

EXHIBIT A

\$25,000,000
SENIOR SECURED SUPER-PRIORITY DEBTOR IN POSSESSION
CREDIT AGREEMENT

Dated as of June ____, 2008

by and among

JHT HOLDINGS, INC.,
as debtor and debtor in possession,
as Borrower

JHT ACQUISITION CORP.
as debtor and debtor in possession,
as Parent and as Guarantor

The Other Credit Parties Party Hereto,
as debtors and debtors in possession,
as Guarantors

GENERAL ELECTRIC CAPITAL CORPORATION
for itself, as a Lender, as L/C Issuer, and as the Agent for all Lenders

THE OTHER FINANCIAL INSTITUTIONS PARTY HERETO,
as Lenders

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NEW YORK, NY 10153-0119

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EXHIBITS:

Exhibit 2.1(b)	Form of Borrowing Notice
Exhibit 2.2	DIP Budget
Exhibit 2.3	Form of L/C Request
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SENIOR SECURED SUPER-PRIORITY DEBTOR IN POSSESSION CREDIT AGREEMENT (including all exhibits and schedules hereto, as the same may be amended, modified, and/or restated from time to time, this (“*Agreement*”)), dated as of June __, 2008, by and among JHT HOLDINGS, INC., a Delaware corporation (“*JHT*” or the “*Borrower*”), JHT ACQUISITION CORP., a Delaware corporation (“*Parent*”) and each of the other entities listed on the signature pages hereof, each a debtor in the Chapter 11 Case (as defined herein) (collectively, with the Borrower and the Parent, the “*Debtors*”), GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware corporation (in its individual capacity, “*GE Capital*”), as Agent (defined below) for the several financial institutions from time to time party to this Agreement (collectively, the “*Lenders*” and individually each a “*Lender*”) and for itself as a Lender.

WITNESSETH:

WHEREAS, on June __, 2008 (the “*Petition Date*”), the Debtors each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “*Bankruptcy Code*”) with the United States Bankruptcy Court for the District of Delaware (the “*Bankruptcy Court*”). The chapter 11 cases of the Debtors were assigned Case Nos. [____] through [____] and are being jointly administered under Case No. [____] (the “*Chapter 11 Case*”);

WHEREAS, 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;

WHEREAS, the Borrower has requested that the Lenders provide a senior secured revolving facility, subject to a super-priority claim of the Agent for the benefit of itself and the Lenders against the Borrower and the other Debtors in a principal amount of \$25,000,000 in order to (i) ensure ample liquidity to the Borrower and its Subsidiaries during the Chapter 11 Case and (ii) repay certain obligations under the Prepetition Credit Agreement;

WHEREAS, the Lenders are willing to make available to the Borrower such postpetition loans upon the terms and subject to the conditions set forth herein;

WHEREAS, the Borrower has agreed to secure all of its obligations under the Loan Documents by granting to the Agent, for the benefit of the Agent and the Lenders, a security interest in and hypothecs and lien upon substantially all of its existing and after acquired personal, real, movable and immovable property;

WHEREAS, the Parent owns all of the Stock and Stock Equivalents of the Borrower, other than the ESOP Preferred Stock, and is willing to guaranty all of the Obligations of the Borrower and to pledge to the Agent, for the benefit of the Agent and the Lenders, all of the Stock and Stock Equivalents of the Borrower and substantially all of its other personal and real property to secure the Obligations;

WHEREAS, the Borrower’s Subsidiaries (other than Jupiter) are willing to guarantee the Obligations and to grant to the Agent, for the benefit of the Agent and the Lenders, a security interest in and hypothecs and lien upon substantially all of their respective existing and after acquired personal, real, movable and immovable property;

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the parties hereto hereby agree as follows:

1. DEFINITIONS

1.1 *Definitions.* As used in this Agreement, the following terms have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

“Adequate Protection Payments” means payments made by the Borrower to (i) repay the First Out Loan Share of each First Out Lender who participates in the Loans in an amount not less than such First Out Lender’s First Out Loan Share (including outstanding principal, prepetition interest and postpetition interest) (ii) reimburse all reasonable costs and expenses, including Attorney Costs, of the Prepetition Agent and any Related Persons (as such term is used and defined in the Prepetition Credit Agreement) under the Prepetition Credit Agreement, and (iii) reimburse all reasonable costs and expenses, including Attorney Costs, of the Prepetition Bridge Agent and the Prepetition Bridge Lenders (including their advisors) in connection with the Prepetition Bridge Credit Agreement.

“Administrative Charge” shall have the meaning specified in the Canadian Interim DIP Order to the extent a CCAA Case shall then be pending.

“Affiliate” means, as to any Person, (a) any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person and (b) in the case of Borrower, the immediate family members, spouses and lineal descendants of individuals who are Affiliates of Borrower. A Person shall be deemed to control another Person if the controlling Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other Person, whether through the ownership of voting securities, by contract or otherwise. Without limitation, any director, executive officer or beneficial owner of five percent (5%) or more of the Stock (either directly or through ownership of Stock Equivalents) of a Person shall for the purposes of this Agreement, be deemed to control the other Person. Notwithstanding the foregoing, neither the Agent nor any Lender shall be deemed an “Affiliate” of any Credit Party or of any Subsidiary of any Credit Party.

“Agent” means General Electric Capital Corporation, in its capacity as agent for the Lenders hereunder.

“Aggregate Revolving Credit Commitment” means \$25,000,000; provided that from the Closing Date until the Incremental Facility Effective Date, the Aggregate Revolving Credit Commitment shall equal the Interim Amount.

“Agreement” has the meaning specified in the Preamble.

“Allowed Variance Amount” means \$5,000,000.

“Approved Affiliates” means, with respect to any Sponsor, (a) such Sponsor’s controlled Affiliates or any other Affiliate in which such Sponsor owns 25% or more of the Stock (either directly or through ownership of Stock Equivalents) of such Affiliate and (b) with the prior written consent of the Agent (such consent not to be unreasonably withheld or delayed), any of Sponsor’s other Affiliates, so long as, in each case, such Sponsor has provided the Agent with

prior written notice of the transfer of Stock or Stock Equivalents of Parent to such controlled or other Affiliate.

“*Approved Fund*” means, with respect to any Lender, any Person (other than a natural Person) that (a) (i) is or will be engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business or (ii) temporarily warehouses loans for any Lender or any Person described in clause (i) above and (b) is advised or managed by (i) such Lender, (ii) any Affiliate of such Lender or (iii) any Person (other than an individual) or any Affiliate of any Person (other than an individual) that administers or manages such Lender.

“*Assignment*” means an assignment agreement entered into by a Lender, as assignor, and any prospective assignee thereof and accepted by the Agent, in substantially the form of *Exhibit 8.8*.

“*Attorney Costs*” means and includes all reasonable fees and disbursements of any law firm or other external counsel.

“*Available Credit*” means, at any time, (a) an amount equal to the Aggregate Revolving Credit Commitment in effect at such time, *minus* (b) the aggregate Revolving Credit Outstandings at such time, *minus* (c) any Carve-Out Reserves *minus* (d) any Overadvance Reserves.

“*Bankruptcy Code*” means title 11 of the United States Code, § 101, *et. seq.*

“*Bankruptcy Court*” has the meaning specified in the preamble.

“*Bankruptcy Preparation Overadvance*” has the meaning specified in the Prepetition Credit Agreement.

“*Bankruptcy Preparation Overadvance Lenders*” shall mean those Revolving Lenders (as such term is defined in the Prepetition Credit Agreement) who made the Bankruptcy Preparation Overadvance.

“*Base Rate*” means, at any time, a rate per annum equal to the higher of (a) the rate last quoted by The Wall Street Journal as the “base rate on corporate loans posted by at least 75% of the nation’s largest banks” 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) and (b) the sum of 0.5% per annum and the Federal Funds Rate. Any change in the Base Rate due to a change in any of the foregoing shall be effective on the effective date of such change in the “Prime Rate” or the Federal Funds Rate.

“*Base Rate Loan*” means a Loan that bears interest based on the Base Rate.

“*Benefit Plan*” means any employee benefit plan as defined in Section 3(3) of ERISA (whether governed by the laws of the United States or otherwise) to which any Credit Party incurs or otherwise has any obligation or liability, contingent or otherwise.

“*Borrowing Date*” has the meaning specified in Section 2.1(c).

“*Borrowing Notice*” means a Borrowing Notice substantially in the form attached hereto as *Exhibit 2.1(b)*.

“*Bridge Facility Overadvance*” has the meaning specified in the Prepetition Credit Agreement.

“*Bridge Facility Overadvance Lenders*” has the meaning specified in the Prepetition Credit Agreement.

“*Budget Period*” has the meaning specified in Section 5.2(c).

“*Business Day*” means any day other than a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close and, if the applicable Business Day relates to any LIBO Rate Loan, a day on which dealings are carried on in the London interbank market.

“*Canadian Benefit Plans*” means any material plan, fund, program, or policy, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, providing employee benefits, including all profit sharing, savings, supplemental retirement, retiring allowances, severance, deferred compensation, welfare, bonus, incentive compensation, phantom stock, legal services, supplementary unemployment benefit plans or arrangements and all medical, hospital care, dental, sickness, accident, disability, life insurance or other insurance plans and arrangements, pension, retirement or savings benefits, under which the Borrower or any of its Subsidiaries has any liability with respect to any employee or former employee, but excluding any Canadian Pension Plans and any plans or programs that are administered pursuant to applicable health, tax, workplace safety insurance and employment insurance legislation.

“*Canadian Court*” means the Ontario Superior Court of Justice.

“*Canadian Final DIP Order*” means, collectively, the order of the Canadian Court to be issued upon the motion of each Canadian Subsidiary, under Section 18.6 of the CCAA, together with all extensions, modifications and amendments thereto, which among other matters but not by way of limitation, recognizes and declares the Final Order enforceable in Canada.

“*Canadian Guarantee and Security Agreement*” means that certain Canadian guarantee and security agreement, dated as of even date herewith, in form and substance reasonably acceptable to the Agent and Borrower, made by the Credit Parties party thereto in favor of the Agent, for the benefit of the Secured Parties, as the same may be amended, restated and/or modified from time to time.

“*Canadian Insolvency Laws*” means any of the Bankruptcy and Insolvency Act (Canada), the Companies’ Creditors Arrangement Act (Canada), and the Winding-Up and Restructuring Act (Canada), each as now and hereafter in effect, any successors to such statutes and any other applicable insolvency or other similar law of any jurisdiction, including any law of any jurisdiction permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it.

“*Canadian Interim DIP Order*” means, collectively, the order of the Canadian Court to be issued upon the motion of each Canadian Subsidiary, under Section 18.6 of the CCAA, together with all extensions, modifications and amendments thereto, which among other matters but not by way of limitation, recognizes and declares the Interim Order enforceable in Canada.

“*Canadian Orders*” means, collectively, the Canadian Interim Order, the Canadian Final Order and the Canadian Stay Order.

“*Canadian Pension and Benefits Law*” has the meaning specified in Section 4.14(c).

“*Canadian Pension Plans*” means each retirement or supplementary retirement plan required to be registered under Canadian federal or provincial law that is sponsored, maintained or contributed to, or required to be contributed to, by the Borrower or any of its Subsidiaries for its employees or former employees, but does not include the Canada Pension Plan or the Quebec Pension Plan as maintained by the Government of Canada or the Province of Quebec, respectively.

“*Canadian Pledge Agreement*” means that certain Canadian pledge agreement, dated as of even date herewith, in form and substance reasonably acceptable to the Agent and Borrower, made by the Credit Parties party thereto in favor of the Agent, for the benefit of the Secured Parties, to give effect to any pledge of Stock, Stock Equivalents or Debt by a Credit Party that is a Canadian Subsidiary, as the same may be amended, restated and/or modified from time to time.

“*Canadian Security Documents*” means the Canadian Guaranty and Security Agreement, the Canadian Pledge Agreement and Deed of Hypothec, each dated as of the date hereof and entered into by the Canadian Subsidiaries in favor of the Agent.

“*Canadian Stay Order*” means, collectively, the order of the Canadian Court to be issued upon the motion of each Canadian Subsidiary, under Section 18.6 of the CCAA, together with all extensions, modifications and amendments thereto, which among other matters but not by way of limitation, recognizes the Chapter 11 Case and imposes a stay of proceedings against creditors and others in Canada.

“*Canadian Subsidiaries*” means Active Canada Inc., Unimark Transportation Services, Inc. and ACS Canada Inc.

“*Capital Adequacy Regulation*” means any guideline, request or directive of any central bank or other Governmental Authority, or any other law, rule or regulation, whether or not having the force of law, in each case, regarding capital adequacy of any Lender or of any corporation controlling a Lender.

“*Capital Lease*” means any leasing or similar arrangement which, in accordance with GAAP, is or is required to be classified as a capital lease.

“*Capital Lease Obligations*” means all monetary obligations of any Credit Party or any Subsidiary of any Credit Party under any Capital Lease.

“*Carve-Out*” has the meaning specified in the Interim DIP Order or Final Order, as may then be applicable.

“*Carve-Out Date*” means the date that is the earlier of (i) the Borrower’s receipt of a notice of default under this Agreement from the Agent and (ii) the Maturity Date.

“*Carve-Out Reserves*” means a reserve, calculated on a monthly basis in an amount not less than the sum of (1) \$500,000 plus (2) the budgeted fees and expenses of the Professionals for any prior month(s), the current month and the immediately following month minus (3) any amount of the previously budgeted fees and expenses of the Professionals that have been paid (it being understood that the Administrative Charge shall be included when calculating the fees and expenses of Professionals noted herein, to the extent a CCAA Case shall then be pending), plus (4) an amount in respect of the Directors’ and Officers’ Charge as shall be agreed to by the Agent, the Majority Lenders, and the Borrower and approved by the Canadian Court (such amount to be included in the Carve-Out Reserves only to the extent a CCAA Case shall then be pending).

“*Cash Collateral Accounts*” has the meaning specified in the Guaranty and Security Agreement.

“*Cash Equivalents*” means: (a) securities issued or fully guaranteed or insured by the United States Government or any agency thereof having maturities of not more than six (6) months from the date of acquisition; (b) certificates of deposit, time deposits, repurchase agreements, reverse repurchase agreements, or bankers’ acceptances, having in each case a tenor of not more than three (3) months, issued by any Lender, or by any U.S. commercial bank or any branch or agency of a non-U.S. bank licensed to conduct business in the U.S. having combined capital and surplus of not less than \$250,000,000; (c) commercial paper of an issuer rated at least A-1 by Standard & Poor’s Corporation or P-1 by Moody’s Investors Service Inc. and in either case having a tenor of not more than three (3) months and (d) money market funds provided that substantially all of the assets of such fund are comprised of securities of the type described in clauses (a) through (c).

“*CCAA*” means the Companies’ Creditors Arrangement Act, R.S.C. 1985, c.C-36.

“*CCAA Case*” means a proceeding commenced pursuant to an order of the Canadian Court under Section 18.6 of the CCAA recognizing the Chapter 11 case in respect of the Canadian Subsidiaries.

“*Chapter 11 Case*” has the meaning specified in the recitals to this Agreement.

“*Closing Date*” means June __, 2008.

“*Code*” means the Internal Revenue Code of 1986, and regulations promulgated thereunder.

“*Collateral*” means all Property and interests in Property and proceeds thereof now owned or hereafter acquired by any Credit Party, including any Property, interests in Property, or proceeds thereof in or upon which a Lien now or hereafter exists in favor of any Lender or the Agent for the benefit of the Agent and Lenders (and any Property, interests in

Property or proceeds thereof of any other Person which such Person shall have granted a Lien in favor of any Lender or the Agent for the benefit of the Agent and Lenders to secure the Obligations and the obligations under the Prepetition Credit Agreement), whether under this Agreement or under any other documents executed by any such Persons and delivered to the Agent or pursuant to any order of the Bankruptcy Court excluding in any event all equity interest of Jupiter owned by a Credit Party. For the avoidance of doubt, the term “Collateral” shall include (A) 100% of the Stock of (i) the Borrower owned by Parent, (ii) each Guarantor (owned by a Credit Party), and (iii) all Subsidiaries other than Jupiter and joint ventures of the Borrower and each Guarantor (to the extent not already included in the immediately preceding clauses (i) or (ii)), in each case to the extent such Stock is property of a Debtor and (B) upon entry of the Final Order, the proceeds of any avoidance claims under chapter 5 of the Bankruptcy Code.

“*Collateral Documents*” means, collectively, the Guaranty and Security Agreement, the Mortgages, the Canadian Security Documents, agreements relating to the establishment and maintenance of Controlled Securities Accounts and Cash Collateral Accounts, each control agreement and all other security agreements, charges, pledge agreements, patent and trademark security agreements, lease assignments, guarantees and other similar agreements, and all amendments, restatements, modifications or supplements thereof or thereto, by or between any one or more of any Credit Party or any other Person pledging or granting a lien on Collateral or guaranteeing the payment and performance of the Obligations, and any Lender or the Agent for the benefit of the Agent and the Lenders now or hereafter delivered to the Lenders or the Agent pursuant to or in connection with the transactions contemplated hereby, and all financing statements (or comparable documents now or hereafter filed in accordance with the UCC or in the PPSA or comparable law) against any such Person as debtor in favor of any Lender or the Agent for the benefit of the Agent and the Lenders, as secured party, as any of the foregoing may be amended, restated and/or modified from time to time.

“*Commitment*” means for each Lender the amount set forth opposite such Lender’s name in *Schedule 2.1(a)*.

“*Committee*” means the statutory committee of unsecured creditors appointed in the Chapter 11 Case pursuant to section 1102 of the Bankruptcy Code.

“*Confirmation Order*” has the meaning specified in Section 5.1(l).

“*Contingent Obligation*” means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person: (i) with respect to any Debt, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto; (ii) with respect to any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (iii) under any Rate Contracts; (iv) to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement; or (v) for the obligations of another Person through any agreement to purchase, repurchase or otherwise acquire such obligation or any Property constituting security therefor, to provide funds for the payment or discharge of such obligation or to maintain the solvency, financial condition or any balance sheet item or level of income of another Person. The amount of any Contingent Obligation shall be equal to the amount of the

obligation so guaranteed or otherwise supported or, if not a fixed and determined amount, the maximum amount so guaranteed or supported.

“*Contractual Obligations*” means, as to any Person, any provision of any security issued by such Person or any agreement, undertaking, contract, indenture, mortgage, deed of trust or other instrument, document or agreement to which such Person is a party or by which it or any of its Property is bound.

“*Controlled Securities Accounts*” has the meaning specified in the Guaranty and Security Agreement.

“*Copyrights*” means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to copyrights and all mask work, database and design rights, whether or not registered or published, all registrations and recordations thereof and all applications in connection therewith.

“*Credit Party*” means each of the Borrower, each Guarantor and each other Subsidiary of the Borrower that executes and delivers a Loan Document or is required to do so from time to time, in accordance with this Agreement.

“*Customary Permitted Liens*” means all of the following:

(a) Liens for Taxes, fees, assessments or other governmental charges (i) which are not delinquent or remain payable without penalty or (ii) that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; provided that any reserve or other appropriate provision as shall be required in conformity with GAAP shall have been made therefor;

(b) carriers’, warehousemen’s, mechanics’, landlords’, materialmen’s, repairmen’s or other similar Liens arising in the Ordinary Course of Business which are not delinquent for more than thirty (30) days or remain payable without penalty or which are being contested in good faith and by appropriate proceedings diligently prosecuted, which proceedings have the effect of preventing the forfeiture or sale of the Property subject thereto and for which adequate reserves in accordance with GAAP are being maintained;

(c) Liens (other than any Lien imposed by ERISA or the Wisconsin Wage Lien Statute) consisting of pledges or deposits required in the Ordinary Course of Business in connection with workers’ compensation, unemployment insurance and other social security legislation or to secure the performance of tenders, statutory obligations, surety, stay, customs and appeals bonds, bids, leases, governmental contract, trade contracts, performance and return of money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money) or to secure liability to insurance carriers;

(d) easements, rights-of-way, zoning and other restrictions, minor defects or other irregularities in title, and other similar encumbrances incurred in the Ordinary Course of Business which, either individually or in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the Property subject thereto or interfere in any material respect with the ordinary conduct of the businesses of any Credit Party or any Subsidiary of any Credit Party;

(e) Liens in favor of customs and revenue authorities arising as a matter of law which secure payment of customs duties in connection with the importation of goods in the Ordinary Course of Business; and

(f) Liens (including the right of set-off) in favor of a bank or other depository institution arising as a matter of law encumbering deposits.

“*Debt*” of any Person means, without duplication, all obligations, contingent or otherwise, of such Person that, in accordance with GAAP, should be classified upon the balance sheet of such Person as indebtedness, but in any event including: (a) all indebtedness for borrowed money; (b) all obligations issued, undertaken or assumed as the deferred purchase price of Property or services (other than trade payables entered into in the Ordinary Course of Business); (c) the face amount of all letters of credit issued for the account of such Person and without duplication, all drafts drawn thereunder and all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments issued by such Person; (d) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of Property, assets or businesses; (e) all indebtedness 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 the Person (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such Property); (f) all Capital Lease Obligations; (g) the principal balance outstanding under any synthetic lease, off-balance sheet loan or similar off balance sheet financing product; (h) all indebtedness referred to in clauses (a) through (g) above secured by (or for which the holder of such Debt 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, even though such Person has not assumed or become liable for the payment of such indebtedness; and (i) all Contingent Obligations described in clause (i) of the definition thereof in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (h) above.

“*Default*” means an event which, with the giving of notice or lapse of time, or both, would constitute an Event of Default.

“*Designs*” means all of the following now owned or hereafter acquired by any Credit Party: (a) all industrial designs and intangibles of like nature (whether registered or unregistered), now owned or existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications in connection therewith, including all registrations, recordings and applications in the Canadian Industrial Design Office or in any similar office or agency in any other country or any political subdivision thereof, and (b) all reissues, extensions or renewals thereof.

“*DIP Budget*” means a 13-week cash flow forecast of the Borrower, substantially in the form attached hereto as *Exhibit 2.2* and approved by the Agent and the Majority Lenders, which forecast shall, among other things, contain (i) detailed projected cash receipts and cash disbursements on a weekly basis for the then current week and the next 13 weeks and (ii) specific line items, amounts, and details as requested by the Agent, including a line item for each professional (other than ordinary course professionals approved in connection with the First Day Orders for which there will be a single consolidated lien item included in the Budget) compensated by the Borrower or any other Debtor and Professionals, and fees and interest due to be paid hereunder, as updated from time to time pursuant to Section 5.2(c) of this Agreement.

“*Directors’ and Officers’ Charge*” has the meaning specified in the Canadian Interim DIP Order.

“*Disclosure Statement*” has the meaning specified in Section 5.1(l)(i).

“*Disclosure Statement Hearing*” the hearing scheduled by the Bankruptcy Court to determine the adequacy of the Disclosure Statement under section 1125 of the Bankruptcy Code.

“*Disposition*” means (a) the sale, lease, conveyance or other disposition of Property, other than sales or other dispositions expressly permitted under Section 5.3(c) or (b) the sale or transfer by the Borrower or any Subsidiary of the Borrower of any Stock or Stock Equivalent issued by any Subsidiary of the Borrower and held by such transferor Person.

“*Dollars*” and “*\$*” mean the lawful currency of the United States of America.

“*Domestic Subsidiary*” means, with respect to any Person, a Subsidiary of such Person, which Subsidiary is incorporated or otherwise organized under the laws of a state of the United States of America or the District of Columbia.

“*Environmental Laws*” means all present and future Requirements of Law and Permits imposing liability or standards of conduct for or relating to the regulation and protection of human health, safety, the environment and natural resources, and including public notification requirements and environmental transfer of ownership, notification or approval statutes.

“*Environmental Liabilities*” means all Liabilities (including costs of Remedial Actions, natural resource damages and costs and expenses of investigation and feasibility studies) that may be imposed on, incurred by or asserted against any Credit Party or any Subsidiary of any Credit Party as a result of, or related to, any claim, suit, action, investigation, proceeding or demand by any Person, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law or otherwise, arising under any Environmental Law or in connection with any environmental, health or safety condition or with any Release and resulting from the ownership, lease, sublease or other operation or occupation of property by any Credit Party or any Subsidiary of any Credit Party, whether on, prior or after the date hereof.

“*ERISA*” means the Employee Retirement Income Security Act of 1974, as amended.

“*ERISA Affiliate*” means, collectively, any Credit Party and any Person under common control or treated as a single employer with, any Credit Party, within the meaning of Section 414(b), (c), (m) or (o) of the Code.

“*ERISA Event*” means any of the following: (a) a reportable event described in Section 4043(b) of ERISA (or, unless the 30-day notice requirement has been duly waived under the applicable regulations, Section 4043(c) of ERISA) with respect to a Title IV Plan; (b) the withdrawal of any ERISA Affiliate from a Title IV Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA; (c) the complete or partial withdrawal of any ERISA Affiliate from any Multiemployer Plan; (d) with respect to any Multiemployer Plan, the filing of a notice of reorganization, insolvency or termination (or treatment of a plan amendment as termination) under Section 4041A of ERISA;

(e) the filing of a notice of intent to terminate a Title IV Plan (or treatment of a plan amendment as termination) under Section 4041 of ERISA; (f) the institution of proceedings to terminate a Title IV Plan or Multiemployer Plan by the PBGC; (g) the failure to make any required contribution to any Title IV Plan or Multiemployer Plan when due; (h) the imposition of a lien under Section 412 of the Code or Section 302 or 4068 of ERISA on any property (or rights to property, whether real or personal) of any ERISA Affiliate; (i) the failure of a Benefit Plan or any trust thereunder intended to qualify for tax exempt status under Section 401 or 501 of the Code or other Requirements of Law to qualify thereunder; and (j) any other event or condition that might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Title IV Plan or Multiemployer Plan or for the imposition of any liability upon any ERISA Affiliate under Title IV of ERISA other than for PBGC premiums due but not delinquent.

