association ("**PNC**") were parties to that certain Loan Agreement dated as of March 28, 2012 (as modified to date, the "**Credit Agreement**" (unless specifically defined or redefined herein, capitalized terms used herein shall have the meanings ascribed thereto in the Credit Agreement));

WHEREAS, pursuant to the terms of the Credit Agreement, PNC made Loans to the Borrowers, which Loans are secured by a lien upon substantially all of the personal and real property of the Borrowers;

WHEREAS, the Revolving Loan was terminated on September 30, 2013 by PNC;

WHEREAS, certain Events of Default (as set forth on Exhibit C attached hereto, the "**Existing Events of Default**") have occurred under the Loan Documents and PNC accelerated the Obligations as a result thereof;

WHEREAS, pursuant to that certain Loan Sale Agreement, dated as of April 22, 2014 between PNC and the Lender, the Lender purchased all of PNC's right, title and interest in and to the Loan, the documents and instruments executed and delivered in connection with the Loan, each loan policy of title insurance issued in connection therewith and the Loan Documents;

WHEREAS, Group filed a voluntary petition for relief under Chapter 11, Title 11, United States Code, on April 29, 2014, in the United States Bankruptcy Court for the Western District of Tennessee (the "**Case**");

WHEREAS, Group and its Subsidiaries (if any) have insufficient unencumbered cash or liquid assets with which to operate their business;

WHEREAS, Group is unable to obtain credit on an unsecured basis or as an administrative expense pursuant to 11 U.S.C. §§364(a) and (b), and 503(b)(1);

WHEREAS, an immediate need exists for Group to obtain funds to restart operation of its business;

WHEREAS, the Lender has agreed to extend additional credit to Group up to an amount not to exceed \$2,000,000 (the "**DIP Facility**") for Budgeted Expenses (as defined below) from the First Amendment Effective Date (as defined below) until the Postpetition Termination Date (as defined below);

WHEREAS, the Lender has agreed to grant the request of Group to extend such additional credit, but only upon the terms and conditions set forth in this First Amendment and the Financing Order (as defined below); and

WHEREAS, Group has agreed to secure its obligations to the Lender in connection with such additional credit with, among other things, a first priority perfected security interest in all of its existing and future personal and real property, as set forth in the Financing Order.

NOW, THEREFORE, for valuable consideration hereby acknowledged, the parties hereto agree as follows:

Section 1. Definitions. Unless specifically defined or redefined below, capitalized terms used herein shall have the meanings ascribed thereto in the Loan Documents.

Section 2. Amendments to Credit Agreement. Subject to the terms and conditions hereof, the provisions of the Credit Agreement enumerated below are amended as follows:

(a) Effective as of the date hereof, Section 1 of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

1. Loans. The Lender has made or may make one of more loans (collectively, the "**Loans**") to the Borrowers subject to the terms and conditions and in reliance upon the representations and warranties of the Borrowers set forth in this Agreement. The Loans are or will be evidenced by: (i) that certain Amended and Restated Term Note (LIBOR Swap Transaction), dated as of March 28, 2012, payable to the Lender by Borrowers in the principal amount of \$22,500,000.00 (together with all renewals, extensions, amendments and restatements thereof, the "**Term Note**"), and (ii) that certain Postpetition Line of Credit Note, dated as of the First Amendment Effective Date, payable to the Lender by Group in the principal amount of \$2,000,000 that will evidence the Postpetition Loans, subject to the terms and conditions and in reliance upon the representations and warranties of Group set forth in this Agreement (together with all renewals, extensions, amendments and restatements thereof, the "**Postpetition Line of Credit Note**" and, together with the Term Note, collectively, the "**Notes**"). The Notes (and, where applicable, this Agreement) shall set forth the interest rate, repayment and other provisions applicable to each, and the terms of which are incorporated into this Agreement by reference.

(b) Effective as of the date hereof, the following definitions are hereby added to Section 1 of the Credit Agreement:

"Bankruptcy Code" means 11 U.S.C. § 101 et seq.