“*ESOP*” means the JHT Holdings Inc. Employee Stock Ownership Plan effective December 31, 1999.

“*ESOP Preferred Stock*” means the ESOP Convertible Preferred Stock, \$.01 par value per share, of the Borrower, issued and outstanding on the Closing Date, as set forth on *Schedule 4.5*.

“*ESOP Trust*” means the JHT Holdings, Inc. ESOP Trust.

“*Event of Default*” has the meaning specified in Section 6.1.

“*Event of Loss*” means, with respect to any Property, any of the following: (a) any loss, destruction or damage of such Property; (b) any pending or threatened institution of any proceedings for the condemnation or seizure of such Property or for the exercise of any right of eminent domain; or (c) any actual condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, of such Property, or confiscation of such Property or the requisition of the use of such Property.

“*Excess Cash*” means, at any time, any cash held by any Credit Party or combination of Credit Parties, in each case, in an amount in excess of the sum of (i) \$2,000,000 in the aggregate plus (ii) the aggregate amount of all checks made by the Credit Parties that are outstanding and have not cleared at such time.

“*Existing Liens*” has the meaning specified in Section 5.3(b)(iii).

“*Exit Credit Agreements*” means the Exit Revolving Credit Agreement and the Exit Second Lien Credit Agreement.

“*Exit Revolving Agent*” means the agent under the Exit Revolving Credit Agreement, or any successor agent appointed pursuant thereto.

“*Exit Revolving Credit Agreement*” means the senior secured revolving credit agreement to be dated as of the Plan Effective Date evidencing the Exit Revolving Facility by and among Reorganized Holdings, as borrower, the other Reorganized Debtors, as guarantors, the Exit Revolving Agent and the Exit Revolving Lenders, as such agreement may be subsequently modified, amended, or supplemented from time to time, together with all instruments and agreements related thereto, all in a form and substance as may be approved by those Prepetition

Lenders collectively holding at least two-thirds in amount and more than one-half in number of the allowed claims held by Prepetition Lenders pursuant to the Prepetition Credit Agreement, which shall be in substantially final form in the Plan Support Documents to be filed in accordance with the Plan Confirmation Milestones.

“Exit Revolving Facility” means the senior secured first-lien revolving credit facility with a maximum commitment of not less than \$35,000,000, entered as of the Plan Effective Date by Reorganized Holdings, as borrower, the other Reorganized Debtors, as guarantors, the Exit Revolving Agent and the Exit Revolving Lenders, on substantially the terms and conditions set forth in the Plan Support Documents, in substantially final form, to be filed in accordance with the Plan Confirmation Milestones. The liens securing the Exit Second-Lien Loan will be junior in priority to the liens securing the Exit Revolving Facility.

“Exit Revolving Lenders” means the financial institutions from time to time party to the Exit Revolving Facility.

“Exit Second-Lien Agent” means the agent under the Exit Second-Lien Credit Agreement, or any successor agent appointed pursuant thereto.

“Exit Second Lien Credit Agreement” means the senior secured second-lien credit agreement to be dated as of the Plan Effective Date evidencing the Exit Second Lien Loan by and among Reorganized Holdings, as borrower, the other Reorganized Debtors, as guarantor, the Exit Second-Lien Agent and the Exit Second-Lien Lenders, as such agreement may be subsequently modified, amended, or supplemented from time to time, together with all instruments and agreements related thereto, all in a form and substance as may be approved by those Prepetition Lenders collectively holding at least two-thirds in amount and more than one-half in number of the allowed claims held by Prepetition Lenders pursuant to the Prepetition Credit Agreement, which shall be in substantially final form in the Plan Support Documents to be filed in accordance with the Plan Confirmation Milestones.

“Exit Second-Lien Lenders” means the financial institutions from time to time party to the Exit Second-Lien Loan.

“Exit Second-Lien Loan” means the senior secured second-lien term loan in a principal amount of not less than \$60,000,000 to be entered into as of the Plan Effective Date by Reorganized Holdings, as borrower, the other Reorganized Debtors, as guarantors, the Exit Second-Lien Agent and the Exit Second-Lien Lenders, on substantially the terms and conditions set forth in the Plan Support Documents, in substantially final form, to be filed in accordance with the Plan Confirmation Milestones. The liens securing the Exit Second-Lien Loan will be junior in priority to the liens securing the Exit Revolving Facility.

“Extension” has the meaning specified in Section 2.23.

“Extension Fee” has the meaning specified in Section 2.18(d).

“Federal Funds Rate” means, for any day, the rate per annum (rounded upward to the nearest 1/100th 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 that if no such rate is so published on such next succeeding

Business Day, the Federal Funds Rate for such day shall be the average rate quoted to the Agent on such day on such transactions as determined by the Agent in a commercially reasonable manner.

“*Federal Reserve Board*” means the Board of Governors of the Federal Reserve System, or any entity succeeding to any of its principal functions.

“*Final Order*” means, collectively, the order 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 order shall be satisfactory in form and substance to the Agent and the Majority Lenders, and from which no appeal or motion to reconsider has been timely filed, or if timely filed, such appeal or motion to reconsider has been dismissed or denied (unless the Agent waive such requirement), together with all extensions, modifications and amendments thereto, which, among other matters but not by way of limitation, authorizes the Borrower to enter into this Agreement.

“*Financial Advisor*” has the meaning specified in Section 5.1(f).

“*First Budget Period*” has the meaning specified in Section 5.2(c).

“*First Day Orders*” shall mean all orders entered by the Bankruptcy Court based on motions filed on or within five Business Days after the Petition Date in form and substance reasonably acceptable to the Agent and Majority Lenders.

“*First Out Lenders*” shall mean, collectively, the Bankruptcy Preparation Overadvance Lenders, the Bridge Facility Overadvance Lenders, and the Prepetition Bridge Lenders.

“*First Out Loans*” shall mean, collectively, the Bankruptcy Preparation Overadvance, the Bridge Facility Overadvance, and the loans made pursuant to the Prepetition Bridge Credit Agreement).

“*First Out Loan Share*” each First Out Lender’s share in amount (including principal, prepetition outstanding accrued but unpaid interest (including interest at the default rate in accordance with the Prepetition Bridge Credit Agreement or Prepetition Credit Agreement, as applicable) and postpetition interest) of the First Out Loans.

“*Foreign Subsidiary*” means, with respect to any Person, a Subsidiary of such Person, which Subsidiary is not a Domestic Subsidiary.

“*GAAP*” means generally accepted accounting principles in the United States of America as in effect from time to time set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and the statements and pronouncements of the Financial Accounting Standards Board, or in such other statements by such other entity as may be in general use by significant segments of the accounting profession, that are applicable to the circumstances as of the date of determination.

“*Governmental Authority*” means any nation or government, any state or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, any entity exercising executive, legislative, judicial, regulatory or administrative

functions of or pertaining to government, and any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

“*Guarantor*” means Parent and each Subsidiary of the Borrower party to, that becomes or is required to become party to, the Guaranty and Security Agreement or the Canadian Guaranty and Security Agreement.

“*Guaranty and Security Agreement*” means the Guaranty and Security Agreement dated as of the date hereof entered into by Parent, the Borrower and the Domestic Subsidiaries of the Borrower that are Guarantors in favor of the Agent.

“*Hazardous Materials*” means any substance, material or waste that is classified, regulated or otherwise characterized under any Environmental Law as hazardous, toxic, a contaminant or a pollutant or by other words of similar meaning or regulatory effect, including petroleum or any fraction thereof, asbestos, polychlorinated biphenyls and radioactive substances.

“*Incremental Facility Effective Date*” means the date on which the conditions precedent set forth in Section 3.2 of this Agreement have been satisfied.

“*Indemnitees*” has the meaning specified in Section 8.11.

“*Intellectual Property*” means all rights, title and interests in or relating to intellectual property and industrial property arising under any Requirement of Law and all IP Ancillary Rights relating thereto, including all Copyrights, Patents, Trademarks, Designs, Internet domain names, Trade Secrets and IP Licenses.

“*Interest Period*” shall mean as to any borrowing of LIBO Rate Loans, the period commencing on the date of such borrowing or on the last day of the immediately preceding Interest Period applicable to such borrowing, as the case may be, and ending on the earliest of (a) the numerically corresponding day (or, if there is no numerically corresponding day, on the last day) in the calendar month that is one month thereafter, (b) the Maturity Date, and (c) the date such borrowing is repaid or prepaid in accordance with Section 2.6 or Section 2.7; provided, however, that if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day. Interest shall accrue from and including the first day of an Interest Period to but excluding the last day of such Interest Period.

“*Interest Rate Determination Date*” has the meaning specified in Section 2.8(d).

“*Interim Amount*” has the meaning specified in Section 2.1(b).

“*Interim Loans*” has the meaning specified in Section 2.1(b).

“*Interim Order*” means that certain order of the Bankruptcy Court entered in the Chapter 11 Case pursuant to sections 361, 362, 363, and 364 of the Bankruptcy Code authorizing the Borrower to enter into this Agreement and the other Loan Documents in substantially the form of *Exhibit 3.1(a)* hereto and otherwise in form and substance satisfactory to the Agent and the Majority Lenders, as to which no stay has been entered and which has not been reversed, modified, vacated or overturned.

“*Interim Period*” has the meaning specified in Section 2.2(a).

“*IP Ancillary Rights*” means, with respect to any other Intellectual Property, as applicable, all foreign counterparts to, and all divisionals, reversions, continuations, continuations-in-part, reissues, reexaminations, renewals and extensions of, such Intellectual Property and all income, royalties, proceeds and Liabilities at any time due or payable or asserted under or with respect to any of the foregoing or otherwise with respect to such Intellectual Property, including all rights to sue or recover at law or in equity for any past, present or future infringement, misappropriation, dilution, violation or other impairment thereof, and, in each case, all rights to obtain any other IP Ancillary Right.

“*IP License*” means all Contractual Obligations (and all related IP Ancillary Rights), whether written or oral, granting any right, title and interest in or relating to any Intellectual Property.

“*Issue*” means, with respect to any Letter of Credit, to issue, extend the expiration date of, renew (including by failure to object to any automatic renewal on the last day such objection is permitted), increase the face amount of, or reduce or eliminate any scheduled decrease in the face amount of, such Letter of Credit, or to cause any Person to do any of the foregoing. The terms “*Issued*” and “*Issuance*” have correlative meanings.

“*Jupiter*” means Jupiter Logistics de Mexico, S.A. de C.V.

“*L/C Issuer*” means GE Capital or a Subsidiary thereof or a bank or other legally authorized Person selected by or acceptable to the Majority Lenders, in such Person’s capacity as an issuer of Letters of Credit hereunder.

“*L/C Reimbursement Agreement*” has the meaning specified in Section 2.3(a)(iii).

“*L/C Reimbursement Date*” has the meaning specified in Section 2.3(e).

“*L/C Reimbursement Obligation*” means, for any Letter of Credit, the obligation of the Borrower to the L/C Issuer thereof, as and when matured, to pay all amounts drawn under such Letter of Credit.

“*L/C Request*” has the meaning specified in Section 2.3(b).

“*L/C Undrawn Amounts*” means, at any time, the aggregate undrawn face amount of all Letters of Credit outstanding at such time.

“*Lender*” has the meaning set forth in the Preamble.

“*Letter of Credit*” means documentary or standby letters of credit issued for the account of the Borrower by L/C Issuers, and bankers’ acceptances issued by the Borrower, for which Agent and Lenders have incurred Letter of Credit Obligations issued in connection with this Agreement.

“*Letter of Credit Fee*” has the meaning specified in Section 2.18(b).

“*Letter of Credit Obligations*” means all outstanding obligations incurred by Agent, Lenders or L/C Issuer at the request of the Borrower, whether direct or indirect, contingent or otherwise, due or not due, in connection with the issuance of Letters of Credit by L/C Issuers or the purchase of a participation as set forth in Section 2.3 with respect to any Letter of Credit including, without duplication, the sum of (a) the L/C Reimbursement Obligations then due and payable at such time and (b) the L/C Undrawn Amounts at such time. The amount of such Letter of Credit Obligations shall equal the maximum amount that may be payable by Agent and Lenders thereupon or pursuant thereto.

“*Liabilities*” means all claims, actions, suits, judgments, damages, losses, liability, obligations, responsibilities, fines, penalties, sanctions, costs, fees, taxes, commissions, charges, disbursements and expenses, in each case of any kind or nature (including interest accrued thereon or as a result thereto and fees, charges and disbursements of financial, legal and other advisors and consultants), whether joint or several, whether or not indirect, contingent, consequential, actual, punitive, treble or otherwise.

“*LIBO Rate*” means, for each Interest Period, the offered rate per annum for deposits of Dollars for the applicable Interest Period that appears on Telerate Page 3750 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 the Agent (rounded upwards, if necessary, to the nearest 1/100 of 1%) 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 the Agent in the London interbank market for such Interest Period for the applicable principal amount on such date of determination; provided however, that in no event shall the LIBO Rate be less than 3.50%.

“*LIBO Rate Loan*” means a Loan that bears interest base on the LIBO Rate.

“*Lien*” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, encumbrance, charge or security interest in or on such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“*Loan Documents*” mean this Agreement, the Notes, the Collateral Documents, the Orders and any other document or instrument executed and delivered by the Borrower to the Agent in connection with this Agreement.

“*Loans*” has the meaning specified in Section 2.1(a).

“*Lockup Agreement*” means that certain Lockup and Plan Support Agreement dated June __, 2008 by and among the Debtors and certain of their creditors.

“*Majority Lenders*” means at any time Lenders holding more than fifty percent (50%) of the Aggregate Revolving Credit Commitment (or, in the event the Commitments have been terminated, Lenders holding more than fifty percent (50%) of the aggregate Revolving Credit Outstandings).

“*Material Adverse Effect*” means a material adverse effect in any of (a) the business, operations, properties, assets or condition (financial or otherwise) of the Borrower or the Credit Parties, taken as a whole, (b) the ability of the Borrower or the Credit Parties to perform any material obligations under any Loan Document or (c) the rights of or benefits available to the Lenders under any Loan Document (including the legality, validity, binding effect or enforceability of any Loan Document).

“*Maturity Date*” means the earliest of (a) the Stated Maturity Date, (b) the date on which the Obligations are accelerated and become due and payable following an Event of Default, (c) the Plan Effective Date, and (d) a sale of all or substantially all of the Debtors’ assets, subject to, and in accordance with, terms as may hereafter be agreed upon in writing by the Agent and the Majority Lenders.

“*Mexicana*” means, Mexicana Logistics, S.A de C.V.

“*Mortgage*” means any deed of trust, leasehold deed of trust, debenture, deed of hypothec, mortgage, leasehold mortgage, deed to secure Debt, leasehold deed to secure Debt or other document creating a Lien on real Property or any interest in real Property.

“*Multiemployer Plan*” means any multiemployer plan, as defined in Section 4001(a)(3) of ERISA, as to which any ERISA Affiliate incurs or otherwise has any obligation or liability, contingent or otherwise.

“*Net Proceeds*” means proceeds in cash, checks or other cash equivalent financial instruments (including Cash Equivalents) as and when received by the Person making a Disposition and insurance proceeds received on account of an Event of Loss, net of: (a) in the event of a Disposition (i) the direct costs relating to such Disposition excluding amounts payable to the Borrower or any Affiliate of the Borrower, (ii) sale, use or other transaction Taxes paid or payable as a result thereof, and (iii) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Debt secured by a Lien on the asset which is the subject of such Disposition, (b) in the event of an Event of Loss, (i) all money actually applied to repair, reconstruct or replace the damaged Property or Property affected by the condemnation or taking, (ii) all of the costs and expenses reasonably incurred in connection with the collection of such proceeds, award or other payments, and (iii) any amounts retained by or paid to parties having superior rights to such proceeds, awards or other payments and (c) in any event a reasonable reserve for indemnification payments (fixed or contingent) attributable to such Person’s indemnities and representations and warranties in respect of such Disposition or Event of Loss; provided that upon the release of such reserve the amount released shall be considered Net Proceeds.

“*New Common Stock*” means the shares of common stock of Reorganized Holdings issued pursuant to, and with the rights and obligations set forth in, the Plan and the Plan Support Documents. All holders of New Common Stock will be entitled to elect the members of the Board of Directors of Reorganized Holdings with each holder entitled to one vote for each share of New Common Stock held.

“*New Limited Voting Common Stock*” means the shares of New Common Stock issued, at the election of the holder, with limited voting rights, as further set forth in the Plan and Plan Support Documents.

“*New Stock*” means the New Common Stock or the New Limited Voting Common Stock, applicable.

“*Note*” means a promissory note payable to the order of a Lender in substantially the form of *Exhibit 2.5* hereto evidencing indebtedness of the Borrower under the Ratable Portion of such Lender.

“*Obligations*” means all Loans, advances, debts, liabilities, obligations, covenants and duties of any kind or nature, present or future, whether or not evidenced by any note, guaranty or other instrument, due to the Agent, the Lenders or the L/C Issuer or to any other Indemnitee from the Borrower or any other Credit Party and arising under any Loan Document, whether or not for the payment of money, whether arising by reason of an extension of credit, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now or hereafter arising and however acquired, including all interest, charges, expenses, fees (including Attorney Costs) and other amounts chargeable to the Borrower or any other Credit Party under any Loan Document.

“*Orders*” shall mean the Interim Order, the Final Order and the Canadian Orders, as applicable.

“*Ordinary Course of Business*” means, in respect of any transaction involving any Credit Party or any Subsidiary of any Credit Party, the ordinary course of such Person’s business, as conducted by any such Person in accordance with past practice and undertaken by such Person in good faith and not for purposes of evading any covenant or restriction in any Loan Document.

“*Organizational Documents*” means, (a) for any corporation, the certificate or articles of incorporation or amalgamation, the bylaws, any certificate of determination or instrument relating to the rights of preferred shareholders of such corporation, any shareholder rights agreement, (b) for any partnership, the partnership agreement and, if applicable, certificate of limited partnership, (c) for any limited liability company, the operating agreement or limited liability company agreement and articles or certificate of formation or (d) any other document setting forth the manner of election or duties of the officers, directors, managers or other similar persons, or the designation, amount or relative rights, limitations and preference of the Stock of a Person.

“*Overadvance Reserves*” means, to the extent not repaid in full in cash under the Interim Order, a reserve in an amount equal to 105% of the aggregate outstanding amount of the First Out Loan Share of each First Out Lender whose Commitment is in an amount not less than such First Out Lender’s First Out Loan Share (including outstanding principal, prepetition interest and postpetition interest).

“*Parent*” has the meaning specified in the recitals.

“*Patents*” means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to letters patent and applications therefor.

“*Patriot Act*” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56, as amended.

“*PBGC*” means the United States Pension Benefit Guaranty Corporation or any successor thereto.

“*Permits*” means, with respect to any Person, any permit, approval, authorization, license, registration, certificate, concession, grant, franchise, variance or permission from, and any other Contractual Obligations with, any Governmental Authority, in each case whether or not having the force of law and applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“*Permitted Liens*” has the meaning specified in Section 5.3(b).

“*Person*” means any individual, partnership, corporation (including a business trust and a public benefit corporation), joint stock company, estate, association, firm, enterprise, trust, limited liability company, unincorporated association, joint venture and any other entity or Governmental Authority.

“*Petition Date*” has the meaning specified in the recitals to this Agreement.

“*Plan*” shall mean a chapter 11 plan in the Chapter 11 Case.

“*Plan Confirmation Milestones*” has the meaning specified in Section 5.1(l).

“*Plan Effective Date*” has the meaning specified in Section 5.1(l).

“*Plan Support Documents*” means the documents filed in support of the Plan, including (i) the Restated Corporate Documents, (ii) the Registration Rights Agreement, (iii) the Exit Credit Agreements, and (iv) the Shareholders Agreement, all in a form and substance as may be approved by those Prepetition Lenders collectively holding at least two-thirds in amount and more than one-half in number of the allowed claims held by Prepetition Lenders pursuant to the Prepetition Credit Agreement.

“*Postpetition Debt*” means Debt of any Credit Party or any of its Subsidiaries incurred after the Petition Date.

“*PPSA*” means the Personal Property Security Act (Ontario) and the Regulations thereunder, as from time to time in effect, provided, however, if attachment, perfection or priority of Agent’s security interests in any Collateral are governed by the personal property security laws of any jurisdiction other than Ontario, PPSA shall mean those personal property security laws in such other jurisdiction for the purposes of the provisions hereof relating to such attachment, perfection or priority and for the definitions related to such provisions.

“*Prepetition Agent*” means the “Administrative Agent” under the Prepetition Credit Agreement.

“*Prepetition Bridge Agent*” means the “Agent” under the Prepetition Bridge Credit Agreement.

“*Prepetition Bridge Credit Agreement*” means the \$3,000,000 Senior Secured Credit Agreement, dated as of May 19, 2008, by and among JHT Holdings, Inc., JHT Acquisition Corp., the other Credit Parties party thereto, General Electric Capital Corporation, as Agent, and the other financial institutions party thereto as lenders.

“*Prepetition Bridge Credit Agreement Majority Lenders*” means “Majority Lenders” as such term is used in the Prepetition Bridge Credit Agreement.

“*Prepetition Canadian Security Documents*” means the Canadian Guaranty and Security Agreement dated as of December 21, 2006, the Canadian Pledge Agreement, dated as of December 21, 2006 and Deed of Hypothec, dated as of December 21, 2006, executed in connection with the Prepetition Credit Agreement and entered into by the Canadian Subsidiaries in favor of the Prepetition Agent.

“*Prepetition Bridge Lenders*” means the “Lenders” under the Prepetition Bridge Credit Agreement.

“*Prepetition Credit Agreement*” means the Senior Secured Credit Facility Credit Agreement, dated as of December 21, 2006, among the Borrower, the Prepetition Lenders, the Prepetition Agent and other parties thereto, as the same was amended, supplemented, restated or otherwise modified prior to the Petition Date, together with all documents and agreements related thereto.

“*Prepetition Credit Agreement Required Lenders*” means the “Required Lenders” as defined in the Prepetition Credit Agreement.

“*Prepetition Lenders*” means the “Lenders” under the Prepetition Credit Agreement.

“*Prepetition Loans*” means the “Loans” as defined in the Prepetition Credit Agreement.

“*Priming Liens*” means pursuant to section 364(d)(1) of the Bankruptcy Code fully perfected first priority, valid, binding, enforceable, non-avoidable and automatically perfected, priming security interest in and liens, senior in all respects to the interests in such property of the Prepetition Lenders, upon all collateral securing the obligations under the Prepetition Credit Agreement; subject only to any Priority Liens.

“*Priority Liens*” means, collectively, Existing Liens and Customary Permitted Liens solely to the extent such liens are senior to the Liens of the Prepetition Lenders as of the Petition Date.

“*Professionals*” means the professionals retained by the Debtors or any Committee and approved by the Bankruptcy Court or, in connection with the CCAA Case, to the extent pending, professionals retained by the Debtors, any Canadian monitor or administrator as the case may be, the Administrative Charge.

“*Property*” means any interest in any kind of property or asset, whether real, personal or mixed, and whether tangible or intangible and whether movable or immovable.

“*Ratable Portion*” means, in relation to a Lender, such Lender’s proportional share of the Aggregate Revolving Credit Commitment, as set forth in *Schedule 2.1(a)* hereto.

“*Rate Contracts*” means swap agreements (as such term is defined in section 101 of the Bankruptcy Code) and any other agreements or arrangements designed to provide protection against fluctuations in interest or currency exchange rates.

“*Register*” has the meaning specified in Section 2.10(b).

“*Registration Rights Agreement*” means the registration rights agreement to be dated as of the Effective Date by and among Reorganized Holdings and the holders of the shares New Stock issued in connection with Plan, subject to the terms set forth in the Plan, all in a form and substance as may be approved by those Prepetition Lenders collectively holding at least two-thirds in amount and more than one-half in number of the allowed claims held by Prepetition Lenders pursuant to the Prepetition Credit Agreement.

“*Related Persons*” means, with respect to any Person, each Affiliate of such Person and each director, officer, employee, agent, trustee, representative, attorney, accountant and each insurance, environmental, legal, financial and other advisory and other consultants and agents of or to such Person or any of its Affiliates.

“*Releases*” means any release, threatened release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Material into or through the environment.

“*Remedial Action*” means all actions required to (a) clean up, remove, treat or in any other way address any Hazardous Material in the indoor or outdoor environment, (b) prevent or minimize any Release so that a Hazardous Material does not migrate or endanger or threaten to endanger public health or welfare or the indoor or outdoor environment or (c) perform pre remedial studies and investigations and post-remedial monitoring and care with respect to any Hazardous Material.

“*Reorganized Debtors*” means the Debtors, as reorganized as of the Plan Effective Date in accordance with the Plan, or any successors in interest thereto, from and after the Plan Effective Date.

“*Reorganized Holdings*” means the Borrower, as reorganized as of the Plan Effective Date in accordance with the Plan, or any successors in interest thereto, from and after the Plan Effective Date.

“*Requirement of Law*” means, as to any Person, any law (statutory or common), ordinance, treaty, rule, regulation, order, order-in-council, policy, other legal requirement or determination of a court or an arbitrator or of a Governmental Authority in any jurisdiction, 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.

“*Restated Corporate Documents*” means the amended and restated certificates of incorporation and bylaws (or any other applicable organizational documents) of Reorganized Holdings in effect on the Plan Effective Date, all in a form and substance as may be approved by those Prepetition Lenders collectively holding at least two-thirds in amount and more than one-

half in number of the allowed claims held by Prepetition Lenders pursuant to the Prepetition Credit Agreement.

“*Revolving Credit Outstandings*” means, at any particular time, the sum of (a) the principal amount of the Loans outstanding at such time and (b) the Letter of Credit Obligations outstanding at such time.

“*Restricted Payment*” has the meaning specified in Section 5.3(j).

“*Shareholders Agreement*” means that certain agreement to be executed by all recipients of New Stock and holders of warrants upon exercise of any such warrants, which will contain, among other things, customary “drag along” rights, “tag along” rights, preemptive rights and information rights. Pursuant to the Shareholders Agreement, holders of New Stock will also receive demand and piggyback registration rights, which will have priority over registration rights granted to any other holders of capital stock of Reorganized Holdings, all in a form and substance as may be approved by those Prepetition Lenders collectively holding at least two-thirds in amount and more than one-half in number of the allowed claims held by Prepetition Lenders pursuant to the Prepetition Credit Agreement.

“*Sponsors*” means MTGLQ Investors, L.P., Goldman, Sachs & Co. (which does not currently own any equity interest issued by any Credit Party), D.B. Zwirn & Co., L.P., ZM Private Equity Fund I, L.P. and Stonehouse Investment Company LLC.

“*Stated Maturity Date*” means the date that is one hundred twenty (120) days after the Closing Date, or such other date as may have been extended pursuant to Section 2.23 hereof.

“*Stock*” means all shares of capital stock (whether denominated as common stock or preferred stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting.

“*Stock Equivalents*” means all securities convertible into or exchangeable for Stock or any other Stock Equivalent and all warrants, options or other rights to purchase, subscribe for or otherwise acquire any Stock or any other Stock Equivalent, whether or not presently convertible, exchangeable or exercisable.

“*Subsidiary*” of a Person means any corporation, association, limited liability company, partnership, joint venture or other business entity of which more than fifty percent (50%) of the voting Stock, is owned or controlled directly or indirectly by the Person, or one or more of the Subsidiaries of the Person, or a combination thereof.

“*Subordinated Indebtedness*” means the Debt of any Credit Party or any Subsidiary of any Credit Party which is subordinated in right of payment to the Obligations.

“*Tax Affiliate*” means, (a) Borrower and its Subsidiaries and (b) any Affiliate of Borrower with which Borrower files or is eligible to file consolidated, combined or unitary tax returns.

“*Taxes*” has the meaning specified in Section 2.13(a).

“*Tax Returns*” has the meaning specified in Section 4.16.

“*Title IV Plan*” means a pension plan subject to Title IV of ERISA, other than a Multiemployer Plan, to which any ERISA Affiliate incurs or otherwise has any obligation or liability, contingent or otherwise.

“*Trade Secrets*” means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trade secrets.

“*Trademark*” means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers and, in each case, all goodwill associated therewith, all registrations and recordations thereof and all applications in connection therewith.

“*UCC*” means the Uniform Commercial Code as in effect from time to time in the State of New York.

“*Underwriting Fee*” has the meaning specified in Section 2.18(c).

“*Unused Line Fee*” has the meaning specified in Section 2.18(a).

“*Wholly-Owned Subsidiary*” means any Subsidiary in which (other than directors’ qualifying shares required by law) one hundred percent (100%) of the Stock and Stock Equivalents, at the time as of which any determination is being made, is owned, beneficially and of record, by any Credit Party, or by one or more of the other Wholly-Owned Subsidiaries, or both.

“*Wisconsin Wage Lien Statute*” means Chapter 109 of the Wisconsin Statutes.

“*Withdrawal Liabilities*” means, at any time, any liability incurred (whether or not assessed) by any ERISA Affiliate and not yet satisfied or paid in full at such time with respect to any Multiemployer Plan pursuant to Section 4201 of ERISA

1.2 *Certain Terms.* In this Agreement, in the computation of periods of time from a specified date to a later specified date, the word “*from*” means “from and including”, the words “*to*” and “*until*” each mean “to but excluding” and the word “*through*” means “to and including”. The words “*include*”, “*includes*” and “*including*” mean, respectively “include without limitation,” “includes without limitation” and “including without limitation.” The word “*or*” does refer to an exclusive choice.

1.3 *Accounting Terms.* All accounting terms not specifically defined herein shall be construed in conformity with GAAP and all accounting determinations required to be made pursuant hereto shall, unless expressly otherwise provided herein, be made in conformity with GAAP.

1.4 *Internal Cross References.* The words “*herein*,” “*hereof*” and “*hereunder*” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, subsection or clause in this Agreement.

1.5 *Legislation.* Unless the context otherwise requires, references to any legislation or administrative rule or regulation include references to any amendment or modification of such legislation, rule or regulation, to any successor legislation, rule or regulation and to any subordinate legislation, rule or regulation made thereunder.

2. AMOUNT AND TERM OF THE LOANS

2.1 *The Revolving Credit Loans.*

(a) Subject to the terms and conditions hereof, and relying upon the representations and warranties set forth herein, each Lender agrees, severally and not jointly, on the terms and conditions of this Agreement, to make revolving loans (each, a “**Loan**”) to the Borrower from time to time from the Closing Date until the Maturity Date (so long as there is no Default or Event of Default that has occurred and is continuing) in an aggregate principal amount outstanding at any time not in excess of the Commitment of such Lender; provided, however that, after giving effect to any borrowing of Loans, the aggregate principal amount of all outstanding Loans shall not exceed the Aggregate Revolving Credit Commitment; provided, further, that at no time shall any Lender be obligated to make a Loan in excess of such Lender’s Ratable Portion of the Available Credit. Each Lender’s Commitment shall terminate immediately and without further action on the Maturity Date. The Borrower may prepay the Loans in whole or in part, and reborrow, all in accordance with the terms and conditions hereof. Each Lender will make Loans to the Borrower according to such Lender’s Ratable Portion of such Loans.

(b) Notwithstanding any other provision of this Section 2.1, during the period from the Closing Date until the Incremental Facility Effective Date, the aggregate amount of Loans outstanding (the “**Interim Loans**”) at any one time hereunder shall not exceed \$22,000,000 (including, to the extent applicable, any Overadvance Reserves) (collectively, the “**Interim Amount**”).

(c) Subject to Section 2.1(a) hereof, the Borrower may borrow up to the Available Credit on any Business Day, provided that the Borrower shall deliver to the Agent a Borrowing Notice in the form of *Exhibit 2.1(b)* (which Borrowing Notice must be received by the Agent prior to 12:00 p.m. (New York City time) three (3) Business Days prior to the anticipated borrowing (the “**Borrowing Date**”) or in the case of Base Rate Loans, one (1) Business Day prior to the Borrowing Date). Each Borrowing Notice shall specify (A) the date of such proposed borrowing, (B) the aggregate amount of such proposed borrowing (which shall be in an aggregate minimum principal amount of \$100,000 and multiples of \$50,000 in excess thereof), (C) whether the proposed Borrowing is a LIBOR Rate Loan or a Base Rate Loan and (D) a certification that the proceeds of such borrowing shall be used solely as set forth in Section 2.2 herein. Upon receipt of any such Borrowing Notice from the Borrower, the Agent shall promptly notify each Lender thereof. Each Lender shall, before 3:00 p.m. (New York City time), on the Borrowing Date make available to the Agent, in immediately available funds, its Ratable Portion of such proposed borrowing. After the Agent’s receipt of such funds from the Lenders and upon fulfillment (or due waiver in accordance of the applicable conditions set forth in Article 3), the Agent shall make such funds available to the Borrower by wire transfer pursuant to the wire instructions specified on the signature page hereto. Notwithstanding any other provision contained in this Agreement, the Borrower may not request more than one (1) borrowing per Business Day.

(d) Unless the Agent shall have received notice from a Lender prior to the date of any proposed borrowing that such Lender will not make available such Lender's Ratable Portion of such borrowing, the Agent may assume that each Lender has made its Ratable Portion of the proposed borrowing available to the Agent on the Borrowing Date in accordance with this Section 2.1, and the Agent may, in reliance upon such assumption, make available to the Borrower on the Borrowing Date a corresponding amount. If, and to the extent that, a Lender shall not have so made its Ratable Portion available to the Agent, such Lender and the Borrower severally agree to repay to the Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Agent, at (i) in the case of the Borrower, the interest rate applicable at the time to the Loans comprising such borrowing and (ii) in the case of such Lender, the Federal Funds Rate for the first Business Day and thereafter at the interest rate applicable at the time to the Loans comprising such borrowing. If such Lender shall repay to the Agent such corresponding amount, such amount so repaid shall constitute such Lender's Loan as part of such borrowing for purposes of this Agreement. If the Borrower shall repay to the Agent such corresponding amount, such payment shall not relieve such Lender of any obligation it may have hereunder to the Borrower.

2.2 *Application of Loan Proceeds.*

(a) Following the entry of the Interim Order and prior to the entry of the Final Order (the "*Interim Period*"), the Borrower shall apply proceeds of the Interim Loans (i) for general corporate purposes in accordance with the DIP Budget, subject to permitted variances set forth in Section 5.3(a), (ii) to reimburse any costs and expenses owed to the Agent, Lenders or any Related Persons by Borrower under this Agreement, subject to Section 2.9(c), (iii) to make the Adequate Protection Payments (which shall include repayment in full in cash of the First Out Loans to the First Out Lenders which are Lenders hereunder), and (iv) prior to the occurrence of the Carve-Out Date, to pay the fees and expenses of the Professionals set forth in the DIP Budget which payments after the Carve-Out Date shall be pursuant and subject to the Carve-Out; provided that, the Canadian Subsidiaries may not receive proceeds of the Interim Loans directly or indirectly through intercompany transfers from the Debtors and/or the Debtors' cash management systems unless the Canadian Security Documents have been duly executed by all the parties thereto and shall be in form and substance acceptable to the Prepetition Agent, the Required Lenders, and the Prepetition Bridge Credit Agreement Majority Lenders; provided further that, if any of the Canadian Subsidiaries become parties to a CCAA Case during the Interim Period, the Canadian Subsidiaries shall not be entitled to use the proceeds of the Interim Loans from the time of the commencement of such CCAA Case until the entry of the Canadian Interim DIP Order, in form and substance acceptable to the Prepetition Credit Agreement Required Lenders and the Prepetition Bridge Credit Agreement Majority Lenders.

(b) Following the entry of the Final Order, the Borrower shall be permitted to use the proceeds of the Loans made on and after the entry of the Final Order in accordance with the terms provided in Section 4.13.

2.3 *Letters of Credit.*

(a) *Commitment and Conditions.* On the terms and subject to the conditions contained herein, each L/C Issuer agrees to Issue, at the request of the Borrower, in accordance with such L/C Issuer's usual and customary business practices, and for the account of the Borrower (or, as long as the Borrower remains responsible for the payment in full of all amounts

drawn thereunder and related fees, costs and expenses, for the account of Parent or any Subsidiary of Borrower), Letters of Credit (denominated in Dollars) from time to time on any Business Day during the period from the Closing Date through the Maturity Date; *provided, however*, that such L/C Issuer shall not be under any obligation to Issue any Letter of Credit upon the occurrence of any of the following, after giving effect to such Issuance:

(i) (A) the Revolving Credit Outstandings would exceed the Available Credit or (B) the sum of (i) the L/C Undrawn Amounts at such time and (ii) the L/C Reimbursement Obligations then due and payable at such time would exceed \$2,500,000;

(ii) the expiration date of such Letter of Credit (A) is not a Business Day, or (B) is more than one (1) year after the date of issuance thereof, or; provided, however, that any Letter of Credit with a term not exceeding one (1) year may provide for its renewal for additional periods not exceeding one (1) year as long as each of the Borrower and such L/C Issuer have the option to prevent such renewal before the expiration of such term or any such period; and/or

(iii) (A) any fee due in connection with, and on or prior to, such Issuance has not been paid, (B) such Letter of Credit is requested to be issued in a form that is not acceptable to such L/C Issuer or (C) such L/C Issuer shall not have received, each in form and substance reasonably acceptable to it and duly executed by the Borrower (and, if such Letter of Credit is issued for the account of Parent or any Subsidiary of Borrower, such Person), the documents that such L/C Issuer generally uses in the ordinary course of its business for the Issuance of letters of credit of the type of such Letter of Credit (collectively, the “*L/C Reimbursement Agreement*”).

For each such Issuance, the applicable L/C Issuer may, but shall not be required to, determine that, or take notice whether, the conditions precedent set forth in Article 3, have been satisfied or waived in connection with the Issuance of any Letter of Credit; provided, however, that no Letter of Credit shall be Issued during the period starting on the first Business Day after the receipt by such L/C Issuer of notice from the Agent or the Majority Lenders that any condition precedent contained in Article 3 is not satisfied and ending on the date all such conditions are satisfied or duly waived.

(b) *Notice of Issuance.* The Borrower shall give the relevant L/C Issuer and the Agent a notice of any requested Issuance of any Letter of Credit, which shall be effective only if received by such L/C Issuer and the Agent not later than 11:00 a.m. (New York City time) on the (3rd) third Business Day prior to the date of such requested Issuance. Such notice may be made in a writing substantially the form of *Exhibit 2.3* duly completed or in a writing in any other form acceptable to such L/C Issuer (an “*L/C Request*”) or by telephone if confirmed promptly, but in any event within one Business Day and prior to such Issuance, with such an L/C Request.

(c) *Reporting Obligations of L/C Issuers.* Each L/C Issuer agrees to provide the Agent (which, after receipt, the Agent shall provide to each Lender), in form and substance satisfactory to the Agent, each of the following on the following dates: (A) (i) on or prior to any Issuance of any Letter of Credit by such L/C Issuer, (ii) immediately after any drawing under any such Letter of Credit or (iii) immediately after any payment (or failure to pay when due) by the

Borrower of any related L/C Reimbursement Obligation, notice thereof, which shall contain a reasonably detailed description of such Issuance, drawing or payment; (B) upon the request of the Agent (or any Lender through the Agent), copies of any Letter of Credit Issued by such L/C Issuer and any related L/C Reimbursement Agreement and such other documents and information as may reasonably be requested by the Agent; and (C) on the first Business Day of each calendar week, a schedule of the Letters of Credit Issued by such L/C Issuer, in form and substance reasonably satisfactory to the Agent, setting forth the Letter of Credit Obligations for such Letters of Credit outstanding on the last Business Day of the previous calendar week.

(d) *Acquisition of Participations.* Upon any Issuance of a Letter of Credit in accordance with the terms of this Agreement resulting in any increase in the Letter of Credit Obligations, each Lender shall be deemed to have acquired, without recourse or warranty, an undivided interest and participation in such Letter of Credit and the related Letter of Credit Obligations in an amount equal to its Ratable Portion of such Letter of Credit Obligations.

(e) *Reimbursement Obligations of the Borrower.* The Borrower agrees to pay to the L/C Issuer of any Letter of Credit each L/C Reimbursement Obligation owing with respect to such Letter of Credit no later than the first Business Day after the Borrower receives notice from such L/C Issuer that payment has been made under such Letter of Credit or that such L/C Reimbursement Obligation is otherwise due (the "*L/C Reimbursement Date*") with interest thereon computed as set forth in clause (A) below. In the event that any L/C Issuer incurs any L/C Reimbursement Obligation not repaid by the Borrower as provided in this clause (e) (or any such payment by the Borrower is rescinded or set aside for any reason), such L/C Issuer shall promptly notify the Agent of such failure (and, upon receipt of such notice, the Agent shall forward a copy to each Lender) and, irrespective of whether such notice is given, such L/C Reimbursement Obligation shall be payable on demand by the Borrower with interest thereon computed (A) from the date on which such L/C Reimbursement Obligation arose to the L/C Reimbursement Date, at the interest rate applicable during such period to Loans and (B) thereafter until payment in full, at the interest rate applicable during such period to past due Loans.

(f) *Reimbursement Obligations of the Lenders.* Upon receipt of the notice described in clause (e) above from the Agent, each Lender shall pay to the Agent for the account of such L/C Issuer its Ratable Portion of such L/C Reimbursement Obligation. By making such payment such Lender shall be deemed to have made a Loan to the Borrower, which, upon receipt thereof by such L/C Issuer, the Borrower shall be deemed to have used in whole to repay such L/C Reimbursement Obligation. Any such payment that is not deemed a Loan shall be deemed a funding by such Lender of its participation in the applicable Letter of Credit and the related L/C Reimbursement Obligations. Such participation shall not otherwise be required to be funded. Upon receipt by any L/C Issuer of any payment from any Lender pursuant to this clause (f) with respect to any portion of any L/C Reimbursement Obligation, such L/C Issuer shall promptly pay over to such Lender all payments received by such L/C Issuer after such payment by such Lender with respect to such portion.

(g) *Obligations Absolute.* The obligations of the Borrower and the Lenders pursuant to clauses (d), (e) and (f) above shall be absolute, unconditional and irrevocable and performed strictly in accordance with the terms of this Agreement irrespective of (i) (A) the invalidity or unenforceability of any term or provision in any Letter of Credit, any document transferring or purporting to transfer a Letter of Credit, any Loan Document (including the sufficiency of any such instrument), or any modification to any provision of any of the foregoing,

(B) any document presented under a Letter of Credit being forged, fraudulent, invalid, insufficient or inaccurate in any respect or failing to comply with the terms of such Letter of Credit or (C) any loss or delay, including in the transmission of any document, (ii) the existence of any setoff, claim, abatement, recoupment, defense or other right that any Person (including any Credit Party) may have against the beneficiary of any Letter of Credit or any other Person, whether in connection with any Loan Document or any other Contractual Obligation or transaction, or the existence of any other withholding, abatement or reduction, (iii) in the case of the obligations of any Lender, (A) the failure of any condition precedent set forth in Article 3, to be satisfied (each of which conditions precedent the Lenders hereby irrevocably waive) or (B) any adverse change in the condition (financial or otherwise) of any Credit Party and (iv) any other act or omission to act or delay of any kind of Agent, any Lender or any other Person or any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section 2.3(g), constitute a legal or equitable discharge of any obligation of the Borrower or any Lender hereunder.

2.4 *Repayment of Loans; Evidence of Debt.* Each Loan and all Obligations with respect thereto shall be due and payable in full, in immediately available Dollars, by the Borrower without demand and without further application or order of the Bankruptcy Court, on the Maturity Date. Each payment of Loans under this Section shall be made by the Borrower to the Agent for the account of the Lenders and shall be accompanied by interest and fees on the principal amount being paid accrued to but excluding the date of payment. On the Maturity Date, (i) the Borrower shall either pay to the Agent for deposit as cash collateral, an amount equal to 105% of the sum of all outstanding Letter of Credit Obligations, (ii) the Borrower shall post a supporting letter of credit or letters of credit with the Agent from a letter of credit issuer satisfactory to the Agent and the Majority Lenders in a face amount equal to 105% of the sum of all outstanding Letter of Credit Obligations, provided, however, that such backstopped Letter of Credit Obligations shall expire or terminate within three months after the Maturity Date or (iii) the Letters of Credit shall automatically be converted to letters of credit issued pursuant to the Exit Revolving Facility. The Agent may, from time to time, apply funds to the payment of any amount as shall have become or shall be due and payable by the Borrower to the L/C Issuers or Lenders in respect of Letters of Credit Obligations.

2.5 *Note.* The Loans made by each Lender shall be evidenced by this Agreement and, if requested by such Lender, a Note in the form substantially the same as that contained in *Exhibit 2.5* payable to the order of the Lender in an amount equal to such Lender's share of the Aggregate Revolving Credit Commitment.

2.6 *Optional Prepayment.* The Borrower may at any time, without notice or penalty, prepay the outstanding principal amount of the Loans in whole or in part, together with accrued interest to the date of such prepayment on the principal amount prepaid.

2.7 *Mandatory Prepayments.* (a) If at any time prior to the repayment in full of all Obligations (other than contingent indemnification obligations for which no claim has been made), including subsequent to the confirmation of any Plan with respect to any of the Debtors, any Debtor, any trustee, any examiner with expanded powers or any responsible officer subsequently appointed, shall (i) obtain credit or incur debt pursuant to section 364(b), 364(c), or 364(d) of the Bankruptcy Code in violation of the terms of this Agreement, the Final Order or the Canadian Orders (to the extent a CCAA Case shall then be pending), (ii) receive proceeds from a Disposition of Collateral or (iii) suffer an Event of Loss, then all of the net cash proceeds derived from such credit, debt, or Net Proceeds derived from such Disposition or Event of Loss shall

immediately be turned over to the Agent for the pro rata reduction of the Obligations under this Agreement and a corresponding permanent reduction of the Aggregate Revolving Credit Commitment.

(b) If on the last Business Day of each calendar week prior to the repayment in full of all Obligations (other than contingent indemnification obligations for which no claim has been made), any Debtor shall have Excess Cash, such Excess Cash shall immediately be turned over to the Agent for the pro rata reduction of the Obligations under this Agreement.

(c) If at any time, the aggregate principal amount of Revolving Credit Outstandings exceeds the Available Credit at such time, the Borrower shall forthwith prepay the Loans then outstanding in an amount equal to such excess. If any such excess remains after repayment in full of the aggregate outstanding Loans, the Borrower shall provide cash collateral for any such excess due to Letter of Credit Obligations in the manner set forth in Section 2.4 in an amount equal to 105% of such excess.

2.8 *Interest.*

(a) *Rate of Interest.* The Loans and the outstanding principal balance of all other Obligations shall bear interest on the unpaid principal amount thereof from the date such Loans were made and such other Obligations are due and payable until paid in full, except as otherwise provided in Section 2.8(c) and except that such interest rate shall not exceed the maximum rate permitted by applicable law, at a rate per annum equal to: (A) in the case of LIBOR Loans, the sum of (i) the LIBO Rate determined for the applicable Interest Period and (ii) six percent (6.00%) per annum and (B) in the case of Base Rate Loans, the sum of (i) the Base Rate and (ii) six percent (6.00%) per annum. If the Agent shall have determined in good faith that for any reason adequate and reasonable means do not exist for ascertaining the LIBO Rate, the Loans and the outstanding principal balance of all other Obligations shall bear interest as set forth above, at the rate per annum referred to in sub-clause (B) above.

(b) *Interest Payments.* Interest accrued shall be payable in arrears (a) with respect to any Base Rate Loan, the first Business Day of each calendar month, and (b) with respect to any LIBO Rate Loan, the last day of each Interest Period applicable to such LIBO Rate Loan, or in each case (A) upon the payment or prepayment of the Loans in full or in part (and, if in part, only on the part so repaid) and (B) if not theretofore paid in full on the Maturity Date.

(c) *Default Interest.* Notwithstanding the rates of interest specified in Section 2.8(a) or elsewhere in this Agreement, during the continuance of an Event of Default described in Article 6, at the election of the Agent (and if directed by the Majority Lenders, Agent shall so elect) the principal balance of all Obligations shall bear interest (except that such interest rate shall not exceed the maximum rate permitted by applicable law) at a rate which is two percent (2.00%) per annum in excess of the rate otherwise applicable thereto and all such interest shall be payable on demand in addition to be payable on the other dates for the payment of interest set forth herein.

(d) *Determination of Interest Rate.* On the first day of the Interest Period (the “**Interest Rate Determination Date**”), the Agent shall determine (pursuant to the procedures set forth in the definition of “**LIBO Rate**”) the interest rate applicable to the LIBO Rate Loans and shall promptly give written notice thereof (or by telephone promptly confirmed in writing) to the Borrower. The Agent’s determination shall, absent manifest error, be conclusive and binding.

2.9 *Payments by the Borrower.*

(a) All payments (including prepayments) to be made by each Credit Party on account of principal, interest, fees and other amounts required hereunder shall be made without set-off, recoupment, counterclaim or deduction of any kind, shall, except as otherwise expressly provided herein, be made to the Agent (for the ratable account of the Persons entitled thereto) at the address for payment specified in the signature page hereof in relation to the Agent (or such other address as the Agent may from time to time specify in accordance with Section 8.3), and shall be made in Dollars and in immediately available funds, no later than 1:00 p.m. (New York time) on the date due. Any payment which is received by the Agent later than 1:00 p.m. (New York time) shall be deemed to have been received on the immediately succeeding Business Day and any applicable interest or fee shall continue to accrue. The Borrower and each other Credit Party hereby irrevocably waive the right to direct the application during the continuance of an Event of Default of any and all payments in respect of any Obligation and any proceeds of Collateral. The Borrower hereby authorizes the Agent and each Lender to make a Loan (which shall be a LIBO Rate Loan) to pay (i) interest, principal, agent fees, and Letter of Credit fees, in each instance, on the date due, or (ii) after five (5) days prior notice to the Borrower, other fees, costs or expenses payable by the Borrower or any of its Subsidiaries hereunder or under the other Loan Documents.