"Bankruptcy Court" means the United States Bankruptcy Court for the Western District of Tennessee or any other court with competent jurisdiction over the Case.

"Budget" means (i) the 12-week cash budget detailing Group's anticipated cash receipts and expenditures from the week ending May 9, 2014, until July 25, 2014, as amended or supplemented from time to time, which budget (and any amendments thereto) shall be in form and substance acceptable to the Lender and shall be incorporated into the Financing Order and attached hereto as Exhibit B and (ii) the forecasted consolidated balance sheet and forecasted consolidated statements of income

and cash flows of Group for the three (3) months following the First Amendment Effective Date. Changes to the Budget are subject to the prior written approval of the Lender in its sole and absolute discretion.

"Budgeted Expenses" means expenses permitted to be paid by the Debtor for the purposes set forth in the Budget.

"Case" means the Chapter 11 bankruptcy case of the Debtor pending before the Bankruptcy Court entitled "In re ISR Group, Incorporated," Case No. 14-11077, including adversary proceedings or other ancillary proceedings.

"Cash Collateral" means cash collateral, as such term is defined in §363(a) of the Bankruptcy Code and as defined in the Financing Order, arising from or relating to Collateral granted to the Lender.

"Cash Collateral Order" has the meaning specified in Section 3(h) of the First Amendment.

"Debtor" means Group.

"DIP Collateral" means any and all of the properties and assets of the Debtor and the Debtor's bankruptcy estate, both real and personal, including, without limitation, all cash, accounts, inventory, goods, equipment, agricultural liens, as-extracted collateral, letter of credit rights, general intangibles of every type and description (including – without limitation – contracts, licenses, and license agreements), intellectual property of all kinds including patents, trademarks, trade names, service marks and copyrights, security entitlements, documents, instruments, investment property, deposit accounts, chattel paper, warehouse receipts, bills of lading, tax refunds of any nature, insurance proceeds, insurance premium refunds, deposits of any kind, security deposits, utility deposits, bonds and proceeds of same, causes of action (whether by contract or tort, common law or statutory, equitable or otherwise), leasehold interests in real estate or personal property and customer lists, supporting obligations, whether any of such properties and assets of the Debtor and the Debtor's bankruptcy estate was acquired before or after the Petition Date, whether now owned and existing or hereafter acquired, created, or arising, and all products, proceeds, rents, revenues, and profits thereof (including, without limitation, claims of the Debtor against third parties for loss or damage to such property), and all accessions thereto, substitutions and replacements therefor, and wherever located, in which the Lender is granted a first priority lien or security interest to secure the Postpetition Obligations as set forth in the Financing Order; provided, however, effective as of effective date of the Settlement Agreement and Plan Support Agreement by and between Debtor, Lender, and the Official Committee of Unsecured Creditors (the ***"Settlement Agreement"***) the foregoing shall in all cases exclude any causes of action of the Debtor or its estate except for Retained Causes of Action, whenever arising or accruing, including, without limitation, any actions arising under Chapter 5 of the Bankruptcy Code, or any proceeds of such causes of action.

"Final Order" has the meaning specified in Section 3(g) of the First Amendment.

“Financing Order” means the Interim Financing Order, the Final Financing Order and such other orders of the Bankruptcy Court authorizing and approving, on either an interim or final basis, the financing contemplated by the First Amendment and use of Cash Collateral, each in form and substance satisfactory to the Lender.

“First Amendment” means the Debtor In Possession Financing Amendment and First Amendment to Loan Agreement dated as of April 29, 2014 among Group and the Lender.

“First Amendment Effective Date” means April 29, 2014.

“Interim Financing Order” means an order entered by the Bankruptcy Court not later than thirteen (13) days after the Petition Date (as amended, modified, supplemented or extended from time to time with the Lender’s consent).