(b) The Agent shall apply (i) any and all payments in respect of any Obligation and (ii) all proceeds received by the Agent as a result of the exercise of its remedies under the Collateral Documents after the occurrence and during the continuance of an Event of Default in accordance with clauses first through fifth:

first, to payment of costs and expenses, including Attorney Costs, of the Agent payable or reimbursable by the Credit Parties under the Loan Documents;

second, to payment of all accrued unpaid interest on the Obligations (including, without limitation, interest accrued at the default rate set forth in Section 2.8(c)) and fees owed to the Agent and Lenders;

third, to payment of principal of the Obligations (including, without limitation, L/C Reimbursement Obligations then due and payable) and, during the continuance of an Event of Default, provide cash collateral for outstanding L/C Undrawn Amounts in the manner set forth in Section 2.4;

fourth, to payment of any other amounts owing constituting Obligations then due and payable; and

fifth, any remainder shall be for the account of and paid to whoever may be lawfully entitled thereto.

(c) The Agent may, in its sole discretion, make Loans to satisfy reimbursement obligations for any costs and expenses owed to the Prepetition Agent or any Related Persons (as defined under the Prepetition Credit Agreement) under the Prepetition Credit Agreement or the Agent or any Related Persons under this Agreement by Borrower upon notice to the Debtors, the United States Trustee and any Committee appointed in the Chapter 11 Case.

2.10 *Loan Accounts.*

(a) The Agent, on behalf of the Lenders, shall record on its books and records the amount of each Loan made, the interest rate applicable, all payments of principal and interest thereon and the principal balance thereof from time to time outstanding. Such record shall, absent manifest error, be conclusive evidence of the amount of the Loans made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so, or any failure to deliver such loan statement shall not, however, limit or otherwise affect the obligation of the Borrower hereunder (and under any Note) to pay any amount owing with respect to the Loans or provide the basis for any claim against the Agent.

(b) The Agent, acting as agent of the Borrower solely for tax purposes and solely with respect to the actions described in this subsection 2.10(b) shall establish and maintain at its address referred to in Section 8.3 (or at such other address as the Agent may notify the Borrower) (A) a record of ownership (the “*Register*”) in which the Agent agrees to register by book entry the interests (including any rights to receive payment hereunder) of the Agent, each Lender and each L/C Issuer in the Loans and Letter of Credit Obligations, each of their obligations under this Agreement to participate in each Loan, Letter of Credit and L/C Reimbursement Obligations, and any assignment of any such interest, obligation or right and (B) accounts in the Register in accordance with its usual practice in which it shall record (1) the names and addresses of the Lenders and the L/C Issuers (and each change thereto pursuant to Section 8.8), (2) the Ratable Portions of each Lender, (3) the amount of each Loan and each funding of any participation described in clause (A) above, for LIBO Rate Loans the Interest Period applicable thereto, (4) the amount of any principal or interest due and payable or paid, (5) the amount of the L/C Reimbursement Obligations due and payable or paid in respect of Letters of Credit and (6) any other payment received by the Agent from the Borrower or any other Credit Party and its application to the Obligations.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Loans (including any Notes evidencing such Loans and the corresponding obligations to participate in Letter of Credit Obligation) and the L/C Reimbursement Obligations are registered obligations, the right, title and interest of the Lenders and the L/C Issuers and their assignees in and to such Loans or L/C Reimbursement Obligations, as the case may be, shall be transferable only upon notation of such transfer in the Register and no assignment thereof shall be effective until recorded therein. This Section 2.10 and Section 8.8 shall be construed so that the Loans and L/C Reimbursement Obligations are at all times maintained in “registered form” within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code.

(d) The Credit Parties, the Agent, the Lenders and the L/C Issuers shall treat each Person whose name is recorded in the Register as a Lender or L/C Issuer, as applicable, for all purposes of this Agreement. Information contained in the Register with respect to any Lender or any L/C Issuer shall be available for access by the Borrower, the Agent, such Lender or such L/C Issuer at any reasonable time and from time to time upon reasonable prior notice. No Lender or L/C Issuer shall, in such capacity, have access to or be otherwise permitted to review any information in the Register other than information with respect to such Lender or L/C Issuer unless otherwise agreed by the Agent.

2.11 *Computations.* All computations of interest shall be made by the Agent on the basis of a year of 360 days for LIBOR Rate Loans (and 365 days for Base Rate Loans) and the actual number of days elapsed (including the first day but excluding the last day). Each

determination by the Agent of an interest rate hereunder shall be conclusive and binding for all purposes, absent manifest error.

2.12 *Illegality.* Notwithstanding anything to the contrary contained herein, if after the date hereof any Lender determines in its reasonable judgment that the introduction of any Requirement of Law, or any change in a Requirement of Law or in the interpretation or administration thereof, has made it unlawful, or that any central bank or other Governmental Authority has asserted that it is unlawful, for such Lender to make, fund or maintain the Loans, then such Lender may give the Borrower notice thereof, at which time the Borrower shall pay or prepay the Loans (without premium or penalty) of such Lender, together with all accrued interest thereon and all fees and other amounts payable to such Lender under any Loan Document. Before giving any notice to the Borrower pursuant to this Section 2.12, the affected Lender shall designate a different lending office with respect to its Loans if such designation will avoid the need for giving such notice or making such demand and will not, in the judgment of such Lender, be illegal or otherwise disadvantageous to such Lender.

2.13 *Taxes.*

(a) *Payment of Taxes.* All payments to be made by any Credit Party under any Loan Document shall be made free and clear of and without reduction for any and all present or future taxes, levies, imposts, deductions, charges, withholdings, and all stamp or documentary taxes, excise taxes, ad valorem taxes and other taxes imposed on the value of the Property, all charges or levies which arise from the execution, delivery or registration, or from payment or performance under, any Loan Document and all other liabilities with respect thereto excluding (i) taxes imposed on or measured by net income or overall gross receipts of the recipient of such payment, branch profit taxes and capital and franchise taxes that now or hereafter may be imposed on the Lenders, Agent, or Letter of Credit Issuer (other than any such taxes to which a Lender, Agent or L/C Issuer becomes subject solely as a result of the transactions contemplated in this Agreement), (ii) any tax that is imposed on amounts payable to a Lender, Agent, or Letter of Credit Issuer at the time the Lender, Agent, or Letter of Credit Issuer becomes a party to this Agreement (or designates a new lending office) and (iii) any taxes attributable to a Lender's failure to comply with Section 2.13(d) or (e) of this Agreement thereof (all such non-excluded taxes, levies, imposts, deductions, charges and withholdings being hereinafter referred to as "*Taxes*"). Should a Credit Party be required by law to withhold or deduct any Taxes, from or in respect of any amount payable under any Loan Document to the Lenders, Agent or Letter of Credit Issuer (A) the amount payable to the Lenders, Agent, or Letter of Credit Issuer, shall be increased as may be necessary so that after making all required withholding or deductions (including withholding or deductions applicable to additional amounts payable under this Section 2.13) the Lenders, Agent, or Letter of Credit Issuer receives an amount equal to the amount it would have received had no such withholding or deductions been made, (B) the Credit Party shall make such withholding or deductions, and (C) the Credit Party shall pay the full amount withheld or deducted to the relevant taxation authority or other authority in accordance with applicable law.

(b) *Indemnification.* The Borrower shall indemnify the Lenders, Agent, or Letter of Credit Issuer against, and reimburse the Lenders, Agent, or Letter of Credit Issuer on demand for, the full amount of all Taxes (including any Taxes imposed by any Governmental Authority on amounts payable under this Section 2.13 and any additional income or franchise taxes resulting therefrom) incurred or paid by the Lenders, Agent, or Letter of Credit Issuer or any Affiliate of the Lenders, Agent or Letter of Credit Issuer and any liability (including

penalties, interest, and out-of-pocket expenses paid to third parties) arising therefrom or with respect thereto, whether or not such Taxes were lawfully payable. A certificate from the Lenders as to any amount payable to any Person under this Section 2.13 submitted by it to the Credit Party shall, absent manifest error, be conclusive and binding.

(c) *Receipts.* Within thirty (30) days after the date of any payment of Taxes by any Credit Party, such Credit Party shall deliver to the Lenders, Agent, or Letter of Credit Issuer at their addresses referred to in Section 8.3, the original or a certified copy of a receipt or other reasonably satisfactory to the Lenders, Agent or Letter of Credit Issuer evidencing payment thereof.

(d) Each Lender who is not a U.S. person within the meaning of Section 7701(a)(30) of the Code (a “**Foreign Lender**”), on or prior to the date of its execution and delivery of this Agreement, on or prior to the date on which it designates a new lending office, and on or prior to the date on which it becomes a Lender, in the case of an assignee, and from time to time thereafter if requested in writing by the Borrower, shall provide the Borrower with duplicate executed originals of (i) Internal Revenue Service Form W-8 BEN, or any successor form, certifying that such Lender is entitled to benefits under any income tax treaty to which the United States is a party which reduces to zero the rate of withholding tax on payments of interest, or (ii) Internal Revenue Service Form W-8ECI, or any successor form, certifying that the income receivable pursuant to this Agreement is effectively connected with the conduct of a trade or business in the United States, or (iii) with respect to any Lender that is not a bank and is eligible for exemption from tax under section 881(c) or 871(h) of the Code, Internal Revenue Service Form W-8 BEN, or any successor form, and a certificate substantially in the form of *Exhibit 2.13(d)* hereto. Notwithstanding any other provision of this Section 2.13(d), no Foreign Lender shall be required to deliver any form that it is not legally able to deliver as a result of a change in law, treaty or regulation occurring after the date on which such form was originally required.

(e) Each Lender who is a U.S. person within the meaning of Section 7701(a)(30) of the Code (a “**U.S. Lender**”) on or prior to the date of its execution and delivery of this Agreement, on or prior to the date on which it becomes a Lender, in the case of an assignee, and from time to time thereafter if requested in writing by the Borrower, shall provide the Borrower with duplicate executed originals of Internal Revenue Service Form W-9, or any successor form, certifying that such Lender is entitled to exemption from United States backup withholding tax.

(f) If the Agent or any Lender or assignee determines, in its sole discretion, that it has received a refund of any Taxes with respect to which the Borrower has made indemnity payments under this section 2.13, it shall pay over an amount equal to such refund to the Borrower (but only to the extent of indemnity payments made by the Borrower or with respect to which the Borrower has paid additional amounts under this Section 2.13) net of all out-of-pocket expenses of the Agent or such Lender or assignee, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, however that (i) the Borrower, upon the request of the Agent or such Lender or assignee, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Agent or such Lender or assignee in the event that the Agent or such Lender or assignee is required to repay such refund to such Governmental Authority and (ii) nothing herein contained shall interfere with the right of the Agent or any Lender or assignee to arrange its Tax affairs in whatever manner it thinks fit nor

oblige the Agent or any Lender or assignee to claim any Tax refund or to make available its Tax returns or disclose any information relating to its Tax affairs or any computations in respect thereof or require the Agent or any Lender or assignee to do anything that would prejudice its ability to benefit from any other refunds, credits, reliefs, remissions or repayments to which it may be entitled.

(g) In the event that the Borrower is required to pay additional amounts pursuant to this Section 2.13, the Borrower may, upon notice to such Lender within ninety (90) days following such an event, either (i) prepay in whole or in part the outstanding balance on any Obligation held by such Lender or (ii) require such Lender to assign all of its rights and obligations under the Loan Documents to an eligible assignee(s) specified by the Borrower and approved by the Agent, pursuant to an Assignment within twenty (20) days after the Borrower's notice. The Agent is irrevocably appointed as attorney-in-fact to execute any such assignment described herein if the Lender fails to execute same. Such Lender shall be entitled to receive from the assignee Lender, in cash, concurrently with such assignment, all amounts owed to it under the Loan Documents, including all principal, interest and fees through the date of assignment.

2.14 *Super-Priority Nature of Obligations and Liens.* The liens and security interests granted to Agent and the Lenders on the Collateral and the priorities accorded to the Obligations shall have the super-priority administrative expense and senior secured status afforded by Sections 364(c) and 364(d) of the Bankruptcy Code and the terms of the Canadian Orders (to the extent a CCAA Case shall then be pending) to the extent provided and as more fully set forth and/or provided for in the Interim Order, the Final Order and the Canadian Orders (to the extent a CCAA Case shall then be pending), subject to the Carve-Out. Except as expressly set forth herein or in the Interim Order, the Final Order and the Canadian Orders (to the extent a CCAA Case shall then be pending), no other claim having a priority superior or *pari passu* to that granted to Agent and the Lenders by the Interim Order, the Final Order and the Canadian Orders (to the extent a CCAA Case shall then be pending) shall be granted or approved while any Obligations under this Agreement remain outstanding.

2.15 *No Discharge; Survival of Claims.* (a) The Obligations shall survive the entry of an order (i) confirming any Plan in the Chapter 11 Case, (ii) converting one or more Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, (iii) dismissing one or more of the Chapter 11 Cases, or (iv) dismissing or terminating the CCAA Case (to the extent a CCAA Case shall then be pending) or otherwise varying or amending the Canadian Orders (to the extent a CCAA Case shall then be pending) without the consent of the Agent and the Majority Lenders, and (b) the super-priority administrative claim granted relating to the Obligations and all Liens granted to the Agent and the Lenders shall continue in full force and effect and maintain their priority as set forth in the Orders until the payment in full of the Obligations (other than contingent indemnification obligations for which no claim has been made).

2.16 *Waiver of any Priming Rights.* Other than the Carve-Out, Borrower hereby irrevocably waives any right, pursuant to Sections 364(c) or 364(d) of the Bankruptcy Code or otherwise, to grant any Lien of equal or greater priority than the Liens securing the Obligations, or to approve or grant a claim of equal or superior priority than the Obligations.

2.17 *Effect of Termination.* On the effective date of any termination of the Commitments, all Obligations shall be immediately due and payable. All undertakings of Borrower contained in the Loan Documents shall survive any termination, and Agent shall retain

its Priming Liens in the Collateral and all of its rights and remedies under the Loan Documents until payment in full of the Obligations (other than contingent indemnification obligations for which no claim has been made). The provisions of Sections 2.13, 2.19 and 8.11 of this Agreement and the obligation of each of the Borrower and Lenders with respect to each indemnity given by it in any Loan Document, shall survive payment in full of the Obligations.

2.18 *Fees.*

(a) *Unused Line Fee.* The Borrower shall pay to the Agent, for the ratable benefit of the Lenders, a fee (the “**Unused Line Fee**”) in an amount equal to:

(i) the Aggregate Revolving Credit Commitment; less

(ii) the sum of (x) the average daily balance of all Loans outstanding plus (y) the average daily amount of Letter of Credit Obligations, in each case, during the preceding month,

multiplied by one percent (1%) per annum. Such fee shall accrue as of the Closing Date and shall be payable monthly in arrears on the first day of the month following the date hereof and the first day of each month thereafter.

(b) *Letter of Credit Fee.* The Borrower agrees to pay to Agent for the ratable benefit of the Lenders, as compensation to such Lenders for Letter of Credit Obligations incurred hereunder, (i) without duplication of costs and expenses otherwise payable to Agent or Lenders hereunder or fees otherwise paid by the Borrower, all reasonable costs and expenses incurred by Agent or any Lender on account of such Letter of Credit Obligations, and (ii) for each month during which any Letter of Credit Obligation shall remain outstanding, a fee (the “**Letter of Credit Fee**”) in an amount equal to the product of the average daily undrawn face amount of all Letters of Credit issued, guaranteed or supported by risk participation agreements multiplied by a per annum rate equal to six percent (6.00%); provided, however, at Agent’s or Majority Lenders’ option, while an Event of Default exists, such rate shall be increased by two percent (2.00%) per annum. Such fee shall be paid to Agent for the benefit of the Lenders in arrears, on the first day of each calendar month and on the Maturity Date. In addition, the Borrower shall pay to any L/C Issuer, on demand, such reasonable fees, without duplication of fees otherwise payable hereunder (including all per annum fees), charges and expenses of such L/C Issuer in respect of the issuance, negotiation, acceptance, amendment, transfer and payment of such Letter of Credit or otherwise payable pursuant to the application and related documentation under which such Letter of Credit is issued.

(c) *Underwriting Fee.* The Borrower agrees to pay to the Agent for the ratable benefit of the Lenders a non-refundable underwriting fee equal to three percent (3%) of the Aggregate Revolving Credit Commitment (the “**Underwriting Fee**”). Such Underwriting Fee shall be fully earned and payable on the Closing Date.

(d) *Extension Fee.* The Borrower agrees to pay to the Agent for the ratable benefit of the Lenders an extension fee equal to one percent (1%) of the Aggregate Revolving Credit Commitment (the “**Extension Fee**”) for every Extension of the Stated Maturity Date.

(e) *Agency Fee.* On the Closing Date, the Borrower shall pay to the Agent an agency fee (the “**Agency Fee**”) in the amount of \$50,000.

2.19 *Increased Costs and Reduction of Return.*

(a) If any Lender or L/C Issuer shall determine that, due to either (i) the introduction of, or any change in, or in the interpretation of, any law or regulation or (ii) the compliance with any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law), in the case of either clause (i) or (ii) subsequent to the date hereof, there shall be any increase in the cost to such Lender or L/C Issuer of agreeing to make or making, funding or maintaining any LIBO Rate Loans or of issuing or maintaining any Letter of Credit, then the Borrower shall be liable for, and shall from time to time, within thirty (30) days of demand therefor by such Lender or L/C Issuer (with a copy of such demand to the Agent), pay to the Agent for the account of such Lender or L/C Issuer, additional amounts as are sufficient to compensate such Lender or L/C Issuer for such increased costs; provided, that the Borrower shall not be required to compensate any Lender or L/C Issuer pursuant to this Section for any increased costs incurred more than 180 days prior to the date that such Lender or L/C Issuer notifies the Borrower, in writing of the increased costs and of such Lender's or L/C Issuer's intention to claim compensation thereof; provided, further, that if the circumstance giving rise to such increased costs is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(b) If any Lender or L/C Issuer shall have determined that:

(i) the introduction of any Capital Adequacy Regulation;

(ii) any change in any Capital Adequacy Regulation;

(iii) any change in the interpretation or administration of any Capital Adequacy Regulation by any central bank or other Governmental Authority charged with the interpretation or administration thereof; or

(iv) compliance by such Lender or L/C Issuer (or its Lending Office) or any entity controlling the Lender or L/C Issuer, with any Capital Adequacy Regulation;

affects the amount of capital required or expected to be maintained by such Lender or L/C Issuer or any entity controlling such Lender or L/C Issuer and (taking into consideration such Lender's or such entities' policies with respect to capital adequacy and such Lender's or L/C Issuer's desired return on capital) determines that the amount of such capital is increased as a consequence of its Commitment(s), loans, credits or obligations under this Agreement, then, within thirty (30) days of demand of such Lender or L/C Issuer (with a copy to the Agent), the Borrower shall pay to such Lender or L/C Issuer, from time to time as specified by such Lender or L/C Issuer, additional amounts sufficient to compensate such Lender or L/C Issuer (or the entity controlling the Lender or L/C Issuer) for such increase; provided, that the Borrower shall not be required to compensate any Lender or L/C Issuer pursuant to this Section for any amounts incurred more than 180 days prior to the date that such Lender or L/C Issuer notifies the Borrower, in writing of the amounts and of such Lender's or L/C Issuer's intention to claim compensation thereof; provided, further, that if the event giving rise to such increase is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

2.20 *Funding Losses.* The Borrower agrees to reimburse each Lender and to hold each Lender harmless from any loss or expense which such Lender may sustain or incur as a consequence of:

(a) the failure of the Borrower to make any payment or mandatory prepayment of principal of any LIBO Rate Loan (including payments made after any acceleration thereof);

(b) the failure of the Borrower to borrow after the Borrower has given (or is deemed to have given) a Notice of Borrowing;

(c) the failure of the Borrower to make any prepayment in accordance with Section 2.6 after the Borrower has given notice thereof; or

(d) the prepayment (including pursuant to Section 2.7) of a Loan on a day which is not the last day of the Interest Period with respect thereto;

including any such loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain its LIBO Rate Loans hereunder or from fees payable to terminate the deposits from which such funds were obtained. Solely for purposes of calculating amounts payable by the Borrower to the Lenders under this Section 2.20 and under subsection 2.19(a): each LIBO Rate Loan made by a Lender (and each related reserve, special deposit or similar requirement) shall be conclusively deemed to have been funded at the LIBOR used in determining the interest rate for such LIBO Rate Loan by a matching deposit or other borrowing in the interbank eurodollar market for a comparable amount and for a comparable period, whether or not such LIBO Rate Loan is in fact so funded.

2.21 *Reserves on LIBO Rate Loans.* The Borrower shall pay to each Lender, as long as such Lender shall be required under regulations of the Federal Reserve Board to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as “Eurocurrency liabilities”), additional costs on the unpaid principal amount of each LIBO Rate Loan equal to actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent demonstrable error), payable on each date on which interest is payable on such Loan provided the Borrower shall have received at least fifteen (15) days’ prior written notice (with a copy to the Agent) of such additional interest from the Lender. If a Lender fails to give notice fifteen (15) days prior to the relevant Interest Rate Determination Date, such additional interest shall be payable fifteen (15) days from receipt of such notice.

2.22 *Certificates of Lenders.* Any Lender claiming reimbursement or compensation pursuant to this Section 2 shall deliver to the Borrower (with a copy to the Agent) a certificate setting forth in reasonable detail the amount payable to such Lender hereunder and such certificate shall be conclusive and binding on the Borrower in the absence of manifest error.

2.23 *Extension of Stated Maturity Date.* At least 20 days prior to the then current Stated Maturity Date, the Borrower, by written notice to the Agent and each Lender, may request an extension of the Stated Maturity Date in effect at such time by 30 days from its then scheduled expiration (each, thirty-day extension, an “*Extension*”); provided that (a) the Borrower shall not request more than two (2) Extensions during the term of this Agreement; (b) no Extension shall occur if there is an Event of Default that has occurred and is continuing and (c) any Extension

shall be subject to the consent of the Agent and the Majority Lenders in accordance with Section 8.1. Such Extension(s) shall be implemented through an amendment to this Agreement, executed by the Borrower, the other Loan Parties, the Agent and the Lenders, in form and substance satisfactory to the Agent and the Majority Lenders.

3. CONDITIONS TO LENDING AND EFFECTIVENESS

The obligations of the Lenders to make Loans hereunder are subject to the satisfaction of the following conditions precedent:

3.1 *Conditions Precedent to the Closing Date and to Interim Loans.* The obligation of the Lenders to make Interim Loans under this Agreement on and after the Closing Date shall be subject to the satisfaction of the Agent of the following conditions:

(a) *Interim Order.* The Interim Order shall (i) have been entered by the Bankruptcy Court on due and proper notice no later than two (2) Business Days following the Petition Date, which Interim Order shall be in the form of *Exhibit 3.1(a)* and otherwise in form and substance acceptable to the Agent and the Majority Lenders, (ii) grant the Priming Liens, (iii) approve the transactions contemplated herein, (iv) not have been appealed, stayed, reversed, or modified (except for such modifications as may be acceptable to the Agent and the Majority Lenders) and (v) authorize and direct the Borrower to pay the Adequate Protection Payments to the Agent on behalf of the Lenders (out of the proceeds of the Loans).

(b) *Canadian Stay Order.* Only to the extent an application for relief under the CCAA shall then have been commenced, the Canadian Stay Order shall have been issued by the Canadian Court no later than one (1) Business Days following the date on which the CCAA Case shall have been commenced and shall be in form and substance acceptable to the Agent and shall not have been appealed, stayed, reversed, or modified (except for such modifications as may be acceptable to the Agent and the Majority Lenders).

(c) *Canadian Interim DIP Order.* Only to the extent a CCAA Case shall then be pending, the Canadian Interim Order shall have been issued by the Canadian Court on due and proper notice no later than four (4) Business Days following the date on which the CCAA Case shall have been commenced and shall be in form and substance acceptable to the Agent and the Majority Lenders and shall not have been appealed, stayed, reversed, or modified (except for such modifications as may be acceptable to the Agent and the Majority Lenders).

(d) *First Day Orders.* All First Day Orders (including those related to cash management and affecting or concerning the Collateral), in form, scope and substance satisfactory to the Agent and the Majority Lenders, shall have been entered by the Bankruptcy Court.

(e) *Loan Documents.* The Agent shall have received this Agreement, the Collateral Documents and all of the Loan Documents and other items set forth on the Closing Checklist attached hereto as *Exhibit 3.1(e)*, in each case to the extent required to be delivered on or prior to the Closing Date and executed and delivered by a duly authorized representative of the Borrower and the Lender, if applicable.

(f) *DIP Budget; Financial Statements.* The Agent shall have received a DIP Budget of the Borrower, in form and substance satisfactory to the Agent and the Majority Lenders

and financial statements for the then most recently ended fiscal month of the Borrower ending at least thirty (30) days prior to the Closing Date.

(g) *Borrowing Notice.* The Agent shall have received a Borrowing Notice, or to the extent letters of credit are requested, a letter of credit application and L/C Request from the Borrower.

(h) *No Material Adverse Effect.* Since the date of the Borrower's most recent audited financial statements, there shall have been no Material Adverse Effect, other than (i) the commencement of each of the Chapter 11 Case and the CCAA Case (to the extent a CCAA Case shall then be pending) and (ii) those Material Adverse Effects of which the Agent and the Lenders have been made aware of prior to the date of this Agreement.

(i) *Representations and Warranties.* The representations and warranties made in Article 4 shall be true and correct in all material respects on and as of such date, before and after giving effect to the Loans and to the application of the proceeds therefrom, as though made on and as of such date (except to the extent any such representation or warranty expressly relates to an earlier date, in which case such representation and warranty shall be true and correct in all material respects as of such earlier date).

(j) *No Default.* No Default or Event of Default shall exist or be continuing or would result from the Loans or the application of the proceeds therefrom as of such date.

(k) *Fees.* The Borrower shall have paid to the Agent the fees and expenses required to be paid on or before the Closing Date referred to in this Agreement.

(l) *Automatic Stay.* Pursuant to the terms of the Interim Order, the automatic stay pursuant to section 362 of the Bankruptcy Code shall have been modified to permit the creation and perfection of the Priming Liens and security interests on the Collateral of the Debtors and the Interim Order shall provide that upon three (3) days' notice to the Borrower, the U.S. Trustee and the Committee, the automatic stay shall be lifted to permit enforcement of the Agent's and Lenders' rights and remedies under this Agreement and the Loan Documents; provided that such notice shall not be required with respect to Collateral of the Debtors in the possession of the Agent or any Lender.

(m) *Priming Liens.* The Agent shall have Priming Liens on the Collateral of the Debtors, and the Majority Lenders (as defined in the Prepetition Credit Agreement) under the Prepetition Credit Agreement shall have consented to entry of the Interim Order and issuance of the Canadian Interim DIP Order (to the extent a CCAA Case shall then be pending) granting the Priming Liens.

(n) *Consents; Certificate.* Satisfactory evidence that the Credit Parties have obtained all required consents and approvals of all Persons including all requisite Governmental Authorities to the execution, delivery and performance of this Agreement and the other Loan Documents and an officer's certificate in form and substance satisfactory to the Agent affirming that such consents and approvals shall have been obtained.

(o) *Legal Opinion.* With respect to the first borrowing of Interim Loans, the Agent shall have received favorable written opinions in form and substance satisfactory to the Agent, each dated the Closing Date or the date of such borrowing and addressed to the Agent and

the Lenders, of (i) Kaye Scholer LLP with respect to existence, due authorization, authority and capacity of the Borrower, Parent and each of the Domestic Subsidiaries organized in Delaware and enforceability, (ii) Aird & Berlis LLP, Ontario counsel to the Canadian Subsidiaries with respect to the Canadian Security Documents as to enforceability, no conflicts, security, registration, enforcement of judgments, choice of law and such other matters as the Agent may reasonably request, and (iii) BCF LLP, Quebec counsel to the Canadian Subsidiaries as to enforceability, no conflicts, security, registration and such other matters as the Agent may reasonably request.

(p) *Available Credit.* After giving effect to any Interim Loan (or incurrence of Letter of Credit Obligations) the outstanding amount of such Obligations would not exceed the Available Credit.

(q) *Administrative Claims.* Other than the Carve-Out, no administrative claim that is senior to or *pari passu* with the super-priority claims of the Agent and the Lenders shall exist.

(r) *Adequate Protection Payments.* The Adequate Protection Payments shall have been made out of the proceeds of the Loans.

(s) *Canadian Subsidiary Subordination Agreement.* The Canadian Subsidiaries shall have entered into subordination agreements in form and substance satisfactory to the Agent and the Majority Lenders providing, among other things, that the Priming Liens shall be senior in priority to the liens granted by the Canadian Subsidiaries under the Prepetition Credit Agreement and Prepetition Canadian Security Documents to the extent the Canadian Subsidiaries use funds made available to them by the Debtors directly or indirectly through intercompany loans and the Debtors' cash management system.

Execution and delivery to the Agent by a Lender of a counterpart of this Agreement shall be deemed confirmation by such Lender that (i) the conditions precedent set forth in subsections (a) to (d), (f), (n), and (s) in this Section 3.1 have been fulfilled to the satisfaction of such Lender, and (ii) all documents sent to such Lender for approval, consent or satisfaction were acceptable to such Lender.

3.2 *Condition Precedent to the Incremental Facility Effective Date and Subsequent Loans.* The obligation of the Lenders to make each subsequent Loan under this Agreement on and after the Incremental Facility Effective Date shall be subject to the satisfaction of the Agent of the following conditions precedent:

(a) *Final Order.* The Final Order shall have been entered by the Bankruptcy Court no later than twenty-five (25) days following the entry of the Interim Order (or such later date as shall be acceptable to the Agent and the Majority Lenders) which Final Order shall be in form and substance acceptable to the Agent and the Majority Lenders. The Final Order shall have been entered on due and proper notice (i) approving the transactions contemplated herein, (ii) granting the Priming Liens and with only such changes from the Interim Order as are acceptable to the Agent and the Majority Lenders, (iii) otherwise containing terms and provisions acceptable to the Agent and the Majority Lenders, and (iv) shall not have been appealed, stayed, reversed, or modified (except for such modifications as may be acceptable to the Agent and the Majority Lenders).

(b) *Canadian Final DIP Order.* Only to the extent a CCAA Case shall then be pending, and only with respect to proceeds of the Loans to be received by any of the Canadian Subsidiaries after the commencement of the CCAA Case, the Canadian Final DIP Order shall have been issued by the Canadian Court on due and proper notice no later than 30 days following the date on which the CCAA Case shall have been commenced (or such later date as shall be acceptable to the Agent and the Majority Lenders) and shall be in form and substance acceptable to the Agent and the Majority Lenders and shall not have been appealed, stayed, reversed, or modified (except for such modifications as may be acceptable to the Agent and the Majority Lenders).

(c) *DIP Budget.* The Agent shall have received the initial DIP Budget or an updated DIP Budget, if required under Section 5.2(c) of this Agreement, in form and substance acceptable to the Agent and the Majority Lenders.

(d) *Borrowing Notice.* A Borrowing Notice, or to the extent letters of credit are requested, a letter of credit application and L/C Request from the Borrower.

(e) *No Material Adverse Effect.* As of the date of the Borrower's most recent audited financial statements, there shall have been no Material Adverse Effect, other than (i) the commencement of each of the Chapter 11 Case and the CCAA Case (to the extent a CCAA Case shall then be pending) and (ii) those which the Agent have been made aware of prior to the date of this Agreement.

(f) *Representations and Warranties.* The representations and warranties made in Article 4 shall be true and correct in all material respects on and as of such date (except if such representation or warranty specifically relates only to a prior date, in which case it shall be true and correct in all material respects as of such earlier date), before and after giving effect to the Loans and to the application of the proceeds therefrom, as though made on and as of such date.

(g) *No Default.* No Default or Event of Default shall exist or be continuing or would result from the Loans or the application of the proceeds therefrom as of such date.

(h) *Fees.* The Borrower shall have (i) paid the fees and expenses required to be paid on or before the Closing Date referred to in this Agreement and (ii) made the Adequate Protection Payments, including Attorney Costs of the Prepetition Agent and Attorney Costs and other expenses of the Postpetition Agent required to be paid hereunder and (ii) paid the fees and expenses required to be paid hereunder of counsel to the Prepetition Bridge Lenders, including in their capacity as Lenders, and Prepetition Lenders.

(i) *Automatic Stay.* Pursuant to the terms of the Orders, the automatic stay pursuant to section 362 of the Bankruptcy Code shall have been modified to permit the creation and perfection of the Priming Liens and security interests on the Collateral of the Debtors and the Final Order shall provide that upon three (3) days' notice to the Borrower the U.S. Trustee and the Committee, the automatic stay shall have been lifted to permit enforcement of the Agent's and Lenders' rights and remedies under this Agreement and the Loan Documents; provided that such notice shall not be required with respect to Collateral in the possession of the Agent or any Lender.

(j) *Available Credit.* After giving effect to any Loan (or incurrence of Letter of Credit Obligations) the outstanding amount of such Obligations would not exceed the Available Credit.

(k) *Administrative Claims.* Other than the Carve-Out, no administrative claim that is senior to or *pari passu* with the super-priority claims of the Agent and the Lenders shall exist.

The request and acceptance by Borrower of the proceeds of any Loan or the incurrence of any Letter of Credit Obligations shall be deemed to constitute, as of the date thereof, (i) a representation and warranty by Borrower that the conditions in this Article 3 have been satisfied and (ii) a reaffirmation by each Credit Party of the granting and continuance of Agent's Liens, on behalf of itself and Lenders, pursuant to the Collateral Documents.

4. REPRESENTATIONS AND WARRANTIES

The Credit Parties, jointly and severally, represent and warrant on and as of the date hereof as follows:

4.1 *Corporate Existence.* Each Credit Party is duly incorporated, validly existing and in good standing under the laws of its jurisdiction or country of organization, and any other jurisdiction or country where the failure to so qualify could reasonably be expected to have a Material Adverse Effect, and has the corporate power and authority to own its assets and to transact the business in which it is now engaged or proposed to be engaged.

4.2 *Corporate Authorization.* Subject to the entry of the Orders (or except to the extent excused by the Orders or the Bankruptcy Court), the execution, delivery and performance by each Credit Party of the Loan Documents to which it is a party have been duly authorized by all necessary corporate actions and do not and will not (i) contravene its Organizational Documents, (ii) violate any material Requirement of Law, (iii) except as set forth on *Schedule 4.2*, result in a breach of, or constitute a material default or require any consent not obtained or result in the creation of a Lien under, any material indenture, lease, instrument or other agreement to which any Credit Party is a party or by which any Credit Party or its properties may be bound or affected.

(a) Each of the Loan Documents has been duly executed and delivered by the respective Credit Parties party thereto and subject to the entry of the Orders, constitutes its legal, valid and binding obligation enforceable against each such Credit Party in accordance with its terms.

(b) No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or regulatory body is required for the due execution, delivery and performance by the Credit Parties of the Loan Documents, except entry by the Bankruptcy Court of the Orders.

4.3 *Litigation.* Other than the (a) Chapter 11 Case, (b) the CCAA Case (to the extent a CCAA Case shall then be pending), and (c) those matters set forth in *Schedule 4.3*, there is no pending or threatened action, proceeding or investigation affecting any Credit Party or any of

their Subsidiaries before any court, commission, agency or instrumentality of the federal or any state or municipal government or any agency or subdivision thereof or before any arbitration that purports to materially adversely affect the legality, validity or enforceability of the Loan Documents or that could reasonably be expected to have a Material Adverse Effect.

4.4 *Margin Stock.* The Borrower is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board of Governors of the Federal Reserve System), and no proceeds of the Loans will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock.

4.5 *Stock and Stock Equivalents.* *Schedule 4.5* sets forth the authorized Stock and Stock Equivalents of each of the Credit Parties and each of their respective Subsidiaries. All issued and outstanding Stock and Stock Equivalents of each of the Credit Parties and each of their respective Subsidiaries are duly authorized and validly issued, fully paid, non-assessable, and free and clear of all Liens other than, with respect to the Stock and Stock Equivalents of Borrower (other than the ESOP Preferred Stock), and Subsidiaries of the Borrower, those in favor of (x) the Agent, for the benefit of the Agent and Lenders, and (y) the Prepetition Agent, for the benefit of the Prepetition Agent and the Secured Parties (as defined in the Guaranty and Security Agreement referred to in the Prepetition Credit Agreement), and with respect to the Stock and Stock Equivalents of Parent and the ESOP Preferred Stock, those set forth on *Schedule 4.5*. All such securities were issued in compliance with all applicable state, provincial and federal laws concerning the issuance of securities. All of the issued and outstanding Stock and Stock Equivalents of the Borrower are owned by Parent, other than the ESOP Preferred Stock. As of the Closing Date, all of the issued and outstanding Stock and Stock Equivalents of each of the Credit Parties other than Borrower is owned by the Persons and in the amounts set forth on *Schedule 4.5*. Except as set forth on *Schedule 4.5*, there are no pre-emptive or other outstanding rights, options, warrants, conversion rights or other similar agreements or understandings for the purchase or acquisition of any Stock and Stock Equivalents of any Credit Party.

4.6 *[Reserved.]*

4.7 *[Reserved.]*

4.8 *Subsidiaries.* As of the Closing Date, no Credit Party has any Subsidiaries or owns or has any Investments in any Stock or Stock of any other corporation or entity other than (x) those specifically disclosed in *Schedule 4.5* and (y) Mexicana.

4.9 *Brokers' Fees; Transaction Fees.* None of the Credit Parties or any of their respective Subsidiaries has any obligation to any Person in respect of any finder's, broker's or investment banker's fee in connection with the transactions contemplated hereby.

4.10 *Full Disclosure.* None of the representations or warranties made by any Credit Party or any of their Subsidiaries in the Loan Documents as of the date such representations and warranties are made or deemed made, and none of the statements contained in each exhibit, report, statement or certificate furnished by or on behalf of any Credit Party or any of their Subsidiaries in connection with the Loan Documents (including the offering and disclosure materials, if any, delivered by or on behalf of any Credit Party to the Lenders prior to the Closing Date), contains any untrue statement of a material fact or omits any material fact required to be

stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not misleading as of the time when made or delivered.

4.11 *Reorganization Matters.*

(a) The Chapter 11 Case was commenced on the Petition Date in accordance with applicable law and proper notice thereof and proper notice of the hearings to consider entry of the Interim Order and all other First Day Orders have been given and of the hearings to consider entry of the Final Order will be given.

(b) After the entry and issuance of the Orders, as applicable, the Obligations of the Debtors will constitute allowed administrative expense claims in the Chapter 11 Case, subject to the Carve-Out, having priority over all administrative expense claims and unsecured claims against Borrower now existing or hereafter arising, of any kind whatsoever, to the extent provided, and as more fully set forth, in the Orders.

(c) After the entry of the Orders, as applicable, the Obligations will be secured by valid and perfected Liens on all of the Collateral, subject to the Carve-Out and such Liens shall have the priorities set forth in the Orders and the other Loan Documents.

(d) Notwithstanding any failure on the part of the Lenders or the Agent to perfect, maintain, protect or enforce any Liens and security interests in the Collateral granted pursuant to the Guaranty and Security Agreement or the Canadian Documents, the Interim Order, the Final Order (when entered) and the Canadian Orders (when issued and only to the extent a CCAA Case shall then be pending) shall automatically, and without further action by any Person, perfect such Liens and security interests against the Collateral; provided however that the Lenders or the Agent may take additional steps or require the Credit Parties to perfect, maintain, protect or enforce any Liens and security interests in the Collateral granted pursuant to the Guaranty and Security Agreement or the Canadian Documents.

(e) The Interim Order (on and after the date which is three (3) Business Days after the date of the Interim Order) or the Final Order (with respect to the period on and after entry of the Final Order) or the Canadian Orders (with respect to the period on and after issuance of each of the Canadian Orders (to the extent a CCAA Case shall then be pending)), as the case may be, is in full force and effect and has not been reversed, stayed, modified, varied or amended without the consent of the Agent and Majority Lenders.

(f) After the entry of 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) or the Canadian Orders (with respect to the period on and after issuance of each of the Canadian Orders (to the extent a CCAA Case shall then be pending)), notwithstanding the provisions of Section 362 of the Bankruptcy Code and the terms of the Canadian Stay Order (to the extent a CCAA Case shall then be pending), upon the Maturity Date, the Agent and Lenders shall be entitled to immediate payment of such Obligations and to enforce the remedies provided for hereunder and under the other Loan Documents, without further application to or order by the Bankruptcy Court, as more fully set forth in the Interim Order, the Final Order and the Canadian Orders (to the extent a CCAA Case shall then be pending).

4.12 *DIP Budget.* The DIP Budget has been prepared by the Borrower in light of the past operations of the business of Borrower, and reflects the budget for the 13-week period

contained therein, on a week by week basis. The DIP Budget is based upon estimates and assumptions stated therein, all of which the Borrower believes to be reasonable and fair in light of current conditions and current facts known to the Borrower at the time the DIP Budget is submitted to the Agent and reflects the Borrower's good faith and reasonable estimates of the future financial performance of Borrower at the time the DIP Budget is submitted to the Agent and of the other information projected therein for the periods set forth therein.

4.13 *Use of Proceeds.* Proceeds of the Loans will be used solely (i) to make the Adequate Protection Payments, (ii) for general corporate purposes of the Borrower in accordance with the DIP Budget (subject to permitted variances set forth in Section 5.3(a)) and the Orders and not in contravention of any Requirement of Law or the Loan Documents, (iii) to reimburse any costs and expenses owed to the Agent or any Related Persons by Borrower under this Agreement, subject to Section 2.9(c); (iv) to pay Professionals' fees and expenses in connection with the Chapter 11 Case and the CCAA Case (to the extent a CCAA Case shall then be pending) and in accordance with the DIP Budget and approved pursuant to orders of the Bankruptcy Court in accordance with sections 330 and 331 of the Bankruptcy Code or the Canadian Court (to the extent a CCAA Case shall then be pending), as applicable; provided that payments to Professionals from and after the Carve-Out Date shall be subject to the Carve-Out, and any amounts paid to Professionals by any means following the Carve-Out Date shall reduce the Carve-Out on a dollar-for-dollar basis. Borrower shall not be permitted to use the proceeds of the Loans or the Carve-Out to (i) make any adequate protection payments (other than utility payments authorized by the Bankruptcy Court) not required under the Orders, (ii) to finance in any way any action, suit, arbitration, proceeding, application, motion or other litigation challenging the validity, perfection, priority, extent or enforceability of the Obligations or the Priming Liens of Agent on the Collateral or the Obligations or the Liens (each as defined in the Prepetition Credit Agreement) of the Prepetition Agent on the Collateral (as defined in the Prepetition Credit Agreement), (iii) make any distribution under a Plan in the Chapter 11 Case, or (iv) make any payment in settlement of any claim, action or proceeding, before any court, arbitrator or other governmental body without the prior written consent of the Agent. Notwithstanding the foregoing, (i) a Committee of unsecured creditors may spend up to an aggregate amount, not to exceed \$25,000 of proceeds of the Loans or the Carve-Out, as the case may be, to investigate potential claims arising out of, or in connection with the Prepetition Credit Agreement or the security interests and Liens of the Prepetition Agent and Prepetition Lenders with respect thereto.

4.14 *ERISA Compliance.*

(a) *Schedule 4.14(a)-1* sets forth, as of the Closing Date, a complete and correct list of, and that separately identifies, (a) all Title IV Plans, (b) all Multiemployer Plans and (c) all material Benefit Plans. Except for those events or violations that would not, in the aggregate, have a Material Adverse Effect, (x) each Benefit Plan sponsored by an ERISA Affiliate is in compliance with its terms and applicable provisions of ERISA, the Code (including Sections 401 or 501 of the Code, if applicable) and other Requirements of Law, (y) there are no existing or pending (or to the knowledge of any Credit Party, threatened) claims (other than routine claims for benefits in the normal course), sanctions, actions, lawsuits or other proceedings or investigation involving any Benefit Plan to which any Credit Party incurs or otherwise has or could have an obligation or any Liability and (z) no ERISA Event is reasonably expected to occur. Except as set forth on *Schedule 4.14(a)-2*, on the Closing Date, no ERISA Event has occurred in connection with which obligations and liabilities (contingent or otherwise) remain

outstanding. Except as set forth on *Schedule 4.14(a)-2*, no ERISA Affiliate would have any Withdrawal Liability as a result of a complete withdrawal from any Multiemployer Plan on the date this representation is made. To the Company's knowledge, the accumulated benefit obligations under the IAM National Pension Fund (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) do not exceed the fair market value of the assets of the IAM National Pension Fund.

(b) There are no liabilities associated with or arising from any Canadian Subsidiary of the Borrower participating in, providing, or contributing to, either currently or in the past, or ceasing to provide or contribute to, or in respect of, any scheme or arrangement for the provision of any pension, superannuation, retirement (including on early retirement) or death benefits (including in the form of a lump sum) (the benefits together referred to as "Pension Benefits") or providing, or being obligated to provide or failing to provide any Pension Benefits, which are not fully funded, insured or otherwise provided for on both a going concern basis and a solvency basis as applicable either through a separate trust, insurance policy or as an accrual or provision in the accounts of the relevant Canadian Subsidiary.

(c) *Schedule 4.14(c)-1* sets forth, as of the Closing Date, all Canadian Benefit Plans and Canadian Pension Plans currently maintained or contributed to by any Canadian Subsidiary of the Borrower. Except as set forth on *Schedule 4.14(c)-2* (i) the Canadian Pension Plans are duly registered under the Income Tax Act (Canada) and all other applicable laws which require registration, (ii) each Canadian Subsidiary of the Borrower has complied with and performed all of its obligations in all material respects under and in respect of the Canadian Pension Plans and Canadian Benefit Plans under the terms thereof, any funding agreements and all applicable statutes, rules, regulations or policies, in each case, of a Governmental Authority, having the force of law ("*Canadian Pension and Benefits Law*"), (iii) all employer and employee payments, contributions or premiums to be remitted, paid to or in respect of each Canadian Pension Plan or Canadian Benefit Plan have been paid in a timely fashion in accordance with the terms thereof, any funding agreement and all applicable Canadian Pension and Benefits Law, (iv) there are no outstanding disputes concerning the assets of the Canadian Pension Plans or the Canadian Benefit Plans (other than routine claims for benefits), and (v) there has been no partial termination of any Canadian Pension Plan and no facts or circumstances have occurred or existed that could result, or be reasonably expected to result, in the declaration by any Governmental Authority of a partial termination of any Canadian Pension Plan under all applicable Canadian Pension and Benefits Laws.

4.15 *Title to Properties.* Each of the Credit Parties and each of their respective Subsidiaries has good record and marketable title in fee simple to, or valid leasehold interests in, all real Property, and good and valid title to all owned personal property and valid leasehold interests in all leased personal property, in each instance, necessary or used in the ordinary conduct of their respective businesses. The Property of the Credit Parties and their Subsidiaries is subject to no Liens, other than Permitted Liens.

4.16 *Taxes.* Except as set forth in Schedule 4.16, all federal, state, local and foreign income and franchise and other material tax returns, reports and statements (collectively, the "*Tax Returns*") required to be filed by any Tax Affiliate have been filed with the appropriate Governmental Authorities in all jurisdictions in which such Tax Returns are required to be filed, all such Tax Returns are true and correct in all material respects, and all taxes, charges and other impositions reflected therein or otherwise due and payable have been paid prior to the date on which any Liability may be added thereto for non-payment thereof except for those contested in

good faith by appropriate proceedings diligently conducted and for which adequate reserves are maintained on the books of the appropriate Tax Affiliate in accordance with GAAP. Except as set forth in *Schedule 4.16*, as of the Closing Date, no Tax Return is under audit or examination by any Governmental Authority and no notice of such an audit or examination or any assertion of any claim for Taxes has been given or made by any Governmental Authority. All taxes required to be withheld have been withheld by each Tax Affiliate from their respective employees for all periods in full and complete compliance with the tax, social security, unemployment and other employee source deduction obligations and employer withholding provisions of applicable Requirements of Law and such withholdings have been timely paid to the respective Governmental Authorities. No Tax Affiliate has participated in a “reportable transaction” within the meaning of Treasury Regulation Section 1.6011-4(b) or has been a member of an affiliated, combined or unitary group other than the group of which a Tax Affiliate is the common parent.

4.17 *Environmental Matters.* (a) The operations of each Credit Party and each Subsidiary of each Credit Party are and have been in compliance with all applicable Environmental Laws, including obtaining, maintaining and complying with all Permits required by any applicable Environmental Law, other than non-compliances that, in the aggregate, would not have a reasonable likelihood of resulting in a Material Adverse Effect; (b) no Credit Party and no Subsidiary of any Credit Party is party to, and no Credit Party and no Subsidiary of any Credit Party and no real property currently (or to the knowledge of any Credit Party previously) owned, leased, subleased, operated or otherwise occupied by or for any such Person is subject to or the subject of, any Contractual Obligation or any pending (or, to the knowledge of any Credit Party, threatened) order, action, investigation, suit, proceeding, audit, claim, demand, dispute or notice of violation or of potential liability or similar notice relating in any manner to any Environmental Law other than those that, in the aggregate, are not reasonably likely to result in a Material Adverse Effect; (c) no Lien in favor of any Governmental Authority securing, in whole or in part, Environmental Liabilities has attached to any property of any Credit Party or any Subsidiary of any Credit Party and, to the knowledge of any Credit Party, no facts, circumstances or conditions exist that could reasonably be expected to result in any such Lien attaching to any such property; (d) no Credit Party and no Subsidiary of any Credit Party has caused or suffered to occur a Release of Hazardous Materials at, to or from any real property of any such Person and each such real property is free of contamination by any Hazardous Materials except for such Release or contamination that could not reasonably be expected to result, in the aggregate, in a Material Adverse Effect; (e) no Credit Party and no Subsidiary of any Credit Party (i) is or has been engaged in, or has permitted any current or former tenant to engage in, operations or (ii) knows of any facts, circumstances or conditions, including receipt of any information request or notice of potential responsibility under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 et seq.) or similar Environmental Laws, that, in the aggregate, would have a reasonable likelihood of resulting in a Material Adverse Effect; (f) each Credit Party has made available to Agent copies of all existing environmental reports, reviews and audits and all documents pertaining to actual or potential Environmental Liabilities, in each case to the extent such reports, reviews, audits and documents are in their possession, custody or control; and (g) since the issuance of the Phase I Environmental Site Assessment reports set forth on *Schedule 4.17(g)*, (i) there has been no material change to the processes of any Credit Party or any Subsidiary of any Credit Party; (ii) there has been no increase in wastewater effluent, air emissions or solid and hazardous waste disposal from any facilities of any Credit Party or any Subsidiary of any Credit Party; (iii) no Credit Party or any Subsidiary of any Credit Party has received any notices of violation, requests to investigate or remediate soil or groundwater, government claims for natural resource damages or third-party toxic tort suits alleging injury or

property damage under any Environmental Law; and (iv) there have not been any actions or circumstances that would alter the findings and conclusions in any of the Phase I reports set forth on *Schedule 4.17(g)*.