“Maximum Rate” means, at all times, the maximum rate of interest which may be charged, contracted for, taken, received or reserved by the Lender in accordance with applicable Texas law (or applicable United States federal law to the extent that such law permits the Lender to charge, contract for, receive or reserve a greater amount of interest than under Texas law). The Maximum Rate shall be calculated in a manner that takes into account any and all fees, payments, and other charges in respect of the Loan Documents that constitute interest under applicable law. Each change in any interest rate provided for herein based upon the Maximum Rate resulting from a change in the Maximum Rate shall take effect without notice to Borrowers at the time of such change in the Maximum Rate.

“Petition Date” means April 29, 2014.

“Plan of Reorganization” means the Plan of Reorganization.

“Postpetition Commitment” means the commitment of the Lender to make Postpetition Loans as set forth in Section 1 up to the amount of \$1,000,000; provided that, the Lender may determine in its sole discretion that it shall increase the Commitment up to an aggregate total amount of \$2,000,000; provided further that any time that the Interim Financing Order is in effect, the Postpetition Commitment shall not exceed \$500,000.

“Postpetition Default” means the occurrence and continuance of any of the following events:

- (i) Group shall fail to pay any principal of the Postpetition Loans when the same becomes due and payable;
- (ii) Group shall fail to pay any interest on the Postpetition Loans or any fee or other amount due with respect to the Postpetition Obligations after such interest, fee, or other amount becomes due and payable;

- (iii) The Debtor shall fail to obtain the Final Order from the Bankruptcy Court within fort-five (45) days of the entry of the Interim Financing Order;
- (iv) Any representation or warranty made by Group in this First Amendment or in any statement or certificate given after the First Amendment Effective Date by Group in writing pursuant to any Loan Document or in connection with any Loan Document shall be false in any material respect on the date as of which made;
- (v) Group shall breach or violate any term, covenant or agreement contained in this First Amendment (other than the Existing Events of Default set forth on Exhibit C attached hereto), or any of the other Loan Documents;
- (vi) An Event of Default shall occur under and as defined in the Financing Order;
- (vii) The Case shall be dismissed or converted to a case under Chapter 7 of the Bankruptcy Code; or a Chapter 11 trustee shall be appointed in the Case without the express written consent of the Lender;
- (viii) Any security interest, lien, claim or encumbrance, excluding the Liens permitted pursuant to Section 5.2 hereof, shall be granted in any of the DIP Collateral which is *pari passu* with or senior to the claims of the Lender therein, including any surcharge of the DIP Collateral pursuant to Bankruptcy Code §506(c) or otherwise without the express written consent of the Lender;
- (ix) Debtor shall make any payment (whether by way of adequate protection or otherwise) of principal or interest or otherwise on account of any prepetition indebtedness, except to the Lender, unless approved by the Lender in writing or as authorized by the Bankruptcy Court after notice and hearing;
- (x) The Bankruptcy Court shall enter an order granting relief from the automatic stay to the holder or holders of any other security interest or lien (other than the Lender) in any DIP Collateral to permit the pursuit of any judicial or non-judicial transfer or other remedy against any assets of Group without the express written consent of the Lender;
- (xi) Any provision of the documents relating to the Postpetition Loans shall cease to be valid and binding on the Debtor, or the Debtor shall so assert in any pleading filed in any court; or
- (xii) The Debtor shall for any reason fail to remit to the Lender all net proceeds from the sale, disposition, collection, or other

realization upon the Collateral or the DIP Collateral for application in accordance with this Agreement;