4.18 *Regulated Entities.* None of any Credit Party, any Person controlling any Credit Party, or any Subsidiary of any Credit Party, is (a) an “investment company” within the meaning of the Investment Company Act of 1940 or (b) subject to regulation under the Federal Power Act, the Interstate Commerce Act, any state public utilities code, or any other Federal or state statute, rule or regulation or Canadian federal law or provincial, local or foreign law limiting its ability to incur Debt, pledge its assets or perform its Obligations under the Loan Documents.

4.19 *Labor Relations.* Except as set forth in *Schedule 4.19*, there are no strikes, work stoppages, slowdowns or lockouts existing, pending (or, to the knowledge of any Credit Party, threatened) against or involving any Credit Party or any Subsidiary of any Credit Party, except for those that would not, in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as set forth on *Schedule 4.19*, as of the Closing Date, (a) there is no collective bargaining or similar agreement with any union, labor organization, works council or similar representative covering any employee of any Credit Party or any Subsidiary of any Credit Party, (b) no petition for certification or election of any such representative is existing or pending with respect to any employee of any Credit Party or any Subsidiary of any Credit Party and (c) within the last three years, no such representative has sought certification or recognition with respect to any employee of any Credit Party or any Subsidiary of any Credit Party. No employee of any Credit Party has unpaid wages that have resulted, or will or are likely to result, in a priority Lien under the Wisconsin Wage Lien Statute.

4.20 *Intellectual Property.* Each Credit Party and each Subsidiary of each Credit Party owns, or is licensed to use, all Intellectual Property necessary to conduct its business as currently conducted except for such Intellectual Property the failure of which to own or license would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect. To the knowledge of each Credit Party, (a) the conduct and operations of the businesses of each Credit Party and each Subsidiary of each Credit Party does not infringe, misappropriate, dilute, violate or otherwise impair any Intellectual Property owned by any other Person and (b) no other Person has contested any right, title or interest of any Credit Party or any Subsidiary of any Credit Party in, or relating to, any Intellectual Property, other than, in each case, as cannot reasonably be expected to affect the Loan Documents and the transactions contemplated therein and would not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

4.21 *Insurance.* Each of the Credit Parties and each of their respective Subsidiaries and their respective Properties are insured with financially sound and reputable insurance companies which are not Affiliates of the Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar Properties in localities where such Person operates. A true and complete listing of such insurance, including issuers, coverages and deductibles, has been provided to the Agent.

4.22 *Foreign Assets Control Regulations and Anti-Money Laundering.*

(a) *OFAC.* Neither any Credit Party nor any Subsidiary of any Credit Party (i) is a Person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting

Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) engages in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise associated with any such person in any manner violative of Section 2, or (iii) is a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other U.S. Department of Treasury's Office of Foreign Assets Control regulation or executive order.

(b) *Patriot Act.* Each of the Credit Parties and each of their respective Subsidiaries are in compliance, in all material respects, with the Patriot Act. No part of the proceeds of the Loans will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

5. COVENANTS OF THE BORROWER

5.1 *Affirmative Covenants.* Until all the Obligations (other than contingent indemnification obligations for which no claim has been made) are paid in full, each Credit Party shall do all of the following:

(a) *Corporate Existence.* At all times maintain its corporate existence and preserve and keep in full force and effect its rights, privileges and franchises necessary or desirable to its business;

(b) *Compliance with Laws.* Comply in all respects with all applicable laws, rules, regulations, orders, permits and licenses, except in each case where the failure to comply would not reasonably be expected to have a Material Adverse Effect;

(c) *Insurance.* Maintain at all times insurance in such amounts and against such risks as is customary for businesses of the size and character of the business of the Credit Parties;

(d) *Books and Records.* Keep proper books of record and account in which entries in conformity with GAAP shall be made of all dealings and transactions in relation to its business and activities;

(e) *Access.*

(i) Permit the Agent and its representatives, during normal business hours and with prior notice and (other than during the continuance of a Default or Event of Default) at the Borrower's expense, to inspect its facilities and its books and records and to discuss its affairs, finances and accounts with its officers and employees;

(ii) Without limiting the rights set forth in clause (i) above, upon reasonable written notice and at such reasonable times during normal business hours and as often as may reasonably be requested by Agent or any Lender (and, after an Event of Default has occurred and is continuing, upon notice and at times that are not limited to normal business hours), permit any representative designated by the Agent or any Lender, to visit and inspect any

of its properties, to inspect, copy and take extracts from its financial and accounting records and to discuss its affairs, finances and accounts with its officers and independent public accountants;

(f) *Financial Advisor.* Cooperate generally with any financial advisor retained by the Agent or the Majority Lenders (the “*Financial Advisor*”) or their legal professionals and allow such Financial Advisor full access to the Borrower’s or any Guarantor’s premises, books and records upon reasonable notice and during normal business hours;

(g) *Meetings.* Speak with the Agent, the Financial Advisor, the Lenders and/or any of their Related Persons no less frequently than on a weekly basis at such times as may be agreed to by the Borrower and the Agent and provide to the Agent, Financial Advisor, the Lenders, and/or any of their Related Persons an update on the status, whether financial or otherwise, of the Borrower’s or any Guarantor’s business, workers’ compensation programs and progress towards the Plan Confirmation Milestones;

(h) *Use of Proceeds.* Use the proceeds of the Loans solely as provided in Section 4.13;

(i) *Control Agreements.* Upon the request of the Agent, enter into and cause each depository, securities intermediary or commodities intermediary or other applicable third party to enter into, control agreements in form and substance satisfactory to the Agent with respect to each deposit, securities, commodity or similar account maintained by such Person (other than any payroll account so long as such payroll account is a zero balance account and withholding tax and fiduciary accounts) providing springing cash dominion to the Agent in the case of deposit accounts as of or after the Closing Date;

(j) *Final Order.* Use its best efforts to obtain authorization of the Bankruptcy Court and the Canadian Court (to the extent a CCAA Case shall then be pending) to enter into this Agreement and the other Loan Documents;

(k) *DIP Budget.* Comply with and not incur any expenditures not set forth in the DIP Budget, except as permitted under Section 5.3(a);

(l) *Plan Confirmation Milestones.* Meet the following deadlines (collectively, the “*Plan Confirmation Milestones*”):

(i) Within five (5) days following the Petition Date, the Debtors shall file the Plan and disclosure statement (the “*Disclosure Statement*”) that shall provide for, among other things on the Plan Effective Date (defined below), (i) repayment in full in cash of the Loans under this Agreement and the First Out Loans to the extent such loans have not been previously repaid, (ii) the letters of credit issued and outstanding under the Prepetition Credit Agreement (1) automatically converted to letters of credit issued pursuant to the Exit Revolving Credit Agreement or (2) backstopped by the Borrower through the posting of a supporting letter of credit or letters of credit with the Prepetition Agent from a letter of credit issuer satisfactory to the Prepetition Agent and the Required Lenders (as defined in the Prepetition Credit Agreement) in a face amount equal to 105% of the sum of all outstanding letter of credit obligations under the Prepetition Credit Agreement, provided, however, that such backstopped letter of credit obligations shall expire or terminate within three months of the Plan Effective Date, (iii) the letters of credit issued and outstanding under the this Agreement being (1) automatically converted to letters of credit issued pursuant to the Exit Revolving Credit Agreement, (2)

backstopped by the Borrower through the posting of a supporting letter of credit or letters of credit with the Agent from a letter of credit issuer satisfactory to the Agent and the Majority Lenders in a face amount equal to 105% of the sum of all outstanding Letter of Credit Obligations, provided, however, that such backstopped Letter of Credit Obligations shall expire or terminate within three months of the Maturity Date or (3) cash collateralized on the Maturity Date, as set forth in this Agreement, (iv) on a pro rata basis, the exchange of secured debt under the Prepetition Credit Agreement for newly issued second lien term debt of the Reorganized Debtors pursuant to the Exit Second Lien Credit Agreement in the aggregate principal amount of \$60,000,000, (v) on a pro rata basis, the exchange of the remaining secured debt under the Prepetition Credit Agreement for 70% of the New Stock in the Borrower, (vi) the entry by the Reorganized Debtors into the Exit Revolving Credit Agreement in the aggregate principal amount of \$35,000,000, all in a form and substance as may be approved by those Prepetition Lenders collectively holding at least two-thirds in amount and more than one-half in number of the allowed claims held by Prepetition Lenders pursuant to the Prepetition Credit Agreement, and (vii) the issuance of 30% of the New Stock in the Borrower to the Exit Revolving Lenders, all in a form and substance as may be approved by those Prepetition Lenders collectively holding at least two-thirds in amount and more than one-half in number of the allowed claims held by Prepetition Lenders pursuant to the Prepetition Credit Agreement.

(ii) Within sixty-five (65) days after the Petition Date, an order of the Bankruptcy Court approving the Disclosure Statement, all in a form and substance as may be approved by those Prepetition Lenders collectively holding at least two-thirds in amount and more than one-half in number of the allowed claims held by Prepetition Lenders pursuant to the Prepetition Credit Agreement, shall have been entered.

(iii) In no event less than twenty (20) Business Days before the deadline established by the Bankruptcy Court for voting on the Plan, the Plan Support Documents, all in a form and substance as may be approved by those Prepetition Lenders collectively holding at least two-thirds in amount and more than one-half in number of the allowed claims held by Prepetition Lenders pursuant to the Prepetition Credit Agreement, shall be filed in substantially final form.

(iv) Within one hundred ten (110) days after the Petition Date, an order, all in a form and substance as may be approved by those Prepetition Lenders collectively holding at least two-thirds in amount and more than one-half in number of the allowed claims held by Prepetition Lenders pursuant to the Prepetition Credit Agreement, confirming the Plan (the “*Confirmation Order*”) shall have been entered.

(v) Within one hundred twenty (120) days after Petition Date, the effective date of the Plan shall have occurred (the “*Plan Effective Date*”).

(m) *Preservation of Corporate Existence, Etc.* Each Credit Party shall, and shall cause each of its Subsidiaries to:

(i) preserve and maintain in full force and effect its organizational existence and good standing under the laws of its jurisdiction of incorporation, organization, amalgamation or formation, as applicable, except, with respect to the Borrower’s Subsidiaries, in connection with transactions permitted by Section 5.4;

(ii) preserve and maintain in full force and effect all rights, privileges, qualifications, permits, licenses and franchises necessary in the normal conduct of its business except in connection with transactions permitted by Section 5.4 and sales of assets in the Ordinary Course of Business and except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect;

(iii) use its reasonable efforts, in the Ordinary Course of Business, to preserve its business organization and preserve the goodwill and business of the customers, suppliers and others having material business relations with it; and

(iv) preserve or renew all of its registered trademarks, trade names and service marks, the non-preservation of which would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(n) *Maintenance of Property.* Each Credit Party shall maintain, and shall cause each of its Subsidiaries to maintain, and preserve all its Property which is used or useful in its business in good working order and condition, ordinary wear and tear excepted and shall make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(o) *Insurance.*

(i) Each Credit Party shall, and shall cause each of its Subsidiaries to, (A) maintain or cause to be maintained in full force and effect all policies of insurance of any kind with respect to the property and businesses of the Credit Parties and such Subsidiaries (including policies of life, fire, theft, product liability, public liability, property damage, other casualty, employee fidelity, workers' compensation, business interruption and employee health and welfare insurance) with financially sound and reputable insurance companies or associations (in each case that are not Affiliates of Borrower) of a nature and providing such coverage as is sufficient and as is customarily carried by businesses of the size and character of the business of the Credit Parties and reasonably acceptable to Agent and (B) cause all such insurance relating to any property or business of any Credit Party to name Agent as additional insured or lender's loss payee, as appropriate. All policies of insurance on real and personal property of the Credit Parties will contain an endorsement, in form and substance acceptable to Agent, showing loss payable to Agent (Form CP 1218 or equivalent) and extra expense and business interruption endorsements. Such endorsement, or an independent instrument furnished to Agent, will provide that the insurance companies will give Agent at least 30 days' prior written notice before any such policy or policies of insurance shall be altered or canceled and that no act or default of Borrower or any other Person shall affect the right of Agent to recover under such policy or policies of insurance in case of loss or damage. Each Credit Party shall direct all present and future insurers under its "All Risk" policies of insurance to pay all proceeds payable thereunder directly to Agent. If any insurance proceeds are paid by check, draft or other instrument payable to any Credit Party and Agent jointly, Agent may endorse such Credit Party's name thereon and do such other things as Agent may deem advisable to reduce the same to cash. Agent reserves the right at any time, upon review of each Credit Party's risk profile, to require additional forms and limits of insurance.

(ii) Unless the Borrower provides the Agent with evidence of the insurance coverage required by this Agreement, the Agent may purchase insurance at the Credit Parties' expense to protect the Agent's and Lenders' interests in the Credit Parties' and their

Subsidiaries' properties. This insurance may, but need not, protect the Credit Parties' and their Subsidiaries' interests. The coverage that the Agent purchases may not pay any claim that any Credit Party or any Subsidiary of any Credit Party makes or any claim that is made against such Credit Party or any Subsidiary in connection with said Property. The Borrower may later cancel any insurance purchased by the Agent, but only after providing the Agent with evidence that there has been obtained insurance as required by this Agreement. If the Agent purchases insurance, the Credit Parties will be responsible for the costs of that insurance, including interest and any other charges the Agent may impose in connection with the placement of insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance shall be added to the Obligations. The costs of the insurance may be more than the cost of insurance the Borrower may be able to obtain on its own.

(p) *Compliance with Laws.*

(i) Each Credit Party shall, and shall cause each of its Subsidiaries to, comply with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business, except where the failure to comply would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(ii) Without limiting the generality of the foregoing, each Credit Party shall, and shall cause each of its Subsidiaries to, comply with, and maintain its real property, whether owned, leased, subleased or otherwise operated or occupied, in compliance with, all applicable Environmental Laws (including by implementing any Remedial Action necessary to achieve such compliance or that is required by orders and directives of any Governmental Authority) except for failures to comply that would not, in the aggregate, have a Material Adverse Effect. Without limiting the foregoing, if an Event of Default is continuing or if Agent at any time has a reasonable basis to believe that there exist violations of Environmental Laws by any Credit Party or any Subsidiary of any Credit Party or that there exist any Environmental Liabilities, in each case, that would have, in the aggregate, a Material Adverse Effect, then each Credit Party shall, promptly upon receipt of request from Agent, cause the performance of, and allow Agent and its Related Persons access to such real property for the purpose of conducting, such environmental audits and assessments, including subsurface sampling of soil and groundwater, and cause the preparation of such reports, in each case as Agent may from time to time reasonably request. Such audits, assessments and reports, to the extent not conducted by Agent or any of its Related Persons, shall be conducted and prepared by reputable environmental consulting firms reasonably acceptable to Agent and shall be in form and substance reasonably acceptable to Agent and the Majority Lenders.

(iii) (A) For each existing, or hereafter adopted, Canadian Pension Plan and Canadian Benefit Plan, each Canadian Subsidiary of the Borrower shall in a timely fashion comply with and perform in all material respects all of its obligations under and in respect of such Canadian Pension Plan or Canadian Benefit Plan, including under any funding agreements and all applicable Canadian Pension and Benefits Law.

(B) All employer or employee payments, contributions or premiums required to be remitted, paid to or in respect of each Canadian Benefit Plan and, in the case of each Canadian Pension Plan, all employee contributions and all employer contributions (such employer contributions as determined in the most recently completed and filed actuarial valuation report), shall be paid or remitted by each Canadian Subsidiary of the Borrower in a timely fashion in

accordance with the terms thereof, any funding agreements and Canadian Pension and Benefits Law.

(C) Borrower shall deliver to Agent (i) if requested by Agent, copies of each annual and other return, report or valuation with respect to each Canadian Pension Plan as filed with any applicable Governmental Authority; (ii) promptly after receipt thereof, a copy of any direction, order, notice, ruling or opinion (other than ordinary course correspondence) that any Canadian Subsidiary of the Borrower may receive from any applicable Governmental Authority with respect to any Canadian Pension Plan; and (iii) notification within sixty (60) days of any Canadian Credit Party becoming aware of any increase in employer cost to one or more of the Canadian Credit Parties in excess of \$250,000 per annum as a result of an increase to the benefits provided under any existing Canadian Pension Plan or Canadian Benefit Plan, or the establishment of any new Canadian Pension Plan or Canadian Benefit Plan.

5.2 *Reporting Covenants.* Until all the Obligations (other than contingent indemnification obligations for which no claim has been made) are paid in full, the Borrower shall do all of the following:

(a) *Monthly Financials.* Provide to the Agent (i) monthly financial statements within twenty-six (26) days after the previous month-end, including a Management Discussion and Analysis (MD&A), consistent with prior MD&A reports provided to the Prepetition Lenders, (ii) weekly flash revenue updates, and (iii) daily liquidity reports containing cash receipts, disbursements, and ending cash balances within one (1) Business Day after they are generated;

(b) *Variance Reports.* Provide to the Agent, as soon as available and in any event at least once in every week, a variance report in form and substance satisfactory to the Agent, containing a reconciliation of budgeted disbursements to paid disbursements and budgeted cash receipts to actual cash receipts on a line-item and aggregate basis;

(c) *Updated DIP Budget.* Three (3) weeks prior to the end of the thirteen-week period covered by the initial DIP Budget (the “**First Budget Period**”), provide to the Agent an updated DIP Budget for the thirteen-week cash flow period following the First Budget Period (each thirteen-week period succeeding the First Budget Period, a “**Budget Period**”). Three (3) weeks before the conclusion of each Budget Period, provide to the Agent an updated DIP Budget for the next succeeding Budget Period;

(d) *Actuarial Reports.* Provide the Agent with copies of all actuarial reports with respect to workers’ compensation claims within five (5) Business Days after such reports are received;

(e) *Insurance Quotes.* Provide the Agent with estimates and quotes from any and all insurers who may provide workers’ compensation insurance to the Borrower or its Subsidiaries within two (2) Business Days after such estimates or quotes are obtained and provide the Agent copies of all executed policy agreements within two (2) Business Days after such agreements are executed;

(f) *Default or Event of Default.* Furnish to the Agent within one (1) Business Day after the occurrence of any Default or Event of Default, a statement of the chief financial officer of the Borrower setting forth details of such Default or Event of Default and the action which the Borrower has taken and proposes to take with respect thereto;

(g) *Litigation.* Notify the Agent promptly of any threatened or existing material litigation involving any Credit Party;

(h) *Material Adverse Effect.* Notify the Agent of the occurrence of any event or circumstance that has, or could reasonably be expected to have, a Material Adverse Effect, within one (1) Business Day after the occurrence of such event, including, but not limited to, changes having a Material Adverse Effect with respect to (i) the Teamsters or Machinists Union, (ii) workers' compensation claims, workers' compensation actuarial estimates, or workers' compensation insurance coverage, or (iii) the Borrowers' business including its customers and suppliers;

(i) *Acquisition of Business.* Within one (1) Business Day after the occurrence of such event, notify the Agent if any third party expresses an interest either formally or informally in acquiring all or any substantial part of the Borrower's business;

(j) *Resignation of Officers.* Notify the Agent promptly of (i) the resignation or termination of employment of the chief executive officer, the chief financial officer or any other president of Active Truck Transport LLC, Automotive Carrier Services Co. LLC, or JHT Holdings, Inc. (any of the foregoing, a "**Former Employee**") and (ii) the identity of the person designated to replace such Former Employee, which person shall be acceptable to the Agent and the Majority Lenders and shall begin his or her employment within a time frame acceptable to the Agent and the Majority Lenders;

(k) *Further Assurances.*

(i) Each Credit Party shall ensure that all written information, exhibits and reports furnished to the Agent or the Lenders do not and will not contain any untrue statement of a material fact and do not and will not omit to state any material fact or any fact necessary to make the statements contained therein not misleading in light of the circumstances in which made, and will promptly disclose to the Agent and the Lenders and correct any defect or error that may be discovered therein or in any Loan Document or in the execution, acknowledgement or recordation thereof.

(ii) Each Credit Party shall execute and deliver from time to time to the Agent all such further documents, financing statements, agreements and instruments and do all such other acts and things as may be reasonably required by the Agent (including filing UCC, PPSA and other financing statements, mortgages, and deeds of trust) to enable the Agent or Lenders to exercise and enforce their rights hereunder and under the other Loan Documents and in order to grant, preserve, protect and perfect the validity and priority of the security interests created or intended to be created hereunder and under the other Loan Documents.

(iii) Promptly upon request by the Agent, the Credit Parties shall (and, subject to the limitations hereinafter set forth, shall cause each of their Subsidiaries to) take such additional actions as the Agent may reasonably require from time to time in order (A) to carry out more effectively the purposes of this Agreement or any other Loan Document, (B) to

subject to the Liens created by any of the Collateral Documents any of the Properties, rights or interests covered by any of the Collateral Documents, (C) to perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and the Liens intended to be created thereby, and (D) to better assure, convey, grant, assign, transfer, preserve, protect and confirm to the Agent and Lenders the rights granted or now or hereafter intended to be granted to the Agent and the Lenders under any Loan Document or under any other document executed in connection therewith. Without limiting the generality of the foregoing and except as otherwise approved in writing by Majority Lenders, the Credit Parties shall and shall cause each Credit Party and each of their Subsidiaries to guaranty the Obligations and to cause each such Subsidiary to grant to the Agent, for the benefit of the Agent and Lenders, a security interest in, subject to the limitations hereinafter set forth, all of such Subsidiary's Property to secure such guaranty. Furthermore and except as otherwise approved in writing by Majority Lenders, each Credit Party shall, and shall cause each of its Subsidiaries that is a Credit Party to, pledge all of the Stock and Stock Equivalents of each of its Subsidiaries (other than Jupiter) owned by a Credit Party to the Agent, for the benefit of the Agent and Lenders, to secure the Obligations. In connection with each pledge of Stock and Stock Equivalents, the Credit Parties shall deliver, or cause to be delivered, to the Agent, irrevocable proxies and stock powers and/or assignments, as applicable, duly executed in blank. In the event any Credit Party or any Subsidiary of any Credit Party acquires any real Property, simultaneously with such acquisition, such Person shall execute and/or deliver, or cause to be executed and/or delivered, to the Agent, (x) a fully executed Mortgage, in form and substance reasonably satisfactory to the Agent together with an A.L.T.A. lender's title insurance policy or the Canadian equivalent issued by a title insurer reasonably satisfactory to the Agent, in form and substance and in an amount reasonably satisfactory to the Agent insuring that the Mortgage is a valid and enforceable first priority Lien on the respective Property, free and clear of all defects, encumbrances and Liens [other than Customary Permitted Liens], (y) then current A.L.T.A. surveys or certificate of locations as applicable, certified to the Agent and the Lenders by a licensed surveyor sufficient to allow the issuer of the lender's title insurance policy to issue such policy without a survey exception and (z) an environmental site assessment prepared by a qualified firm reasonably acceptable to the Agent, in form and substance satisfactory to the Agent.

5.3 *Negative Covenants.* As long as any Obligation (other than contingent indemnification obligations for which no claim has been made) remain outstanding, each Credit Party agrees that it will not do any of the following:

(a) *DIP Budget.* Allow the budgeted cash flow (consisting of budgeted cash receipts minus budgeted cash disbursements) to exceed the net cash flow (consisting of actual cash receipts minus actual cash disbursements) by more than the Allowed Variance Amount on a cumulative basis during any Budget Period; provided further that (y) any variance exceeding the Allowed Variance Amount shall be deemed to be a material variance and shall require the Agent's consent, and (z) any amounts not included in the DIP Budget that have been approved for payment by the Bankruptcy Court shall not be funded unless and until approved by the Agent.

(b) *Liens.* Create or suffer to exist any Lien upon or with respect to any of its Property (including Collateral), whether now owned or hereafter acquired, or assign any right to receive income, in each case to secure or provide for the payment of any Debt of any Person or entity, other than the following (collectively, "*Permitted Liens*"):

(i) Liens arising pursuant to the Loan Documents or the Interim Order and the Final Order;

- (ii) Customary Permitted Liens;
- (iii) Liens in existence on the Petition Date and set forth on *Schedule 5.3(b)(iii)* (“*Existing Liens*”);
- (iv) any interest or title of a lessor or sublessor under any lease permitted by this Agreement;
- (v) Liens arising from precautionary uniform commercial code or other applicable personal property security registry financing statements filed under any lease permitted by this Agreement;
- (vi) licenses, sublicenses, leases or subleases granted to third parties in the Ordinary Course of Business not interfering with the business of the Credit Parties or any of their Subsidiaries;
- (vii) Liens arising out of consignment or similar arrangements for the sale of goods entered into by the Borrower or any of its Subsidiaries in the Ordinary Course of Business;
- (viii) Liens securing Debt permitted pursuant to Section 5.3(e)(v); and
- (ix) Liens in favor of the Prepetition Agent for the benefit of the Prepetition Agent and Prepetition Lenders;
- (x) inchoate Liens arising under the Wisconsin Wage Lien Statute to the extent no Credit Party has any outstanding “wage deficiencies” as such term is used in the Wisconsin Wage Lien Statute; and
- (xi) the Carve-Out;

provided, that, in the case of the Debtors, except for the Priority Liens, the Liens in this Section 5.3(b) shall be permitted only to the extent such Liens are junior to the Priming Liens.

(c) *Dispositions.* Sell, transfer, assign, lease, convey, transfer or otherwise dispose of, or enter into any agreement to sell, transfer, assign, lease, convey, transfer or otherwise dispose of, any asset, except (i) dispositions of inventory, or used, worn-out or surplus equipment, all in the Ordinary Course of Business, (ii) dispositions of Cash Equivalents, (iii) licenses, sublicenses, leases or subleases granted to third parties in the Ordinary Course of Business not interfering with the business of the Credit Parties or any of their Subsidiaries, and (iv) the dissolution and/or liquidation of Jupiter.

(d) *Loans and Investments.* Purchase, hold or acquire any capital stock, evidences of indebtedness or other securities of, make or permit to exist any loans or advances to, or make or permit to exist any investment or other interest in, any other Person, except (i) investments in cash and Cash Equivalents, (ii) extensions of credit by any Credit Party (other than Parent) to any other Credit Party (other than Parent), (iii) loan and advances to employee and non-employee drivers made in the Ordinary Course of Business and repaid in accordance with past practice not to exceed \$1,000,000 in the aggregate at any time outstanding, (iv) investments acquired in connection with the settlement of delinquent accounts in the Ordinary Course of

Business or in connection with the bankruptcy or reorganization of suppliers or customers and (v) investments existing on the Closing Date and set forth on *Schedule 5.3(d)*.

(e) *Limitations on Debt.* Directly or indirectly create, incur, assume or otherwise become or remain directly or indirectly liable with respect to any Debt, except for (i) the Obligations, (ii) Debt existing on the date hereof, (iii) unsecured intercompany Debt permitted pursuant to Section 5.3(d)(ii), (iv) guarantees by a Credit Party of Debt of any other Credit Party, in each case, to the extent such Debt was permitted to be incurred hereunder, and (v) Debt not exceeding in the aggregate at any time outstanding \$250,000 with respect to overdraft protections in connection with deposit accounts so long as such Debt does not remain outstanding for more than three (3) Business Days.

(f) *Equity Capital Structure.* Make any material changes in its equity capital structure (including in the terms of its outstanding Stock or Stock Equivalents), or amend any of its Organization Documents in any material respect or in any respect adverse to the Agent or Lenders, unless expressly permitted by this Agreement.

(g) *Operating Leases.* Enter into any operating leases of real property not existing as of the date of the execution of this Agreement without the prior written consent of the Majority Lenders.

(h) *Affiliate Transactions.* Except as expressly contemplated hereby, engage in any transaction with any Affiliate on terms more favorable to such Affiliate than would have been obtainable in an arm's-length dealing except (i) as expressly permitted by this Agreement or (ii) for transactions in the Ordinary Course of Business that do not materially adversely affect the ability of the Borrower to repay the Obligations when due.

(i) *Management Fees and Compensation.* Pay, or permit any of its Subsidiaries to pay, any management, consulting, separation or similar fees to any Affiliate of any Credit Party or to any current or former officer, director or employee (or any Affiliate of such officer, director or employee) of any Credit Party or any Affiliate of any Credit Party except as approved by the Majority Lenders.

(j) *Restricted Payments.* Suffer or permit any of its Subsidiaries to suffer or permit to, (i) declare or make any dividend payment or other distribution of assets, properties, cash, rights, obligations or securities on account of any Stock or Stock Equivalent, (ii) purchase, redeem or otherwise acquire for value any Stock or Stock Equivalent now or hereafter outstanding or (iii) make any payment or prepayment of principal of, premium, if any, interest, fees, redemption, exchange, purchase, retirement, defeasance, sinking fund or similar payment with respect to, Subordinated Indebtedness (the items described in clauses (i), (ii) and (iii) above are referred to as "**Restricted Payments**"); except (A) as approved by the Majority Lenders, (B) Parent may declare and make dividend payments or other distributions payable solely in its Stock or Stock Equivalents, (C) any Subsidiary of the Borrower may declare and pay dividends to a Credit Party or pro rata to its equity holders, (D) any Credit Party may make distributions to Parent which are immediately used by Parent to pay its franchise taxes or to pay customary out-of-pocket expenses for administrative, legal and accounting services and other fees required to maintain its legal existence, and (E) in the event the Borrower files a consolidated income tax return with Parent, Borrower may make distributions to Parent to permit Parent to pay federal and state income taxes then due and owing, franchise taxes and other similar licensing expenses incurred in the Ordinary Course of Business provided, that the amount of such distribution shall

not be greater, nor the receipt by Borrower of tax benefits less, than they would have been had the Borrower not filed a consolidated return with Parent.

(k) *Chapter 11 Claims.* Permit the Debtors or the Canadian Subsidiaries (to the extent a CCAA Case shall then be pending) to incur, create, assume, suffer to exist or permit (a) any administrative expense, unsecured claim, or other super-priority claim or lien which is *pari passu* with or senior to the claims of the Agent and the Lenders against the Borrower hereunder, or apply to the Bankruptcy Court or the Canadian Court (to the extent a CCAA Case shall then be pending) for authority to do so, except for the Carve-Out, the Administrative Charge, the Directors' and Officers' Charge, and the Priority Liens or (b) any obligation to make or provide adequate protection (whether by the payment of cash or otherwise) other than as expressly set forth in the Orders or as otherwise approved by the Agent and the Majority Lenders.

(l) *Administrative Charge and Directors' and Officers' Charge.* To the extent a CCAA Case shall then be pending, allow the Administrative Charge and the Directors' and Officers' Charge to exceed, in the aggregate amount as shall be agreed to by the Agent, the Borrower, and the Majority Lenders and shall be approved by the Canadian Court.

(m) *Orders.* Make or permit to be made any change, amendment or modification, or any application or motion for any change, amendment or modification, to the Orders without the prior written consent of the Agent and the Majority Lenders.

5.4 *Consolidations and Mergers.* No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, merge, amalgamate or consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except upon not less than five (5) Business Days' prior written notice to the Agent, (a) any Subsidiary of the Borrower may merge with, or dissolve or liquidate into, the Borrower or a Wholly-Owned Subsidiary of the Borrower which is a Domestic Subsidiary, provided that the Borrower or such Wholly-Owned Subsidiary which is a Domestic Subsidiary shall be the continuing or surviving entity (b) any Canadian Subsidiary may amalgamate with, or dissolve or liquidate into another Canadian Subsidiary only and (c) any Foreign Subsidiary may merge with or dissolve or liquidate into another Foreign Subsidiary provided that if Mexicana is a constituent entity in such merger, dissolution or liquidation, the other Foreign Subsidiary shall be the continuing or surviving entity.

5.5 *Contingent Obligations.* No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, create, incur, assume or suffer to exist any Contingent Obligations except in respect of the Obligations and except:

(a) endorsements for collection or deposit in the Ordinary Course of Business;

(b) Rate Contracts entered into in the Ordinary Course of Business for bona fide hedging purposes and not for speculation with the prior written consent of the the Majority Lenders;

(c) Contingent Obligations of the Credit Parties and their Subsidiaries existing as of the Closing Date and listed in *Schedule 5.5*, including extension and renewals

thereof which do not increase the amount of such Contingent Obligations as of the date of such extension or renewal;

(d) Contingent Obligations incurred in the Ordinary Course of Business with respect to surety and appeal bonds, performance bonds and other similar obligations;

(e) Contingent Obligations arising under indemnity agreements to title insurers to cause such title insurers to issue to the Agent title insurance policies;

(f) Contingent Obligations arising with respect to customary indemnification obligations, purchase price adjustments or similar obligations in favor of purchasers in connection with dispositions to the extent permitted under Section 5.3(c);

(g) Contingent Obligations arising under Letters of Credit;

(h) Contingent Obligations arising under guarantees made in the Ordinary Course of Business of obligations of any Credit Party (other than Parent), which obligations are otherwise permitted hereunder; provided that if such obligation is subordinated to the Obligations, such guarantee shall be subordinated to the same extent; and

(i) other Contingent Obligations not exceeding \$50,000 in the aggregate at any time outstanding.

5.6 *Compliance with ERISA.* No ERISA Affiliate shall cause or suffer to exist (a) any event that could result in the imposition of a Lien on any asset of a Credit Party or a Subsidiary of a Credit Party with respect to any Title IV Plan or Multiemployer Plan or (b) any other ERISA Event, that would, in the aggregate, have a Material Adverse Effect. No Credit Party shall cause or suffer to exist any event that could result in the imposition of a Lien with respect to any Benefit Plan. No Canadian Subsidiary shall permit its unfunded pension fund and other employee benefit plan obligations and liabilities to remain unfunded other than in accordance with Requirements of Law.

5.7 *Change in Business.* No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, engage in any material line of business substantially different from those lines of business carried on by it on the date hereof. Parent shall not engage in any business activities other than (i) ownership of the Stock and Stock Equivalents of Borrower, and (ii) activities incidental to maintenance of its corporate existence.

5.8 *Accounting Changes.* No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, make any significant change in accounting treatment or reporting practices, except as required by GAAP, or change the fiscal year or method for determining fiscal quarters of any Credit Party or of any consolidated Subsidiary of any Credit Party.

5.9 *No Negative Pledges.* No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, directly or indirectly, to create or otherwise cause or suffer to exist or become effective any consensual restriction or encumbrance of any kind on the ability of any such Subsidiary to pay dividends or make any other distribution on any of such Subsidiary's Stock or Stock Equivalents or to pay fees, including management fees, or make other payments and distributions to the Borrower or any of its Subsidiaries. No Credit Party shall, and no Credit

Party shall permit any of its Subsidiaries to, directly or indirectly, enter into, assume or become subject to any Contractual Obligation prohibiting or otherwise restricting the existence of any Lien upon any of its assets in favor of the Agent, whether now owned or hereafter acquired.

5.10 *OFAC*. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to (i) become a person whose property or interests in property are blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit or Support Terrorism (66 Fed. Reg. 49079(2001), (ii) engage in any dealings or transactions prohibited by Section 2 of such executive order, or be otherwise associated with any such person in any manner violative of Section 2, or (iii) otherwise become a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other OFAC regulation or executive order.

5.11 *Press Release and Related Matters*. No Credit Party shall, and no Credit Party shall permit any of its Affiliates to, issue any press release or other public disclosure (other than any document filed with any Governmental Authority relating to a public offering of securities of any Credit Party) using the name, logo or otherwise referring to GE Capital or of any of its Affiliates, the Loan Documents or any transaction contemplated therein to which the Agent is party without the prior consent of GE Capital except to the extent required to do so under applicable Requirements of Law and then, only after consulting with GE Capital prior thereto.

5.12 *Sale-Leasebacks*. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, engage in a sale leaseback, synthetic lease or similar transaction involving any of its assets.

5.13 *Hazardous Materials*. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, cause or suffer to exist any Release of any Hazardous Material at, to or from any real property owned, leased, subleased or otherwise operated or occupied by any Credit Party or any Subsidiary of any Credit Party that would violate any Environmental Law, form the basis for any Environmental Liabilities or otherwise adversely affect the value or marketability of any real property (whether or not owned by any Credit Party or any Subsidiary of any Credit Party), other than such violations, Environmental Liabilities and effects that would not, in the aggregate, have a Material Adverse Effect.

5.14 *Inactive Subsidiary*. Jupiter shall not, and no Credit Party shall permit Jupiter to, own any assets, incur any liabilities, or engage in any business activity.

6. EVENTS OF DEFAULT

6.1 *Events of Default*. If any of the following shall occur and be continuing (each an “*Event of Default*”):

(a) the Borrower shall fail to pay any interest or principal on any Obligation when the same becomes due and payable and such non-payment continues for a period of more than (i) one (1) Business Day in the case of principal of the Loans and (ii) three (3) Business Days in the case of interest or other amounts; or

(b) any representation or warranty made by the Borrower in any Loan Document or in any certificate agreement or statement delivered to the Agent and the Lenders in

connection with any Loan Document shall prove to have been incorrect or misleading in any material respect when made; or

(c) the Borrower shall default in the performance or observance of any covenant or agreement contained in any of Sections 5.2 through and including 5.14 of this Agreement; or

(d) the Borrower shall default in the performance or observance of any term, covenant or agreement contained in this Agreement or any other Loan Document, other than any such term, covenant or agreement expressly addressed elsewhere in this Section 6.1, and such default shall continue unremedied for a period of ten (10) days after the earlier of the date the Borrower becomes aware or reasonably should have become aware of such default or notice from the Agent is given to the Borrower specifying such default and requiring that it be remedied; or

(e) (i) any material non-monetary judgment, order or decree in a litigation shall be rendered against any one or more of the Credit Parties or any of their respective Subsidiaries which has or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect, and there shall be a period of ten (10) consecutive days during which a stay of enforcement of such judgment, order or decree, by reason of a pending appeal or otherwise, shall not be in effect, or (ii) one or more judgments, non-interlocutory orders, decrees or arbitration awards (or other similar process) involving an aggregate amount in excess of \$100,000, to the extent not covered by insurance, shall be rendered against any one or more of the Credit Parties or any of their respective Subsidiaries, and the same shall remain unsatisfied, unvacated, and unstayed pending appeal for a period of ten (10) days after the entry thereof; or

(f) any Credit Party shall fail to make any payment on any Postpetition Debt (other than the Obligations), and such failure relates to Postpetition Debt having a principal amount of \$250,000 or more, when the same becomes due and payable and such failure continues after the applicable grace or notice period, if any, specified in the document relating thereto on the date of such failure; or

(g) without the consent of the Agent and the Majority Lenders, any Loan Document shall, at any time after its execution and delivery, cease to be in full force and effect or shall be declared null and void by a court of competent jurisdiction, or the validity or enforceability of any such Loan Document shall be contested by the Borrower, or the Borrower shall deny that the Lender has any further liability or obligation under any such Loan Document; or

(h) any Material Adverse Effect occurs other than (i) the commencement of each of the Chapter 11 Case and the CCAA Case (to the extent a CCAA Case shall then be pending) and (ii) those Material Adverse Effects of which the Agent and the Lenders have been made aware of prior to the date of this Agreement; or

(i) (i) the Sponsors, their Approved Affiliates and the other stockholders of Parent on the Closing Date cease to collectively own and control ninety-five percent (95%) of the issued and outstanding Stock and Stock Equivalents of Parent; (ii) Parent ceases to own and control one hundred percent (100%) of the issued and outstanding Stock and Stock Equivalents of the Borrower (other than, so long as the ESOP Trust owns the ESOP Preferred Stock, the ESOP Preferred Stock), in each instance in clauses (i) and (ii) free and clear of all Liens, rights, options,

warrants or other similar agreements or understandings, other than (x) Liens in favor of the Agent, for the benefit of the Agent and Lenders, (y) Liens in favor of the Prepetition Agent, for the benefit of the Prepetition Agent and the Secured Parties (as defined in the Guaranty and Security Agreement referred to in the Prepetition Credit Agreement) and (z) the items set forth on *Schedule 4.5*; or (iv) a sale of all or substantially all of the assets of the Borrower or any other Credit Party; or

(j) [reserved]; or

(k) any of the following shall occur in either the Chapter 11 Case or the CCAA Case (to the extent a CCAA Case shall then be pending):

(i) the filing of a motion, taking of any action or the filing of any chapter 11 plan or disclosure statement attendant thereto by the Borrower: (v) to obtain additional financing under section 364(c) or (d) of the Bankruptcy Code or that is not otherwise permitted pursuant to the Loan Documents except, with the consent of the Agent and the Majority Lenders, in connection with any financing the proceeds of which shall be used to repay in full the Obligations (other than contingent indemnity obligations); (w) to grant any Lien on any Collateral except as permitted hereunder and under the other Loan Documents; (x) except as provided in the Interim Order or Final Order, as the case may be, to use cash collateral of the Agent and the Lenders under section 363(c) of the Bankruptcy Code without the prior written consent of the Agent and the Majority Lenders; (y) which is materially adverse to the Agent and the Lenders or their rights and remedies hereunder, or their interest in the Collateral, including, without limitation, any such action or actions which seek to reduce, set-off or subordinate the Obligations; or (z) that seeks to reduce, set-off or subordinate the Obligations or challenge the Agent's or any Lender's Lien in any of the Collateral;

(ii) the filing by the Borrower of any chapter 11 plan that does not provide for payment in full, in cash of the Obligations as required herein, prior to the effective date of such plan;

(iii) any Order shall be reversed, amended, supplemented, stayed, vacated or otherwise modified (or the Borrower shall apply for authority to do so) without the prior written consent of the Agent and Majority Lenders;

(iv) the dismissal of either one or more of the Chapter 11 Cases or the CCAA Case, or the conversion of one or more of the Chapter 11 Cases from one under chapter 11 to one under chapter 7 of the Bankruptcy Code or the Borrower shall file a motion or other pleading seeking the dismissal or conversion of either one or more of the Chapter 11 Cases or the CCAA Case;

(v) the entry of an order by the Bankruptcy Court granting relief from or modifying the automatic stay of section 362 of the Bankruptcy Code (or the issuance of an order by the Canadian Court granting relief from or modifying the stay of proceedings contained in the Canadian Stay Order (x) to allow any creditor to execute upon or enforce a Lien on any Collateral in excess of \$100,000 in the aggregate, or (y) 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 that would have a Material Adverse Effect;

(vi) the Final Order is not entered within twenty-five (25) days after the entry of the Interim DIP Order (or such later date as agreed by the Agent and the Majority Lenders);

(vii) after the entry of the Final Order, an assertion prior to payment in full of the Obligations (other than contingent indemnity obligations for which no claim has been made), of any claim or claims under section 506(c) of the Bankruptcy Code against or with respect to any of the Collateral;

(viii) the entry of an order in the Chapter 11 Case or the CCAA Case avoiding or requiring repayment of any portion of the payments made on account of the Obligations;

(ix) the failure by the Borrower to perform any of its obligations under the Interim Order or the Final Order;

(x) the appointment of an interim or permanent trustee in the Chapter 11 Case or the appointment of a receiver, responsible officer or an examiner in the Chapter 11 Case with expanded powers or the appointment of a receiver, interim receiver or trustee in bankruptcy under Canadian Insolvency Laws without the consent of the Agent and the Majority Lenders; or the sale without the consent of the Agent and the Majority Lenders, of all or substantially all of the Borrower's assets (except as permitted by Section 6.9) either through a sale under section 363 of the Bankruptcy Code, through a confirmed plan of reorganization in the Chapter 11 Case, or otherwise, that does not provide for payment in full of the Obligations (other than contingent indemnity obligations) and termination of Lenders' commitment to make Loans or other extensions of credit hereunder;

(xi) the entry of an order in the Chapter 11 Case granting any other super-priority administrative claim or Lien equal or superior to that granted to the Agent, on behalf of itself and Lenders (other than the Carve-Out), or the Borrower shall file any pleading requesting such relief;

(xii) the Interim Order (prior to the entry of the Final Order) or the Final Order (after entry of same) or the Canadian Orders (after issuance of same) ceases to be in full force and effect or is stayed in any respect;

(xiii) the Borrower fails to make any Adequate Protection Payments required by any of the Orders;

(xiv) the failure to meet any of the Plan Confirmation Milestones; or

(xv) the termination of the Lockup Agreement; or

(xvi) the board of directors of Reorganized Holdings or the Borrower (to the extent applicable) shall approve exit financing containing terms other than those substantially set forth in the Exit Revolving Credit Agreement.

then, and in every such Event of Default, and at any time thereafter during the continuance of such Event of Default, the Agent may, and, at the request of the Majority Lenders, shall, without further order of, application to, or action by, the Bankruptcy Court, take any or all of the

following actions, at the same or different times: (i) terminate forthwith the Commitments or (ii) set-off and apply all monies on deposit in any account to the satisfaction of the Loans or (iii) declare all Obligations then outstanding to be forthwith due and payable in whole or in part, whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and any unpaid accrued fees and all other liabilities of the Borrower accrued hereunder and under any other Loan Document and all Obligations of the Borrower, shall become forthwith due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Borrower, anything contained herein or in any other Loan Document to the contrary notwithstanding. In addition, subject solely to any requirement of the giving of notice by the terms of the Orders (provided that no such notice shall be required for the purpose of freezing or blocking any deposit or securities accounts which are Collateral), the automatic stay provided in section 362 of the Bankruptcy Code and the stay of proceedings contained in the Canadian Stay Order (to the extent a CCAA Case shall then be pending) shall be deemed automatically vacated without further action or order of the Bankruptcy Court or the Canadian Court (to the extent a CCAA Case shall then be pending), and the Agent and the Lenders shall be entitled to exercise all of their respective rights and remedies under the Loan Documents, provided, however, that notwithstanding anything to the contrary herein, the Agent shall only be permitted to exercise any remedy in the nature of a liquidation or foreclosure on any interest of Borrower in the Collateral if the Agent provides five (5) days' prior written notice to the Borrower, Committee and U.S. Trustee. If an event or occurrence constitutes an Event of Default or Default under more than one of the provisions of this Article 6, the Agent, on behalf of itself and the Lenders, may, and shall upon the request of the Majority Lenders, during the continuance of such Event of Default, take all actions and remedies provided hereunder upon expiration of the shortest grace period, if any, applicable to such Default or Event of Default.

6.2 *Rights Not Exclusive.* The rights provided in this Agreement and the other Loan Documents are cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law or in equity, or under any other instrument, document or agreement now existing or hereafter arising.

7. AGENT

7.1 *Appointment and Duties.*

(a) Each of the Lenders and each L/C Issuer hereby appoints the Agent as its agent and authorizes the Agent to take such actions on its behalf and to exercise such powers as are delegated to the Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto. The 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 the Agent, and the Agent may lend money to and generally engage in any kind of business with the Borrower or other Affiliate thereof as if it were not the Agent hereunder.

(b) *Duties as Collateral and Disbursing Agent.* Without limiting the generality of clause (a) above, the Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders and L/C Issuers), and is hereby authorized, to (i) act as the disbursing and collecting agent for the Lenders and the L/C Issuers with respect to all payments and collections arising in connection with the Loan Documents, and each Person making any payment in connection with any Loan Document to any Lender or L/C Issuer is hereby authorized to make such payment to the Agent, (ii) file and prove claims and file other documents necessary or desirable to allow the claims of the Lenders and L/C Issuers with respect to any Obligation in

the Chapter 11 Case (but not to vote, consent or otherwise act on behalf of such Person), (iii) act as collateral agent for each Lender and L/C Issuer for purposes of the perfection of all Liens created by such agreements and all other purposes stated therein, (iv) manage, supervise and otherwise deal with the Collateral, (v) take such other action as is necessary or desirable to maintain the perfection and priority of the Liens created or purported to be created by the Loan Documents, (vi) except as may be otherwise specified in any Loan Document, exercise all remedies given to the Agent, the Lenders and L/C Issuers with respect to the Collateral, whether under the Loan Documents, applicable Requirements of Law or otherwise and (vii) execute any amendment, consent or waiver under the Loan Documents on behalf of any Lender that has consented in writing to such amendment, consent or waiver; provided, however, that the Agent hereby appoints, authorizes and directs each Lender and L/C Issuer to act as collateral sub-agent for the Agent, the Lenders and the L/C Issuers for purposes of the perfection of all Liens with respect to the Collateral, including any deposit account maintained by a Credit Party with, and cash and Cash Equivalents held by, such Lender or L/C Issuer, and may further authorize and direct the Lenders and the L/C Issuers to take further actions as collateral sub-agents for purposes of enforcing such Liens or otherwise to transfer the Collateral subject thereto to the Agent, and each Lender and L/C Issuer hereby agrees to take such further actions to the extent, and only to the extent, so authorized and directed.

(c) *Limited Duties.* Under the Loan Documents, the Agent (i) is acting solely on behalf of the Lenders and the L/C Issuers (except to the limited extent provided in subsection 2.10(b) with respect to the Register), with duties that are entirely administrative in nature, notwithstanding the use of the defined term “Agent”, the terms “agent”, “Agent” and “collateral agent” and similar terms in any Loan Document to refer to the Agent, which terms are used for title purposes only, (ii) is not assuming any obligation under any Loan Document other than as expressly set forth therein or any role as agent, fiduciary or trustee of or for any Lender, L/C Issuer or any other Person and (iii) shall have no implied functions, responsibilities, duties, obligations or other liabilities under any Loan Document, and each Lender and L/C Issuer hereby waives and agrees not to assert any claim against the Agent based on the roles, duties and legal relationships expressly disclaimed in clauses (i) through (iii) above.

7.2 *Binding Effect.* Each Lender and each L/C Issuer agrees that (i) any action taken by the Agent or the Majority Lenders (or, if expressly required hereby, a greater proportion of the Lenders) in accordance with the provisions of the Loan Documents, (ii) any action taken by the Agent in reliance upon the instructions of Majority Lenders (or, where so required, such greater proportion) and (iii) the exercise by the Agent or the Majority Lenders (or, where so required, such greater proportion) of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Lenders and L/C Issuers.