- (xiii) The Debtor shall attempt to vacate or modify either the Financing Order or the Cash Collateral Order over the objection of the Lender;
- (xiv) Actual performance shall at any time adversely deviate from the Budget by more than 10% calculated on a line item by line item basis and measured weekly on a rolling 2 week basis from the Petition Date;
- (xv) The failure to confirm a Plan of Reorganization in the Case prior to the 120th day following the Petition Date;
- (xvi) The failure to obtain the Lender's consent to the Plan of Reorganization and any amendment thereto but only if a Plan of Reorganization in the Case is confirmed prior to the consummation of a sale of substantially all of the Debtor's assets;
- (xvii) If a Plan of Reorganization in the Case is confirmed after the consummation of a sale of substantially all of the Debtor's assets to Lender, which Plan of Reorganization does not provide for a cash payment of at least \$375,000 to be used exclusively for payments to creditors with unsecured priority claims under Sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code;
- (xviii) An Event of Default shall occur under the Credit Agreement, the First Amendment or any other Loan Document; or
- (xix) A sale of substantially all of the Debtor's assets is not consummated (i) on or before the seventy-fifth day (75th) day following the Petition Date; (ii) in cash; and (iii) otherwise on terms and conditions reasonably acceptable to the Lender.

"Postpetition Line of Credit Note" means that certain Postpetition Line of Credit Note dated as of the First Amendment Effective Date payable to the Lender in the principal amount of \$2,000,000 evidencing the Postpetition Loans.

"Postpetition Loans" means advances by the Lender to Group pursuant to the Postpetition Commitment in an aggregate amount not to exceed at any time the Postpetition Commitment then in effect.

"Postpetition Obligations" means all present and future obligations, indebtedness and other liabilities of the Debtor arising with respect to the Financing Order or the Postpetition Loans, including without limitation the principal amount thereof, and any interest, fees, and charges related thereto or in connection therewith, and any and all renewals, extensions, rearrangements, and refundings of the foregoing.

"Postpetition Termination Date" means the earliest of (a) June 16, 2014, (b) the date Group terminates the commitment of the Lender to make the Postpetition

Loans, (c) the date the Lender terminates its commitment to make the Postpetition Loans upon the occurrence of a Postpetition Default, (d) the effective date of a confirmed plan of reorganization for the Debtor, (e) the date on which any agreement for the sale of substantially all of the Debtor's assets closes, (f) the date on which the Bankruptcy Court approves the extension of any other credit facilities to the Debtor, or (g) the last termination date set forth in the Interim Financing Order, unless the Final Financing Order has been entered prior to such date, and in such event, then the last termination date set forth in the Final Financing Order. Notwithstanding the foregoing, Group shall be entitled to draw on the DIP Facility to pay any and all unpaid expenses in the Budget which were incurred up to the Postpetition Termination Date as well as any professional fee expenses and United States Trustee fees in the Budget regardless of whether such expenses were incurred prior to the Postpetition Termination Date.

"Prepetition Obligations" means all Indebtedness other than the Postpetition Obligations owed to Lender.

"Retained Causes of Action" means causes of action related to the Collateral or DIP Collateral, including but not limited to, theft, conversion, misappropriation, destruction and vandalism, but limited to (i) Collateral as to which the Lender has a valid, properly perfected pre-petition lien, and (ii) the value of the Collateral or return of the Collateral plus actual damages incurred by Lender. For clarification, nothing contained herein shall limit or waive Lender's claims, rights, and causes of action against any party in connection with Lender's ownership and operation of the Collateral after Lender acquires the Collateral pursuant to the Sale Transaction.

"Superpriority Claim" means a claim against the Debtor in the Case which is an administrative expense claim having priority over any and all administrative expenses of the kind specified in §§ 503(b) and 507(b) of the Bankruptcy Code.

(c) Effective as of effective date of the Settlement Agreement, the definition of Collateral is amended to expressly exclude any causes of action of the Debtor or its estate other than the Retained Causes of Action, whenever arising or accruing, including, without limitation, any actions arising under Chapter 5 of the Bankruptcy Code, or any proceeds of such causes of action.

(d) All references in the Credit Agreement to the "Revolving Note," Letter of Credit," "Letters of Credit" and "Letter of Credit Commission" shall hereby be deleted in their entirety from the Credit Agreement.

(e) All references in the Loan Documents to the "Bank" shall hereafter be deemed references to the "Lender" as defined herein.

(f) Effective as of the date hereof, Section 1 of the Credit Agreement is amended to add thereto the following paragraphs to Section 1:

From and after the Petition Date, the Lender shall have no obligation to make any new Loans or issue any Letters of Credit to the Borrowers, except in accordance with this Agreement. Lender may, in its discretion, make Postpetition Loans to Group from time to time, but not more frequently than once per day, from the First Amendment Effective Date until the Postpetition Termination Date, in accordance with its Postpetition Commitment and in an aggregate amount not to exceed at any time

outstanding the Postpetition Commitment. For the avoidance of doubt, at any time that the Interim Financing Order is in effect, the Postpetition Commitment shall not exceed \$500,000. Each Postpetition Loan may be prepaid at any time without premium or penalty and may be borrowed, repaid, and reborrowed subject to the terms and conditions of this Agreement. Each Postpetition Loan shall be made on notice given by Group to the Lender not later than 11:00a.m. Central Standard Time on the Business Day prior to the date of the proposed Postpetition Loan. Each such notice (a "***Postpetition Notice of Borrowing***") shall be in substantially the form of Exhibit A to this First Amendment specifying therein (i) the proposed funding date, (ii) the aggregate amount of such proposed Postpetition Loan, and (iii) that the proposed use of the proceeds thereof is for Budgeted Expenses in compliance with the Budget and no other cash is available to Group to pay such Budgeted Expenses. The Lender may condition the disbursement of Postpetition Loans on receipt of such documentation as it shall require to evidence that the proceeds of such Postpetition Loans shall be used in accordance with the Budget both as to amount of such Postpetition Loans and as to the timing of such Postpetition Loans. The option of the Lender to make any Postpetition Loan (including the initial Postpetition Loan) shall be subject to the following conditions precedent: (A) Group shall deliver to the Lender an executed Postpetition Notice of Borrowing pursuant hereto, (B) no event has occurred and is continuing which constitutes a Postpetition Default or which would constitute a Postpetition Default but for the requirement that notice be given or time elapsed or both; (C) Group shall deliver to the Lender a certificate of the chief financial officer or such other acceptable officer of Group certifying that (1) all representations and warranties made by Group in this First Amendment or in any statement or certificate after the First Amendment Effective Date by Group in writing pursuant to any Loan Document or in connection with any Loan Document shall be true and correct and (2) Group shall apply the proceeds of the Postpetition Loans only to Budgeted Expenses; (D) with respect to the initial Postpetition Loan, the Lender shall have received such other approvals or documents as the Lender may reasonably request; (E) no Bankruptcy Court order has been entered authorizing the Debtor to obtain financing or credit pursuant to §364 of the Bankruptcy Code from any Person other than the Lender secured by a security interest or having the priority of an administrative claim unless otherwise consented to by the Lender in writing; (F) the Financing Order shall not have been vacated, reversed, modified, or amended and, in the event that such order is the subject of any pending appeal, no performance of any obligation of any party hereto shall have been stayed pending appeal; (G) the Lender shall have received payment for all reasonable professional fees and expenses incurred by the Lender with respect to the Postpetition Loans; and (H) after giving effect to the Postpetition Loan requested, the total Postpetition Loans shall not exceed the Postpetition Commitment. In no event shall the Lender be requested to advance any funds or extend any credit other than for Budgeted Expenses actually incurred and payable either at the time of such advance or within one week thereafter. Notwithstanding anything contained in this Agreement to the contrary, the Lender shall not be obligated (1) to approve any request for a Postpetition Loan and the Lender may disapprove any request for a Postpetition Loan by Group hereunder in its discretion, or (2) to make any Postpetition Loan hereunder; provided that notwithstanding any refusal by Lender to make a Postpetition Loan, Lender agrees to fund the accrued expenses for liabilities set forth in the Budget that are unpaid as of the date of such refusal.

Group shall repay the entire unpaid principal amount of the Postpetition Loans, together with all accrued and unpaid interest thereon, on the earlier of (i) the

Postpetition Termination Date, (ii) the effective date of a Plan and (iii) the date the Bankruptcy Court approves the extension of any other credit facilities to the Debtor.

Group shall pay interest in kind on the unpaid principal amount of each Postpetition Loan from the date made until the principal amount thereof shall have been paid in full at a rate per annum equal at all times to the sum of the LIBOR in effect on each Interest Calculation Date (as such term is defined in the Postpetition Line of Credit Note) in effect from time to time plus 12%, payable, monthly in arrears on the first Business Day of each month, and on the Postpetition Termination Date; provided however that all principal outstanding after the occurrence of a Postpetition Default shall bear interest, from the date of such Postpetition Default until the date on which such amount is due until such amount is paid in full or such Postpetition Default is waived or cured, payable on demand, at the LIBOR in effect on each Interest Calculation Date plus 16% per annum (but in no event shall such rate exceed the Maximum Rate).

It is expressly stipulated and agreed to be the intent of each Borrower and the Lender at all times to comply strictly with the applicable Texas law governing the Maximum Rate or amount of interest payable on the indebtedness evidenced by this Agreement and the Notes (or applicable United States federal law to the extent that it permits the Lender to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If the applicable law is ever judicially interpreted so as to render usurious any amount (i) contracted for, charged, taken, reserved or received pursuant to this Agreement, the Notes, any of the other Loan Documents or any other communication or writing by or between any Borrower and the Lender related to the transaction or transactions that are the subject matter of the Loan Documents, (ii) contracted for, charged, taken, reserved or received by reason of the Lender's exercise of the option to accelerate the maturity of the Loans, or (iii) any Borrower will have paid or the Lender will have received by reason of any voluntary prepayment by such Borrower of the Loans, then it is each Borrower's and the Lender's express intent that all amounts charged in excess of the Maximum Rate shall be automatically canceled, *ab initio*, and all amounts in excess of the Maximum Rate theretofore collected by the Lender shall be credited on the principal balance of the Notes (or, if the Notes have been or would thereby be paid in full, refunded to Borrowers), and the provisions of this Agreement, the Notes and the other Loan Documents shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder; provided, however, that if any Note has been paid in full before the end of the stated term of such Note, then Borrowers and the Lender agree that the Lender shall, with reasonable promptness after the Lender discovers or is advised by any Borrower that interest was received in an amount in excess of the Maximum Rate, either refund such excess interest to Borrowers and/or credit such excess interest against the Notes then owing by Borrower to the Lender. Each Borrower hereby agrees that as a condition precedent to any claim seeking usury penalties against the Lender, Borrowers will provide written notice to the Lender, advising the Lender in reasonable detail of the nature and amount of the violation, and the Lender shall have thirty (30) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Borrowers or crediting such excess interest against the Notes then owing by Borrowers to the Lender. All sums contracted for, charged, taken, reserved or received by the Lender for the use, forbearance or detention of any debt evidenced by the

Notes shall, to the extent permitted by applicable law, be amortized or spread, using the actuarial method, throughout the stated term of the Notes (including any and all renewal and extension periods) until payment in full so that the rate or amount of interest on account of the Notes does not exceed the Maximum Rate from time to time in effect and applicable to the Notes for so long as debt is outstanding. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of the Lender to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

To the extent that the Lender is relying on Chapter 303 of the Texas Finance Code to determine the Maximum Rate payable on the Notes and/or any other portion of the Obligations, the Lender will utilize the weekly ceiling from time to time in effect as provided in such Chapter 303, as amended. To the extent United States federal law permits the Lender to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law, the Lender will rely on United States federal law instead of such Chapter 303 for the purpose of determining the Maximum Rate. Additionally, to the extent permitted by applicable law now or hereafter in effect, the Lender may, at its option and from time to time, utilize any other method of establishing the Maximum Rate under such Chapter 303 or under other applicable law by giving notice, if required, to Borrower as provided by applicable law now or hereafter in effect.

As security for the prompt payment and performance when due (whether at stated maturity, by acceleration or otherwise) of all the Postpetition Obligations and to induce the Lender to make the Postpetition Loans in accordance with the terms hereof, Debtor shall, pursuant to the Financing Order, and does hereby, assign, convey, mortgage, pledge, hypothecate and grant to the Lender a first priority perfected security interest in the DIP Collateral, in each case subject to any Liens permitted under the Financing Order, and to agreed-upon carve-outs for the Debtor's professionals and the creditor committee's professionals and certain fees and expenses payable to the United States Trustee and the Clerk of the Bankruptcy Court as more fully set forth in the Financing Order. Furthermore, in the event any unapplied remaining retainer funds paid to any of the Debtor's Bankruptcy Court approved professionals are returned to Group, such returned unapplied remaining retainer funds shall be considered Cash Collateral. No cost or surcharge shall be imposed against the DIP Collateral or the Collateral under §§506(c) of the Bankruptcy Code.

Notwithstanding anything to the contrary contained in this Agreement, from and after the First Amendment Effective Date and so long as no Postpetition Default has occurred and is continuing, all net proceeds received from the sale, disposition, collection or other realization upon the Collateral or the DIP Collateral shall be applied (a) *first*, to payment of all reasonable fees, including attorneys' fees, and expenses incurred by the Lender under the Credit Agreement or the First Amendment, (b) *second*, to payment of the Postpetition Obligations plus any reasonable fees and accrued interest thereon, and (c) *third*, to payment of the Prepetition Obligations plus any accrued interest thereon, each as determined by the Lender in its sole and absolute discretion, until such time as all Indebtedness of the Borrowers to the Lender is satisfied in full, and then to the Borrowers.

Upon the occurrence and during the continuance of any Postpetition Default, the Lender may, without notice, declare all or any portion of the Prepetition

Obligations and/or the Postpetition Obligations to be, and the same shall forthwith become, due and payable, together with accrued interest thereon, without notice, demand, presentment, notice of dishonor, notice of acceleration, notice of intent to accelerate, notice of intent to demand, protest, or other formalities of any kind, all of which are hereby expressly waived by Group, and the obligation of the Lender to make any further Postpetition Loans shall thereupon terminate. If any Postpetition Default shall occur and be continuing, the Lender may exercise all rights and remedies available to it in law or in equity, under the Loan Documents, or otherwise. After the occurrence and during the continuance of any Postpetition Default, all net proceeds received from the sale, disposition, collection or other realization upon the Collateral or the DIP Collateral shall be applied to such Prepetition Obligations and Postpetition Obligations as may be determined by the Lender in its sole and absolute discretion.

All accrued and unpaid interest on the Postpetition Loans shall be paid in kind and capitalized. Group shall only pay all accrued and unpaid interest in kind on the Postpetition Loans on the first day of each month by adding the amount equal to such unpaid interest to the principal amount of the Postpetition Loan, and Group shall pay outstanding obligations (including but not limited principal and interest) in full on the Maturity Date.

(g) Effective as of the date hereof, Section 4.8 of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

4.8 Reserved.

(h) Effective as of the date hereof, Section 4.11 of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

4.11 Reserved.

(i) Effective as of the date hereof, Section 4.12 of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

4.12 Reserved.

(j) Effective as of the date hereof, Section 4.13 of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

4.13 Reserved.

(k) Effective as of the date hereof, Article 4 of the Credit Agreement is hereby amended to add thereto the following sections:

4.15 Budget. The Debtor shall operate strictly in accordance with the Budget attached hereto as Exhibit B, shall have cash receipts equaling at least 90% of the cash receipts reflected on the Budget from time to time as measured weekly on a rolling 4-week basis, and shall pay only those operating expenses of the Debtor's business in compliance with and not to exceed by more than 10% those expenses on a line item basis listed on the Budget as measured weekly on a rolling 4-week basis, as the Budget may be modified in writing with the prior written consent of the Lender.