7.3 *Use of Discretion.*

(a) *No Action Without Instructions.* The Agent shall not be required to exercise any discretion or take, or to omit to take, any action, including with respect to enforcement or collection, except any action it is required to take or omit to take (i) under any Loan Document or (ii) pursuant to instructions from the Majority Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders).

(b) *Right Not to Follow Certain Instructions.* Notwithstanding clause (a) above, the Agent shall not be required to take, or to omit to take, any action (i) unless, upon

demand, the Agent receives an indemnification satisfactory to it from the Lenders (or, to the extent applicable and acceptable to the Agent, any other Person) against all liabilities that, by reason of such action or omission, may be imposed on, incurred by or asserted against the Agent or any Related Person thereof or (ii) that is, in the opinion of the Agent or its counsel, contrary to any Loan Document or applicable Requirement of Law.

7.4 *Delegation of Rights and Duties.* The Agent may, upon any term or condition it specifies, delegate or exercise any of its rights, powers and remedies under, and delegate or perform any of its duties or any other action with respect to, any Loan Document by or through any trustee, co-agent, employee, attorney-in-fact and any other Person (including any Lender or L/C Issuer). Any such Person shall benefit from this Article 7 to the extent provided by the Agent.

7.5 *Reliance and Liability.*

(a) The Agent may, without incurring any liability hereunder, (i) treat the payee of any Note as its holder until such Note has been assigned in accordance with Section 8.8, (ii) rely on the Register to the extent set forth in Section 2.10, (iii) consult with any of its Related Persons and, whether or not selected by it, any other advisors, accountants and other experts (including advisors to, and accountants and experts engaged by, any Credit Party) and (iv) rely and act upon any document and information (including those transmitted by electronic transmission) and any telephone message or conversation, in each case believed by it to be genuine and transmitted, signed or otherwise authenticated by the appropriate parties.

(b) None of the Agent and its Related Persons shall be liable for any action taken or omitted to be taken by any of them under or in connection with any Loan Document, and each Lender, L/C Issuer, Parent, the Borrower and each other Credit Party hereby waive and shall not assert (and each of Parent and the Borrower shall cause each other Credit Party to waive and agree not to assert) any right, claim or cause of action based thereon, except to the extent of liabilities resulting primarily from the gross negligence or willful misconduct of the Agent or, as the case may be, such Related Person (each as determined in a final, non-appealable judgment by a court of competent jurisdiction) in connection with the duties expressly set forth herein. Without limiting the foregoing, the Agent:

(i) shall not be responsible or otherwise incur liability for any action or omission taken in reliance upon the instructions of the Majority Lenders or for the actions or omissions of any of its Related Persons selected with reasonable care (other than employees, officers and directors of the Agent, when acting on behalf of the Agent);

(ii) shall not be responsible to any Lender, L/C Issuer or other Person for the due execution, legality, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection or priority of any Lien created or purported to be created under or in connection with, any Loan Document;

(iii) makes no warranty or representation, and shall not be responsible, to any Lender, L/C Issuer or other Person for any statement, document, information, representation or warranty made or furnished by or on behalf of any Credit Party or any Related Person of any Credit Party in connection with any Loan Document or any transaction contemplated therein or any other document or information with respect to any Credit Party, whether or not transmitted or (except for documents expressly required under any Loan

Document to be transmitted to the Lenders) omitted to be transmitted by the Agent, including as to completeness, accuracy, scope or adequacy thereof, or for the scope, nature or results of any due diligence performed by the Agent in connection with the Loan Documents; and

(iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any provision of any Loan Document, whether any condition set forth in any Loan Document is satisfied or waived, as to the financial condition of any Credit Party or as to the existence or continuation or possible occurrence or continuation of any Default or Event of Default and shall not be deemed to have notice or knowledge of such occurrence or continuation unless it has received a notice from the Borrower, any Lender or L/C Issuer describing such Default or Event of Default clearly labeled “notice of default” (in which case the Agent shall promptly give notice of such receipt to all Lenders);

and, for each of the items set forth in clauses (i) through (iv) above, each Lender, L/C Issuer, Parent and the Borrower hereby waives and agrees not to assert (and each of Parent and the Borrower shall cause each other Credit Party to waive and agree not to assert) any right, claim or cause of action it might have against the Agent based thereon.

7.6 *Agent Individually.* The Agent and its Affiliates may make loans and other extensions of credit to, acquire Stock and Stock Equivalents of, engage in any kind of business with, any Credit Party or Affiliate thereof as though it were not acting as Agent and may receive separate fees and other payments therefor. To the extent the Agent or any of its Affiliates makes any Loan or otherwise becomes a Lender hereunder, it shall have and may exercise the same rights and powers hereunder and shall be subject to the same obligations and liabilities as any other Lender and the terms “Lender”, “Majority Lender” and any similar terms shall, except where otherwise expressly provided in any Loan Document, include, without limitation, the Agent or such Affiliate, as the case may be, in its individual capacity as Lender, or as one of the Majority Lenders, respectively.

7.7 *Lender Credit Decision.* Each Lender and each L/C Issuer acknowledges that it shall, independently and without reliance upon the Agent, any Lender or L/C Issuer or any of their Related Persons or upon any document (including any offering and disclosure materials in connection with the syndication of the Loans) solely or in part because such document was transmitted by the Agent or any of its Related Persons, conduct its own independent investigation of the financial condition and affairs of each Credit Party and make and continue to make its own credit decisions in connection with entering into, and taking or not taking any action under, any Loan Document or with respect to any transaction contemplated in any Loan Document, in each case based on such documents and information as it shall deem appropriate. Except for documents expressly required by any Loan Document to be transmitted by the Agent to the Lenders or L/C Issuers, the Agent shall not have any duty or responsibility to provide any Lender or L/C Issuer with any credit or other information concerning the business, prospects, operations, Property, financial and other condition or creditworthiness of any Credit Party or any Affiliate of any Credit Party that may come in to the possession of the Agent or any of its Related Persons.

7.8 *Expenses; Indemnities.*

(a) Each Lender agrees to reimburse the Agent and each of its Related Persons (to the extent not reimbursed by any Credit Party) promptly upon demand, severally and ratably, of any costs and expenses (including fees, charges and disbursements of financial, legal and other advisors and Taxes paid in the name of, or on behalf of, any Credit Party) that may be

incurred by the Agent or any of its Related Persons in connection with the preparation, syndication, execution, delivery, administration, modification, consent, waiver or enforcement (whether through negotiations, through any work-out, bankruptcy, restructuring or other legal or other proceeding or otherwise) of, or legal advice in respect of its rights or responsibilities under, any Loan Document.

(b) Each Lender further agrees to indemnify the Agent and each of its Related Persons (to the extent not reimbursed by any Credit Party), severally and ratably, from and against liabilities (including Taxes, interests and penalties imposed for not properly withholding or backup withholding on payments made to on or for the account of any Lender) that may be imposed on, incurred by or asserted against the Agent or any of its Related Persons in any matter relating to or arising out of, in connection with or as a result of any Loan Document, or any other act, event or transaction related, contemplated in or attendant to any such document, or, in each case, any action taken or omitted to be taken by the Agent or any of its Related Persons under or with respect to any of the foregoing; provided, however, that no Lender shall be liable to the Agent or any of its Related Persons to the extent such liability has resulted primarily from the gross negligence or willful misconduct of the Agent or, as the case may be, such Related Person, as determined by a court of competent jurisdiction in a final non-appealable judgment or order.

7.9 *Resignation of Agent or L/C Issuer.*

(a) The Agent may resign at any time by delivering notice of such resignation to the Lenders and the Borrower, effective on the date set forth in such notice or, if not such date is set forth therein, upon the date such notice shall be effective. If the Agent delivers any such notice, the Majority Lenders shall have the right to appoint a successor Agent. If, within 30 days after the retiring Agent having given notice of resignation, no successor Agent has been appointed by the Majority Lenders that has accepted such appointment, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent from among the Lenders. Each appointment under this clause (a) shall be subject to the prior written consent of the Borrower, which may not be unreasonably withheld but shall not be required during the continuance of a Default.

(b) Effective immediately upon its resignation, (i) the retiring Agent shall be discharged from its duties and obligations under the Loan Documents, (ii) the Lenders shall assume and perform all of the duties of the Agent until a successor Agent shall have accepted a valid appointment hereunder, (iii) the retiring Agent and its Related Persons shall no longer have the benefit of any provision of any Loan Document other than with respect to any actions taken or omitted to be taken while such retiring Agent was, or because such Agent had been, validly acting as Agent under the Loan Documents and (iv) subject to its rights under Section 8.3, the retiring Agent shall take such action as may be reasonably necessary to assign to the successor Agent its rights as Agent under the Loan Documents. Effective immediately upon its acceptance of a valid appointment as Agent, a successor Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Agent under the Loan Documents.

(c) Any L/C Issuer may resign at any time by delivering notice of such resignation to the Agent, effective on the date set forth in such notice or, if no such date is set forth therein, on the date such notice shall be effective. Upon such resignation, the L/C Issuer shall remain an L/C Issuer and shall retain its rights and obligations in its capacity as such (other than any obligation to Issue Letters of Credit but including the right to receive fees or to have

Lenders participate in any L/C Reimbursement Obligation thereof) with respect to Letters of Credit issued by such L/C Issuer prior to the date of such resignation and shall otherwise be discharged from all other duties and obligations under the Loan Documents.

7.10 *Release of Collateral or Guarantors.* Each Lender and L/C Issuer hereby consents to the release and hereby directs the Agent to release (or, in the case of clause (b)(ii) below, release or subordinate) the following:

(a) any Subsidiary of the Borrower from its guaranty of any Obligation if all of the Stock and Stock Equivalents of such Subsidiary owned by any Credit Party are sold or transferred in a transaction permitted under the Loan Documents (including pursuant to a waiver or consent); and

(b) any Lien held by the Agent for the benefit of itself and the Lenders against (i) any Collateral that is sold, transferred, conveyed or otherwise disposed of by a Credit Party in a transaction permitted by the Loan Documents (including pursuant to a valid waiver or consent), (ii) any Property subject to a Lien permitted hereunder and (iii) all of the Collateral and all Credit Parties, upon (A) termination of the Commitments, (B) payment and satisfaction in full of all Loans, all L/C Reimbursement Obligations and all other Obligations under the Loan Documents that the Agent has been notified in writing are then due and payable, (C) deposit of cash collateral (or back-up letter of credit) with respect to Letter of Credit Obligations and other Obligations for which a claim has been made, in amounts and on terms and conditions and with parties satisfactory to the Agent and (D) to the extent requested by the Agent, receipt by Agent, the Lenders and the L/C Issuers of liability releases from the Credit Parties each in form and substance acceptable to the Agent.

Each Lender and L/C Issuer hereby directs the Agent, and the Agent hereby agrees, upon receipt of reasonable advance notice from the Borrower, to execute and deliver or file such documents and to perform other actions reasonably necessary to release the guaranties and Liens when and as directed in this Section 7.10.

7.11 *[Reserved]*.

7.12 *Express Duties.* The Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that the Agent is required to exercise in writing, and (c) except as expressly set forth in the Loan Documents, the Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower that is communicated to the Agent or any of its Affiliates in any capacity. The Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Lenders or in the absence of its own gross negligence or willful misconduct. The Agent shall not be deemed to have knowledge of any default unless and until written notice thereof is given to the Agent by the Borrower or a Lender, and the Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document, (iv) the

validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth herein or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Agent.

7.13 *Reliance by the Agent.* The 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. The 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. The Agent may consult with legal counsel, 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.

7.14 *Lender Non-Reliance.* Each Lender acknowledges that it has, independently and without reliance upon the 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 the 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 other Loan Document or related agreement or any document furnished hereunder or thereunder.

7.15 *Appointment of Agent as “Fondé de Pouvoir”.* For the purposes of holding any security granted by the Borrower or any Credit Party pursuant to the laws of the Province of Quebec to secure payment of any debenture issued by the Borrower or any Credit Party, the Agent is hereby appointed to act as the person holding the power of attorney (fondé de pouvoir) pursuant to article 2692 of the Civil Code of Quebec to act on behalf of each of the Lenders, initially namely General Electric Capital Corporation in its capacity as Agent for the Lenders. Moreover, each of the Lenders hereby irrevocably appoints and authorizes the Agent to act as agent and custodian for and on behalf of the Lenders to hold and be the sole registered holder of any bond which may be issued under any hypothec granted by the Borrower or any Credit Party. Each Person who is or becomes a Lender and each assignee holder of any debenture issued by the Borrower or any Credit Party shall be deemed to ratify the power of attorney (fondé de pouvoir) granted to the Agent hereunder by its execution of the agreement(s) evidencing such assignment. The Agent agrees to act in such capacity. Each party hereto agrees that, notwithstanding Section 32 of An Act Respecting the Special Powers of Legal Persons (Quebec), the Agent, as fondé de pouvoir, shall also be entitled to act as a debenture holder and to acquire and/or be the pledgee of any debentures or other titles of indebtedness to be issued under any deed of hypothec executed by or on behalf of the Borrower or any other Credit Party.

8. MISCELLANEOUS

8.1 *Amendments, Etc.* No amendment or waiver of any provision of any Loan Document, nor consent to any departure by the Borrower therefrom, shall be effective unless the same shall be in writing and signed by the Agent, the Borrower, and the Majority Lenders, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

8.2 *Headings.* The headings and table of contents are included in this Agreement for convenience only and shall not in any way affect the meaning of or interpretation of this Agreement.

8.3 *Notices, Etc.* All notices and other communications provided for hereunder shall be in writing (including telecopier) and mailed, e-mailed, telecopied, posted on Intralinks® or delivered,

(a) if to the Borrower or Credit Party, at the address set forth opposite such Borrower's or Credit Party's name on the signature pages annexed hereto; with a copy to Kaye Scholer LLC, Three First National Plaza, 70 W. Madison Street, suite 4100, Chicago, IL 60602, Attention: D. Tyler Nurnberg, Esq. and Alan Glantz, Esq., Fax: (312) 583-2513, (212) 836-6763, E-mail: tnurnberg@kayescholer.com; aglantz@kayescholer.com;

(b) if to any Lender, at its address specified opposite its name on the signature pages annexed hereto; with a copy to Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, Attention: Gary Holtzer, Esq. and Sylvia Mayer, Esq., Fax: (212) 310-8007, E-mail: gary.holtzer@weil.com; sylvia.mayer@weil.com and Haynes and Boone LLP, 153 East 53rd Street 49th Floor, New York, New York 10022, Attention: Lenard Parkins, Esq., Thomas A. Howley, Esq. and Ann M. Richardson, Esq.; Fax: (918) 884-8989, E-Mail: lenard.parkins@haynesboone.com; ann.richardson@haynesboone.com; thomas.howley@haynesboone.com

(c) if to the Agent, at its address specified opposite its name on the signature pages annexed hereto, with a copy to Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, Attention: Gary Holtzer, Esq. and Sylvia Mayer, Esq., Fax: (212) 310-8007, E-mail: gary.holtzer@weil.com; sylvia.mayer@weil.com.

(d) If to the L/C Issuer, at its address specified opposite its name on the signature pages annexed hereto, with a copy to Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, Attention: Gary Holtzer, Esq. and Sylvia Mayer, Esq., Fax: (212) 310-8007, E-mail: gary.holtzer@weil.com; sylvia.mayer@weil.com.

All such notices and communications shall, when mailed or telecopied, be effective when deposited in the mails, e-mailed or telecopied, except that notices to a Lender pursuant to the provisions of Article 2 shall not be effective until received by such Lender.

8.4 *No Waiver; Remedies.* No failure on the part of the Agent or any Lender to exercise, and no delay in exercising, any right under any Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

8.5 *Costs, Expenses and Taxes.*

(a) The Borrower agrees to pay on demand all out-of-pocket costs and expenses of the Agent and the Lenders in connection with the preparation, execution, delivery, administration, modification and amendment of this Agreement and the other Loan Documents (including due diligence), including, without limitation, the reasonable fees and expenses of counsel and of internal and third-party consultants and auditors advising the Agent and the

Lenders with respect thereto, without need for further application from or approval by the Bankruptcy Court. The Borrower further agrees to pay after an Event of Default on demand all costs and expenses, if any (including fees and expenses of counsel) of the Agent and the Lenders in connection with the enforcement (whether through negotiations, legal proceedings or otherwise) of any Loan Document, including, without limitation, reasonable counsel fees and expenses in connection with the enforcement of rights under this Section 8.5. In addition, the Borrower shall pay any and all stamp and other taxes (other than those taxes excluded pursuant to Section 2.13) payable or determined to be payable in connection with the execution and delivery of any Loan Document to be delivered hereunder and agrees to save the Agent and the Lenders harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes.

8.6 *Right of Set-off.* Upon the occurrence and during the continuance of an Event of Default, each Lender is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender to or for the credit or the account of the Borrower against any and all of the Obligations now or hereafter existing, whether or not such Lender shall have made any demand under any Loan Document and although such Obligations may be unmatured. Each Lender agrees promptly to notify the Borrower after any such set-off and application; *provided, however*, that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Lenders under this Section 8.6 are in addition to other rights and remedies (including other rights of set-off) which the Lenders may have.

8.7 *[Reserved]*

8.8 *Binding Effect; Assignment.* This Agreement shall be effective as of the Closing Date, upon execution of the parties hereto and, thereafter, shall be binding upon and inure to the benefit of the Borrower, the Agent and the Lenders and their respective successors and assigns, except that the Borrower shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Agent and the Lenders. Each Lender may assign (including for collateral purposes) all or a portion of its rights and obligations under this Agreement to (i) any existing Lender, (ii) any Affiliate or Approved Fund of any existing Lender or (iii) any other Person with the consent of the Borrower acceptable to the Agent (which acceptance shall not be unreasonably withheld or delayed) and provided that Borrower consent shall not be necessary if an Event of Default has occurred and is continuing, the Borrower; provided that the minimum amount of such assignment shall be (x) \$1,000,000, unless such assignment is to an existing Lender or an Affiliate or Approved Fund of any existing Lender or (y) the entire amount of such assignor's interest or is made with the prior consent of the Agent and the Borrower. The parties to such assignment shall execute and deliver to the Agent (which shall keep a copy thereof) an Assignment, together with any existing Note subject to such assignment (or any affidavit of loss therefore acceptable to the Agent), any tax forms required to be delivered pursuant to Section 2.13 and payment by the assignee of an assignment fee to the Agent in the amount of \$3,500. Upon receipt of all of the foregoing, and upon the Agent and Borrower consenting to such assignment, if applicable, from and after the effective date specified in the Assignment, the Agent shall record or cause to be recorded in the Register the information contained in such Assignment.

8.9 *Execution in Counterparts.* This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so

executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. One or more counterparts of this Agreement (or portions hereof) may be delivered via telecopier or e-mail, with the intention that they shall have the same effect as an original counterpart hereof (or such portions hereof). All signature pages need not be on the same counterpart.

8.10 *Entire Agreement; Severability of Provisions.* The Loan Documents contain the entire agreement of the parties hereto and supersede all prior agreements and understandings, oral and otherwise, among the parties hereto with respect to the matters contained in the Loan Documents. If any provision of this Agreement, or the application thereof to any Person or circumstance, is invalid or unenforceable or contravenes any law or regulation, such provision or application shall be deemed ineffective *ab initio*, but the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected thereby, and the provisions of this Agreement shall be severable in any such instances.

8.11 *Indemnification.* Each Credit Party agrees to indemnify the Agent and the Lenders and their Affiliates and each of their respective stockholders, directors, officers, agents, attorneys and employees, and the successors and assigns of the foregoing (collectively, “*Indemnitees*”), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against any Indemnitee in any way relating to or arising out of the Loan Documents, any related transactions (whether actual or proposed) or any action taken or omitted by the Agent or the Lenders under the Loan Documents; *provided, however*, that the Borrower shall not be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the gross negligence or willful misconduct of such Indemnitee as finally determined by a court of competent jurisdiction. The foregoing agreements shall survive the making and repayment of the Loan.

8.12 *No Third Parties Benefited.* This Agreement is made and entered into for the sole protection and legal benefit of the Borrower, the Lenders and the Agent, and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement or any of the other Loan Documents. Neither the Agent nor any Lender shall have any obligation to any Person not a party to this Agreement or the other Loan Documents.

8.13 *Governing Law and Jurisdiction.*

(a) *Governing Law.* The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance and enforcement.

(b) *Submission to Jurisdiction.* Any legal action or proceeding with respect to any Loan Document shall be brought in the Bankruptcy Court and, by execution and delivery of this Agreement, each party executing this Agreement hereby accepts for itself and in respect of its Property, generally and unconditionally, the jurisdiction of the aforesaid court. The parties hereto (and, to the extent set forth in any other Loan Document, each other Credit Party) hereby irrevocably waive any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens, that any of them may now or hereafter have to the bringing of any such action or proceeding in such jurisdictions.

(c) *Service of Process.* Each Credit Party hereby irrevocably waives personal service of any and all legal process, summons, notices and other documents and other service of process of any kind and consents to such service in any suit, action or proceeding brought in the United States of America with respect to or otherwise arising out of or in connection with any Loan Document by any means permitted by applicable Requirements of Law, including by the mailing thereof (by registered or certified mail, postage prepaid) to the address of Borrower specified herein (and shall be effective when such mailing shall be effective, as provided therein). Each Credit Party agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(d) *Non-Exclusive Jurisdiction.* Nothing contained in this Section 8.13 shall affect the right of Agent or any Lender to serve process in any other manner permitted by applicable Requirements of Law or commence legal proceedings or otherwise proceed against any Credit Party in any other jurisdiction.

8.14 *Waiver of Jury Trial.* THE PARTIES HERETO, TO THE EXTENT PERMITTED BY LAW, WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF, IN CONNECTION WITH OR RELATING TO, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND ANY OTHER TRANSACTION CONTEMPLATED HEREBY AND THEREBY. THIS WAIVER APPLIES TO ANY ACTION, SUIT OR PROCEEDING WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE.

8.15 *Entire Agreement; Release; Survival.*

(a) THE LOAN DOCUMENTS EMBODY THE ENTIRE AGREEMENT OF THE PARTIES AND SUPERSEDE ALL PRIOR AGREEMENTS AND UNDERSTANDINGS RELATING TO THE SUBJECT MATTER THEREOF AND ANY PRIOR LETTER OF INTEREST, COMMITMENT LETTER, FEE LETTER, CONFIDENTIALITY AND SIMILAR AGREEMENTS INVOLVING ANY CREDIT PARTY AND ANY OF LENDER OR ANY L/C ISSUER OR ANY OF THEIR RESPECTIVE AFFILIATES RELATING TO A FINANCING OF SUBSTANTIALLY SIMILAR FORM, PURPOSE OR EFFECT. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THIS AGREEMENT AND ANY OTHER LOAN DOCUMENT, THE TERMS OF THIS AGREEMENT SHALL GOVERN (UNLESS SUCH TERMS OF SUCH OTHER LOAN DOCUMENTS ARE NECESSARY TO COMPLY WITH APPLICABLE REQUIREMENTS OF LAW, IN WHICH CASE SUCH TERMS SHALL GOVERN TO THE EXTENT NECESSARY TO COMPLY THEREWITH).

(b) Execution of this Agreement by the Credit Parties constitutes a full, complete and irrevocable release of any and all claims which each Credit Party may have at law or in equity in respect of all prior discussions and understandings, oral or written, relating to the subject matter of this Agreement and the other Loan Documents. In no event shall any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings). The Borrower and each other Credit Party signatory hereto hereby waives, releases and agrees (and shall cause each other Credit Party to waive, release and agree) not to sue upon any such claim for any special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

8.16 *Patriot Act.* Each Lender that is subject to the Patriot Act hereby notifies the Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Patriot Act.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the day and year first above written.

	JHT ACQUISITION CORP.
	By: _____
	Title: _____
	FEIN: _____
	Address for notices:
	4230 39th Avenue, Kenosha, WI 53144 Attn: Chris Reehl, Chief Financial Officer Facsimile: (262) 564-5214

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the day and year first above written.

	JHT HOLDINGS, INC.
	By: _____
	Title: _____
	FEIN: _____
	Address for notices:
	4230 39th Avenue, Kenosha, WI 53144 Attn: Chris Reehl, Chief Financial Officer Facsimile: (262) 564-5214

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the day and year first above written.

	GENERAL ELECTRIC CAPITAL CORPORATION, as the Agent, L/C Issuer, and as a Lender
	By: _____
	Title: Its Duly Authorized Signatory
	Address for Notices:
	General Electric Capital Corporation

	Attn: _____ Account Officer
	Facsimile: _____
	E-mail: joseph.catarina@ge.com , douglas.taber@ge.com ,
	With a copy to:

	And
	General Electric Capital Corporation

	Attn: Corporate counsel-Corporate Lending
	Facsimile: _____
	Address for Payments:
	ABA No. 021-001-033 Account Number 502-795-13 Deutsche Bank Trust Company Americas New York, New York Account Name: GECC CFS CIF Collection Account Reference: CFN8694 (JHT Holdings, Inc.)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the day and year first above written.

	[INSERT NAME]
	By: _____
	Title: _____
	Address for notices:
	Lending office:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the day and year first above written.

	[INSERT NAME], as a Lender
	By: _____
	Title: _____
	Address for notices:
	Lending office: