IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
CIBER, Inc., *et al.*,[1]	)	Case No. 17-10772 (___)
Debtors.	)	Joint Administration Pending

DEBTORS' MOTION FOR INTERIM AND FINAL ORDERS AUTHORIZING DEBTORS TO: (A) USE CASH COLLATERAL ON AN EMERGENCY BASIS PENDING A FINAL HEARING; (B) INCUR POSTPETITION DEBT ON AN EMERGENCY BASIS PENDING A FINAL HEARING; AND (C) GRANT ADEQUATE PROTECTION AND PROVIDE SECURITY AND OTHER RELIEF TO WELLS FARGO BANK, N.A., AS AGENT AND LENDERS

By this motion (the "Motion"), the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") seek entry of interim and final orders:

(a) authorizing the Debtors to use Cash Collateral on an emergency basis pending a Final Hearing;

(b) authorizing the Debtors to incur Postpetition Debt on an emergency basis pending a Final Hearing and enter into that certain *Debtor-In-Possession Credit Agreement* by and among Wells Fargo Bank, N.A. ("Wells Fargo"), as administrative agent, and the lenders that are parties thereto (the "DIP Lender") and CIBER, Inc. (the "Borrower") (substantially in the form attached to this Motion as Exhibit A, together with all schedules, exhibits, and annexes thereto, and as may be amended, the "Postpetition Credit Agreement")[2] for a secured revolving credit facility (the "DIP Facility") to be used to fund certain fees and expenses associated with the DIP Facility incurred during the Cases, finance the ongoing corporate needs of the Borrower and the other Debtors, subject to the Budget, pay for certain of the Debtors' administrative expenses incurred during the Cases, subject to the Budget, and provide for adequate protection in favor of the Prepetition Lenders, on the terms and conditions set forth in the Postpetition Credit Agreement and any other documents ancillary thereto (collectively, the

[1] The Debtors in the above-captioned chapter 11 cases, along with the last four digits of Debtor CIBER, Inc.'s federal tax identification number (the other Debtors do not have EINs) are: CIBER, Inc. (6833), CIBER International LLC, and CIBER Consulting, Incorporated. The principal place of business for each Debtor is 6312 South Fiddler's Green Circle, Suite 600E, Greenwood Village, CO 80111.

[2] All terms not otherwise defined herein shall be given the meanings ascribed to them in the Postpetition Credit Agreement or the Interim Order (as defined below), as applicable.

"Postpetition Credit Documents") and in the proposed interim order substantially in the form attached to this Motion as Exhibit B (the "Interim Order");

(c) authorizing the Debtors to execute and enter into the Postpetition Credit Documents and to perform all such other and further acts as may be required in connection with the Postpetition Credit Agreement;

(d) granting, for the benefit of the Lenders, as security for the Obligations (i) a valid first priority Lien on all of the Collateral pursuant to sections 364(c)(2), (c)(3), and (d) of the Code (subject only to the Carveout, Permitted Priority Liens, and Prepetition Liens and Replacement Liens) and (ii) if and to the extent the adequate protection of the interests of Prepetition Agent and Prepetition Lenders in the Prepetition Collateral proves insufficient, an allowed administrative expense in the Cases having priority under section 364(c)(1) of the Bankruptcy Code over all other administrative expenses, but subject to the Carveout and the Stalking Horse Bid Protections;

(e) authorizing the Debtors to pay the principal, interest, fees, expenses, and other amounts payable under the Postpetition Credit Documents as such amounts become due and payable;

(f) providing adequate protection to the Prepetition Lenders as set forth in the Interim Order;

(g) modifying the automatic stay pursuant to section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the Interim Order and the Postpetition Credit Documents;

(h) effective upon entry of a final order approving the relief requested herein (the "Final Order"), waiving the Debtors' ability to surcharge against the Aggregate Collateral pursuant to section 506(c) of the Bankruptcy Code and asserting any "equities of the case" exception in section 552(b) of the Bankruptcy Code;

(i) effective upon entry of the Final Order, granting liens to the DIP Lender on the claims and proceeds of the Debtors' claims and causes of action arising under sections 544, 547, 548, 549, 550, and 553 of Bankruptcy Code to secure the Obligations;

(j) approval of the Sale Milestones (defined below) designed to implement a process the Debtors believe will result in the sale of substantially all of their assets to the highest or otherwise best bidder;

(k) scheduling a final hearing (the "Final Hearing") to consider entry of the Final Order, and in connection therewith, giving and prescribing the manner of notice of the Final Hearing on this Motion; and

(l) granting the Debtors such other and further relief as is just and proper.

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Debtors confirm their consent pursuant to rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules") to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

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

3. The statutory bases for the relief requested in the Motion are sections 105, 361, 362, 363 and 364 of the Bankruptcy Code, rules 2002, 4001, 6003 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Local Rules 4001-2 and 9013-1(m).

BANKRUPTCY RULE 4001 AND LOCAL RULE 4001-2 CONCISE STATEMENTS AND HIGHLIGHTED PROVISIONS

4. Pursuant to Bankruptcy Rules 4001(b) and (c) and Local Rules 4001-2(a)(i) and (ii), the Debtors submit the following concise statements of the relief requested and the material terms of the Interim Order and highlighted provisions:[3]

[3] This summary is provided in accordance with Bankruptcy Rule 4001(c)(1)(B) and Local Rule 4001-2(a) and is qualified in its entirety by reference to the provisions of the Postpetition Credit Agreement and the Interim Order. To the extent there exists any inconsistency between this summary and the provisions of the Postpetition Credit Agreement, the Interim Order, or the Final Order, the provisions of the Postpetition Credit Agreement, the Interim Order, and the Final Order, as applicable, shall control.

Applicable Rule/Requirement	Description of Relief/Provision
Parties with Interest in Cash Collateral *Bankruptcy Rule 4001(b)(1)(B)(i)*	Wells Fargo Bank, N.A., in its capacity as Prepetition Agent to the lenders party to the Prepetition Credit Agreement. *See* Interim Order Preamble; Postpetition Credit Agreement Preamble.
Terms and Purposes for Use of Cash Collateral *Bankruptcy Rules 4001(b)(1)(B)(ii)-(iii)*	The Debtors are authorized to use Cash Collateral solely in accordance with the terms and provisions of the Interim Order, subject to the following procedures: (a) Debtors shall deposit all Cash Collateral now or hereafter in their possession or control into the Blocked Account (or otherwise deliver such Cash Collateral to Prepetition Agent in a manner satisfactory to Prepetition Agent) promptly upon receipt thereof. If there is no Prepetition Debt outstanding, Debtors shall deposit all Cash Collateral now or hereafter in their possession or control into the Blocked Account (or otherwise deliver such Cash Collateral to Postpetition Agent in a manner satisfactory to Postpetition Agent) promptly upon receipt thereof; (b) Agents are authorized to collect upon, convert to cash and enforce checks, drafts, instruments and other forms of payment now or hereafter coming into its or any Lender's possession or control that constitute Aggregate Collateral or proceeds thereof; (c) Agents are authorized to apply all Cash Collateral now or hereafter in their possession or control as follows: (1) first, to the payment of all Prepetition Debt in accordance with the Prepetition Documents (including Allowable 506(b) Amounts); (2) second, to payment of Postpetition Debt consisting of Postpetition Charges; and (3) third, to payment of other Postpetition Debt in accordance with the Postpetition Credit Agreement. All such applications to Postpetition Debt shall be final and not subject to challenge by any person, including any Trustee. All such applications to Prepetition Debt shall be final, subject only to the right of parties in interest to seek a determination in accordance with Paragraph 8 of the Interim Order that such applications to other Prepetition Debt resulted in payment of an unsecured prepetition claim of Prepetition Agent or Prepetition Lenders. Any amounts disgorged in connection with any such objection or determination shall be first applied to reduce the Postpetition Debt, dollar-for-dollar. For the avoidance of doubt, the payment of Prepetition Debt shall not impact the rights of any Challenge Party to assert a Challenge in accordance with paragraph 8 of the Interim Order. Agents shall have the right to apply Cash Collateral to amounts of Postpetition Debt ahead of amounts of Prepetition Debt in their discretion. (d) Except as provided for in the Interim Order, Debtors will not use Cash Collateral, unless, in addition to the satisfaction of all requirements of Code § 363: (1) Agents have consented to such use;

	(2) at the time an order approving such use is entered, there is no Postpetition Debt and no obligation of Postpetition Lenders to extend Postpetition Debt; or (3) such Cash Collateral is first used to pay the Postpetition Debt in full; provided, that nothing in the Interim Order shall prohibit Agents from agreeing, in their sole discretion, to the use of Cash Collateral. *See* Interim Order ¶ 2(a)–(d).
DIP Borrower *Local Rule 4001-2(a)(ii)*	CIBER, Inc., CIBER Consulting, Incorporated, and CIBER International LLC. *See* Postpetition Credit Agreement Preamble.
DIP Lender *Local Rule 4001-2(a)(ii)*	Wells Fargo Bank, N.A. *See* Postpetition Credit Agreement Preamble.
DIP Facility Amount *Local Rule 4001-2(a)(ii)*	The Maximum Revolver Amount is $37,000,000; provided that so long as no Event of Default has occurred under the Postpetition Credit Agreement when the Final Order is entered, effective upon entry of such Final Order, the Maximum Revolver Amount will mean $41,000,000 from and after April 30, 2017, in both cases decreased by the amount of reductions in the Commitments made in accordance with section 2.4(c) of the Postpetition Credit Agreement. *See* Postpetition Credit Agreement 2.1(a); Definition of Maximum Revolver Amount.
Interest Rate *Local Rule 4001-2(a)(ii)*	Base Rate plus 5.25%. *See* Interim Order ¶ 3(c)(ii); Postpetition Credit Agreement Definition of Base Rate and Section 2.6(a)(i).
Default Interest *Local Rule 4001-2(a)(ii)*	An additional fixed rate of interest equal to two percent (2%) per annum. *See* Postpetition Credit Agreement Section 2.6(c).
Fees *Local Rule 4001-2(a)(ii)*	A Closing Fee of $1,200,000, payable as follows: 1) $400,000 of which shall be fully earned, due and payable immediately upon the closing of the Postpetition Credit Agreement, 2) an additional $400,000 of which shall be fully earned, due and payable upon entry of the Final Order, and 3) $400,000 of which shall be fully earned upon entry of the Final Order but will be due and payable upon the thirty-fifth (35th) day following the Filing Date. provided that if the Aggregate Debt is paid in full before either of the amounts in (2) and (3) above are due, respectively, the fees not yet due under such subclause(s) will be deemed automatically waived. *See* Interim Order ¶ 3(c)(iii); Postpetition Credit Agreement 2.10(c).

DIP Budget *Local Rule 4001-2(a)(ii)*	The use of the proceeds of the DIP Facility shall be in compliance with the Budget, which is attached hereto as Exhibit C, and may be amended or modified in accordance with the terms of the Interim Order and the Postpetition Credit Agreement. *See* Exhibit C.
Use of DIP Facility *Local Rule 4001-2(a)(ii)*	The proceeds of the Postpetition Credit Agreement will be used to (a) to pay the fees, costs, and expenses incurred in connection with the Postpetition Credit Agreement, the other Postpetition Documents, and the transactions contemplated hereby and thereby, (b) to finance ongoing working capital needs of the Debtors (including, without limitation, payments with respect to the Carveout) in accordance with the Budget and Interim and Final Order, (c) to provide payments of "adequate protection" (as set forth in Section 361 of the Bankruptcy Code) in favor of the Prepetition Lenders as provided in the Financing Order, and (d) otherwise consistent with the terms and conditions of the Postpetition Credit Agreement. *See* Postpetition Credit Agreement Section 6.11; Interim Order ¶ 3(b).
Milestones *Local Rule 4001-2(a)(ii)*	The Debtors need to comply with the following milestones (the "Sale Milestones"): (i) No later than one (1) day after the Filing Date, Borrowers will have filed (i) a motion to sell substantially all of their assets pursuant to 11 U.S.C. § 363 and seeking approval of sale procedures (the "Sale Procedures Motion") and (ii) a motion to shorten notice on the Sale Procedures Motion (the "Motion to Shorten Notice"); (ii) No later than five (5) days after the Filing Date, Borrowers will have obtained an order (the "Sale Procedures Order") granting the Motion to Shorten Notice, in form and substance acceptable to Agent in its Permitted Discretion, and Borrowers; (iii) No later than fourteen (14) days after the Filing Date, Borrowers will have obtained an order granting the Sale Procedures Motion, in form and substance acceptable to Agent in its Permitted Discretion, and Borrowers; (iv) No later than thirty-five (35) days after the Filing Date, Borrowers will hold an auction for substantially all of the assets of the Loan Parties, pursuant to the terms of the order entered on such Sale Procedures Motion. (v) No later than forty (40) days after the Filing Date, Borrowers will obtain an order approving a sale of substantially all of Borrowers in form and substance acceptable to the Agent and Borrowers. (vi) No later than forty-five (45) days after the Filing Date, Borrowers will consummate one or more sales of substantially all of their assets and remit cash proceeds at the closing thereof

	to Agent in an amount sufficient to satisfy all Obligations in full, after fully and finally repaying all Prepetition Obligations in cash. *See* Postpetition Credit Agreement Section 5.16, Schedule 5.16.
Credit Bid *Local Rule 4001-2(a)(ii)*	Subject to entry of the Final Order, in connection with the sale or other disposition of all or any portion of the Aggregate Collateral, whether under Code § 363, Code § 1129 or otherwise, pursuant to Code § 363(k), (a) Prepetition Agent shall have the right to use the Prepetition Debt or any part thereof to credit bid with respect to any bulk or piecemeal sale of all or any portion of the Aggregate Collateral, and (b) Postpetition Agent shall have the right to use the Postpetition Debt or any part thereof to credit bid with respect to any bulk or piecemeal sale of all or any portion of the Aggregate Collateral, so long as any such credit bid by Postpetition Agent provides for a cash payment sufficient to repay the Prepetition Debt in full in cash. Interim Order ¶ 9.
Termination Date of DIP Facility and Cash Collateral *Bankruptcy Rule 4001(b)(1)(B)(iii)* *Local Rule 4001-2(a)(ii)*	At Postpetition Agent's election, the earliest to occur of: (a) the date on which Postpetition Agent provides, via electronic or overnight mail, written notice to counsel for Debtors and counsel for any Committee of the occurrence and continuance of an Event of Default; (b) the date that is twenty five (25) days following the entry of the Interim Order if the Final Order is not entered in form and substance satisfactory to Postpetition Agent by such date; (c) the date of the Final Hearing, if the Interim Order is modified at the Final Hearing in a manner unacceptable to Agents and Lenders; (d) the closing date of the sale of substantially all of the assets of the Debtors; (e) the date on which the Aggregate Debt is indefeasibly paid in full in cash; and (f) the date that is forty five (45) days after the Filing Date. *See* Interim Order Definition of Termination Date.
Security to DIP Lender *Local Rule 4001-2(a)(ii)*	Postpetition Agent is granted the Postpetition Liens, for the benefit of Postpetition Lenders to secure the Postpetition Debt. The Postpetition Liens: (1) are in addition to the Prepetition Liens; (2) pursuant to Code §§ 364(c)(2), (c)(3), and (d) are Priority Liens (subject only to the Carveout, Permitted Priority Liens, the Prepetition Liens and Replacement Liens) without any further action by Debtors or Postpetition Agent and without the execution, filing or recordation of any financing statements, security agreements, mortgages or other documents or instruments; (3) shall not be subject to any security interest or lien which is avoided and preserved under Code § 551; (4) shall remain in full force and effect notwithstanding any subsequent conversion or dismissal of the Cases; and (5) shall not be subject

	to Code § 510(c). *See* Interim Order ¶ 3(d).
DIP Superpriority Claims *Bankruptcy Rule 4001(c)(1)(B)(i)* *Local Rule 4001-2(a)(ii)*	The Postpetition Debt is granted superpriority administrative expense status under Code § 364(c)(1), with priority over all costs and expenses of administration of the Cases that are incurred under any provision of the Code, but subject to the Carveout and the Stalking Horse Bid Protections. *See* Interim Order ¶ 3(d).
Adequate Protection to Prepetition Lenders *Bankruptcy Rule 4001(c)(1)(B)(ii)* *Local Rule 4001-2(a)(ii)*	As adequate protection for the interest of the Prepetition Agent and Prepetition Lenders, the Prepetition Lenders shall receive the following adequate protection: (a) *Priority of Prepetition Liens/Allowance of Prepetition Lenders' Claim.* Subject to the terms of Paragraph 8 of the Interim Order, (1) the Prepetition Liens shall constitute Priority Liens, subject only to the Permitted Priority Liens; (2) the Prepetition Debt constitutes the legal, valid, and binding obligations of Debtors, enforceable in accordance with the terms of the Prepetition Documents; (3) no offsets, defenses or counterclaims to the Prepetition Debt exist, and no portion of the Prepetition Debt is subject to avoidance, recharacterization, or subordination pursuant to the Code or applicable nonbankruptcy law; and (4) Prepetition Agent's and Prepetition Lenders' claims with respect to the Prepetition Debt shall for all purposes constitute allowed secured claims within the meaning of Code § 506 in an amount not less than $28,494,601.14, exclusive of accrued and accruing Allowable 506(b) Amounts. (b) *Replacement Liens.* Prepetition Agent is granted the Replacement Liens, for the benefit of Prepetition Lenders, as security for any diminution in the value of the Prepetition Collateral. The Replacement Liens: (1) are and shall be in addition to the Prepetition Liens; (2) are and shall be properly perfected, valid and enforceable liens without any further action by Debtors or Prepetition Agent and without the execution, filing or recordation of any financing statements, security agreements, mortgages or other documents or instruments; (3) shall be subject only to the Prepetition Debt and Permitted Priority Liens; and (4) shall remain in full force and effect notwithstanding any subsequent conversion or dismissal of the Cases. (c) *Allowed Code § 507(b) Claim.* If and to the extent the adequate protection of the interests of Prepetition Agent and Prepetition Lenders in the Prepetition Collateral granted pursuant to the Interim Order proves insufficient, Prepetition Agent and Prepetition Lenders shall have an allowed claim under Code § 507(b), subject to the Carveout and the Stalking Horse Bid Protections, in the amount of any such insufficiency, with priority over: (1) all costs and expenses of administration of the Cases (other than Postpetition Agent's and Postpetition Lenders' claims under Code § 364) that are incurred under any provision of the Code; and (2) the claims of any other

	party in interest under Code § 507(b). *See* Interim Order ¶ 4.
Carveout *Local Rule 4001-2(a)(ii)*	The claims and liens against the Debtors shall be subject to the Carveout as follows: (a) The Carveout with respect to each Carveout Professional: (1) shall equal an aggregate amount not to exceed the lesser of (i) the aggregate amount provided in the Budget for such Carveout Professional for the period commencing on the Filing Date and ending on the Termination Date and (ii) the aggregate amount of allowed fees and expenses that accrue during the period commencing on the Filing Date and ending on the Termination Date; (2) shall be reduced dollar-for-dollar by any payments of fees and expenses to such Carveout Professional; and (3) shall be paid out of any prepetition retainer or property of the estate (other than property subject to an unavoidable lien in favor of the Prepetition Agent or the Postpetition Agent) before such payments are made from proceeds of the Postpetition Debt or the Aggregate Collateral. Further, Postpetition Agent shall reserve against the DIP Commitment an amount equal to the sum of the aggregate amount of unpaid fees and expenses set forth in the Budget for the Carveout Professionals. Following the Termination Date, and notwithstanding anything herein or in the Postpetition Credit Agreement to the contrary (but, effective upon entry of a Final Order, subject to the DIP Commitment), Postpetition Lenders shall provide Postpetition Debt to the Debtors in an amount equal to (a) the Carveout amount for each Carveout Professional determined in clause (1) above, as and when such amounts are payable to a Carveout Professional, and (b) the Post-Termination Date Carveout Amount. Except as set forth in the preceding sentence, Postpetition Lenders shall have no obligation to fund any fees or expenses of Carveout Professionals accrued on, prior to, or after the Termination Date. (b) No portion of the Carveout and no Postpetition Debt or Aggregate Collateral may be used to pay any fees or expenses incurred by any entity, including the Debtors, any Committee or the Carveout Professionals, in connection with claims or causes of action adverse to Agents' or Lenders' interests in the Aggregate Collateral, including (1) preventing, hindering or delaying Agents' or Lenders' enforcement or realization upon any of the Aggregate Collateral once an Event of Default has occurred; (2) using or seeking to use Cash Collateral or incurring indebtedness in violation of the terms hereof, or selling any Aggregate Collateral without Agents' and Lenders' consent; or (3) objecting to or contesting in any manner, or in raising any defenses to, the validity, extent, amount, perfection, priority or enforceability of the Aggregate Debt or any mortgages, liens or security interests with respect thereto or any other rights or interests of Agents and Lenders, or in asserting any claims or causes of action, including, without limitation, any actions under chapter 5

	of the Code, against Agents or Lenders; provided, however, that the foregoing shall not apply to costs and expenses, in an amount not to exceed $30,000, incurred by any Committee's professionals in connection with the investigation of a potential Challenge in accordance with Paragraph 8 of the Interim Order; provided, further, however, that the Carveout may be used to pay fees and expenses incurred by the Carveout Professionals in connection with the negotiation, preparation and entry of the Interim Order or any amendment hereto consented to by Postpetition Agent. (c) The Debtors shall periodically, upon the request of the Postpetition Agent, and in all events not less than every two (2) weeks, provide to the Postpetition Agent a written report (the "Carveout Report"), in which the Debtors disclose their then current, documented estimate of (1) the aggregate amount of unpaid professional fees, costs and expenses accrued or incurred by the Carveout Professionals, through the date of the Carveout Report, and (2) projected fees, costs and expenses of the Carveout Professionals for the two (2) week period following the date of such Carveout Report. The definition of Post-Termination Carveout Amount is defined in the Interim Order as follows: "Collectively, (a) $250,000 in the aggregate for all Carveout Professionals, which shall be used by the Debtors for the sole purpose of funding the Carveout Professionals or a trustee for amounts first arising after the Termination Date, and (b) the Stalking Horse Carveout Amount." *See* Interim Order ¶ 6, Definition of Carveout and Post-Termination Carveout Amount; Postpetition Credit Agreement definition of Carveout Reserve.
Relief from the Automatic Stay for DIP Lenders and Agents *Bankruptcy Rule 4001(C)(1)(B)(iv)* *Local Rule 4001-2(a)(ii)*	Effective upon entry of the Final Order, on the fifth (5th) business day after the Termination Date, at Postpetition Agent's election without further order of the Court: (1) Agents shall have automatic and immediate relief from the automatic stay with respect to the Aggregate Collateral (without regard to the passage of time provided for in Fed. R. Bankr. P. 4001(a)(3)), and shall be entitled to exercise all rights and remedies available to them under the Prepetition Documents, the Postpetition Documents and applicable nonbankruptcy law; and (2) Debtors shall surrender the Aggregate Collateral and otherwise cooperate with Agents and Lenders in the exercise of their rights and remedies under the Prepetition Documents, the Postpetition Documents and applicable nonbankruptcy law, including, without limitation, by filing a motion to retain one or more agents to sell, lease or otherwise dispose of the Aggregate Collateral upon the request and subject to terms and conditions acceptable to Agents. Notwithstanding the foregoing, during such five (5) business day period following the Termination Date, Debtors may (a) seek to use Cash Collateral and (b) seek an order of this Court (i) determining that an Event of Default alleged to have given rise to the Termination Date did not occur or (ii) providing other appropriate relief; provided, however, that during such five (5) business day period, Postpetition Lenders shall have no obligation to advance Postpetition Debt to Debtors.

	See Interim Order ¶ 5(b).
Events of Default - Facility and Cash Collateral *Bankruptcy Rule 4001(b)(1)(B)(iii)* *Local Rule 4001-2(a)(ii)*	Usual and customary for comparable financings including, without limitation: (a) the Debtors failure to satisfy any covenant; (b) Payment default; (c) Final Order not entered within twenty one (21) days following the Filing Date or any Interim Order or Final Order is stayed, revised, revoked, remanded, rescinded, amended, reversed, vacated, or modified in any manner not acceptable to Agent; (d) Entry of (c) an order with respect to any of the Cases is entered by the Bankruptcy Court (A) appointing a trustee under Section 1104 of the Bankruptcy Code, or an examiner with enlarged powers relating to the operation of the business of the Loan Parties under Section 1106(b) of the Bankruptcy Code or (B) terminating any the Debtors' exclusive rights to file and solicit acceptances for its plan; (e) The filing of a motion by any Debtor or any of their respective Affiliates to dismiss the Cases or convert the Bankruptcy Case to a case under chapter 7 of the Bankruptcy Code or entry of an order regarding same; (f) The filing of any plan of reorganization is filed that, or an order shall be entered by the Bankruptcy Court confirming a reorganization plan in the Bankruptcy Case which, does not contain a provision for termination of this Agreement and, if in effect at such time, the Prepetition Credit Agreement and the payment in full in cash of the Obligations; (g) The approval of any sale of, or motion by the Debtors to sell, all or substantially all assets pursuant to Section 363 of the Bankruptcy Code on a basis that will not provide sufficient proceeds to cause the payment in full of the Obligations, the Prepetition Obligations and Reinstated Prepetition Obligations; (h) Failure to meet the Sale Milestones. *See* Postpetition Credit Agreement Section 8.
Avoidance Actions *Bankruptcy Rule 4001(c)(1)(B)(viii)* *Local Rule 4001-2(a)(i)(D)*	Subject to entry of the Final Order, Postpetition Collateral shall include claims and proceeds under Code §§ 544, 547, 548, 549, 550 and 553 of the Bankruptcy Code. *See* Postpetition Credit Agreement Definition of Collateral and Avoidance Actions; Interim Order Definition of Postpetition Collateral.
Indemnification	The Debtors shall indemnify and hold harmless Agents and Lenders in

Bankruptcy Rule 4001(c)(1)(B)(ix)	accordance with the Postpetition Credit Agreement and the Prepetition Credit Agreement, as applicable. *See* Interim Order at ¶ 11; Postpetition Credit Agreement 10.3.
Releases *Bankruptcy Rule 4001(c)(1)(B)(x)*	If a Challenge is not commenced before the end of the Investigation Period (or such later date as agreed in writing by Prepetition Agent or for cause shown by an order of this Court), without further order of the Court, (1) the claims, liens and security interests of the Prepetition Agent and the Prepetition Lenders described in the Interim Order shall be deemed to be allowed for all purposes in these Cases and shall not be subject to challenge by any party in interest as to extent, validity, priority or otherwise, (2) the Debtors and their estates shall be deemed to have waived, released and discharged Prepetition Agent, Prepetition Lenders and their respective officers, directors, principals, attorneys, consultants, predecessors in interest, and successors and assigns of and from any and all claims and causes of action, indebtedness, and obligations, of every type, which occurred on or prior to the date of entry of the Interim Order with respect to or in connection with the Prepetition Debt, the Prepetition Liens, the Prepetition Documents or otherwise, and (3) the other stipulations in Paragraph D of the Interim Order shall be deemed final and binding on all parties in interest in these Cases for all purposes. *See* Interim Order at ¶ 8(b).
Covenants *Local Rule 4001-2(a)(ii)*	The DIP Loan Agreement requires compliance with affirmative and negative covenants that are usual and customary for financings of this type. *See* Postpetition Credit Agreement Sections 5, 6, and 7.
Stipulations *Bankruptcy Rule 4001(c)(1)(B)(iii)* *Local Rule 4001-2 (a)(i)(B)*	The Debtors make certain customary admissions and stipulations with respect to the amounts outstanding under the prepetition financing documents, the validity, perfection, enforceability and priority of liens and security interest securing the Prepetition Debt, the Debtors' petition defaults under the prepetition financing documents and the non-existence of any grounds for the Debtors to challenge any aspect of the prepetition financing documents or the respective holders thereof. *See* Interim Order ¶ D.
Challenge Deadline *Local Rule 4001-2 (a)(i)(B)* *Local Rule 4001-2(a)(ii)*	The period from the Filing Date until the date that is the earliest of (1) seventy-five (75) days after the Filing Date, (2) sixty (60) days after the date that a Committee is formed, and (3) unless the Prepetition Lenders or Postpetition Lenders have credit bid for the Debtors' assets, the date that the Court enters an order approving the sale of substantially all of the assets of the Debtors. *See* Interim Order Definition of Investigation Period.
506(c) Waiver *Bankruptcy Rule 4001(c)(1)(A)(x)* *Local Rule 4001-*	Effective upon entry of the Final Order, the Debtors (or any Trustee) shall be deemed to have waived any rights, benefits or causes of action under Code § 506(c) of the Bankruptcy Code. *See* Interim Order ¶ 7.

2(a)(i)(C)	

5. In accordance with Local Rule 4001-2(a)(i)(A)-(G), the Debtors also draw the Court's attention to certain material provisions of the DIP Facility and the relief set forth in the Interim Order:

i. Provisions that Grant Cross-Collateralization Protection (Other than Replacement Liens or Other Adequate Protection) to the Prepetition Secured Creditors (Local Rule 4001-2(a)(i)(A)). Not applicable.

ii. Binding the Estate to Validity, Perfection or Amount of Secured Debt or Limitations on Investigation (Local Rule 4001-2(a)(i)(B)). Interim Order ¶¶ D and 8, Definition of Investigation Period.

iii. Waiver of Section 506(c) Rights (Local Rule 4001-2(a)(i)(C)). Effective upon entry of the Final Order, the Debtors (or any Trustee) shall be deemed to have waived any rights, benefits or causes of action under Code § 506(c) of the Bankruptcy Code. Interim Order ¶ 7.

iv. Liens on the Debtors Claims and Causes of Action Arising Under Chapter 5 of the Bankruptcy Code (Local Rule 4001-2(a)(i)(D)). Subject to entry of Final Order, Postpetition Lender will receive liens on claims and proceeds under Code §§ 544, 547, 548, 549, 550 and 553. *See* Postpetition Credit Agreement Definition of Collateral and Avoidance Actions; Interim Order Definition of Postpetition Collateral.

v. Repayment Provisions (Local Rule 4001-2(a)(i)(E)). The DIP Financing Documents provide that all Cash Collateral must be placed into the Blocked Account, and the Agents shall apply all Cash Collateral now or hereafter in their possession or control as follows: (1) first, to the payment of all Prepetition Debt in accordance with the Prepetition Documents (including Allowable 506(b) Amounts); (2) second, to payment of Postpetition Debt consisting of Postpetition Charges; and (3) third, to payment of other Postpetition Debt in accordance with the Postpetition Credit Agreement. In addition, Agents shall have the right to apply Cash Collateral to amounts of Postpetition Debt ahead of amounts of Prepetition Debt in their discretion. Interim Order ¶ 2(c).

vi. Disparate Treatment of Professionals (Local Rule 4001-2(a)(i)(F)). Not applicable.

vii. Priming Lien (Local Rule 4001-2(a)(i)(G)). Not applicable.

viii. Waiver of 552(b) Arguments (Local Rule 4001-2(a)(i)(H)). Effective upon entry of the Final Order, the Debtors will waive any "equities of the

case" arguments, objections, or claims that could be made under section 552(b) of the Bankruptcy Code.

6. The DIP Lender would not provide the DIP Facility and the Prepetition Lenders would not consent to the use of Cash Collateral without the inclusion of the provisions listed above, each of which was heavily negotiated among the parties. Moreover, these "extraordinary" provisions, including the repayment provisions, will not harm the Debtors' estates and are justified under the circumstances for the reasons set forth below. Finally, the Debtors have determined in their sound business judgment that agreeing to such provisions was appropriate under the circumstances of these Cases to afford the Debtors immediate and much needed liquidity on the most competitive terms available to the Debtors.

BACKGROUND

A. General Background

7. On April 9, 2017 (the "Petition Date"), each of the Debtors filed a voluntary petition with this Court for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Concurrently with the filing of this Motion, the Debtors have requested procedural consolidation and joint administration of these Cases pursuant to Bankruptcy Rule 1015(b). No party has requested the appointment of a trustee or examiner in these Cases, and no statutory committees have been appointed or designated.

8. A detailed description of the Debtors and their businesses, and the facts and circumstances supporting this Motion and the above-captioned Cases, are set forth in greater detail in the *Declaration in Support of Chapter 11 Petitions and First Day Pleadings*, filed contemporaneously herewith and incorporated by reference herein.

B. The ABL Facility

9. On May 7, 2012, the Debtors entered into a credit facility (the "ABL Facility") with Wells Fargo, which provided the Debtors with an asset-based revolving line of credit of up to $60 million. The maximum amount available for borrowing at any time under such line of credit is determined according to a borrowing base valuation of eligible account receivables. The Debtors' obligations under the ABL Facility are guaranteed by the Debtors and a number of the Debtors' foreign non-Debtor affiliates and are secured by substantially all of the Debtors' domestic, U.K. and German assets.

10. Under the ABL Facility, U.S. borrowings accrue interest at a rate of the London interbank offered rate ("LIBOR") plus a margin ranging from 225 to 275 basis points, or, at the Debtors' option, a base rate equal to the greatest of (a) the Federal Funds Rate plus 0.50%, (b) LIBOR plus 1%, and (c) the "prime rate" set by Wells Fargo plus a margin ranging from 125 to 175 basis points. The ABL Facility had an initial maturity date of May 7, 2017.

11. Under the terms of the ABL Facility, the Debtors are required to be in compliance with a minimum trailing 12-month fixed charge coverage ratio of consolidated EBITDA (as defined in the ABL Facility) to consolidated fixed charges if (a) an event of default has occurred and is continuing, or (b) the Debtors fail to maintain excess availability of at least the greater of (i) $15 million or (ii) an amount equal to 25% of the aggregate amount of the commitments under the ABL Facility at any time. The Debtors first breached the Fixed Charge Coverage Ratio in the first quarter of 2016, when the balance available for borrowing under the ABL Facility fell below $15 million. The Debtors have not been in compliance with the Fixed Charge Coverage Ratio subsequently.

12. CIBER, Inc., certain other borrowers under the ABL Facility and Wells Fargo have entered into a series of amendments to the terms of the ABL Facility, which, among other things, aimed to address certain defaults by the Debtors and/or certain other Borrowers (as defined in the ABL Facility), as applicable, under the ABL Facility. Pursuant to such amendments, the Debtors and/or other borrowers under the ABL Facility, as applicable, were required to, among other things:

(a) permanently repay all of the outstanding balance under the ABL Facility prior to May 7, 2017 maturity date otherwise applicable under the ABL Facility;

(b) appoint a chief strategy officer to oversee and manage the performance of cash management;

(c) deliver to the administrative agent updated 13 Week Forecasts (as defined in the ABL Facility); and

(d) consummate certain material transactions.

13. In addition, pursuant to such amendments, Wells Fargo agreed to make advances of Revolving Loans (as defined in the ABL Facility) to Borrowers as and when necessary to enable Borrowers to pay certain Protected Employee Amounts (as defined in the ABL Facility). Furthermore, certain of the amendments modified the definition of Permitted Overadvance Amounts (as defined in the ABL Facility) under the ABL Facility to change the relevant time periods and amounts in such definition under the ABL Facility. As of the Petition Date, the Debtors are in default under the ABL Facility.

C. The IBM Facility

14. CIBER, Inc. also maintains a receivables facility pursuant to a Wholesale Financing Agreement dated March 9, 2004 (the "Wholesale Financing Agreement") with IBM Credit LLC (the "IBM Facility") that has approximately $1.9 million outstanding as of the Petition Date. In the course of its business, CIBER, Inc. acquires certain products and engages

IBM Credit LLC to finance CIBER, Inc.'s purchase of such products under the terms of the IBM Facility. The IBM Facility is secured by a security interest, in relevant part, in all accounts, instruments and proceeds arising from the purchase and resale of certain inventory and equipment. The IBM Facility is subject to (i) a Security Interest Subordination Agreement (the "Subordination Agreement") whereby Wells Fargo's (as Prepetition Agent) lien on Shared Collateral (as defined in the Subordination Agreement) is fully subordinate to any lien that IBM Credit LLC may have as of the date of the Subordination Agreement or thereafter hold in the Shared Collateral under the Wholesale Financing Agreement and (ii) an Allocation Agreement (the "Allocation Agreement") whereby Wells Fargo (as Prepetition Agent) and IBM Credit LLC set forth their respective rights to the Shared Collateral.

15. The Interim Order provides that the Lenders' interest in any Shared Collateral (as defined in the Subordination Agreement) shall remain subject and subordinate to the IBM Liens and the Debtors shall not use any Cash Collateral derived from such Shared Collateral. *See* Interim Order ¶ 19. Any proceeds derived from the Shared Collateral shall be placed in a separate, segregated account, which proceeds may only be distributed upon further order of the Court. *Id.*

D. The Debtors' Efforts to Obtain DIP Financing

16. Beginning in January 2017, Houlihan Lokey Capital, Inc. ("Houlihan Lokey"), with the approval of the Debtors' Board of Directors and management, began exploring strategic alternatives to manage the Debtors' liquidity constraints including a refinancing of the Debtors' existing indebtedness. To this end, Houlihan Lokey engaged with multiple parties to determine whether there was sufficient interest for refinancing transaction that would avoid the need for the Debtors to file for relief under chapter 11 of the Bankruptcy Code. During that time, the

Debtors, with the assistance of their professional advisors, negotiated multiple refinancing transactions, but were unable to consummate those transactions for a variety of reasons. At the same time, Houlihan Lokey explored the possibility that the Debtors may be forced to file for bankruptcy and asked the refinancing parties and additional parties whether they would consider providing the Debtors with additional liquidity through a debtor-in-possession ("DIP") financing.

17. In addition to the refinancing parties noted above, Houlihan Lokey discussed the possibility of DIP financing with approximately ten (10) potential financing parties. None of these parties were willing to provide DIP financing due to several factors, including the limited assets of the Debtors, the Debtors' recent history of negative cash flows, and if such DIP financing did not include a full payoff of Wells Fargo, the likely necessity to engage in a "priming fight" with the Debtors' existing lender, Wells Fargo. At various points in time, the Debtors also approached potential purchasers of the Debtors' assets regarding whether they would consider providing DIP financing for a sale of assets pursuant to section 363 of the Bankruptcy Code. At no point, did any potential purchaser indicate any willingness to provide DIP financing.

18. Given the failure of the Debtors' efforts to provide longer term liquidity solutions, the Debtors engaged with Wells Fargo, as Prepetition Agent and Prepetition Lender, on the terms of a DIP facility that would allow the Debtors to continue operating in the ordinary course to preserve the value of the Debtors' estates and consummate a sale transaction. On April 9, 2017, the Debtors and Wells Fargo agreed on the terms of the DIP Facility that will permit the Debtors to fund the administration of these Cases and is vital to (a) the confidence of the Debtors' employees, customers, vendors, and servicers, and (b) the preservation and maintenance of the going-concern value of the Debtors' estates. Without Court approval of the DIP Facility, the

Debtors will not have sufficient cash to make timely payments to employees, customers, and vendors that are required to support and maintain the Debtors' continued operations and complete a sale of the Debtors' assets. Absent the DIP Facility, there would likely be no choice but to immediately liquidate the Debtors' assets to the detriment of all their creditors, employees, customers, and other interested parties.

19. Subject to the terms of the Postpetition Credit Agreement, the DIP Lender has agreed to make certain advances that will allow the Debtors to pay certain expenditures in accordance with the Budget satisfactory to the DIP Lender, a copy of which is attached hereto as Exhibit C. The proceeds of the DIP Facility will be used to fund the ordinary course operations of the Debtors during these proceedings, to pay certain fees and expenses associated with the DIP Facility, to provide for adequate protection payments to the Prepetition Lenders, subject to the Budget, and to pay for certain of the Debtors' administrative expenses incurred during the Cases.

20. As described in the First Day Declaration and as reflected in the Budget, the DIP Facility will fund operating losses during these Cases while the Debtors work to sell their assets to the highest and best bidder or otherwise maximize the value of these estates for the benefit of their stakeholders through these proceedings. The Budget shows that, beginning on the Petition Date, the Debtors' borrowings, which currently stand at approximately $29 million under the Prepetition Credit Agreement, will increase by as much as $7 million during the budget period. Given the extent of these projected operating losses and the expected costs and risks of these Cases, the DIP Lenders have agreed to provide the DIP Facility for approximately forty-five (45) days, which is a sufficient amount of time to permit the Debtors to complete a sale of their assets and the repayment of their loans. In addition, due to the nature of the Debtors' service-based

business, which relies on employees and customer contracts to generate revenue, a prompt postpetition marketing and sale process is essential. Without the DIP Lenders' support, the Debtors would be required to terminate their employees.

21. The terms of the DIP Facility require the Debtors to complete a sale process in accordance with the Sale Milestones. Prior to the Petition Date, the Debtors executed an asset purchase agreement with Capgemini America, Inc. (the "Stalking Horse Bidder") for the sale of the Debtors' North American and Indian businesses for $50 million plus the assumption of certain liabilities. To maximize the value of their estates, and in compliance with the milestones under the proposed DIP Facility, the Debtors are filing a motion contemporaneously herewith seeking authority to conduct an auction process by which the Debtors will solicit offers and, ultimately, seek approval to sell substantially all of their assets to the Stalking Horse Bidder or another qualified bidder with the highest or otherwise best offer.

BASIS FOR RELIEF

22. For the following reasons, the Debtors respectfully submit that they have satisfied the standards applicable for the Court's approval of the DIP Facility and entry of the Interim Order.

A. The Debtors Satisfy the Requirements for Entering into the DIP Facility Under Section 364(c) of the Bankruptcy Code

23. The Debtors propose to obtain the DIP Facility by providing to the DIP Lender security interests and liens as set forth above pursuant to section 364(c) of the Bankruptcy Code. The statutory requirement for obtaining postpetition credit under section 364(c) is a finding, made after notice and hearing, that a debtor is "unable to obtain unsecured credit allowable under section 503(b)(1) of [the Bankruptcy Code]. . . ." 11 U.S.C. § 364(c).

24. Section 364(c) financing is appropriate when the trustee or debtor-in-possession is unable to obtain unsecured credit allowable as an ordinary administrative claim. *See In re L.A. Dodgers LLC*, 457 B.R. 308, 312 (Bankr. D. Del. 2011) (denying motion for authorization to enter into postpetition credit facility where debtors could not prove that they were unable to obtain unsecured credit allowable as an administrative expense).

25. Courts have articulated a three-part test to determine whether a debtor is entitled to financing under section 364(c) of the Bankruptcy Code. Specifically, courts look to whether:

a) the debtor is unable to obtain unsecured credit under section 364(b), *i.e.*, by allowing a lender only an administrative claim;

b) the credit transaction is necessary to preserve the assets of the estate; and

c) the terms of the transaction are fair, reasonable, and adequate, given the circumstances of the debtor-borrower and the proposed lender.

L.A. Dodgers, 457 B.R. at 312 (citation omitted).

1. The Debtors Do Not Have an Alternative to the DIP Facility

26. In these circumstances, "[t]he statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable." *Bray v. Shenandoah Fed. Savs. & Loan Ass'n (In re Snowshoe Co.)*, 789 F.2d 1085, 1088 (4th Cir. 1986); *see In re Phoenix Steel Corp.*, 39 B.R. 218, 222 (D. Del. 1984) (finding that the debtor satisfied its burden to show an inability to obtain credit on other terms through time and effort).

27. A debtor need only demonstrate "by a good faith effort that credit was not available without" the protections afforded to potential lenders by section 364(c) of the Bankruptcy Code. *See Snowshoe*, 789 F.2d at 1088; *see also In re Antico Mfg. Co.*, 31 B.R. 103, 105 (Bankr. E.D.N.Y. 1983). Moreover, where there are few lenders likely to be able and willing to extend the necessary credit to a debtor, "it would be unrealistic and unnecessary to

require [the debtor] to conduct . . . an exhaustive search for financing." *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988).

28. All of the Debtors' assets are subject to the Prepetition Liens granted in favor of the DIP Lenders in their capacity as the Prepetition Lenders. After assessing their financial condition and reaching out to a number of potential financing parties, the Debtors determined that adequate financing on an unsecured or junior priority basis to the existing Prepetition Liens was simply not available. The Prepetition Lenders, in their capacity as DIP Lenders, are the only parties that offered to provide the Debtors with postpetition financing and were only willing to lend to the Debtors on the terms set forth in the Postpetition Documents and the Interim Order. Accordingly, the Debtors have determined that, under the circumstances, the DIP Facility is the best postpetition financing option available to them and their estates.

2. The DIP Facility is Necessary to Preserve the Assets of the Debtors' Estates

29. It is imperative that the Debtors promptly obtain access to financing. Access to substantial credit is necessary to meet the day-to-day costs associated with operating the Debtors' business, including funding for employee wages and other costs necessary for operations with the goal of consummating a successful sale of the Debtors' assets. Immediate access to sufficient cash is therefore critical to the Debtors. In the absence of immediate liquidity, many of the Debtors' employees, vendors, and servicers may refuse to continue providing services to the Debtors, rendering the Debtors unable to operate their business. A loss of confidence among employees and other interested parties in the Debtors' ability to access credit at this crucial time would have a material adverse impact on the Debtors and their estates.

30. For these reasons, direct access to the funds available under the Postpetition Documents is critical to the Debtors. The ongoing operations of their business demand that the

Debtors not be delayed in receiving the beneficial effects of the DIP Facility; any substantial delay could have the same impact as denial of this Motion.

3. The DIP Facility is Fair, Reasonable, and Appropriate

31. The Debtors' request to enter into the DIP Facility reflects the exercise of the Debtors' sound and prudent business judgment. As described above, the Debtors were not able to obtain alternative financing on an unsecured basis, nor were they able to obtain any financing on terms as favorable to them as the terms negotiated with the Postpetition Lenders. The DIP Facility will support the Debtors through the sale process, fund administrative costs of the Debtors' estates, and preserve and promote the viability of the business. Specific to these Cases, the DIP Facility sets certain Sale Milestones and related deadlines for the sale process and entitles the DIP Lender to certain fees. Based on the extensive negotiations that took place, the Debtors believe that these are the only terms on which the DIP Lender will provide the financing. Moreover, the financial terms and covenants of the DIP Facility are standard and reasonable for financing of this kind. The Debtors believe that the terms of the Postpetition Documents provide sufficient flexibility for them to maximize value to their estates and pursue the sale of their assets.

32. With respect to the repayment feature, or the "creeping roll up," of the DIP Facility, section 363(b) of the Bankruptcy Code permits a debtor to use, sell or lease property, other than in the ordinary course of business, with court approval. Such transactions should be approved when they are supported by a sound business purpose. *See In re Abbots Dairies, Inc.*, 788 F.2d 143 (3d Cir. 1986) (holding that in the Third Circuit, a debtor's use of assets outside the ordinary course of business under section 363(b) should be approved if the debtor can demonstrate a sound business justification for the proposed transaction). The business judgment rule shields a debtor's management from judicial second-guessing. *In re Johns-Manville Corp.*,

60 B.R. 612, 615-16 (Bankr. S.D.N.Y. 1986) ("[T]he [Bankruptcy] Code favors the continued operation of a business by a debtor and a presumption of reasonableness attaches to a debtor's management decisions.").

33. The repayment feature of the DIP Facility is a sound exercise of the Debtors' business judgment. The DIP Facility is structured as an asset-based revolving credit facility, and operates substantially the same way the ABL Facility operated prepetition, such that the Debtors' receivables are swept on a daily basis to pay down outstanding loans under the Prepetition Credit Agreement, and the Debtors are able to re-borrow loans, in an amount not to exceed the lesser of (x) the amount equal to the Maximum Revolver Commitment less the remaining outstanding balance under the Prepetition Credit Agreement or (y) an amount determined by borrowing base and Budget limitations under the DIP Facility. Continuing this prepetition practice, the DIP Facility and Interim Order contemplate applying proceeds from cash collected by the Debtors in the ordinary course of their operations to pay down outstanding Prepetition Debt first and then pay Postpetition Debt, as set forth in the Interim Order, with new money loaned by the DIP Lender as necessary to cover the Debtors' operating expenses. This structure allows the Prepetition Debt to be gradually "rolled up" as the Debtors' continue to generate cash in the ordinary course of their business.

34. The Prepetition Lenders, in their capacity as DIP Lenders, have agreed to continue extending credit under the DIP Facility, even though they could not be compelled to do so on a postpetition basis, and, therefore, it is reasonable to allow the DIP Facility to continue to function in the same manner as the Prepetition Credit Agreement—paying down past loans with cash proceeds, and issuing new loans. In addition, on an enterprise value basis, the Debtors believe, and have stipulated to, the Prepetition Lenders' oversecurity. See Interim Order ¶ D. As

the repayment of the Prepetition Debt remains subject to a Challenge and does not provide the Prepetition Lenders with any additional Collateral, the gradual "roll up" will not harm the Debtors' estates. Moreover, the Budget indicates that, based on the Debtors' expected receipts, the Prepetition Lenders will "roll up" approximately $14 million of the Prepetition Debt during the first three weeks of the Cases. The consummation of the sale to the Stalking Horse Bidder will provide the Debtors with proceeds sufficient to pay the Lenders in full.

35. Additionally, courts in this jurisdiction have approved similar DIP features on the first day of a case. *See, e.g.*, *EveryWare Global, Inc.*, No. 15-10743 (LSS) (Bankr. D. Del. Apr. 10, 2015) (authorizing ABL DIP Facility providing for collection and payment relating to ABL Collateral be first applied to pay down prepetition ABL Facility); *In re Tactical Intermediate Holdings, Inc.*, No. 14-11659 (KG) (Bankr. D. Del. July 9, 2014) (authorizing $2.8 million DIP that included full roll-up of bridge loan in the approximate amount of $1 million pursuant to interim order); *In re MACH Gen, LLC*, No. 14-10461 (MFW) (Bankr. D. Del. Mar. 5, 2014) (authorizing approximately $200 million DIP that included roll-up of approximately $144 million prepetition debt pursuant to interim order). Accordingly, the Debtors submit that the gradual roll-up of the Prepetition Debt is justified under the circumstances.

36. The Postpetition Credit Agreement also provides that the security interests and administrative expense claims granted to the DIP Lender are subject to the Carveout. In *Ames Department Stores*, the bankruptcy court found that such "carve outs" are not only reasonable, but are necessary to ensure that official committees and debtors' estates will be assured of the assistance of counsel. *See In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990).

37. Accordingly, the terms and conditions of the Postpetition Credit Agreement are fair and reasonable and were negotiated by the parties in good faith and at arm's-length.

B. The Debtors Satisfy the Requirements for Entering into the DIP Facility Under Section 364(d) of the Bankruptcy Code

38. Section 364(d) of the Bankruptcy Code provides that a debtor may obtain credit secured by a senior or equal lien on property of the estate that is already subject to a lien, after notice and a hearing, where the debtor is unable to "obtain such credit otherwise" and there is "adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted." 11 U.S.C. §364(d)(1). Consent by the secured creditors to priming obviates the need to show adequate protection. *See Anchor Savs. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 122 (N.D. Ga. 1989) ("[B]y tacitly consenting to the superpriority lien, those [undersecured] creditors relieved the debtor of having to demonstrate that they were adequately protected."). Here, the parties that are being "primed" by the Postpetition Liens were previously subordinated to the Prepetition Liens. Accordingly, there is no harm to other subordinated lienholders or the Debtors' estates generally by imposition of the Postpetition Liens, which remain subject to the Permitted Priority Liens, the Replacement Liens, and the Prepetition Liens.

C. The Debtors Have Exercised Sound Business Judgment in Determining that the DIP Facility Is Necessary

39. As described above, after appropriate investigation and analysis, and given the exigencies of the circumstances, the Debtors have concluded that alternative credit of the type and in the amount required by the Debtors is not available on an unsecured basis. Bankruptcy courts routinely defer to a debtor's business judgment on most business decisions, including the decision to borrow money, unless such decision fails the arbitrary and capricious standard. *See Trans World Airlines, Inc. v. Travellers Int'l AG (In re Trans World Airlines, Inc.)*, 163 B.R.

964, 974 (Bankr. D. Del. 1994) (noting that approval of interim loan, receivables facility, and asset-based facility "reflect[ed] sound and prudent business judgment . . . [was] reasonable under the circumstances and in the best interest of [the debtor] and its creditors."); *In re After Six, Inc.*, 154 B.R. 876, 882 (Bankr. E.D. Pa. 1993) (stating that debtor "is entitled to some free reign in fulfilling its perceived mission of . . . keeping an ongoing business afloat . . ."). Indeed, "[m]ore exacting scrutiny [of the debtor's business decisions] would slow the administration of the debtor's estate and increase its cost, interfere with the Bankruptcy Code's provision for private control of administration of the estate and threaten the court's ability to control a case impartially." *Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1311 (5th Cir. 1985).

40. The Debtors have exercised sound business judgment in determining that the DIP Facility is not only appropriate, but that it is necessary. Without the liquidity provided by the DIP Facility, the Debtors would be unable to pay employees, vendors, customers, and other constituencies that are essential to the operation of the business. Furthermore, the Debtors believe that they will satisfy the prerequisites to borrow under the Postpetition Credit Agreement. The terms of the Postpetition Credit Agreement are fair and reasonable and are in the best interests of the Debtors' estates. Accordingly, the Debtors should be granted authority to enter into the Postpetition Credit Agreement, to borrow funds on the secured basis described above, and to take the other actions contemplated by the Postpetition Credit Agreement and as requested herein.

D. Use of Cash Collateral Should Be Approved

41. Under section 363(c)(2) of the Bankruptcy Code, a debtor may not use cash collateral unless "(a) each entity that has an interest in such cash collateral consents; or (b) the court, after notice and a hearing, authorizes such use . . . in accordance with the provisions of this section." 11 U.S.C. § 363(c)(2). The Debtors require the use of the Cash Collateral to fund their

operations in accordance with the Postpetition Credit Agreement. Indeed, absent such relief, the Debtors would be unable to maintain operations, which would result in damaging consequences for the Debtors and their estates and creditors. As noted herein, the interests of the Prepetition Lenders in the Cash Collateral will be protected by the Adequate Protection Package (as defined below). Moreover, the Prepetition Lenders have consented to the use of the Cash Collateral. Accordingly, as part of the DIP Facility, the Debtors' request to use the Cash Collateral in the operation of their business and administration of the Cases should be approved.

E. The Proposed Adequate Protection Package Should Be Authorized

42. Section 363(e) of the Bankruptcy Code provides that, "on request of an entity that has an interest in property used . . . or proposed to be used [by a debtor-in-possession], the court . . . shall prohibit or condition such use . . . as is necessary to provide adequate protection of such interest." 11 U.S.C. § 363(e). Section 361 of the Bankruptcy Code delineates the forms of adequate protection, which include periodic cash payments, additional liens, replacement liens, and other forms of relief. *See* 11 U.S.C. § 361. What constitutes adequate protection must be decided on a case-by-case basis. *See MBank Dall., N.A. v. O'Connor (In re O'Connor),* 808 F.2d 1393, 1396–97 (10th Cir. 1987); *Martin v. United States (In re Martin),* 761 F.2d 472, 474 (8th Cir. 1985); *Shaw Indus., Inc. v. First Nat'l Bank of Pa. (In re Shaw Indus., Inc.)*, 300 B.R. 861, 865 (Bankr. W.D. Pa. 2003). The focus of the requirement is to protect a secured creditor from diminution in the value of its interest in the particular collateral during the period of use. *See Resolution Trust Corp. v. Swedeland Dev. Grp. (In re Swedeland Dev. Grp.)* 16 F.3d 552, 564 (3d Cir. 1994) ("[T]he whole purpose of adequate protection for a creditor is to insure that the creditor receives the value for which he bargained prebankruptcy." (internal citations omitted)).

43. As detailed above, as adequate protection for any diminution in the value of the interests of the Prepetition Lenders in the Prepetition Collateral, the Debtors will provide them the adequate protection package (the "Adequate Protection Package"). Without access to the proposed DIP Facility and use of the Cash Collateral, the Debtors' liquidity will quickly dry up, and the Debtors will be forced to cease operations, destroying the value of these estates to the detriment of all interested parties.

44. For the reasons set forth above, the Adequate Protection Package will sufficiently protect the Prepetition Lender's interest in their collateral. Accordingly, the Adequate Protection Package is fair and reasonable and sufficient to satisfy the requirements of sections 363(c)(2) and (e) of the Bankruptcy Code.

F. Request for Modification of Automatic Stay for DIP Lender and DIP Agent

45. Section 362 of the Bankruptcy Code provides for an automatic stay upon the filing of a bankruptcy petition. The proposed Postpetition Credit Agreement contemplates a modification of the automatic stay, to the extent applicable, to permit the DIP Lender to exercise of all its rights and remedies provided for in the Postpetition Credit Agreement upon the occurrence and during the continuation of any Event of Default (as defined in the Postpetition Credit Agreement), provided that prior to the exercise of any enforcement remedies against the Collateral, the DIP Lender shall be required to give five (5) business days' notice to the Borrowers as provided for paragraph 5 of the Interim Order. Thereafter, the Debtors may (a) seek to use Cash Collateral and (b) seek an order of the Court determining that (i) an Event of Default alleged to have given rise to the Termination Date did not occur or (ii) providing other appropriate relief. These provisions allowing for a modification of the automatic stay are an appropriate feature of the DIP Facility and, in the Debtors' business judgment, are reasonable under the present circumstances.

G. Request for Immediate Interim Relief

46. Bankruptcy Rules 4001(b) and 4001(c) provide that a final hearing on a motion to obtain credit may not be commenced earlier than fourteen (14) days after the service of such motion. *See* Bankruptcy Rules 4001(b)(2), 4001(c)(2). Upon request, however, the Court is empowered to conduct a preliminary expedited hearing on the motion and to authorize the obtaining and use of credit to the extent necessary to avoid immediate and irreparable harm to a debtor's estate pending a final hearing. *See* Local Rule 4001-2(b). In examining requests for interim relief under this rule, courts apply the same business judgment standard applicable to other business decisions. *See, e.g., In re Simasko Prod. Co.*, 47 B.R. 444, 449 (Bankr. D. Colo. 1985). After the fourteen-day period, the request for financing is not limited to those amounts necessary to prevent destruction of the debtor's business. A debtor is entitled to borrow those amounts that it believes prudent in the operation of its business. *See, e.g., id.* at 449; *Ames Dep't Stores*, 115 B.R. at 36.

47. Pending the Final Hearing, the Debtors will be permitted to use up to $37 million of the $41 million Maximum Revolver Commitment for, among other things, employee wages and other working capital needs. It is essential that the Debtors immediately have the ability to pay for postpetition operating expenses, as well as the prepetition expenses approved in the various first-day orders pending before the Court, to minimize the damage occasioned by their constrained liquidity.

48. Absent immediate use of the DIP Facility, the Debtors will be unable to pay ongoing operational expenses and will not be able to continue to make payments to key constituencies, such as employees and vendors, who are integral to the operation of the Debtors' business. Consequently, if interim relief is not obtained, the Debtors' efforts in these Cases will

be jeopardized immediately and irreparably harmed to the detriment of the Debtors' estates, their creditors, and other parties in interest.

49. As noted above, the Debtors are unable to obtain unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code or credit on a non-priming basis that would be sufficient to maintain their operations. Without the DIP Facility, the Debtors' objective of stabilizing operations and facilitating their sale process will be severely jeopardized. The terms and conditions of the Postpetition Credit Agreement are fair and reasonable, and were negotiated by well-represented parties in good faith and at arm's-length. In these circumstances and, importantly, in light of the risk of possible material irreparable harm to the Debtors' operations, the Debtors respectfully submit that granting the relief requested by this Motion is warranted.

H. The Postpetition Credit Agreement Should Be Accorded the Benefits of Section 364(e) of the Bankruptcy Code

50. Because the Postpetition Credit Agreement has been negotiated in good faith and at arm's-length, and no consideration is being provided to any party for obligations arising under the Postpetition Credit Agreement, other than as disclosed therein, the Debtors request that the Postpetition Credit Agreement be accorded the benefits of section 364(e) of the Bankruptcy Code.

I. Payment of Fees is Reasonable and Appropriate

51. As described above, the Debtors have agreed, subject to Bankruptcy Court approval, to pay certain fees to the Agent in connection with the DIP Facility. The Debtors believe that that the fees payable to the Agent under the Postpetition Credit Agreement are reasonable and appropriate and give the Debtors access to financing on the most favorable terms on which the DIP Lender would agree to make the DIP Facility available. The Debtors

considered these fees when determining in the exercise of their sound business judgment that the DIP Facility constitutes the best terms on which the Debtors could obtain the postpetition financing necessary to continue their operations and conduct a fair and robust sale process. As a result, paying the fees is order to obtain the DIP Facility is in the best interests of the Debtors' estates. Further, the Interim Order provides the Debtors, any Committee, and the Office of the United States Trustee with an opportunity to review and object to invoices documenting Postpetition Charges, including any professional fees constituting Postpetition Charges, payable to the Postpetition Agent and Postpetition Lenders in connection with the Postpetition Debt. *See* Interim Order ¶ 13.

SATISFACTION OF BANKRUPTCY RULE 6003

52. Bankruptcy Rule 6003 provides that the relief requested in the Motion may be granted if the "relief is necessary to avoid immediate and irreparable harm . . . ." *See* Fed. R. Bankr. P. 6003. As described herein, the Debtors' estates will suffer immediate and irreparable harm if they are not granted immediate use of the DIP Facility in order to pay ongoing operational expenses. Accordingly, the Debtors submit that the relief requested herein is necessary to avoid immediate and irreparable harm, and, therefore, Bankruptcy Rule 6003 is satisfied.

WAIVER OF BANKRUPTCY RULE 6004(h)

53. To implement the relief requested herein successfully, the Debtors respectfully request that the Interim Order and Final Order provide that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the fourteen-day stay period under Bankruptcy Rule 6004(h).

NOTICE

54. Notice of this Motion will be given to the following parties, or in lieu thereof, to their counsel: (a) the Office of the United States Trustee; (b) the holders of the twenty (20) largest unsecured claims against the Debtors (on a consolidated basis, excluding insiders); (c) Wells Fargo Bank, N.A.; (d) the Securities & Exchange Commission; (e) the Office of the United States Attorney General for the District of Delaware; (f) the Internal Revenue Service; (g) the U.S. Department of Justice; (h) IBM Credit LLC; and (i) the offices of the attorneys general for the states in which the Debtors operate. Notice of this Motion and any order entered hereon will be served in accordance with Local Rule 9013-1(m). In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court: (a) enter the Interim Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested in this Motion on an interim basis; (b) after the Final Hearing, enter the Final Order substantially in the form that shall be filed with the Court; and (c) grant such other and further relief as may be just and proper.

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Dated: April 10, 2017
Wilmington, Delaware

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Proposed Counsel for Debtors and Debtors-in-Possession

EXHIBIT A

Interim Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
CIBER, Inc., *et al.*,[1]	)	Case No. 17-10772 (___)
Debtors.	)	Joint Administration Pending

INTERIM ORDER AUTHORIZING DEBTORS TO: (A) USE CASH COLLATERAL ON AN EMERGENCY BASIS PENDING A FINAL HEARING; (B) INCUR POSTPETITION DEBT ON AN EMERGENCY BASIS PENDING A FINAL HEARING; AND (C) GRANT ADEQUATE PROTECTION AND PROVIDE SECURITY AND OTHER RELIEF TO WELLS FARGO BANK, N.A., AS AGENT AND THE LENDERS

This matter came before this Court on the motion (the "Motion") of CIBER, Inc., *et al.* (the "Debtors") requesting that this Court enter an order authorizing Debtors to: (a) use certain Cash Collateral on an emergency basis pending a Final Hearing; (b) incur Postpetition Debt on an emergency basis pending a Final Hearing; and (c) grant adequate protection and provide security and other relief to Wells Fargo Bank, N.A. ("Wells Fargo"), in its capacity as agent ("Prepetition Agent") to the lenders party to Prepetition Credit Agreement ("Prepetition Lenders"), and Wells Fargo in its capacity as agent ("Postpetition Agent"; together Prepetition Agent, "Agents") to the lenders party to the Postpetition Credit Agreement ("Postpetition Lenders"; together with Prepetition Lenders, the "Lenders"). Unless otherwise indicated, all capitalized terms used as defined terms herein have the meanings ascribed thereto in Exhibit A attached hereto and by this reference are made a part hereof.

This Order shall constitute findings of fact and conclusions of law pursuant to Fed. R. Bankr. P. 7052 and shall take effect and be fully enforceable as of the Filing Date.

Having examined the Motion, being fully advised of the relevant facts and circumstances surrounding the Motion, and having completed a hearing pursuant to Code §§ 363 and 364 and Fed. R. Bankr. P. 4001(b) and (c), and objections, if any, having been withdrawn,

[1] The Debtors in the above-captioned chapter 11 cases, along with the last four digits of Debtor CIBER, Inc.'s federal tax identification number (the other Debtors do not have EINs) are: CIBER, Inc. (6833), CIBER International LLC, and CIBER Consulting, Incorporated. The principal place of business for each Debtor is 6312 South Fiddler's Green Circle, Suite 600E, Greenwood Village, CO 80111.

resolved or overruled by the Court, **THE MOTION IS GRANTED, AND THE COURT HEREBY FINDS THAT:**

A. On the Filing Date, Debtors filed voluntary petitions for relief under chapter 11 of the Code. Debtors have retained possession of their property and continue to operate their businesses as debtors in possession pursuant to Code §§ 1107 and 1108.

B. The Court has jurisdiction over the Cases and this proceeding pursuant to 28 U.S.C. § 1334. Determination of the Motion constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2). Venue over this Motion is proper under 28 U.S.C. § 1409(a).

C. No Committee has been appointed in these Cases.

D. Subject to Paragraph 8 of this Order, Debtors and Guarantors admit, stipulate and agree that:

1. the Prepetition Documents evidence and govern the Prepetition Debt, the Prepetition Liens and the prepetition financing relationship among Debtors, Prepetition Agent and Prepetition Lenders;

2. the Prepetition Debt constitutes the legal, valid and binding obligation of Debtors, enforceable in accordance with the terms of the Prepetition Documents;

3. as of the Filing Date, Debtors are liable for payment of the Prepetition Debt, and the Prepetition Debt shall be an allowed secured claim in an amount not less than $28,494,601.14, exclusive of accrued and accruing Allowable 506(b) Amounts;

4. no offsets, defenses or counterclaims to the Prepetition Debt exist, and no portion of the Prepetition Debt is subject to contest, objection, recoupment, defense, counterclaim, offset, avoidance, recharacterization, subordination or other claim, cause of action or challenge of any nature under the Code, under applicable non-bankruptcy law or otherwise;

5. the Prepetition Liens are Priority Liens, subject to Permitted Priority Liens and secure payment of all of the Prepetition Debt;

6. upon the entry of this Order, for purposes of Code §§ 506(c) and 507(b) and Fed. R. Bankr. P. 3012, as of the Filing Date, the Prepetition Lenders are oversecured; provided, however, that nothing herein shall prejudice Prepetition Agent's and any Prepetition Lender's right to later assert that their respective interests in the Prepetition Collateral lack adequate protection;

7. Debtors do not have, and hereby release, and are forever barred from bringing any claims, counterclaims, causes of action, defenses or setoff rights relating to the Prepetition Documents, the Prepetition Liens, the Prepetition Debt or otherwise, against the Prepetition Agent, the Prepetition Lenders and their respective affiliates, subsidiaries, agents, officers, directors, employees, advisors, consultants, predecessors in interest, successors and assigns.

E. Prepetition Agent and Prepetition Lenders have consented to the terms of this Order and are entitled to adequate protection as set forth herein pursuant to Code §§ 361, 362, 363 and 364 for any diminution in the value of such interests in the Prepetition Collateral from and after the Filing Date.

F. Debtors have an immediate need to use Cash Collateral and incur Postpetition Debt as provided herein through the conclusion of the Final Hearing, in order to prevent immediate and irreparable harm to the estate, minimize disruption to and avoid the termination of their business operations, and to maintain the value of their assets and businesses and maximize return to all creditors. Entry of this Order will also enhance the possibility of maximizing the value of the Debtors' property.

G. Debtors are unable to obtain unsecured credit allowable under Code § 503(b)(1) sufficient to finance the operations of their businesses. Except as provided below, Debtors are unable to obtain credit allowable under Code §§ 364(c)(1), (c)(2) or (c)(3) on terms more favorable than those offered by Postpetition Agent and Postpetition Lenders.

H. The terms of the Postpetition Debt have been negotiated at arm's length, and the Postpetition Debt is being extended in good faith, as that term is used in Code § 364(e).

I. The terms and conditions of the Postpetition Documents are fair and reasonable, the best available under the circumstances, reflect the Debtors' exercise of prudent

business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and consideration.

J. Under the circumstances of these Cases, this Order is a fair and reasonable response to Debtors' request for Agents' and Lenders' consent to the use of Cash Collateral and provision of Postpetition Debt, and the entry of this Order is in the best interest of Debtors' estates and their creditors.

K. The notice provided by Debtors of the Motion, the hearing on the Motion, and the entry of this Order satisfy the requirements of Fed. R. Bankr. P. 2002, 4001(b) and (c) and 9014 and Code §§ 102(1), 361, 363, 364(c) and (d) and were otherwise sufficient and appropriate under the circumstances.

WHEREFORE, IT IS HEREBY ORDERED THAT THE MOTION IS GRANTED AS SET FORTH HEREIN, AND THAT:

1. Authorization to Use Cash Collateral. Debtors are authorized to use Cash Collateral solely in accordance with the terms and provisions of this Order.

2. Procedure for Use of Cash Collateral.

(a) Delivery of Cash Collateral to Postpetition Agent. Debtors shall deposit all Cash Collateral now or hereafter in their possession or control into the Blocked Account (or otherwise deliver such Cash Collateral to Prepetition Agent in a manner satisfactory to Prepetition Agent) promptly upon receipt thereof. If there is no Prepetition Debt outstanding, Debtors shall deposit all Cash Collateral now or hereafter in their possession or control into the Blocked Account (or otherwise deliver such Cash Collateral to Postpetition Agent in a manner satisfactory to Postpetition Agent) promptly upon receipt thereof.

(b) Cash Collateral in Agents' or Lenders' Possession. Agents are authorized to collect upon, convert to cash and enforce checks, drafts, instruments and other forms of payment now or hereafter coming into its or any Lender's possession or control that constitute Aggregate Collateral or proceeds thereof.

(c) Application of Cash Collateral. Agents are authorized to apply all Cash Collateral now or hereafter in their possession or control as follows: (1) first, to the payment of all Prepetition Debt in accordance with the Prepetition Documents (including

Allowable 506(b) Amounts); (2) second, to payment of Postpetition Debt consisting of Postpetition Charges; and (3) third, to payment of other Postpetition Debt in accordance with the Postpetition Credit Agreement. All such applications to Postpetition Debt shall be final and not subject to challenge by any person, including any Trustee. All such applications to Prepetition Debt shall be final, subject only to the right of parties in interest to seek a determination in accordance with Paragraph 8 below that such applications to other Prepetition Debt resulted in payment of an unsecured prepetition claim of Prepetition Agent or Prepetition Lenders. Any amounts disgorged in connection with any such objection or determination shall be first applied to reduce the Postpetition Debt, dollar-for-dollar. For the avoidance of doubt, the payment of Prepetition Debt shall not impact the rights of any Challenge Party to assert a Challenge in accordance with paragraph 8 hereof. Agents shall have the right to apply Cash Collateral to amounts of Postpetition Debt ahead of amounts of Prepetition Debt in their discretion.

(d) Prohibition Against Use of Cash Collateral. Except as provided for in this Order, Debtors will not use Cash Collateral, unless, in addition to the satisfaction of all requirements of Code § 363: (1) Agents have consented to such use; (2) at the time an order approving such use is entered, there is no Postpetition Debt and no obligation of Postpetition Lenders to extend Postpetition Debt; or (3) such Cash Collateral is first used to pay the Postpetition Debt in full; provided, that nothing in this Order shall prohibit Agents from agreeing, in their sole discretion, to the use of Cash Collateral.

3. Authorization To Incur Postpetition Debt.

(a) Postpetition Documents. Debtors are hereby authorized and have agreed to: (1) execute the Postpetition Documents, including all documents that Postpetition Agent and Postpetition Lenders find reasonably necessary to implement the transactions contemplated by the Postpetition Documents; and (2) perform their obligations under and comply with all of the terms and provisions of the Postpetition Documents and this Order. Upon execution and delivery thereof, the Postpetition Documents shall constitute valid and binding obligations of Debtors enforceable in accordance with their terms. To the extent there exists any conflict among the terms of the Motion, the Postpetition Documents, and this Order, this Order shall govern and control.

(b) Permitted Uses of Postpetition Debt. Debtors are authorized and have agreed to incur Postpetition Debt solely: (1) in accordance with the terms and provisions of this Order, (2) to the extent required to pay those expenses in the amounts set forth in the Budget (including any variance therefrom, solely as allowed under the Postpetition Credit Agreement), including the Carveout, as and when such expenses become due and payable, and (3) to pay Allowable 506(b) Amounts and the Postpetition Charges. If Postpetition Lenders advance monies to Debtors and Debtors use such monies other than in accordance with the terms or provisions of this Order, such advances shall be considered Postpetition Debt for purposes of this Order.

(c) Additional Terms of Postpetition Debt. The following terms shall apply to Postpetition Debt:

(i) Maximum Amount. The maximum principal amount of Postpetition Debt outstanding shall not at any time exceed $41,000,000; provided that until the entry of a Final Order acceptable to the Agents, the maximum principal amount of Postpetition Debt outstanding shall be $37,000,000.

(ii) Interest. The Postpetition Debt shall bear interest at a per annum rate equal to the Base Rate (as defined in the Postpetition Credit Agreement) plus 5.25 percent.

(iii) Closing Fee. Debtors shall pay to Postpetition Agent, for the benefit of Postpetition Lenders, a closing fee (the "Closing Fee") in an amount equal to $1,200,000, (1) $400,000 of which shall be fully earned, due and payable immediately upon the closing of the Postpetition Credit Agreement, (2) an additional $400,000 of which shall be fully earned, due and payable upon entry of the Final Order, and (3) $400,000 of which shall be fully earned upon entry of the Final Order but will be due and payable upon the thirty-fifth (35th) day following the Filing Date, provided that if the Aggregate Debt is paid in full before either of the amounts in subclauses (2) and (3) are due, respectively, the fees not yet due under such subclause(s) will be deemed automatically waived.

(iv) Maturity. The Postpetition Debt shall mature and be due and payable in full by Debtors on the Termination Date.

(v) Guarantors. Each Guaranty and all related security documents shall remain in full force and effect in accordance with their terms notwithstanding the entry of this Order and any subsequent orders

amending this Order or otherwise providing for the use of Cash Collateral consented to by Agents and Lenders pursuant to Code § 363 or additional financing by Postpetition Agent and Postpetition Lenders pursuant to Code § 364. Each Guarantor is and shall be liable for the guaranteed obligations under each such Guaranty, including, without limitation, all Postpetition Debt, and any refinancing thereof. With respect to each Guaranty, Lender shall have the right to apply any and all proceeds received from such Prepetition Guarantor to reduce the Aggregate Debt in such manner as set forth in Paragraph 2(c) of this Order. No marshaling shall be required.

(vi) Joint and Several Liability of Debtors. The obligations of each Debtor under this Order shall be joint and several.

(vii) Control Agreements. All "Control Agreements" (as defined in the Prepetition Credit Agreement) relating to the Debtors in effect as of the Filing Date shall remain in full force and effect and in favor of both Agents, notwithstanding the entry of this Order and any subsequent orders amending this Order.

(viii) Compliance with Budget. Debtors will covenant to comply with the Budget, subject only to variances set forth in the Postpetition Credit Agreement.

(ix) Sale Covenants. Debtors will covenant to comply with certain sale process milestones, as set forth in Section 5.17 of the Postpetition Credit Agreement.

(d) Superpriority Administrative Expense Status; Postpetition Liens. The Postpetition Debt is hereby granted superpriority administrative expense status under Code § 364(c)(1), with priority over all costs and expenses of administration of the Cases that are incurred under any provision of the Code, but subject to the Carveout and the Stalking Horse Bid Protections. In addition, Postpetition Agent is hereby granted the Postpetition Liens, for the benefit of Postpetition Lenders to secure the Postpetition Debt. The Postpetition Liens: (1) are in addition to the Prepetition Liens; (2) pursuant to Code §§ 364(c)(2), (c)(3), and (d) are Priority Liens (subject only to the Carveout, Permitted Priority Liens, the Prepetition Liens and Replacement Liens) without any further action by Debtors or Postpetition Agent and without the execution, filing or recordation of any financing statements, security agreements, mortgages or other documents or instruments; (3) shall not be subject to any security interest or lien which is avoided and preserved under Code § 551; (4) shall remain in full force and effect notwithstanding any subsequent conversion or dismissal of the Cases; and (5) shall not be subject to Code § 510(c). Notwithstanding the foregoing, Debtors shall execute and deliver to

Postpetition Agent such financing statements, mortgages, instruments and other documents as Postpetition Agent may reasonably request from time to time to provide further evidence of the perfection of the Postpetition Liens, and any such documents filed by Postpetition Agent shall be deemed filed as of the Filing Date. Further, Prepetition Agent shall serve as agent for Postpetition Agent for purposes of perfecting Postpetition Agent's security interest in any Postpetition Collateral that requires perfection by possession or control, and all Prepetition Third Party Documents shall be deemed to be for the benefit of Postpetition Agent and Postpetition Lenders without further action by any party.

(e) Prohibition Against Additional Debt. Debtors will not incur debt secured by a lien which is equal to or superior to the Prepetition Liens or the Postpetition Liens, or which is given superpriority administrative expense status under Code § 364(c)(1), unless, in addition to the satisfaction of all requirements of Code § 364: (1) Agents have consented to such use; (2) at the time such an order is entered approving such use, there is no Postpetition Debt outstanding, and no obligation of Postpetition Lenders to extend Postpetition Debt; or (3) such credit or debt is first used to pay the Postpetition Debt in full in cash.

4. Adequate Protection of Interests of Prepetition Agent and Prepetition Lenders in the Prepetition Collateral and the Prepetition Liens. Prepetition Agent and Prepetition Lenders have consented to the terms of this Order and are entitled to adequate protection as set forth herein and to the extent required under Code §§ 361, 362, 363 or 364 to the extent of any diminution in the value of such interests in the Prepetition Collateral from and after the Filing Date.

(a) Priority of Prepetition Liens/Allowance of Prepetition Lenders' Claim. Subject to the terms of Paragraph 8 of this Order, (1) the Prepetition Liens shall constitute Priority Liens, subject only to the Permitted Priority Liens; (2) the Prepetition Debt constitutes the legal, valid, and binding obligations of Debtors, enforceable in accordance with the terms of the Prepetition Documents; (3) no offsets, defenses or counterclaims to the Prepetition Debt exist, and no portion of the Prepetition Debt is subject to avoidance, recharacterization, or subordination pursuant to the Code or applicable nonbankruptcy law; and (4) Prepetition Agent's and Prepetition Lenders' claims with respect to the Prepetition Debt shall

for all purposes constitute allowed secured claims within the meaning of Code § 506 in an amount not less than $28,494,601.14, exclusive of accrued and accruing Allowable 506(b) Amounts.

(b) Replacement Liens. Prepetition Agent is hereby granted the Replacement Liens, for the benefit of Prepetition Lenders, as security for any diminution in the value of the Prepetition Collateral. The Replacement Liens: (1) are and shall be in addition to the Prepetition Liens; (2) are and shall be properly perfected, valid and enforceable liens without any further action by Debtors or Prepetition Agent and without the execution, filing or recordation of any financing statements, security agreements, mortgages or other documents or instruments; (3) shall be subject only to the Prepetition Debt and Permitted Priority Liens; and (4) shall remain in full force and effect notwithstanding any subsequent conversion or dismissal of the Cases. Notwithstanding the foregoing, Debtors are authorized to and shall execute and deliver to Prepetition Agent such financing statements, mortgages, instruments and other documents as Prepetition Agent may reasonably request from time to time to provide further evidence of the perfection of the Replacement Liens.

(c) Allowed Code § 507(b) Claim. If and to the extent the adequate protection of the interests of Prepetition Agent and Prepetition Lenders in the Prepetition Collateral granted pursuant to this Order proves insufficient, Prepetition Agent and Prepetition Lenders shall have an allowed claim under Code § 507(b), subject to the Carveout and the Stalking Horse Bid Protections, in the amount of any such insufficiency, with priority over: (1) all costs and expenses of administration of the Cases (other than Postpetition Agent's and Postpetition Lenders' claims under Code § 364) that are incurred under any provision of the Code; and (2) the claims of any other party in interest under Code § 507(b).

5. Termination Date; Rights and Remedies.

(a) Effect of Termination Date. Unless extended by the Court upon the written agreement of Postpetition Agent, upon the Termination Date without further notice or order of Court: (1) Debtors' authorization to use Cash Collateral and incur Postpetition Debt hereunder will automatically terminate; and (2) at Postpetition Agent's election: (i) the Postpetition Debt shall be immediately due and payable, and (ii) Postpetition Agent shall be

entitled to setoff any cash in any Lender's possession or control and apply such cash to the Aggregate Debt in accordance with Paragraph 2(c) of this Order.

(b) Rights and Remedies. Effective upon entry of the Final Order, on the fifth (5th) business day after the Termination Date, at Postpetition Agent's election without further order of the Court: (1) Agents shall have automatic and immediate relief from the automatic stay with respect to the Aggregate Collateral (without regard to the passage of time provided for in Fed. R. Bankr. P. 4001(a)(3)), and shall be entitled to exercise all rights and remedies available to them under the Prepetition Documents, the Postpetition Documents and applicable nonbankruptcy law; and (2) Debtors shall surrender the Aggregate Collateral and otherwise cooperate with Agents and Lenders in the exercise of their rights and remedies under the Prepetition Documents, the Postpetition Documents and applicable nonbankruptcy law, including, without limitation, by filing a motion to retain one or more agents to sell, lease or otherwise dispose of the Aggregate Collateral upon the request and subject to terms and conditions acceptable to Agents. Notwithstanding the foregoing, during such five (5) business day period following the Termination Date, Debtors may (a) seek to use Cash Collateral and (b) seek an order of this Court (i) determining that an Event of Default alleged to have given rise to the Termination Date did not occur or (ii) providing other appropriate relief; provided, however, that during such five (5) business day period, Postpetition Lenders shall have no obligation to advance Postpetition Debt to Debtors.

(c) Access to Collateral. Effective upon entry of the Final Order, notwithstanding anything to the contrary herein, upon written notice to the landlord of any of Debtors' leased premises that an Event of Default has occurred and is continuing, Agents may, consistent with otherwise applicable law, enter upon such leased premises for the purpose of exercising any right or remedy with respect to the Aggregate Collateral located thereon and shall be entitled to the Debtors' rights and privileges under such lease(s) without interference from such landlord; provided that Postpetition Agent shall pay to such landlord rent first accruing after the above referenced written notice and during the period of occupancy by Agents, calculated on a per diem basis.

6. Carveout.

(a) Carveout Terms. The Carveout with respect to each Carveout Professional: (1) shall equal an aggregate amount not to exceed the lesser of (i) the aggregate amount provided in the Budget for such Carveout Professional for the period commencing on the Filing Date and ending on the Termination Date and (ii) the aggregate amount of allowed fees and expenses that accrue during the period commencing on the Filing Date and ending on the Termination Date; (2) shall be reduced dollar-for-dollar by any payments of fees and expenses to such Carveout Professional; and (3) shall be paid out of any prepetition retainer or property of the estate (other than property subject to an unavoidable lien in favor of the Prepetition Agent or the Postpetition Agent) before such payments are made from proceeds of the Postpetition Debt or the Aggregate Collateral. Further, Postpetition Agent shall reserve against the DIP Commitment an amount equal to the sum of the aggregate amount of unpaid fees and expenses set forth in the Budget for the Carveout Professionals. Following the Termination Date, and notwithstanding anything herein or in the Postpetition Credit Agreement to the contrary (but, effective upon entry of a Final Order, subject to the DIP Commitment), Postpetition Lenders shall provide Postpetition Debt to the Debtors in an amount equal to (a) the Carveout amount for each Carveout Professional determined in clause (1) above, as and when such amounts are payable to a Carveout Professional, and (b) the Post-Termination Date Carveout Amount. Except as set forth in the preceding sentence, Postpetition Lenders shall have no obligation to fund any fees or expenses of Carveout Professionals accrued on, prior to, or after the Termination Date.

(b) Carveout Usage. No portion of the Carveout and no Postpetition Debt or Aggregate Collateral may be used to pay any fees or expenses incurred by any entity, including the Debtors, any Committee or the Carveout Professionals, in connection with claims or causes of action adverse to Agents' or Lenders' interests in the Aggregate Collateral, including (1) preventing, hindering or delaying Agents' or Lenders' enforcement or realization upon any of the Aggregate Collateral once an Event of Default has occurred; (2) using or seeking to use Cash Collateral or incurring indebtedness in violation of the terms hereof, or selling any Aggregate Collateral without Agents' and Lenders' consent; or (3) objecting to or contesting in any manner, or in raising any defenses to, the validity, extent, amount, perfection, priority or enforceability of the Aggregate Debt or any mortgages, liens or security interests with respect thereto or any other

rights or interests of Agents and Lenders, or in asserting any claims or causes of action, including, without limitation, any actions under chapter 5 of the Code, against Agents or Lenders; provided, however, that the foregoing shall not apply to costs and expenses, in an amount not to exceed $30,000, incurred by any Committee's professionals in connection with the investigation of a potential Challenge in accordance with Paragraph 8 of this Order; provided, further, however, that the Carveout may be used to pay fees and expenses incurred by the Carveout Professionals in connection with the negotiation, preparation and entry of this Order or any amendment hereto consented to by Postpetition Agent.

(c) Carveout Procedure. The Debtors shall periodically, upon the request of the Postpetition Agent, and in all events not less than every two (2) weeks, provide to the Postpetition Agent a written report (the "Carveout Report"), in which the Debtors disclose their then current, documented estimate of (1) the aggregate amount of unpaid professional fees, costs and expenses accrued or incurred by the Carveout Professionals, through the date of the Carveout Report, and (2) projected fees, costs and expenses of the Carveout Professionals for the two (2) week period following the date of such Carveout Report. Nothing herein shall be construed as consent by Agents and Lenders to the allowance of any fees or expenses of the Carveout Professionals or shall affect the right of Agents or any Lender to object to the allowance and payment of such fees, costs or expenses, or the right of Agents or any Lender to the return of any portion of the Carveout that is funded with respect to fees and expenses for a Carveout Professional that are approved on an interim basis that are later denied on a final basis. For the avoidance of doubt, no Carveout Professional shall be entitled to any portion of the Carveout allocated for any other Carveout Professional in the Budget.

7. No Surcharge. In the exercise of their business judgment and in consideration for the Lenders' agreement to fund the Postpetition Debt and the Carveout in accordance with this Order, effective upon entry of the Final Order, Debtors (or any Trustee) agree that there shall be no surcharge of the Aggregate Collateral for any purpose, unless agreed to by Agents and Lenders. Further, Debtors represent that the Budget contains all reasonably anticipated expenses that are reasonable and necessary for the operation of their businesses and the preservation of the Aggregate Collateral through the period for which the Budget runs, and therefore includes all items potentially chargeable to Agents and Lenders under Code § 506(c).

Therefore, effective upon entry of the Final Order, the Debtors (or any Trustee) shall be deemed to have waived any rights, benefits or causes of action under Code § 506(c), any "equities of the case" arguments, objections, or claims to be made under Code § 552(b), or any other legal or equitable doctrine (including, without limitation, unjust enrichment) as they may relate to or be asserted against the Agents, the Lenders or the Aggregate Collateral. In reliance on the foregoing, Agents and Lenders have agreed to the entry of this Order.

8. Reservation of Rights; Bar of Challenges and Claims. The stipulations and representations contained in this Order, including, without limitation, in Paragraphs D, shall be binding on all parties in interest in these Cases, unless and solely to the extent that (i) a Challenge is initiated prior to the end of the Investigation Period from any Challenge Party and (ii) the Court rules in favor of the plaintiff in any such timely and properly filed Challenge.

(a) Challenge Procedure. Any Challenge Party that obtains or has standing, including any Committee, must commence, as appropriate, a contested matter or adversary proceeding raising any Challenge with respect to any claim, security interest, or any other rights of the Prepetition Lenders under the Prepetition Documents, including the nature of a setoff, counterclaim within the Investigation Period. Nothing herein shall be deemed to grant standing in favor of any Challenge Party absent further order of this Court, and nothing herein authorizes an adversary proceeding to be brought on a motion. The Debtors shall retain authority to prosecute, settle or compromise such Challenge in the exercise of their business judgment (subject to court approval), whether or not a Challenge is brought by a Challenge Party.

(b) Bar of Challenges and Claims. If a Challenge is not commenced before the end of the Investigation Period (or such later date as agreed in writing by Prepetition Agent or for cause shown by an order of this Court), without further order of the Court, (1) the claims, liens and security interests of the Prepetition Agent and the Prepetition Lenders described herein shall be deemed to be allowed for all purposes in these Cases and shall not be subject to challenge by any party in interest as to extent, validity, priority or otherwise, (2) the Debtors and their estates shall be deemed to have waived, released and discharged Prepetition Agent, Prepetition Lenders and their respective officers, directors, principals, attorneys, consultants, predecessors in interest, and successors and assigns of and from any and all claims and causes of

action, indebtedness, and obligations, of every type, which occurred on or prior to the date of entry of this Order with respect to or in connection with the Prepetition Debt, the Prepetition Liens, the Prepetition Documents or otherwise, and (3) the other stipulations in Paragraph D of this Order shall be deemed final and binding on all parties in interest in these Cases for all purposes.

9. Right to Credit Bid. Subject to entry of the Final Order, in connection with the sale or other disposition of all or any portion of the Aggregate Collateral, whether under Code § 363, Code § 1129 or otherwise, pursuant to Code § 363(k), (a) Prepetition Agent shall have the right to use the Prepetition Debt or any part thereof to credit bid with respect to any bulk or piecemeal sale of all or any portion of the Aggregate Collateral, and (b) Postpetition Agent shall have the right to use the Postpetition Debt or any part thereof to credit bid with respect to any bulk or piecemeal sale of all or any portion of the Aggregate Collateral, so long as any such credit bid by Postpetition Agent provides for a cash payment sufficient to repay the Prepetition Debt in full in cash.

10. Waiver of Right to Return/Consent to Setoff. Debtors shall not, without the prior written consent of the Agents, exercise their rights: (a) to return any of the Aggregate Collateral pursuant to Code § 546(h); (b) to consent to any order permitting any claims pursuant to Code § 503(b)(9); and (c) to consent to setoff pursuant to Code § 553.

11. Indemnification. Debtors shall indemnify and hold harmless Agents and Lenders in accordance with the Postpetition Credit Agreement and the Prepetition Credit Agreement, as applicable.

12. No Marshaling. Subject to entry of a Final Order, no Agent, Lender or any of the Aggregate Collateral shall be subject to the doctrine of marshaling.

13. Postpetition Charges. All Postpetition Charges are hereby approved and shall be promptly paid by Debtors in accordance with this Order and the Postpetition Documents, without need for filing an application with the Court for approval or payment of the Postpetition Charges. Invoices documenting any Postpetition Charges or any professional fees constituting Postpetition Charges or Allowable 506(b) Amounts shall be sent (redacted to the extent

necessary to delete any information subject to the attorney-client privilege, any information constituting attorney work product, or any other confidential information) to the following parties: (a) proposed co-counsels for the Debtors, (i) Morrison & Foerster LLP, 50 West 55th Street, New York, New York, Attn: Brett H. Miller, Esq. (brettmiller@mofo.com) and Dennis L. Jenkins, Esq. (djenkins@mofo.com), and (ii) Saul Ewing, LLP, 1201 N. Market Street, Suite 2300, P.O. Box 1266, Wilmington, Delaware 19899, Attn: Mark Minuti, Esq. (mminuti@saul.com); (b) counsel for any Committee; and (c) the U.S. Trustee, 844 King Street, Suite 2207, Wilmington, Delaware 19801. Such parties shall have fourteen (14) days from the date of receipt of such invoices to object to the reasonableness of such amounts; provided, however that (i) such Postpetition Charges and Allowable 506(b) Amounts will not be subject to Court approval or U.S. Trustee guidelines, (ii) no recipient of any such payment will be required to file with respect thereto any interim or final fee application with this Court, (iii) such invoices shall not constitute a waiver of the attorney-client privilege or any benefits of the attorney work product doctrine, and (iv) any such objection shall not preclude or relieve Debtors of their obligations to pay them unless and until finally adjudicated by this Court.

14. Force and Effect of Prepetition Documents. Except as modified herein and subject to the other provisions of this Order and the Code, the Prepetition Documents shall remain in full force and effect with respect to the Prepetition Debt. To the extent there exists any conflict among the terms of the Motion, the Prepetition Documents and this Order, this Order shall govern and control.

15. Modification of Stay. Subject to paragraph 5 hereof, the automatic stay of Code § 362 is hereby modified with respect to Agents and Lenders to the extent necessary to effectuate the provisions of this Order.

16. No Waiver. Agents and Lenders shall not be deemed to have suspended or waived any of their rights or remedies under this Order, the Prepetition Documents, the Postpetition Documents, the Code, and applicable nonbankruptcy law unless such suspension or waiver is in writing, signed by a duly authorized officer of Agents or the Lenders, as applicable, and directed to Debtors. No failure of Agents or Lenders to require strict performance by Debtors (or by any Trustee) of any provision of this Order shall waive, affect or diminish any

right of Agents or Lenders thereafter to demand strict compliance and performance therewith, and no delay on the part of Agents or Lenders in the exercise of any right or remedy under this Order, the Prepetition Documents, the Postpetition Documents, the Code, or applicable nonbankruptcy law shall preclude the exercise of any right or remedy. Further, this Order shall not constitute a waiver by Prepetition Agent or the Prepetition Lenders of any of their rights under the Prepetition Documents, the Code or applicable nonbankruptcy law, including, without limitation their right to later assert: (1) that, any of their interests in the Aggregate Collateral lack adequate protection within the meaning of Code §§ 362(d) or 363(e) or any other provision thereof; or (2) a claim under Code § 507(b).

17. "Responsible Person." By taking any actions pursuant to or permitted by this Order, Agents and Lenders shall not: (a) be deemed to be in control of the operations or liquidation of Debtors; or (b) be deemed to be acting as a "responsible person" with respect to the operation, management or liquidation of Debtors.

18. Payoff Release. Subject to the entry of the Final Order and paragraph 8 hereof, upon the date that the Aggregate Debt is paid in full in cash and prior to the release of the Postpetition Liens, Debtors shall execute and deliver to Agents and Lenders a general release of any and all claims and causes of action that could have been asserted or raised under or in connection with the Prepetition Documents or Postpetition Documents.

19. IBM Liens. Notwithstanding anything herein to the contrary, the Lenders' interest in any Shared Collateral (as defined in the IBM Security Interest Subordination Agreement) shall remain subject and subordinate to the IBM Liens and the Debtors shall not use any Cash Collateral derived from such Shared Collateral. Any proceeds derived from the Shared Collateral shall be placed in a separate, segregated account, which proceeds may only be distributed upon further order of the Court.

20. Amendments. Debtors and Postpetition Agent may enter into amendments or modifications of the Postpetition Documents or the Budget without further notice and hearing or order of this Court; provided, that (a) such modifications or amendments do not materially and adversely affect the rights of any creditor or other party-in-interest and (b) notice of any such amendment or modification is filed concurrently with this Court.

21. Proof of Claim. Neither the Prepetition Agent nor any of the Prepetition Lenders shall be required to file a proof of claim with respect to any of the Prepetition Debt and the stipulations and findings set forth in this Order shall constitute an informal proof of claim in respect thereof. Notwithstanding the foregoing or any subsequent order of Court concerning proof of claim filing requirements, Prepetition Agent is authorized (but not obligated) to file a single master proof of claim in **[Case No. _____]** on behalf of itself and the Prepetition Lenders on account of their claims arising under the Prepetition Documents and hereunder and such master proof of claim shall be deemed filed as a claim against each of the Debtors.

22. Binding Effect. Except as provided in Paragraph 8 herein, this Order shall be binding on all parties in interest in the Cases and their respective successors and assigns, including any Trustee, except that any Trustee shall have the right to terminate this Order after notice and a hearing. If any of the provisions of this Order are hereafter reconsidered or modified by subsequent order of this Court other than on appeal, such reconsideration or modification shall not affect: (a) subject to Paragraph 8 of this Order, the stipulations, representations, and findings contained in this Order and the relief granted by and the releases contained in this Order; and (b) the priority, validity, enforceability or effectiveness of any lien, security interest or other benefit or claim authorized hereby with respect to Cash Collateral used or Postpetition Debt incurred prior to the effective date of such reconsideration or modification. In such event, all such liens, security interests, claims and other benefits shall be governed in all respects by the original provisions of this Order, and Agents and Lenders shall be entitled to all the rights, remedies, privileges and benefits granted hereto, including the liens and priorities granted herein. If any of the provisions of this Order are hereafter reversed or modified on appeal, the Prepetition Agent, Prepetition Lenders, Postpetition Agent, and Postpetition Lenders will be entitled to the full benefits and protections of, and this Order shall be subject to, 11 U.S.C. § 364(e) on account of such parties acting in good faith and the Postpetition Debt being extended in good faith hereunder. Except as otherwise explicitly set forth in this Order, no third party is intended to be, or shall be deemed to be, a third party beneficiary of this Order.

23. Survival. The provisions of this Order, and any actions taken pursuant to or in reliance upon the terms hereof, shall survive entry of, and govern in the event of any conflict with, any order which may be entered in the Cases: (a) confirming any chapter 11 plan,

(b) converting any Case to a case under chapter 7 of the Code, (c) dismissing any Case, (d) withdrawing of the reference of any Case from this Court, or (e) providing for abstention from handling or retaining of jurisdiction of any of the Cases in this Court. The terms and provisions of this Order, including, without limitation, the rights granted Agents and Lenders under Code §§ 363, 364(c) and (d), shall continue in full force and effect until all of the Aggregate Debt is indefeasibly paid in full in cash and discharged.

24. Notice of Final Hearing. The Final Hearing to consider entry of the Final Order and final approval of the DIP Credit Agreement is scheduled for April ___, 2017, at _____ __.m. before _____, in Courtroom _____, at the United States Bankruptcy Court for District of Delaware, 824 N. Market Street, Wilmington, Delaware 19801. On or before _____, 2017, the Debtors shall serve, by United States mail, first-class postage prepaid, notice of the entry of this Interim Order and of the Final Hearing (the "Final Hearing Notice"), together with copies of this Interim Order and the Motion, on (a) the parties having been given notice of the Interim Hearing, (b) any party which has filed prior to such date a request for notices with this Court, and (c) counsel for any Committee (if and when appointed). The Final Hearing Notice shall state that any party-in-interest objecting to the entry of the proposed Final Order shall file written objections with the Clerk of the Court no later than on April ____, 2017, at 4:00 p.m. (prevailing Eastern time), which objections shall be served so as to be actually received on or before such date on: (a) proposed co-counsels for the Debtors, (i) Morrison & Foerster LLP, 50 West 55th Street, New York, New York, Attn: Brett H. Miller, Esq. (brettmiller@mofo.com) and Dennis L. Jenkins, Esq. (djenkins@mofo.com), and (ii) Saul Ewing, LLP, 1201 N. Market Street, Suite 2300, P.O. Box 1266, Wilmington, Delaware 19899, Attn: Mark Minuti, Esq. (mminuti@saul.com); (b) counsel for any Committee; and (c) the U.S. Trustee, 844 King Street, Suite 2207, Wilmington, Delaware 19801. The Final Hearing may be continued from time to time without further notice other than that given in open court.

[_____]
Hon. [_____]
United States Bankruptcy Judge

Dated: April __, 2017

EXHIBIT A

DEFINED TERMS

1. ***Aggregate Collateral.*** Collectively, the Prepetition Collateral and the Postpetition Collateral.

2. ***Aggregate Debt.*** Collectively, the Prepetition Debt and the Postpetition Debt.

3. ***Allowable 506(b) Amounts.*** To the extent allowable under Code § 506(b), interest at the default rate of interest as set forth in Section 2.6(c) of the Prepetition Credit Agreement, all fees, costs, expenses, and other charges due or coming due under the Prepetition Documents or in connection with the Prepetition Debt (regardless of whether such fees, costs, interest and other charges are included in the Budget), and all costs and expenses at any time incurred by Prepetition Agent and Prepetition Lenders in connection with: (a) the negotiation, preparation and submission of this Order and any other order or document related hereto, and (b) the representation of Prepetition Agents and Prepetition Lenders in the Cases, including in defending any Challenge.

4. ***Blocked Account.*** The Blocked Account identified in the DIP Credit Agreement.

5. ***Budget.*** The budget attached to this Order as Exhibit B, as amended, modified or supplemented from time to time, as may be agreed to by Postpetition Agent.

6. ***Carveout.*** Collectively, (a) all fees required to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930(a) accruing through the Termination Date, (b) with respect to each Carveout Professional, the allowed fees and disbursements of as may be awarded to such Carveout Professional from time to time pursuant to Code § 330, in the aggregate amount set forth in Paragraph 6 of this Order, and (c) without duplication of the foregoing, the Post-Termination Date Carveout Amount.

7. ***Carveout Professionals.*** Professionals retained by the Debtors, including Morrison & Foerster LLP, as counsel for the Debtors, Alvarez & Marsal North America, LLC, as financial advisors to the Debtor, Houlihan Lokey, as investment banker to the Debtors, Saul Ewing LLP as local counsel to the Debtors, and professionals that may be authorized by the Court to be retained by a Committee, and the United States Trustee.

8. ***Cases.*** The chapter 11 cases or any superseding chapter 7 cases of the Debtors.

9. ***Cash Collateral.*** All "cash collateral," as that term is defined in Code § 363(a) that is property of the Debtors and in which Agents (on behalf of Lenders) have an interest, all deposits subject to setoff rights in favor of Agents and Lenders, and all cash arising

from the collection or other conversion to cash of the Aggregate Collateral, including, without limitation, from the ordinary course sale of inventory and the collection of accounts receivable and all sales of Aggregate Collateral outside of the ordinary course of business.

10. ***Challenge***. A claim or cause of action challenging the extent, validity, perfection, priority or enforceability of the Prepetition Debt, the Prepetition Liens or any other claims or causes of action against Prepetition Agent and Prepetition Lenders, which any Committee, or another party-in-interest may bring, in accordance with Paragraph 8 of this Order.

11. ***Challenge Party***. Any Committee, any Trustee, or other party-in-interest with the requisite standing.

12. ***Code***. The United States Bankruptcy Code (11 U.S.C. § 101 *et seq.*), as amended, and any successor statute. Unless otherwise indicated, all statutory section references in this Order are to the Code.

13. ***Committee***. Any official committee appointed in these Cases pursuant to Code § 1102.

14. ***DIP Commitment***. $41,000,000; *provided that* the DIP Commitment will only be $37,000,000 until entry of the Final Order.

15. ***Event of Default***. At Postpetition Agent's election, (a) the occurrence and continuance of any Event of Default first arising after the Filing Date under the Postpetition Credit Agreement; and (b) Debtors' failure to comply strictly with the terms of, or their covenants and other obligations in or under, this Order.

16. ***Filing Date***. April 9, 2017.

17. ***Final Hearing***. The final hearing on the Motion conducted in accordance with Fed. R. Bankr. P. 4001.

18. ***Final Order***. A final order entered on the Motion that authorizes Debtors to use Cash Collateral and incur Postpetition Debt at or in connection with the Final Hearing, in form and substance acceptable to Agents.

19. ***Guarantors***. All direct and indirect subsidiaries of the Borrowers.

20. ***Guaranty***. Any agreement with a Guarantor to guarantee payment of the Prepetition Debt, including but not limited to (i) that certain Guaranty and Security Agreement, dated as of May 7, 2012, by and among Wells Fargo Bank, N.A. as Agent and the Grantors from time to time party thereto; (ii) that certain Guarantee and Debenture, dated as of 27 October, 2016, by and among Ciber UK Ltd, the other chargors from time to time party thereto, and Wells Fargo Bank, N.A. as UK Security Trustee; (iii) that certain European Obligations Guaranty Agreement, dated as of May 7, 2012, by and among the Guarantors from time to time party thereto and Wells Fargo Bank, N.A. as Agent.

21. ***IBM Credit Facility***. That certain Agreement for Wholesale Financing dated as of March 9, 2004 (as amended, restated, supplemented or otherwise modified from time to time), by and among IBM Credit LLC and CIBER.

22. ***IBM Liens***. Those certain security interests granted by CIBER to secure indebtedness under the IBM Credit Facility.

23. ***IBM Security Interest Subordination Agreement.*** That certain Security Interest Subordination Agreement dated as of March 7, 2012 (as amended restated, supplemented or otherwise modified from time to time), by and among Wells Fargo Capital Finance, LLC and IBM Credit, LLC.

24. ***Investigation Period***. The period from the Filing Date until the date that is the earliest of (1) seventy-five (75) days after the Filing Date, (2) sixty (60) days after the date that a Committee is formed, and (3) unless the Prepetition Lenders or Postpetition Lenders have credit bid for the Debtors' assets, the date that the Court enters an order approving the sale of substantially all of the assets of the Debtors.

25. ***Obligations.*** The "Obligations" as that term is defined in the Postpetition Credit Agreement.

26. ***Permitted Priority Liens***. Collectively, (a) the Carveout and the Stalking Horse Bid Protections, and (b) liens in favor of third parties upon the Prepetition Collateral, which third-party liens, as of the Filing Date: (1) had priority under applicable law over the Prepetition Liens, (2) were not subordinated by agreement or applicable law, and (3) were non-avoidable, valid, properly perfected and enforceable as of the Filing Date.

27. ***Postpetition Charges***. Interest at the applicable rate of interest under the Postpetition Credit Agreement and all fees, costs, and expenses provided for in the Postpetition Credit Agreement, including those incurred by Postpetition Agent and Postpetition Lenders in connection with the Postpetition Debt (regardless of whether any such fees, costs, interest and other charges are included in the Budget).

28. ***Postpetition Collateral***. All of the real and personal property of Debtors of any description whatsoever, wherever located and whenever arising or acquired, including all cash, accounts, inventory, equipment, fixtures, chattel paper, general intangibles (including, upon entry of the Final Order, claims and proceeds under Code §§ 544, 547, 548, 549, 550 and 553), all leaseholds, all commercial torts, all other "Collateral" (as that term is defined in the Postpetition Credit Agreement), and all proceeds, rents, issues, profits and products, whether tangible or intangible, of any of the foregoing, including proceeds of insurance covering any of the foregoing.

29. ***Postpetition Credit Agreement***. That certain Debtor-in-Possession Credit Agreement dated as of April _____, 2017, by and between Debtors, Postpetition Agent and Postpetition Lenders party thereto, as amended, modified, or supplemented from time to time.

30. ***Postpetition Debt***. All indebtedness or obligations of Debtors to Postpetition Agent and Postpetition Lenders incurred on or after the Filing Date pursuant to this

Order or otherwise, including, without limitation, all Obligations and any advances made by Postpetition Lenders to pay the Carveout.

31. ***Postpetition Documents***. The Postpetition Credit Agreement and the "Loan Documents" (as that term is defined in the Postpetition Credit Agreement).

32. ***Postpetition Liens***. Priority Liens in the Aggregate Collateral, subject only to Permitted Priority Liens, Replacement Liens, and Prepetition Liens.

33. ***Post-Termination Date Carveout Amount***. Collectively, (a) $250,000 in the aggregate for all Carveout Professionals, which shall be used by the Debtors for the sole purpose of funding the Carveout Professionals or a trustee for amounts first arising after the Termination Date, and (b) the Stalking Horse Carveout Amount.

34. ***Prepetition Collateral***. All property of the Debtors that constitutes the "Collateral" (as that term is defined in the that certain Guaranty and Security Agreement, dated as of May 7, 2012 (as amended, supplemented, restated or otherwise modified from time to time) by and among Debtors, the other Grantors party thereto and Prepetition Agent (on behalf of the Prepetition Lenders)) existing as of the Filing Date, and all proceeds, rents, issues, profits and products thereof.

35. ***Prepetition Credit Agreement***. That certain Credit Agreement dated as of May 7, 2012, by and among Debtors, the other Loan Parties party thereto, Prepetition Agent and Prepetition Lenders party thereto, as amended, modified and supplemented from time to time.

36. ***Prepetition Debt***. (a) All indebtedness or obligations under the Prepetition Documents as of the Filing Date, including all "Obligations" (as defined in the Prepetition Credit Agreement), and all fees, costs, interest, and expenses as and when due and payable pursuant to the Prepetition Documents, plus (b) all Allowable 506(b) Amounts.

37. ***Prepetition Documents***. The Prepetition Credit Agreement and the "Loan Documents" (as that term is defined in the Prepetition Credit Agreement).

38. ***Prepetition Liens***. Prepetition Agent's (on behalf of Prepetition Lenders) asserted security interests in the Prepetition Collateral under the Prepetition Documents, subject only to Permitted Priority Liens.

39. ***Prepetition Third Party Documents***. Collectively, Debtors' deposit account control agreements, leases, licenses, landlord agreements, warehouse agreements, bailment agreements, insurance policies, contracts or other similar agreements in which Prepetition Agent has an interest.

40. ***Priority Liens***. Liens which are first priority, properly perfected, valid and enforceable security interests, which are not subject to any claims, counterclaims, defenses, setoff, recoupment or deduction, and which are otherwise unavoidable and not subject to recharacterization or subordination pursuant to any provision of the Code, any agreement, or applicable nonbankruptcy law.

41. ***Replacement Liens***. Priority Liens in the Postpetition Collateral granted to Prepetition Agent (for the benefit of the Prepetition Lenders) pursuant to this Order.

42. ***Stalking Horse Asset Purchase Agreement***. That certain Asset Purchase Agreement dated as of April 9, 2017, entered into by and among Capgemini America, Inc., as the Purchaser ("Purchaser"), and CIBER, Inc. and, solely for the limited purposes set forth therein, CIBERsites India Private Limited, as Sellers, as in effect on the date hereof.

43. ***Stalking Horse Bid Protections***. Collectively, (a) the Stalking Horse Break Up Fee, and (b) the Stalking Horse Carveout Amount.

44. ***Stalking Horse Break Up Fee***. Only in the event of the consummation of an "Alternative Transaction" (as defined in the Stalking Horse Asset Purchase Agreement), the claims of Purchaser under the Stalking Horse Asset Purchase Agreement for the "Break Up Fee" (as such term is defined in the Stalking Horse Asset Purchase Agreement), in an amount not to exceed $1,500,000.

45. ***Stalking Horse Carveout Amount***. Effective upon entry in these Cases of (a) the Final Order and (b) a sales procedures order in form and substance acceptable to Agent that approves, *inter alia*, the Stalking Horse Bid Protections, an amount equal to the claims of Purchaser for the Expense Reimbursement up to $500,000.

46. ***Termination Date***. At Postpetition Agent's election, the earliest to occur of: (a) the date on which Postpetition Agent provides, via electronic or overnight mail, written notice to counsel for Debtors and counsel for any Committee of the occurrence and continuance of an Event of Default; (b) the date that is twenty five (25) days following the entry of this Order if the Final Order is not entered in form and substance satisfactory to Postpetition Agent by such date; (c) the date of the Final Hearing, if this Order is modified at the Final Hearing in a manner unacceptable to Agents and Lenders; (d) the closing date of the sale of substantially all of the assets of the Debtors; (e) the date on which the Aggregate Debt is indefeasibly paid in full in cash; and (f) the date that is forty-five (45) days after the Filing Date.

47. ***Trustee***. Any trustee appointed or elected in the Cases.

EXHIBIT B

BUDGET

Ciber
Cash Flow Forecast - DIP Budget - WE 4/08 Filing
($ 000s)

	Wk of Forecast	*1*	*2*	*3*	*4*	*5*	*6*	
	Wk Ending ->>	4/15/2017	4/22/2017	4/29/2017	5/6/2017	5/13/2017	5/20/2017	Total
		Fcst	*Fcst*	*Fcst*	*Fcst*	*Fcst*	*Fcst*	*Fcst*
RECEIPTS								
NA		3,684	5,222	4,446	6,033	4,919	7,312	31,615
India		15	15	665	15	15	15	739
International		-	-	-	-	-	-	-
Total Accounts Receivable		3,698	5,237	5,111	6,048	4,934	7,327	32,354
Total Other (Non AR) Receipts (1)		-	-	-	-	-	50,000	50,000
Total Receipts		3,698	5,237	5,111	6,048	4,934	57,327	82,354
DISBURSEMENTS								
NA		500	7,226	405	6,450	405	8,924	23,910
India		-	-	1,500	-	-	-	1,500
International		-	-	298	-	-	-	298
Total Payroll		500	7,226	2,203	6,450	405	8,924	25,708
NA		3,455	2,035	1,711	1,710	2,261	1,922	13,093
India		125	125	450	125	125	125	1,075
International		175	178	100	52	52	90	647
Total Accounts Payable		3,755	2,338	2,261	1,887	2,438	2,137	14,815
Total Employee Expense Reports		203	203	180	180	180	180	1,125
Restructuring Professional Fees (2)		-	-	-	-	-	5,128	5,128
Total Other (Interest/Fees/etc) (3)		400	-	400	276	-	558	1,633
Total Disbursements		4,858	9,767	5,044	8,793	3,023	16,926	48,409
Net (before Financing and other adjustments)		(1,159)	(4,530)	67	(2,745)	1,911	40,402	33,946
Change in Float/FX change/Restricted cash		-	(0)	-	-	(68)	1	(67)
Borrow/(Pay down) WF		(3,564)	(5,237)	(5,111)	(6,048)	(4,934)	(3,564)	(28,457)
Borrow/(Pay down) DIP		4,858	9,767	5,044	8,793	3,090	(31,551)	-
Net activity - Change in Cash		135	-	-	-	-	5,287	5,422
Opening Cash Balance		165	300	300	300	300	300	165
Closing Cash Balance		300	300	300	300	300	5,587	5,587
Amount Owing to IBM							*1,861*	*1,861*
Closing Cash less Amount Owing to IBM							*3,726*	*3,726*
Borrowing in Wells facility		24,893	19,656	14,546	8,498	3,564	-	-
Borrowing in DIP Facility (4)		4,858	14,624	19,668	28,461	31,551	-	-
Total WF Borrowings (5)		29,751	34,281	34,213	36,959	35,115	-	-
Borrowing Base (6)		37,339	37,289	37,239	37,189	37,139	-	-

(1) WE 5/20 - Sale of company for $50M estimated net proceeds
(2) Represents estimated restructuring professional fees in a chapter 11 for Company and lender advisors
(3) Total Other (Interest/Fees/etc) includes: WE 4/15, 4/29 and 5/20 $400k each related to fees on the DIP facility per DIP credit agreement (interim order, final order and 35th day); assumes post-filing interest on the DIP facility at base rate plus 5.25% per DIP credit agreement
(4) Assumes that collections are applied against pre-petition debt outstanding until paid down and then begin to pay down the DIP facility; all disbursements assumed to be drawn against the DIP facility
(5) Does not include debt with IBM,estimated at $1.9M as of filing
(6) Borrowing base forecast calculation is preliminary and subject to material change based on actual results

Case 17-10772 Doc 12-1 Filed 04/10/17 Page 26 of 27

DIP Model Assumptions /Inputs

Filing Date (Post - COB)	4/9/2017
Sale of Company Date	5/20/2017
Sale of Company Amount	50,000
Paydown Date - DIP	5/20/2017
Paydown Amount - DIP	31,551
Paydown Date - Pre-Petition	5/20/2017
Paydown Amount - Pre-Petition	3,564

Professional Fees - Carve-Out Budget

	1 4/15/2017 Fcst	2 4/22/2017 Fcst	3 4/29/2017 Fcst	4 5/6/2017 Fcst	5 5/13/2017 Fcst	6 5/20/2017 Fcst
Total Restructuring Professional Fees	***880***	***635***	***565***	***478***	***598***	***1,973***
Company - Legal Advisor	350	250	200	200	200	100
Company - Investment Banker	125	-	-	-	125	1,600
Company - Financial Advisor	190	170	150	125	120	120
Local Counsel - Saul Ewing	50	50	50	50	50	50
Claims Agent	40	40	40	40	40	40
Total Company Advisor	*755*	*510*	*440*	*415*	*535*	*1,910*
WF - Legal Advisor	75	75	75	38	38	38
WF - Financial Advisor	50	50	50	25	25	25
Total WF Advisor	*125*	*125*	*125*	*63*	*63*	*63*

DIP Borrowings Schedule

Total WF Borrowings	***29,751***	***34,281***	***34,213***	***36,959***	***35,115***	***36,854***
WF Borrowing Base	28,339	28,289	28,239	28,189	28,139	28,089
Overadvance	9,000	9,000	9,000	9,000	9,000	9,000
WF Borrowing Base (Incl. Overadvance)	37,339	37,289	37,239	37,189	37,139	37,089
Additional Overadvance for Cum. Prof. Fee Carve Out	880	1,515	2,080	2,558	3,155	4,128
WF Borrowing Base incl. Carve Out and Overadvance	38,219	38,804	39,319	39,747	40,294	41,217
Line Limit	37,000	37,000	37,000	41,000	41,000	41,000
Preliminary WF Borrowing plus Carve Out Reserve	30,631	35,796	36,293	39,516	38,270	40,982
Additional Overadvance/(Availability)	**6,369**	**1,204**	**707**	**230**	**2,024**	**18**

Case 17-10772 Doc 12-1 Filed 04/10/17 Page 27 of 27

EXHIBIT B

Postpetition Credit Agreement

Filing Version

DEBTOR-IN-POSSESSION CREDIT AGREEMENT

by and among

WELLS FARGO BANK, N.A.

as Administrative Agent,

THE LENDERS THAT ARE PARTIES HERETO

as the Lenders,

CIBER, INC.,

CIBER CONSULTING, INCORPORATED and

CIBER INTERNATIONAL LLC

as Borrowers

Dated as of April [__], 2017

TABLE OF CONTENT

1. DEFINITIONS AND CONSTRUCTION. 2

1.1. Definitions 2
1.2. Accounting Terms 2
1.3. Code 2
1.4. Construction; Repayment in Full 2
1.5. Time References 4
1.6. Schedules and Exhibits 4

2. LOANS AND TERMS OF PAYMENT. 4

2.1. Revolving Loans. 4
2.2. Reserved. 5
2.3. Borrowing Procedures and Settlements. 5
2.4. Payments; Reductions of Commitments; Prepayments. 8
2.5. Promise to Pay; Lender Group Expenses 13
2.6. Interest Rates, Payments, and Calculations. 13
2.7. Crediting Payments 14
2.8. Designated Account 14
2.9. Maintenance of Loan Account; Statements of Obligations 14
2.10. Fees. 15
2.11. Reserved 16
2.12. Reserved 16
2.13. Capital Requirements. 16
2.14. Reserved 18
2.15. Reserved 18
2.16. Joint and Several Liability of Borrowers. 18
2.17. Cash Management 20

3. CONDITIONS; TERM OF AGREEMENT. 20

3.1. Conditions Precedent to the Initial Extension of Credit 20
3.2. Conditions Precedent to all Extensions of Credit 20
3.3. Maturity 21
3.4. Effect of Maturity 21
3.5. Early Termination by Borrowers 21

4. REPRESENTATIONS AND WARRANTIES 21

4.1. Due Organization and Qualification 22
4.2. Due Authorization; No Conflict 22
4.3. Governmental Consents 23
4.4. Binding Obligations; Perfected Liens. 23
4.5. Title to Assets; No Encumbrances 24
4.6. Litigation. 24
4.7. Compliance with Laws 24
4.8. No Material Adverse Effect 24
4.9. Reserved. 24
4.10. Employee Benefits 24

4.11. Environmental Condition 25
4.12. Complete Disclosure 25
4.13. Patriot Act 26
4.14. Reserved 26
4.15. Payment of Taxes 26
4.16. Margin Stock 26
4.17. Governmental Regulation 26
4.18. OFAC 27
4.19. Employee and Labor Matters 27
4.20. Reserved 27
4.21. Reserved 27
4.22. Eligible Accounts 27
4.23. Locations of Chief Executive Office 28
4.24. Financing Order 28

5. AFFIRMATIVE COVENANTS. 28

5.1. Financial Statements, Reports, Certificates 28
5.2. Reporting 28
5.3. Existence 28
5.4. Maintenance of Properties 29
5.5. Taxes 29
5.6. Insurance 29
5.7. Inspection 30
5.8. Compliance with Laws 30
5.9. Environmental 30
5.10. Disclosure Updates 31
5.11. Further Assurances 31
5.12. Reserved 31
5.13. Location of Chief Executive Office 31
5.14. Reserved 32
5.15. Chief Restructuring Officer 32
5.16. Sale Milestones 32
5.17. Bankruptcy Matters 32

6. NEGATIVE COVENANTS. 32

6.1. Indebtedness 32
6.2. Liens 32
6.3. Restrictions on Fundamental Changes 32
6.4. Disposal of Assets 32
6.5. Nature of Business 33
6.6. Prepayments and Amendments 33
6.7. Restricted Payments 33
6.8. Accounting Methods 33
6.9. Investments 33
6.10. Transactions with Affiliates 34
6.11. Use of Proceeds 34
6.12. Limitation on Issuance of Equity Interests 34

6.13. Change Name 34
6.14. Reserved 34
6.15. Financing Order 35
7. FINANCIAL COVENANTS 35
8. EVENTS OF DEFAULT 35
8.1. Payments 35
8.2. Covenants 36
8.3. Judgments 36
8.4. Reserved 36
8.5. Reserved 36
8.6. Reserved 36
8.7. Representations, etc 36
8.8. Guaranty 36
8.9. Security Documents 36
8.10. Loan Documents 36
8.11. Change of Control 37
8.12. Reserved 37
8.13. Reserved 37
8.14. Reserved 37
8.15. Curtailment of Business 37
8.16. Reserved 37
8.17. Reserved 37
8.18. Reserved 37
8.19. Bankruptcy Defaults 37
9. RIGHTS AND REMEDIES 40
9.1. Rights and Remedies 40
9.2. Remedies Cumulative 40
10. WAIVERS; INDEMNIFICATION 41
10.1. Demand; Protest; etc 41
10.2. Lender Group's Liability for Collateral 41
10.3. Indemnification 41
11. NOTICES 42
12. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER; JUDICIAL REFERENCE PROVISION 43
13. ASSIGNMENTS AND PARTICIPATIONS; SUCCESSORS 45
13.1. Assignments and Participations 45
13.2. Successors 48
14. AMENDMENTS; WAIVERS 48
14.1. Amendments and Waivers 48
14.2. Reserved 48
14.3. No Waivers; Cumulative Remedies 48

15. AGENT; THE LENDER GROUP. 49

15.1. Appointment and Authorization of Agent 49
15.2. Delegation of Duties 50
15.3. Reserved 50
15.4. Reserved 50
15.5. Reserved 50
15.6. Reserved 50
15.7. Reserved 50
15.8. Reserved 50
15.9. Successor Agent 50
15.10. Reserved 50
15.11. Collateral Matters 51
15.12. Reserved 52
15.13. Agency for Perfection 52
15.14. Payments by Agent to the Lenders 52
15.15. Concerning the Collateral and Related Loan Documents 52
15.16. Reserved 53
15.17. Several Obligations; No Liability 53
15.18. Lead Arranger and Sole Book Runner 53

16. WITHHOLDING TAXES. 53

17. GENERAL PROVISIONS. 57

17.1. Effectiveness 57
17.2. Section Headings 57
17.3. Interpretation 57
17.4. Severability of Provisions 57
17.5. Bank Product Providers 57
17.6. Debtor-Creditor Relationship 58
17.7. Counterparts; Electronic Execution 58
17.8. Revival and Reinstatement of Obligations; Certain Waivers 58
17.9. Confidentiality. 59
17.10. Survival 60
17.11. Patriot Act 60
17.12. Integration 61
17.13. Administrative Borrowers 61

EXHIBITS AND SCHEDULES [To be updated]

Exhibit A	Approved Budget
Exhibit B-1	Form of Borrowing Base Certificate
Exhibit B-2	Form of Bank Product Provider Agreement
Exhibit C-1	Form of Compliance Certificate
Schedule A-1	Agent's Accounts
Schedule A-2	Authorized Persons
Schedule C-1	Commitments and Applicable Designees
Schedule C-2	Non-Wholly Owned Loan Parties
Schedule D-2	US Designated Account
Schedule P-1	Permitted Investments
Schedule P-2	Permitted Liens
Schedule 1.1	Definitions
Schedule 3.1	Conditions Precedent
Schedule 4.1(c)	Capitalization of Borrower
Schedule 4.1(d)	Subscriptions, Options, Warrants and Calls
Schedule 4.14	Permitted Indebtedness
Schedule 4.19	Employee and Labor Matters
Schedule 4.21	Leases
Schedule 4.23	Location of Chief Executive Offices
Schedule 4.6	Litigation
Schedule 4.8	No Material Adverse Effect
[Schedule 4.19	Employee and Labor Matters]
Schedule 4.21	Leases
Schedule 5.1	Financial Statements, Reports, Certificates
Schedule 5.2	Collateral Reporting
Schedule 5.16	Sale Milestones

DEBTOR-IN-POSSESSION CREDIT AGREEMENT

THIS DEBTOR-IN-POSSESSION CREDIT AGREEMENT (this "Agreement"), is entered into as of April [__], 2017, by and among the lenders identified on the signature pages hereof (each of such lenders, together with its successors and permitted assigns, is referred to hereinafter as a "Lender", as that term is hereinafter further defined), **WELLS FARGO BANK, N.A.**, a national banking association, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, "Agent"), **CIBER, INC.**, a Delaware corporation (the "Company"), **CIBER CONSULTING, INCORPORATED**, an Illinois corporation ("CIBER Consulting") and **CIBER INTERNATIONAL LLC**, a Delaware limited liability company ("CIBER International"); together with the Company, CIBER Consulting and any other Person joined to this Agreement from time to time as a borrower, collectively the "Borrowers" and each individually a "Borrower").

WHEREAS, on April 9, 2017 (the "Filing Date"), Borrowers and certain of their affiliates (collectively, the "Debtors") filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code, which petitions are identified as Bankruptcy Case No. 17-[_____] (jointly administered) (collectively, the "Cases") before the United Stated Bankruptcy Court for the District of Delaware (together with any other court having competent jurisdiction over the Cases from time to time, the "Bankruptcy Court");

WHEREAS, the Debtors continue to operate their businesses and manage their properties as debtors-in-possession under Section 1107 and 1108 of the Bankruptcy Code;

WHEREAS, pursuant to that certain Credit Agreement, dated as of May 7, 2012 (as amended, restated, supplemented, or otherwise modified from time to time, the "Prepetition Credit Agreement"), by and among Company, other parties from time to time party thereto as borrowers (collectively with Company, the "Prepetition Borrowers"), the lenders from time to time party thereto (the "Prepetition Lenders"), and Wells Fargo Bank, N.A. as administrative agent for the Lenders (in such capacity, the "Prepetition Agent"), Prepetition Lenders made certain term loans, revolving loans, and other financial accommodations available to the Prepetition Borrowers prior to the Filing Date on the terms and conditions set forth therein, which loans and other financial accommodations and all other Prepetition Obligations (as defined below) are secured by Liens on substantially all the assets of the Prepetition Borrowers;

WHEREAS, the Borrowers have requested the Lenders provide a secured revolving credit facility (the "DIP Facility") to the Borrowers to (i) fund certain fees and expenses associated with the DIP Facility incurred during the Cases, (ii) finance the ongoing general corporate needs of the Borrowers and the other Debtors, subject to the Approved Budget, (iii) pay for certain of the Debtors' administrative expenses incurred during the Cases as debtors and debtors-in-possession under the Bankruptcy Code, subject to the Approved Budget, and (iv) provide for adequate protection in favor of the Prepetition Lenders; and

WHEREAS, Agent and Lenders are willing to provide the DIP Facility on the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND CONSTRUCTION.

1.1. **Definitions**. Capitalized terms used in this Agreement shall have the meanings specified therefor on Schedule 1.1.

1.2. **Accounting Terms**. All accounting terms not specifically defined herein shall be construed in accordance with GAAP; provided, that if any Borrower notifies Agent that Borrowers request an amendment to any provision hereof to eliminate the effect of any Accounting Change occurring after the Closing Date or in the application thereof on the operation of such provision (or if Agent notifies any Borrower that it requests an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such Accounting Change or in the application thereof, then Agent and Borrowers agree that they will negotiate in good faith amendments to the provisions of this Agreement that are directly affected by such Accounting Change with the intent of having the respective positions of the Lenders and Borrowers after such Accounting Change conform as nearly as possible to their respective positions as of the date of this Agreement and, until any such amendments have been agreed upon and agreed to by the Required Lenders, the provisions in this Agreement shall be calculated as if no such Accounting Change had occurred. When used herein, the term "financial statements" shall include the notes and schedules thereto. Whenever the term " Borrower" is used in respect of a financial covenant or a related definition, it shall be understood to mean Borrowers on a consolidated basis, unless the context clearly requires otherwise. Notwithstanding anything to the contrary contained herein, (a) all financial statements delivered hereunder shall be prepared, and all financial covenants contained herein shall be calculated, without giving effect to any election under the Statement of Financial Accounting Standards No. 159 (or any similar accounting principle) permitting a Person to value its financial liabilities or Indebtedness at the fair value thereof, and (b) the term "unqualified opinion" as used herein to refer to opinions or reports provided by accountants shall mean an opinion or report that is (i) unqualified, and (ii) does not include any explanation, supplemental comment, or other comment concerning the ability of the applicable Person to continue as a going concern or concerning the scope of the audit.

1.3. **Code**. Any terms used in this Agreement that are defined in the Code shall be construed and defined as set forth in the Code unless otherwise defined herein; provided, that to the extent that the Code is used to define any term herein and such term is defined differently in different Articles of the Code, the definition of such term contained in Article 9 of the Code shall govern.

1.4. **Construction; Repayment in Full**. Unless the context of this Agreement or any other Loan Document clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, the terms "includes" and "including" are not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder," and similar terms in this Agreement or any other Loan Document refer to this Agreement or such

other Loan Document, as the case may be, as a whole and not to any particular provision of this Agreement or such other Loan Document, as the case may be. Unless the context of this Agreement or any other Loan Document clearly requires otherwise, references to "law" means all international, foreign, federal, state, provincial and local statutes, treaties, rules, guidelines, regulations, by-laws, ordinances, decrees, codes and administrative or judicial or arbitral or administrative or ministerial or departmental or regulatory precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case, whether or not having the force of law. Section, subsection, clause, schedule, and exhibit references herein are to this Agreement unless otherwise specified. Any reference in this Agreement or in any other Loan Document to any agreement, instrument, or document shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements, thereto and thereof, as applicable (subject to any restrictions on such alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements set forth herein). The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties. Any reference herein or in any other Loan Document to the satisfaction, repayment, or payment in full of the Obligations shall mean (a) the payment or repayment in full in immediately available funds of (i) the principal amount of, and interest accrued and unpaid with respect to, all outstanding Loans, together with the payment of any premium applicable to the repayment of the Loans, (ii) all Lender Group Expenses that have accrued and are unpaid regardless of whether demand has been made therefor, (iii) all fees or charges that have accrued hereunder or under any other Loan Document (including without limitation the Unused Line Fee) and are unpaid, (b) in the case of obligations with respect to Bank Products (other than Hedge Obligations), providing Bank Product Collateralization, (c) the receipt by Agent of cash collateral in order to secure any other contingent Obligations for which a claim or demand for payment has been made on or prior to such time or in respect of matters or circumstances known to Agent or a Lender at such time that are reasonably expected to result in any loss, cost, damage, or expense (including attorneys' fees and legal expenses), such cash collateral to be in such amount as Agent reasonably determines is appropriate to secure such contingent Obligations, (d) the payment or repayment in full in immediately available funds of all other outstanding Obligations (including the payment of any termination amount then applicable (or which would or could become applicable as a result of the repayment of the other Obligations) under Hedge Agreements provided by Hedge Providers) other than (i) unasserted contingent indemnification Obligations, (ii) any Bank Product Obligations (other than Hedge Obligations) that, at such time, are allowed by the applicable Bank Product Provider or the agreements relating thereto to remain outstanding without being required to be repaid or cash collateralized, and (iii) any Hedge Obligations that, at such time, are allowed by the applicable Hedge Provider or the agreements relating thereto to remain outstanding without being required to be repaid, (e) the termination of all of the Commitments of the Lenders, and (f) delivery of a general release of any and all claims and causes of action of Loan Parties against Agent and Lenders. Any reference herein or in any Loan Document to the satisfaction, repayment, or payment in full of the Prepetition Obligations or Reinstated Prepetition Obligations shall mean the payment or repayment in full in immediately available funds of all outstanding Prepetition Obligations or Reinstated Prepetition Obligations,

as the case may be, other than unasserted contingent indemnification obligations. Any reference herein to any Person shall be construed to include such Person's successors and assigns. Any requirement of a writing contained herein or in any other Loan Document shall be satisfied by the transmission of a Record.

1.5. **Time References**. Unless the context of this Agreement or any other Loan Document clearly requires otherwise, all references to time of day refer to Pacific standard time or Pacific daylight saving time, as in effect in Los Angeles, California on such day. For purposes of the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each means "to and including"; provided that, with respect to a computation of fees or interest payable to Agent or any Lender, such period shall in any event consist of at least one full day.

1.6. **Schedules and Exhibits**. All of the schedules and exhibits attached to this Agreement shall be deemed incorporated herein by reference.

2. LOANS AND TERMS OF PAYMENT.

2.1. **Revolving Loans**.

(a) Subject to the terms and conditions of this Agreement and Financing Order, and during the term of this Agreement, each Revolving Lender agrees (severally, not jointly or jointly and severally) to make revolving loans ("Revolving Loans") to Borrowers in an amount at any one time outstanding not to exceed the lesser of:

(i) such Lender's Revolver Commitment, or

(ii) such Lender's Pro Rata Share of an amount equal to the lesser of:

(A) the amount equal to (1) the Maximum Revolver Amount less the Prepetition Obligations outstanding at such time (including any Reinstated Prepetition Obligations then outstanding), and

(B) the amount equal to (1) the Borrowing Base as of such date (based upon the Borrowing Base set forth in the most recent Borrowing Base Certificate delivered by Borrowers to Agent) less (2) the Prepetition Obligations outstanding at such time (including any Reinstated Prepetition Obligations then outstanding).

(b) Anything to the contrary in this Section 2.1 notwithstanding, Agent shall have the right (but not the obligation), in the exercise of its Permitted Discretion, to establish and increase or decrease Receivable Reserves, Bank Product Reserves, Carveout Reserve, and other Reserves against the Borrowing Base or the Maximum Revolver Amount; provided that, prior to entry of the Final Order, the Agent shall not establish, increase or decrease any Receivable Reserves, Bank Product Reserves, Carveout Reserve or other Reserves against the Maximum Revolver Amount (without affecting its rights in respect of Reserves against the Borrowing Base).

(c) Amounts borrowed pursuant to this Section 2.1 may be repaid and, subject to the terms and conditions of this Agreement, reborrowed at any time during the term of this Agreement. The outstanding principal amount of the Revolving Loans, together with interest accrued and unpaid thereon, shall constitute Obligations and shall be due and payable on the Maturity Date or, if earlier, on the date on which they are declared due and payable pursuant to the terms of this Agreement.

(d) Anything to the contrary in this Section 2.1 notwithstanding, at no time shall Revolver Usage plus the amount of Prepetition Obligations then outstanding (including any Reinstated Prepetition Obligations then outstanding) exceed the Maximum Revolver Amount.

(e) From and after the date hereof, notwithstanding anything to the contrary in the Credit Agreement or other Loan Documents, (i) Lenders shall only be required to make, and Borrowers shall only be permitted to request, Revolving Loans (x) to pay accrued expenses in the Approved Budget, as and when such expenses are due and payable by Borrowers, and (y) in accordance with the other terms and conditions of the Financing Order, the Credit Agreement, this Agreement, and the other Loan Documents.

2.2. **Reserved.**

2.3. **Borrowing Procedures and Settlements.**

(a) **Procedure for Borrowing Revolving Loans.** Each Borrowing shall be made by a written request by an Authorized Person of Company, (i) delivered to Agent and received by Agent no later than 10:00 a.m. on the Business Day that is the requested Funding Date in the case of a request for a Swing Loan, and (ii) delivered to Agent and received by Agent no later than 10:00 a.m. on the requested Funding Date in the case of other Revolving Loans that are Base Rate Loans, in each case, specifying (A) the amount of such Borrowing and (B) the requested Funding Date (which shall be a Business Day); provided, that Agent may, in its sole discretion, elect to accept as timely requests that are received later than 10:00 a.m. on the applicable Business Day. At Agent's election, in lieu of delivering the above-described written request, any Authorized Person may give Agent telephonic notice of such request by the required time. In such circumstances, Borrowers agree that any such telephonic notice will be confirmed in writing within 24 hours of the giving of such telephonic notice, but the failure to provide such written confirmation shall not affect the validity of the request.

(b) **Reserved.**

(c) **Making of Revolving Loans.**

(i) After receipt of a request for a Borrowing pursuant to Section 2.4(a), Agent shall notify the Lenders by telecopy, telephone, email, or other electronic form of transmission, of the requested Borrowing. If Agent has timely notified the applicable Lenders of a requested Borrowing as provided above, then each applicable Lender shall make the amount of such Lender's Pro Rata Share of the requested Borrowing available to Agent in immediately available funds to Agent's Account, not later than 10:00 a.m. on the Business Day that is the requested Funding Date. After Agent's receipt of the proceeds of such Revolving Loans from the applicable Lenders, Agent shall make the proceeds thereof available to Borrowers on the

applicable Funding Date by transferring immediately available funds in the Applicable Currency equal to such proceeds received by Agent to the Designated Account; provided, that, subject to the provisions of Section 2.3(d)(ii), no Lender shall have an obligation to make any Revolving Loan, if (1) one or more of the applicable conditions precedent set forth in Section 3 will not be satisfied on the requested Funding Date for the applicable Borrowing unless such condition has been waived, or (2) the requested Borrowing would exceed the Availability on such Funding Date.

(ii) Unless Agent receives notice from an applicable Lender prior to 9:30 a.m. on the Business Day that is the requested Funding Date relative to a requested Borrowing as to which Agent has notified the applicable Lenders of a requested Borrowing that such Lender will not make available as and when required hereunder to Agent for the account of Borrowers, the amount of that Lender's Pro Rata Share of the Borrowing, Agent may assume that each applicable Lender has made or will make such amount available to Agent in immediately available funds in the Applicable Currency on the Funding Date and Agent may (but shall not be so required), in reliance upon such assumption, make available to Borrowers a corresponding amount. If, on the requested Funding Date, any Lender shall not have remitted the full amount that it is required to make available to Agent in immediately available funds and if Agent has made available to Borrowers such amount on the requested Funding Date, then such Lender shall make the amount of such Lender's Pro Rata Share of the requested Borrowing available to Agent in immediately available funds, to Agent's Account, no later than 10:00 a.m. on the Business Day that is the first Business Day after the requested Funding Date (in which case, the interest accrued on such Lender's portion of such Borrowing for the Funding Date shall be for Agent's separate account). If any Lender shall not remit the full amount that it is required to make available to Agent in immediately available funds as and when required hereby and if Agent has made available to Borrowers such amount, then that Lender shall be obligated to immediately remit such amount to Agent. A notice submitted by Agent to any Lender with respect to amounts owing under this Section 2.3(c)(ii) shall be conclusive, absent manifest error. If the amount that a Lender is required to remit is made available to Agent, then such payment to Agent shall constitute such Lender's Revolving Loan for all purposes of this Agreement. If such amount is not made available to Agent on the Business Day following the Funding Date, Agent will notify Borrowers of such failure to fund and, upon demand by Agent, Borrowers shall pay such amount to Agent for Agent's account, together with interest thereon for each day elapsed since the date of such Borrowing, at a rate per annum equal to the interest rate applicable at the time to the applicable Revolving Loans composing such Borrowing.

(d) **Reserved.**

(e) **Settlement.** It is agreed that each Lender's funded portion of the (i) Revolving Loans is intended by the Lenders to equal, at all times, such Lender's Pro Rata Share of the outstanding Revolving Loans. Such agreement notwithstanding, Agent and the other Lenders agree (which agreement set forth in this clause (e) shall not be for the benefit of Borrowers) that in order to facilitate the administration of this Agreement and the other Loan Documents, settlement among the Lenders as to the Revolving Loans shall take place on a periodic basis in accordance with the following provisions:

(i) Agent shall request settlement ("Settlement") with the Lenders on a weekly basis, or on a more frequent basis if so determined by Agent in its sole discretion, with respect to Loan Parties, as to each by notifying the applicable Lenders by telecopy, telephone, or other similar form of transmission, of such requested Settlement, no later than 2:00 p.m. on the Business Day immediately prior to the date of such requested Settlement (the date of such requested Settlement being the "Settlement Date").

(f) **Notation.** Agent, as a non-fiduciary agent for Borrowers, shall maintain a register showing the principal amount of the Revolving Loans, owing to each Lender, and the interests therein of each Lender, from time to time and such register shall, absent manifest error, conclusively be presumed to be correct and accurate.

(g) **Reserved.**

(h) **Independent Obligations.** All Revolving Loans shall be made by the Lenders contemporaneously and in accordance with their Pro Rata Shares. It is understood that (i) no Lender shall be responsible for any failure by any other Lender to perform its obligation to make any Revolving Loan (or other extension of credit) hereunder, nor shall any Commitment of any Lender be increased or decreased as a result of any failure by any other Lender to perform its obligations hereunder, and (ii) no failure by any Lender to perform its obligations hereunder shall excuse any other Lender from its obligations hereunder.

2.4. **Payments; Reductions of Commitments; Prepayments.**

(a) **Payments by Borrowers.**

(i) Except as otherwise expressly provided herein, all payments by Borrowers shall be made to Agent's Account for the account of the Lender Group and shall be made in immediately available funds, no later than 1:30 p.m. on the date specified herein. Any payment received by Agent later than 1:30 p.m. shall be deemed to have been received (unless Agent, in its sole discretion, elects to credit it on the date received) on the following Business Day and any applicable interest or fee shall continue to accrue until such following Business Day.

(ii) Unless Agent receives notice from Borrowers prior to the date on which any payment is due to the Lenders that Borrowers will not make such payment in full as and when required, Agent may assume that Borrowers have made (or will make) such payment in full to Agent on such date in immediately available funds and Agent may (but shall not be so required), in reliance upon such assumption, distribute to each Lender on such due date an amount equal to the amount then due such Lender. If and to the extent Borrowers do not make such payment in full to Agent on the date when due, each Lender severally shall repay to Agent on demand such amount distributed to such Lender.

(b) **Apportionment and Application.**

(i) **Reserved.**

(ii) Except as otherwise set forth in the Financing Order, *provided* that the Prepetition Obligations and Reinstated Prepetition Obligations will be paid in full (pursuant to Section 1.4 of the Prepetition Credit Agreement) before any payment is applied to the Obligations (unless otherwise elected by "Prepetition Agent" (as defined in the Financing Order):

(A) All payments in respect of Obligations and all proceeds of Collateral securing the Obligations received by Agent shall be applied as follows:

(1) first, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to Agent under the Loan Documents in respect of the Obligations, until paid in full,

(2) second, to pay any fees or premiums then due to Agent under the Loan Documents in respect of the Obligations until paid in full,

(3) third, ratably, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to any of the Lenders under the Loan Documents in respect of the Obligations, until paid in full,

(4) fourth, ratably, to pay any fees or premiums then due to any of the Lenders under the Loan Documents in respect of the Obligations until paid in full,

(5) fifth, ratably, to pay interest accrued in respect of the Revolving Loans until paid in full,

(6) sixth, ratably,

i. to pay the principal of all Revolving Loans until paid in full,

(7) seventh, ratably, up to the amount of the most recently established Bank Product Reserve to (y) the Bank Product Providers based upon amounts then certified by the applicable Bank Product Providers to Agent (in form and substance satisfactory to Agent) to be due and payable to such Bank Product Providers on account of Bank Product Obligations (other than Former Lender Bank Product Obligations), and (z) with any balance to be paid to Agent, to be held by Agent, for the ratable benefit of the Bank Product Providers, as cash collateral (which cash collateral may be released by Agent to the applicable Bank Product Provider and applied by such Bank Product Provider to the payment or reimbursement of any amounts due and payable with respect to Bank Product Obligations (other than Former Lender Bank Product Obligations) owed to the applicable Bank Product Provider as and when such amounts first become due and payable and, if and at such time as all such Bank Product Obligations (other than Former Lender Bank Product Obligations) are paid or otherwise satisfied in full, the cash collateral held by Agent in respect of such Bank Product Obligations (other than Former Lender Bank Product Obligations) shall be reapplied pursuant to this Section 2.4(b)(ii), beginning with tier (A)(1) hereof,

(8) eighth, ratably, up to the amount for of the most recently established Bank Product Reserve to (y) the Bank Product Providers based upon amounts then certified by the applicable Bank Product Providers to Agent (in form and substance satisfactory to Agent) to be due and payable to such Bank Product Providers on account of Former Lender Bank Product Obligations, and (z) with any balance to be paid to Agent, to be held by Agent, for the ratable benefit of the Bank Product Providers, as cash collateral (which cash collateral may be released by Agent to the applicable Bank Product Provider and applied by such Bank Product Provider to the payment or reimbursement of any amounts due and payable with respect to Former Lender Bank Product Obligations owed to the applicable Bank Product Provider as and when such amounts first become due and payable and, if and at such time as all such Former Lender Bank Product Obligations are paid or otherwise satisfied in full, the cash collateral held by Agent in respect of such Former Lender Bank Product Obligations shall be reapplied pursuant to this Section 2.4(b)(ii), beginning with tier (A)(1) hereof, and

(9) ninth, to Borrowers (to be wired to the Designated Account) or such other Person entitled thereto under applicable law.

(iii) **Reserved.**

(iv) **Reserved.**

(v) In the event of a direct conflict between the priority provisions of this Section 2.4 and any other provision contained in this Agreement or any other Loan Document, it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, if the conflict relates to the provisions of this Section 2.4, then the terms and provisions of this Section 2.4 shall control and govern.

(c) **Reduction of Commitments.**

(i) The Commitments shall terminate on the Maturity Date. Borrowers may reduce the Revolver Commitments to an amount (which may be zero) not less than the sum of (A) the Revolver Usage as of such date, plus (B) the Prepetition Obligations and Reinstated Prepetition Obligations then-outstanding, plus (C) the principal amount of any Revolving Loans not yet made as to which a request has been given by Borrowers under Section 2.3(a). Each such reduction shall be in an amount which is not less than $5,000,000 (unless the applicable Commitments are being reduced to zero and the amount of the applicable Commitments in effect immediately prior to such reduction are less than $5,000,000), shall be made by providing not less than 5 Business Days prior written notice to Agent, and shall be, except as provided in Section 3.5, irrevocable. Once reduced, the Commitments may not be increased. Each such reduction of the Commitments shall reduce (x) the Commitments of each Lender proportionately in accordance with its ratable share thereof and (y) the Maximum Revolver Amount.

(d) **Optional Prepayments.**

(i) Subject to the Prepetition Obligations (including any Reinstated Prepetition Obligations) being fully and finally paid, Borrowers may prepay the principal of any Revolving Loan at any time in whole or in part.

(e) **Mandatory Prepayments.**

(i) **Maximum Revolver Amount; Borrowing Base.** If, at any time, (A) the Revolver Usage on such date plus the Prepetition Obligations and Reinstated Prepetition Obligations then-outstanding, exceeds (B) the Maximum Revolver Amount or (y) the Borrowing Base reflected in the Borrowing Base Certificate most recently delivered by Borrowers to Agent, then within one (1) Business Day thereof, Borrowers must prepay the Obligations in accordance with Section 2.4(f) in an aggregate amount equal to the amount of such excess.

(ii) **Dispositions.** Upon receipt by any Loan Party of the Net Cash Proceeds of any voluntary or involuntary sale or disposition by any Loan Party of assets (including casualty losses or condemnations), but excluding sales or dispositions which (x) qualify as Permitted Dispositions under clauses (b), (c), (e), (k), (l) and (m, but only with respect to Permitted Intercompany Advances) of the definition of Permitted Dispositions, Borrowers shall immediately prepay the outstanding principal amount of the Prepetition Obligations and, then, the Obligations in accordance with Section 2.4(f) in an amount equal to 100% of such Net Cash Proceeds (including condemnation awards and payments in lieu thereof) received by such Person in connection with such sales or dispositions. Nothing contained in this Section 2.4(e)(ii) shall permit any Loan Party to sell or otherwise dispose of any assets other than in accordance with Section 6.4.

(iii) **Extraordinary Receipts.** Upon receipt by any Loan Party of any Extraordinary Receipts, Borrowers shall immediately prepay the outstanding principal amount of the Prepetition Obligations and, then, Obligations in accordance with Section 2.3(f)(i) in an amount equal to 100% of such Extraordinary Receipts.

(iv) **Indebtedness.** Upon incurrence by any Loan Party of any Indebtedness (other than Permitted Indebtedness), Borrowers shall immediately prepay the outstanding principal amount of the Prepetition Obligations and, then, Obligations in accordance with Section 2.4(f) in an amount equal to 100% of the Net Cash Proceeds received by such Person in connection with such incurrence. The provisions of this Section 2.4(e)(iv) shall not be deemed to be implied consent to any such incurrence otherwise prohibited by the terms of this Agreement.

(v) **Equity.** Upon issuance by any Loan Party of any Equity Interests, Borrowers shall immediately prepay the outstanding principal amount of the Prepetition Obligations and, then, Obligations in accordance with Section 2.4(f) in an amount equal to 100% of the Net Cash Proceeds received by such Person in connection with such issuance. The provisions of this Section 2.4(e)(v) shall not be deemed to be implied consent to any such issuance otherwise prohibited by the terms of this Agreement.

(f) **Application of Payments**. Each prepayment pursuant to Section 2.4(e) shall be applied in the manner set forth in Section 2.4(b).

(g) **Disgorgement**. In the event that the Prepetition Lenders are required to repay or disgorge to any Debtor, or any representatives of any Debtor's estate (as agents, with derivative standing or otherwise) all or any portion of the Prepetition Obligations authorized and directed to be repaid pursuant to the Financing Order, or any payment on account of the Prepetition Obligations made to any Prepetition Lender is rescinded for any reason whatsoever, including, but not limited to, as a result of any Avoidance Action, or any other action, suit, proceeding or claim brought under any other provision of any applicable Bankruptcy Code or any applicable state or provincial law, or any other similar provisions under any other state, federal or provincial statutory or common law (all such amounts being hereafter referred to as the "Avoided Payments"), then, in such event, Borrowers shall prepay the outstanding principal amount of the Revolving Loans in an amount equal to 100% of such Avoided Payments immediately upon receipt of the Avoided Payments by Borrowers or any representative of any Borrower's estate, for application in accordance with subclause (b) above.

2.5. **Promise to Pay; Lender Group Expenses**. Each Borrower agrees to pay the Lender Group Expenses owing by any Borrower or any other Loan Party within 2 Business Days following the date on which the applicable Lender Group Expenses were invoiced to the Borrower; provided, however, that at any time that an Event of Default shall have occurred and be continuing, such Lender Group Expenses shall be due and payable on demand therefor is made by Agent (it being acknowledged and agreed that any charging of such costs, expenses or Lender Group Expenses to the applicable Loan Account pursuant to the provisions of Section 2.6(d) shall be deemed to constitute a demand for payment thereof for the purposes of this Section 2.5). Borrowers promise to pay all of the Obligations (including principal, interest, premiums, if any, fees, costs, and expenses (including Lender Group Expenses)) owing by Borrowers in full on the Maturity Date or, if earlier, on the date on which such Obligations (other than the Bank Product Obligations) become due and payable pursuant to the terms of this Agreement. Each Borrower agrees that the obligations contained in the first sentence of this Section 2.5 shall survive payment or satisfaction in full of all other Obligations.

2.6. **Interest Rates, Payments, and Calculations**.

(a) **Interest Rates**. Except as provided in Section 2.6(c),

(i) all Revolving Loans and all Obligations that have been charged to the Loan Account pursuant to the terms hereof shall bear interest at a per annum rate equal to the Base Rate plus the Base Rate Margin.

(b) **Reserved**.

(c) **Default Rate**. Upon the occurrence and during the continuation of an Event of Default and at the election of Agent or the Required Lenders, all Obligations that have been charged to the Loan Account pursuant to the terms hereof shall bear interest at a per annum rate equal to 2 percentage points above the per annum rate otherwise applicable thereunder.

(d) **Payment**. Except to the extent provided to the contrary in Section 2.10, (i) all interest and all other fees, costs, charges or commissions payable hereunder or under any of the other Loan Documents (other than pursuant to any Bank Product Agreement) shall be due and payable, in arrears, on the first day of each month and (ii) all Lender Group Expenses shall be due and payable hereunder, as applicable, pursuant to Sections 2.5, 2.9, and 17.11. If any Loan Party fails to pay any interest, fees, Lender Group Expenses or other amounts under the Loan Documents (including all other payment obligations payable under any Loan Document or any Bank Product Agreement (including any amounts due and payable to the Bank Product Providers in respect of Bank Products)) when due and payable, Borrowers hereby authorize Agent, from time to time without prior notice to Borrowers, to charge to the Loan Account for such amounts. All amounts charged to the Loan Account shall thereupon constitute Revolving Loans hereunder, shall constitute Obligations hereunder, and shall initially accrue interest at the rate then applicable to Revolving Loans that are Base Rate Loans.

(e) **Computation**. All interest and fees chargeable under the Loan Documents shall be computed on the basis of a 360 day year, in each case, for the actual number of days elapsed in the period during which the interest or fees accrue. In the event the Base Rate is changed from time to time hereafter, the rates of interest hereunder based upon the Base Rate automatically and immediately shall be increased or decreased by an amount equal to such change in the Base Rate.

(f) **Intent to Limit Charges to Maximum Lawful Rate**. In no event shall the interest rate or rates payable under this Agreement, plus any other amounts paid in connection herewith, exceed the highest rate permissible under any law that a court of competent jurisdiction shall, in a final determination, deem applicable. Loan Parties and the Lender Group, in executing and delivering this Agreement, intend legally to agree upon the rate or rates of interest and manner of payment stated within it; provided, that, anything contained herein to the contrary notwithstanding, if such rate or rates of interest or manner of payment exceeds the maximum allowable under applicable law, then, ipso facto, as of the date of this Agreement, Loan Parties are and shall be liable only for the payment of such maximum amount as is allowed by law, and payment received from Loan Parties in excess of such legal maximum, whenever received, shall be applied to reduce the principal balance of the Obligations to the extent of such excess.

2.7. **Crediting Payments**. The receipt of any payment item by Agent shall not be required to be considered a payment on account unless such payment item is a wire transfer of immediately available federal funds made to Agent's Account or unless and until such payment item is honored when presented for payment. Should any payment item not be honored when presented for payment, then Borrowers shall be deemed not to have made such payment and interest shall be calculated accordingly. Anything to the contrary contained herein notwithstanding, any payment item shall be deemed received by Agent only if it is received into Agent's Account on a Business Day on or before 1:30 p.m. If any payment item is received into Agent's Account on a non-Business Day or after 1:30 p.m. on a Business Day (unless Agent, in its sole discretion, elects to credit it on the date received), it shall be deemed to have been received by Agent as of the opening of business on the immediately following Business Day.

2.8. **Designated Account**. Agent is authorized to make the Revolving Loans under this Agreement based upon telephonic or other instructions received from anyone purporting to be an Authorized Person or, without instructions, if pursuant to Section 2.6(d). Each Borrower agrees to establish and maintain the Designated Account with the Designated Account Bank for the purpose of receiving the proceeds of the Revolving Loans requested by any Borrower and made by Agent or the Lenders hereunder. Unless otherwise agreed by Agent and any Borrower, any Revolving Loan requested by such Borrower and made by Agent or the Lenders hereunder shall be made to the Designated Account.

2.9. **Maintenance of Loan Account; Statements of Obligations**. Agent shall maintain an account on its books in the name of Borrowers (the "Loan Account") on which any Borrower will be charged with all Revolving Loans made by Agent or the Lenders to any Borrower or for any Borrower's account, and with all other payment Obligations hereunder or under the other Loan Documents, including, accrued interest, fees and expenses, and Lender Group Expenses with respect thereto. In accordance with Section 2.7, the Loan Account will be credited with all payments received by Agent from any Borrower or for any Borrower's account. Agent shall make available to each Borrower monthly statements regarding the Loan Account, including the principal amount of the Revolving Loans, interest accrued hereunder, fees accrued or charged hereunder or under the other Loan Documents, and a summary itemization of all charges and expenses constituting Lender Group Expenses accrued hereunder or under the other Loan Documents, and each such statement, absent manifest error, shall be conclusively presumed to be correct and accurate and constitute an account stated between Borrowers and the Lender Group unless, within 30 days after Agent first makes such a statement available to Borrowers, Borrowers shall deliver to Agent written objection thereto describing the error or errors contained in such statement.

2.10. **Fees**.

(a) **Unused Line Fee**. Borrowers shall pay to Agent, for the ratable account of the Lenders, on the first day of each month from and after the Closing Date up to the first day of the month prior to the date on which the Obligations, are paid in full and on the date on which the Obligations are paid in full, an unused line fee (the "Unused Line Fee") in an aggregate amount equal to (A)(1) if the average amount of the sum of the Revolver Usage plus the Revolver Usage under the Prepetition Credit Agreement during the immediately preceding month (or portion thereof) is greater than or equal to 50% of the aggregate amount of the Commitments, 0.50% per annum or (2) if the average amount of the sum of the Revolver Usage plus the Revolver Usage under the Prepetition Credit Agreement during the immediately preceding month (or portion thereof) is less than 50% of the aggregate amount of the Commitments, 0.375% per annum times (B) the result of (1) the aggregate amount of the Commitments, less (2) the average amount of the sum of the Revolver Usage plus the Revolver Usage under the Prepetition Credit Agreement during the immediately preceding month (or portion thereof).

(b) **Field Examination and Other Fees**. Borrowers shall pay to Agent, field examination fees and charges within 5 Business Days following receipt of an invoice therefor, which fees and charges shall include the following (i) a fee of $1,000 per day, per examiner, plus out-of-pocket expenses (including travel, meals, and lodging) for each field examination of

Company or its Subsidiaries performed by personnel employed by Agent, and (ii) the fees or charges paid or incurred by Agent (but, in any event, a charge of $1,000 per day, per Person, plus out-of-pocket expenses (including travel, meals, and lodging)) if it elects to employ the services of one or more third Persons to perform field examinations of Company or its Subsidiaries or to establish electronic collateral reporting systems.

(c) **Closing Fee.** Borrowers will pay Agent a fee in an aggregate amount equal to $1,200,000 (the "Closing Fee"), payable ratably for the benefit of the Lenders, with (i) $400,000 payable upon entry of the Interim Order, (ii) $400,000 payable upon entry of the Final Order and (iii) $400,000 payable upon the thirty-fifth (35th) day following the Petition Date, *provided that* if the Existing Obligations and Obligations under the DIP Revolving Facility are paid in full on or before the entry of the Final Order or 35th day following the Filing Date, the portion(s) of the Closing Fee payable on or after such date will be waived.

2.11. **Reserved.**

2.12. **Reserved.**

2.13. **Capital Requirements.**

(a) If, after the date hereof, any Lender determines that (i) the adoption of or change in any law, rule, regulation or guideline regarding capital or reserve requirements for banks or bank holding companies, or any change in the interpretation, implementation, or application thereof by any Governmental Authority charged with the administration thereof, or (ii) compliance by such Lender or its parent bank holding company with any guideline, request or directive of any such entity regarding capital adequacy (whether or not having the force of law), has the effect of reducing the return on such Lender's or such holding company's capital as a consequence of such Lender's Commitments hereunder to a level below that which such Lender or such holding company could have achieved but for such adoption, change, or compliance (taking into consideration such Lender's or such holding company's then existing policies with respect to capital adequacy and assuming the full utilization of such entity's capital) by any amount deemed by such Lender to be material, then such Lender may notify Borrowers and Agent thereof. Following receipt of such notice, Borrowers agree to pay such Lender on demand the amount of such reduction of return of capital as and when such reduction is determined, payable within 30 days after presentation by such Lender of a statement in the amount and setting forth in reasonable detail such Lender's calculation thereof and the assumptions upon which such calculation was based (which statement shall be deemed true and correct absent manifest error). In determining such amount, such Lender may use any reasonable averaging and attribution methods. Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided that Borrowers shall not be required to compensate a Lender pursuant to this Section for any reductions in return incurred more than 180 days prior to the date that such Lender notifies Borrowers of such law, rule, regulation or guideline giving rise to such reductions and of such Lender's intention to claim compensation therefor; provided, further, that if such claim arises by reason of the adoption of or change in any law, rule, regulation or guideline that 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 requests additional or increased costs referred to in Section 2.13(a) or requires any Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 16, (any such Lender, an "Affected Lender"), then such Affected Lender shall use reasonable efforts to promptly designate a different one of its lending offices or to assign its rights and obligations hereunder to another of its offices or branches, if (i) in the reasonable judgment of such Affected Lender, such designation or assignment would eliminate or reduce amounts payable pursuant to Section 2.13(a) or Section 16, as applicable, or would eliminate the illegality or impracticality of funding and (ii) in the reasonable judgment of such Affected Lender, such designation or assignment would not subject it to any material unreimbursed cost or expense and would not otherwise be materially disadvantageous to it. Borrowers agree to pay all reasonable out-of-pocket costs and expenses incurred by such Affected Lender in connection with any such designation or assignment. If, after such reasonable efforts, such Affected Lender does not so designate a different one of its lending offices or assign its rights to another of its offices or branches so as to eliminate Borrowers' obligation to pay any future amounts to such Affected Lender pursuant to Section 2.13(a) or Section 16, then Borrowers (without prejudice to any amounts then due to such Affected Lender under Section 2.13(a) or Section 16) may, unless prior to the effective date of any such assignment the Affected Lender withdraws its request for such additional amounts under Section 2.13(a) or Section 16 or indicates that it is no longer unlawful or impractical to fund, may seek a substitute Lender reasonably acceptable to Agent to purchase the Obligations owed to such Affected Lender and such Affected Lender's Commitments hereunder (a "Replacement Lender"), and if such Replacement Lender agrees to such purchase, such Affected Lender shall assign to the Replacement Lender its Obligations and Commitments, pursuant to an Assignment and Acceptance Agreement, and upon such purchase by the Replacement Lender, such Replacement Lender shall be deemed to be a "Lender" for purposes of this Agreement and such Affected Lender shall cease to be a "Lender" for purposes of this Agreement.

(c) Borrowers shall, upon demand from any member of the Lender Group, pay to such Person, the amount of (i) any loss or cost or increased cost incurred by such Person, or (ii) any reduction in any amount payable to or in the effective return on the capital to such Person, in each case of clauses (i) through (ii), as a result of any payment being made by any Borrower in a currency other than that originally extended to such Borrower. A certificate of Agent setting forth in reasonable detail the basis for determining such additional amount or amounts necessary to compensate such member of the Lender Group or shall be conclusively presumed to be correct save for manifest error.

(d) Notwithstanding anything herein to the contrary, the (i) issuance of any rules, regulations or directions under the Dodd-Frank Wall Street Reform and Consumer Protection Act and (ii) all rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States regulatory authorities, in each case pursuant to Basel III and all requests, rules, guidelines or directives thereunder or issued in connection therewith after the date of this Agreement shall be deemed to be a change in law, rule, regulation or guideline for purposes of this Section 2.13 and the protection of this Section 2.13 shall be available to each Lender regardless of any possible contention of the invalidity or inapplicability of the law, rule, regulation, guideline or other change or condition which shall have occurred or been imposed, so

long as it shall be customary for lenders or issuing banks affected thereby to comply therewith. Notwithstanding any other provision herein, no Lender shall demand compensation pursuant to this Section 2.13 if it shall not at the time be the general policy or practice of such Lender to demand such compensation in similar circumstances under comparable provisions of other credit agreements, if any.

2.14. **Reserved.**

2.15. **Reserved.**

2.16. **Joint and Several Liability of Borrowers**.

(a) Each Borrower is accepting joint and several liability for the Obligations hereunder and under the other Loan Documents in consideration of the financial accommodations to be provided by the Lender Group under this Agreement, for the mutual benefit, directly and indirectly, of each Borrower and in consideration of the undertakings of the other Borrowers to accept joint and several liability for the Obligations.

(b) Each Borrower, jointly and severally, hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the other Borrowers, with respect to the payment and performance of all of the Obligations (including any Obligations arising under this Section 2.16), it being the intention of the parties hereto that all the Obligations shall be the joint and several Obligations of each Borrower without preferences or distinction among them.

(c) If and to the extent that any Borrower shall fail to make any payment with respect to any of the Obligations as and when due or to perform any of the Obligations in accordance with the terms thereof, then in each such event the other Borrowers will make such payment with respect to, or perform, such Obligation until such time as all of the Obligations are paid in full.

(d) The Obligations of each Borrower under the provisions of this Section 2.16 constitute the absolute and unconditional, full recourse Obligations of each Borrower enforceable against each Borrower to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of the provisions of this Agreement (other than this Section 2.16(d)) or any other circumstances whatsoever.

(e) Except as otherwise expressly provided in this Agreement, each Borrower hereby waives notice of acceptance of its joint and several liability, notice of any Revolving Loans issued under or pursuant to this Agreement, notice of the occurrence of any Default, Event of Default, or of any demand for any payment under this Agreement, notice of any action at any time taken or omitted by Agent or Lenders under or in respect of any of the Obligations, any requirement of diligence or to mitigate damages and, generally, to the extent permitted by applicable law, all demands, notices and other formalities of every kind in connection with this Agreement (except as otherwise provided in this Agreement). Each Borrower hereby assents to, and waives notice of, any extension or postponement of the time for the payment of any of the Obligations, the acceptance of any payment of any of the Obligations, the acceptance of any partial payment thereon, any waiver, consent or other action or acquiescence by Agent or

Lenders at any time or times in respect of any default by any Borrower in the performance or satisfaction of any term, covenant, condition or provision of this Agreement, any and all other indulgences whatsoever by Agent or Lenders in respect of any of the Obligations, and the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of the Obligations or the addition, substitution or release, in whole or in part, of any Borrower. Without limiting the generality of the foregoing, each Borrower assents to any other action or delay in acting or failure to act on the part of any Agent or Lender with respect to the failure by any Borrower to comply with any of its respective Obligations, including, without limitation, any failure strictly or diligently to assert any right or to pursue any remedy or to comply fully with applicable laws or regulations thereunder, which might, but for the provisions of this Section 2.16 afford grounds for terminating, discharging or relieving any Borrower, in whole or in part, from any of its Obligations under this Section 2.16, it being the intention of each Borrower that, so long as any of the Obligations hereunder remain unsatisfied, the Obligations of each Borrower under this Section 2.16 shall not be discharged except by performance and then only to the extent of such performance. The Obligations of each Borrower under this Section 2.16 shall not be diminished or rendered unenforceable by any winding up, reorganization, arrangement, liquidation, reconstruction or similar proceeding with respect to any other Borrower or any Agent or Lender.

(f) Each Borrower represents and warrants to Agent and Lenders that such Borrower is currently informed of the financial condition of Borrowers and of all other circumstances which a diligent inquiry would reveal and which bear upon the risk of nonpayment of the Obligations. Each Borrower further represents and warrants to Agent and Lenders that such Borrower has read and understands the terms and conditions of the Loan Documents. Each Borrower hereby covenants that such Borrower will continue to keep informed of Borrowers' financial condition and of all other circumstances which bear upon the risk of nonpayment or nonperformance of the Obligations.

(g) The provisions of this Section 2.16 are made for the benefit of Agent, each member of the Lender Group, each Bank Product Provider, and their respective successors and assigns, and may be enforced by it or them from time to time against any or all Borrowers as often as occasion therefor may arise and without requirement on the part of Agent, any member of the Lender Group, any Bank Product Provider, or any of their successors or assigns first to marshal any of its or their claims or to exercise any of its or their rights against any Borrower or to exhaust any remedies available to it or them against any Borrower or to resort to any other source or means of obtaining payment of any of the Obligations hereunder or to elect any other remedy.

(h) Each Borrower hereby agrees that it will not enforce any of its rights of contribution or subrogation against any other Borrower with respect to any liability incurred by it hereunder or under any of the other Loan Documents, any payments made by it to Agent or Lenders with respect to any of the Obligations, Prepetition Obligations, or any collateral security therefor until such time as all of the Obligations and Prepetition Obligations have been paid in full in cash. Any claim which any Borrower may have against any other Borrower with respect to any payments to any Agent or any member of the Lender Group hereunder or under any of the Bank Product Agreements are hereby expressly made subordinate and junior in right of payment, without limitation as to any increases in the Obligations arising hereunder or thereunder, to the

prior payment in full in cash of the Obligations and Prepetition Obligations and, in the event of any insolvency, bankruptcy, receivership, liquidation, reorganization or other similar proceeding under the laws of any jurisdiction relating to any Borrower, its debts or its assets, whether voluntary or involuntary, all such Obligations and Prepetition Obligations shall be paid in full in cash before any payment or distribution of any character, whether in cash, securities or other property, shall be made to any other Borrower therefor.

2.17. **Cash Management**.

(a) **Cash Management Accounts.**

(i) Cash Management Accounts. Borrowers shall (i) maintain their Deposit Accounts, including the Collection Deposit Account, and take such reasonable steps to ensure that all of their Account Debtors forward payment of the amounts owed by them directly to the Collection Deposit Account pursuant to the terms of the Financing Order, (ii) deposit or cause to be deposited promptly, and in any event no later than the second Business Day after the date of receipt thereof, all of their Collections into the Collection Deposit Account, subject to the terms of the Financing Order (including, as it pertains to Collections, subject to the IBM Financing Agreement), and (iii) at the request of the Agent, establish and maintain Control Agreements with respect to their Deposit Accounts and Deposit Accounts maintained for payroll and employee benefits.

(b) **Cash Dominion**. At all times and pursuant to the terms of the Financing Order, all amounts in the Deposit Accounts of the Borrowers designated as a "Collection Deposit Account" shall be remitted daily to Agent's Account and shall be applied by Agent on a daily basis to the Prepetition Obligations and Revolving Loans outstanding (pursuant to the terms of the Financing Order) and thereafter to Borrowers (to be wired to the Designated Account) or such other Person entitled thereto under applicable law.

(c) **Cash Management at Wells Fargo**. Borrowers shall establish and maintain their depository and treasury management relationships with Wells Fargo or its Affiliates. After the Effective Date, the Collection Deposit Account shall be maintained at Wells Fargo.

3. CONDITIONS; TERM OF AGREEMENT.

3.1. **Conditions Precedent to the Initial Extension of Credit**. The obligation of each Lender to make the initial extensions of credit provided for hereunder is subject to the fulfillment, to the satisfaction of Agent and each Lender, of each of the conditions precedent set forth on Schedule 3.1 (the making of such initial extensions of credit by a Lender being conclusively deemed to be its satisfaction or waiver of the conditions precedent).

3.2. **Conditions Precedent to all Extensions of Credit**. The obligation of the Lender Group (or any member thereof) to make any Revolving Loans hereunder at any time shall be subject to the following conditions precedent:

(a) The representations and warranties of Loan Parties contained in this Agreement or in the other Loan Documents shall be true and correct in all material respects

(except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) on and as of the date of such extension of credit, as though made on and as of such date (except to the extent that such representations and warranties relate solely to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of such earlier date); and

(b) No Default or Event of Default shall have occurred and be continuing on the date of such extension of credit, nor shall either result from the making thereof.

3.3. **Maturity**. This Agreement shall continue in full force and effect for a term ending on the Maturity Date.

3.4. **Effect of Maturity**. On the Maturity Date, all commitments of the Lender Group to provide additional credit hereunder shall automatically be terminated and all of the Obligations immediately shall become due and payable without notice or demand and Borrowers shall be required to repay all of the Obligations in full. No termination of the obligations of the Lender Group (other than payment in full of the Obligations and termination of the Commitments) shall relieve or discharge any Loan Party of its duties, obligations, or covenants hereunder or under any other Loan Document and Agent's Liens in the Collateral shall continue to secure the Obligations and shall remain in effect until all Obligations have been paid in full and the Commitments have been terminated. When all of the Obligations have been paid in full and the Lender Group's obligations to provide additional credit under the Loan Documents have been terminated irrevocably, Agent will, at Borrowers' sole expense, execute and deliver any termination statements, lien releases, discharges of security interests, and other similar discharge or release documents (and, if applicable, in recordable form) as are reasonably necessary to release, as of record, Agent's Liens and all notices of security interests and liens previously filed by Agent.

3.5. **Early Termination by Borrowers**. Borrowers have the option, at any time upon 5 Business Days prior written notice to Agent, to terminate this Agreement and terminate the Commitments hereunder by repaying to Agent all of the Obligations in full, after repaying all of the Prepetition Obligations. The foregoing notwithstanding, (a) Borrowers may rescind termination notices relative to proposed payments in full of the Obligations with the proceeds of third party Indebtedness or other transaction if the closing for such issuance, incurrence or other transaction does not happen on or before the date of the proposed termination (in which case, a new notice shall be required to be sent in connection with any subsequent termination), and (b) Borrowers may extend the date of termination at any time with the consent of Agent (which consent shall not be unreasonably withheld or delayed).

4. REPRESENTATIONS AND WARRANTIES.

In order to induce the Lender Group to enter into this Agreement, each Borrower makes the following representations and warranties to the Lender Group which shall be true, correct, and complete, in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by

materiality in the text thereof), as of the Closing Date, and shall be true, correct, and complete, in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof), as of the date of the making of each Revolving Loan (or other extension of credit) made thereafter, as though made on and as of the date of such Revolving Loan (or other extension of credit) (except to the extent that such representations and warranties relate solely to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of such earlier date) and such representations and warranties shall survive the execution and delivery of this Agreement:

4.1. **Due Organization and Qualification; Subsidiaries**.

(a) Each Loan Party (i) is duly organized or incorporated and existing and in good standing (or its equivalent) under the laws of the jurisdiction of its organization or incorporation, (ii) is qualified to do business in any state, province or territory where the failure to be so qualified could reasonably be expected to result in a Material Adverse Effect, and (iii) has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Loan Documents to which it is a party and to carry out the transactions contemplated thereby.

(b) Borrowers are not subject to any obligation (contingent or otherwise) to repurchase or otherwise acquire or retire any shares of its Equity Interests or any security convertible into or exchangeable for any of its Equity Interests other than obligations payable with respect to Qualified Equity Interests.

(c) Set forth on Schedule 4.1(c) (as such Schedule may be updated from time to time to reflect changes resulting from transactions permitted under this Agreement), is a complete and accurate list of the Company's direct and indirect Subsidiaries as of the Closing Date (including Borrowers), showing a true and correct list of each of all of the authorized, and the issued and outstanding, Equity Interests of each Loan Party and (except for the Company) the record and beneficial owners of such Equity Interests. All of the outstanding Equity Interests of each such Subsidiary has been validly issued and is fully paid and to the extent relating to a corporation organized under the laws of the United States, non-assessable.

(d) Except as set forth on Schedule 4.1(d) or with respect to any Qualified Equity Interest, there are no subscriptions, options, warrants, or calls relating to any shares of the Company's or its Subsidiaries' Equity Interests, including any right of conversion or exchange under any outstanding security or other instrument.

4.2. **Due Authorization; No Conflict**. Subject to entry by the Bankruptcy Court of the Financing Order, as to each Loan Party, the execution, delivery, and performance by such Loan Party of the Loan Documents to which it is a party have been duly authorized by all necessary action on the part of such Loan Party. Subject to entry by the Bankruptcy Court of the Financing Order, as to each Loan Party, the execution, delivery, and performance by such Loan Party of the Loan Documents to which it is a party do not and will not (i) violate any material

provision of federal, state, foreign or local law or regulation applicable to such Loan Party, the Governing Documents of such Loan Party, or any order, judgment, or decree of any court or other Governmental Authority binding on such Loan Party, (ii) conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any material agreement of such Loan Party where any such conflict, breach or default could individually or in the aggregate reasonably be expected to have a Material Adverse Effect, (iii) result in or require the creation or imposition of any Lien of any nature whatsoever upon any assets of such Loan Party, other than Permitted Liens, or (iv) require any approval of any holder of Equity Interests of such Loan Party or any approval or consent of any Person under any material agreement of such Loan Party, other than consents or approvals that have been obtained and that are still in force and effect and except, in the case of material agreements, for consents or approvals, the failure to obtain could not individually or in the aggregate reasonably be expected to cause a Material Adverse Effect.

4.3. **Governmental Consents**. Subject to entry by the Bankruptcy Court of the Financing Order, the execution, delivery, and performance by each Loan Party of the Loan Documents to which such Loan Party is a party and the consummation of the transactions contemplated by the Loan Documents do not and will not require any registration with, consent, or approval of, or notice to, or other action with or by, any Governmental Authority, other than (i) registrations, consents, approvals, notices, or other actions that have been obtained and that are still in force and effect and (ii) filings and recordings with respect to the Collateral to be made, or otherwise delivered to Agent for filing or recordation, as of the Closing Date (or as otherwise required pursuant to the Loan Documents).

4.4. **Binding Obligations; Perfected Liens**.

(a) Subject to entry by the Bankruptcy Court of the Financing Order, this Agreement has been, and each other Loan Document (when delivered hereunder) will have been duly executed and delivered by each Loan Party that is a party thereto and is the legally valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its respective terms, except as enforcement may be limited by equitable principles or by bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or limiting creditors' rights generally.

(b) Subject to entry by the Bankruptcy Court of the Financing Order, Agent's Liens are validly created, perfected, and subject only to the filing of financing statements and the making or procuring of the necessary registrations, filings, endorsements, notarizations, stampings or notifications (except Liens that do not require filings under the Financing Order, and, in each case, any other applicable foreign equivalent of the foregoing, in each case, in the appropriate filing offices), and first priority Liens, subject only to Permitted Priority Liens or the interests of lessors under Capital Leases.

(c) The entry of the Financing Order is effective to create in favor of Agent, for the benefit of Lenders, as security for the Obligations, (i) a valid first priority (other than with respect to the Permitted Priority Liens and the Carveout) Lien on all of the Collateral pursuant to Sections 364(c)(2), (c)(3) and (d) of the Bankruptcy Code and (ii) an allowed administrative expense in the Cases having priority under Section 364(c)(1) of the Bankruptcy Code over all

other administrative expenses (including, without limitation, such expenses specified in Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546(c), 552(b), 726 and 1114 of the Bankruptcy Code), subject only to the Permitted Priority Liens and the Carveout. Except for the Financing Order, no authorization, approval or other action by, and no notice to or filing with, any Governmental Authority is required for either (x) the pledge or grant by any Loan Party of the Liens purported to be created in favor of Agent pursuant to this Agreement or any of the Loan Documents or (y) the exercise by Agent of any rights or remedies in respect of any Collateral (whether specifically granted or created pursuant to this Agreement, any of the Loan Documents or created or provided for by applicable law), except as may be required in connection with the disposition of any pledged Collateral by laws generally affecting the offering and sale of securities.

4.5. **Title to Assets; No Encumbrances**. Each of the Loan Parties has (a) good, sufficient and legal title to (in the case of fee interests in Real Property), (b) valid leasehold interests in (in the case of leasehold interests in real or personal property), and (c) good and marketable title to (in the case of all other personal property), all of their respective assets reflected in their most recent financial statements delivered pursuant to Section 5.1, in each case except for assets disposed of since the date of such financial statements to the extent permitted hereby. All of such assets are free and clear of Liens except for Permitted Liens.

4.6. **Litigation**. Except as set forth in Schedule 4.6, other than the Cases, there are no actions, suits, or proceedings pending or, to the knowledge of Borrowers, threatened in writing against a Loan Party that either individually or in the aggregate could reasonably be expected to result in a Material Adverse Effect.

4.7. **Compliance with Laws**. No Loan Party (a) is in violation of any applicable laws, rules, regulations, executive orders, or codes (including Environmental Laws) that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect, or (b) is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

4.8. **No Material Adverse Effect**. Except as set forth in Schedule 4.8, all historical financial statements relating to the Loan Parties that have been delivered by Borrowers to Agent have been prepared in accordance with GAAP (except, in the case of unaudited financial statements, for the lack of footnotes and being subject to year-end audit adjustments) and present fairly in all material respects, the Loan Parties' consolidated financial condition as of the date thereof and results of operations for the period then ended. Except as set forth on Schedule 4.8, since December 31, 2016, no event, circumstance, or change has occurred that has or could reasonably be expected to result in a Material Adverse Effect with respect to the Loan Parties, other than the commencement of the Cases.

4.9. **Reserved**.

4.10. **Employee Benefits**. Except as a result of the Cases and the effects thereof, no ERISA Event has occurred or is reasonably expected to occur, in either case, as could reasonably be expected to have a Material Adverse Effect. As of the Closing Date, no Loan Party, nor any of their ERISA Affiliates maintains or contributes, or has any liability to contribute to, to any Benefit Plan. Each Loan Party shall notify Agent prior to establishing or being required to contribute to any Benefit Plan. Except as could not reasonably be expected to have a Material Adverse Effect, (i) each Loan Party has complied in with ERISA, the IRC and all applicable laws regarding each Employee Benefit Plan; (ii) each Employee Benefit Plan is, and has been, maintained in material compliance with ERISA, the IRC, all applicable laws and the terms of each such Employee Benefit Plan and (iii) each Employee Benefit Plan that is intended to qualify under Section 401(a) of the IRC has received a favorable determination letter from the Internal Revenue Service or is entitled to rely on an opinion letter provided under a volume submitted program.

4.11. **Environmental Condition**.

(a) To Borrowers' knowledge, no Loan Party's properties or assets has ever been used by a Loan Party or by previous owners or operators in the disposal of, or to produce, store, handle, treat, release, or transport, any Hazardous Materials, where such disposal, production, storage, handling, treatment, release or transport was in violation, in any material respect, of any applicable Environmental Law and could reasonably be expected to result in a claim against any Loan Party in excess of $2,500,000, (b) to Borrowers' knowledge, after due inquiry, no Loan Party's properties or assets has ever been designated or identified in any manner pursuant to any environmental protection statute as a Hazardous Materials disposal site, (c) no Loan Party has received notice that a Lien securing obligations in excess of $2,500,000 arising under any Environmental Law has attached to any revenues or to any Real Property owned or operated by a Loan Party, and (d) no Loan Party nor any of their respective facilities or operations is subject to any outstanding written order, consent decree, or settlement agreement with any Person relating to any Environmental Law or Environmental Liability that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

4.12. **Complete Disclosure**. All factual information taken as a whole (other than forward-looking information and projections and information of a general economic nature and general information about Borrowers' industry) furnished by or on behalf of a Loan Party in writing to Agent or any Lender (including all information contained in the Schedules hereto or in the other Loan Documents) for purposes of or in connection with this Agreement or the other Loan Documents, and all other such factual information taken as a whole (other than forward-looking information and projections and information of a general economic nature and general information about Borrowers' industry) hereafter furnished by or on behalf of a Loan Party in writing to Agent or any Lender will be, true and accurate, in all material respects, on the date as of which such information is dated or certified and not incomplete by omitting to state any material fact necessary to make such information (taken as a whole with all other information furnished) not misleading in any material respect at such time in light of the circumstances under which such information was provided. The proposed Approved Budget represents, and as of the date on which any other Projections are delivered to Agent, such additional Projections

represent, Borrowers' good faith estimate, on the date such proposed Approved Budget and Projections are delivered, of the Loan Parties' future performance for the periods covered thereby based upon assumptions believed by Borrowers to be reasonable at the time such Projections were made (it being understood that such Projections are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties and their Subsidiaries, and no assurances can be given that such Projections will be realized, and although reflecting Borrowers' good faith estimate, projections or forecasts based on methods and assumptions which Borrowers believed to be reasonable at the time such Projections were prepared, are not to be viewed as facts, and that actual results during the period or periods covered by the Projections may differ materially from projected or estimated results).

4.13. **Patriot Act**. To the extent applicable, each Loan Party is in compliance, in all material respects, with the (a) Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (b) Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act of 2001) (the "Patriot Act"). No part of the proceeds of the Loans made hereunder will be used by any Loan Party or any of their Affiliates, 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.

4.14. **Reserved**.

4.15. **Payment of Taxes**. Except as set forth on Schedule 4.15, or except as permitted pursuant to an order of the Bankruptcy Court or pursuant to the Bankruptcy Code, all federal, national, state and other material tax returns and reports of each Borrowers required to be filed by any of them have been timely filed (taking into account any extensions of time to file), and all such taxes shown on such tax returns to be due and payable and all other material assessments, fees and other governmental charges upon Borrowers and upon their respective assets, income, businesses and franchises that are due and payable have been paid when due and payable except for taxes that are subject of a Permitted Protest. Each Borrower has made adequate provision in accordance with GAAP for all taxes not yet due and payable. No Borrower knows of any proposed tax assessment against a Loan Party that will not be paid when due or that will not be contested by such Loan Party pursuant to a Permitted Protest.

4.16. **Margin Stock**. No Loan Party is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No part of the proceeds of the loans made to Borrowers 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 or for any purpose that violates the provisions of Regulation T, U or X of the Board of Governors.

4.17. **Governmental Regulation**. No Loan Party is subject to regulation under the Federal Power Act or the Investment Company Act of 1940 or under any other federal or state statute or regulation which may limit its ability to incur Indebtedness or which may otherwise

render all or any portion of the Obligations unenforceable. No Loan Party is a "registered investment company" or a company "controlled" by a "registered investment company" or a "principal underwriter" of a "registered investment company" as such terms are defined in the Investment Company Act of 1940.

4.18. **OFAC**. No Loan Party nor any of its Subsidiaries is in violation of any of the country or list based economic and trade sanctions administered and enforced by OFAC. No Loan Party nor any of its Subsidiaries (a) is a Sanctioned Person or a Sanctioned Entity, (b) has its assets located in Sanctioned Entities, or (c) derives revenues from investments in, or transactions with Sanctioned Persons or Sanctioned Entities. No proceeds of any Loan made hereunder will be used to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Person or a Sanctioned Entity.

4.19. **Employee and Labor Matters**. Except as set forth on Schedule 4.19, there is (i) no unfair labor practice complaint pending or, to the knowledge of Borrowers, threatened against any Loan Party before any Governmental Authority and no grievance or arbitration proceeding pending or, to the knowledge of the Borrowers, threatened against any Loan Party which arises out of or under any collective bargaining agreement and that could reasonably be expected to result in a Material Adverse Effect, (ii) no strike, labor dispute, slowdown, stoppage or similar action or grievance pending or, to the knowledge of the Borrowers, threatened in writing against any Loan Party that could reasonably be expected to result in a liability, loss or expense in excess of $250,000, or (iii) to the knowledge of Borrowers, no union representation question existing with respect to the employees of any Loan Party and no union organizing activity taking place with respect to any of the employees of any Loan Party. Within the past year, no Loan Party has incurred any liability or obligation under the Worker Adjustment and Retraining Notification Act or similar state law, which remains unpaid or unsatisfied beyond the date when such amount is due that is reasonably be expected to result in a Material Adverse Effect, the hours worked and payments made to employees of any Loan Party have not been in violation of the Fair Labor Standards Act or any other applicable legal requirements, except to the extent such violations could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, and all payments due from Borrowers on account of wages and employee health and welfare insurance and national insurance contributions and other benefits have been paid or accrued as a liability on the books of Loan Parties.

4.20. **Reserved.**

4.21. **Reserved.**

4.22. **Eligible Accounts**. As to each Account that is identified by a Borrower as an Eligible Account in the most recently delivered Borrowing Base Certificate submitted to Agent, such Account is (a) a bona fide existing payment obligation of the applicable Account Debtor created by the sale and delivery of Inventory or the rendition of services to such Account Debtor in the ordinary course of the Borrowers' business (except to the extent that the foregoing was true as of the date of the Borrowing Base Certificate most recently delivered to Agent, but ceases to be true after the date of such Borrowing Base Certificate solely as a result of payment owed by the applicable Account Debtor to the Borrowers in respect of such Account after the date of such Borrowing Base Certificate), (b) owed to a Borrower without any known defenses, disputes,

offsets, counterclaims, or rights of return or cancellation, and (c) not excluded as ineligible by virtue of one or more of the excluding criteria (other than any Agent-discretionary criteria) set forth in the definition of Eligible Accounts (except to the extent that the foregoing was true after the date of such Borrowing Base Certificate solely as a result of the excluding criteria set forth in clauses (a), (b) and (i) of the definitions of Eligible Accounts and such charge does not cause the occurrence of an Overadvance).

4.23. **Locations of Chief Executive Office**. The chief executive office of each Loan Party is identified on Schedule 4.23, and none shall change without the prior written consent of Agent.

4.24. **Financing Order**. The Financing Order is in full force and effect and is not subject to a pending appeal, motion for leave to appeal, or other proceeding to set aside such order and has not been reversed, modified, stayed or vacated absent Agent's written consent.

5. AFFIRMATIVE COVENANTS.

Each Borrower covenants and agrees that, until termination of all of the Commitments and payment in full of the Obligations:

5.1. **Financial Statements, Reports, Certificates**. Borrowers (a) will deliver to Agent and if as requested by any Lender with copies to such Lender, each of the financial statements, reports, and other items set forth on Schedule 5.1 no later than the times specified therein, (b) agree that no Subsidiary of a Loan Party will have a fiscal year different from that of Borrowers, (c) agree to maintain a system of accounting that enables Borrowers to produce financial statements in accordance with GAAP, and (d) agree that they will, and will cause each other Loan Party to, (i) keep a reporting system that shows all additions, sales, claims, returns, and allowances with respect to its and its Subsidiaries' sales, (ii) maintain its billing practices substantially as in effect as of the Closing Date (including without limitation with respect to billing milestones of Tier Two Accounts) and shall only make modifications thereto with notice to, and with the consent of, Agent (such consent not to be unreasonably withheld or delayed), and (iii) maintain its billing systems substantially as in effect as of the Closing Date and shall only make material modifications thereto with notice to, and with the consent of, Agent (such consent not to be unreasonably withheld or delayed); provided, that no such consent shall be required for such changes or modifications that do not have the result of changing the underlying information contained in, or frequency and timing of delivery of, any reports required to be delivered under the Loan Documents.

5.2. **Reporting**. Borrowers (a) will deliver to Agent (and if so requested by any Lender, with copies for such Lender) each of the reports set forth on Schedule 5.2 at the times specified therein, and (b) agrees to use commercially reasonable efforts in cooperation with Agent to facilitate and implement a system of electronic collateral reporting in order to provide electronic reporting of each of the items set forth on such Schedule.

5.3. **Existence**. Except as otherwise permitted under Section 6.3 or Section 6.4, the Loan Parties will at all times preserve and keep in full force and effect such Person's valid existence and, as applicable, good standing in its jurisdiction of organization or incorporation

and, except as could not reasonably be expected to result in a Material Adverse Effect, good standing with respect to all other jurisdictions in which it is qualified to do business and any rights, franchises, permits, licenses, accreditations, authorizations, or other approvals required or necessary to their businesses, except as could not reasonably be expected to result in a Material Adverse Effect.

5.4. **Maintenance of Properties**. The Loan Parties will maintain and preserve all of its assets that are necessary in the proper conduct of its business in good working order and condition, ordinary wear, tear, casualty, and condemnation and Permitted Dispositions excepted (and except where the failure to so maintain and preserve assets could not reasonably be expected to result in a Material Adverse Effect).

5.5. **Taxes**. The Loan Parties will pay in full before delinquency or before the expiration of any extension period all material governmental assessments and federal, national, state or other material taxes imposed, levied, or assessed against it with respect to the period after the Filing Date, or any of its assets or in respect of any of its income, businesses, or franchises, except to the extent that (a) the validity of such governmental assessment or Tax is the subject of a Permitted Protest or (b) such Tax need not be paid pursuant to an order of the Bankruptcy Court or pursuant to the Bankruptcy Code.

5.6. **Insurance**. Each Borrower will, at Borrowers' expense, maintain insurance respecting their assets wherever located, covering liabilities, losses or damages as are customarily are insured against by other Persons engaged in same or similar businesses and similarly situated and located. All such policies of insurance shall be with financially sound and reputable insurance companies reasonably acceptable to Agent (it being agreed that, as of the Closing Date, each insurance provider disclosed to the Agent in writing is acceptable to Agent) and in such amounts as are carried generally in accordance with sound business practice by companies in similar businesses similarly situated and located and, in any event, in amount, adequacy, and scope reasonably satisfactory to Agent (it being agreed that the amount, adequacy, and scope of the policies of insurance of Borrowers in effect as of the Closing Date are acceptable to Agent). All property insurance policies covering the Collateral are to be made payable to Agent for the benefit of Agent and the Lenders, as their interests may appear, in case of loss, pursuant to a standard loss payable endorsement with a standard non-contributory "lender" or "secured party" clause and are to contain such other provisions as Agent may reasonably require in each relevant jurisdiction to fully protect the Lenders' interest in the Collateral and to any payments to be made under such policies. All certificates of property and general liability insurance or analogous equivalent in each relevant jurisdiction in respect of insurance of the Loan Parties shall include loss payable (but only in respect of Collateral) and additional insured endorsements in favor of Agent and shall provide for not less than 30 days (10 days in the case of non-payment) prior written notice to Agent of the exercise of any right of cancellation, and Borrowers shall provide evidence of the same on or prior to the Closing Date and from time to time thereafter as Agent may request (it being agreed that, the endorsements delivered to Agent in respect of the insurance policies of the Loan Parties in writing satisfy the endorsement requirements of this Section 5.6 as of the Closing Date). If Borrowers fail to maintain such insurance, Agent may arrange for such insurance, but at Borrowers' expense and without any responsibility on Agent's part for obtaining the insurance, the solvency of the insurance companies, the adequacy of the coverage, or the collection of claims; provided that

Borrowers may later cancel any insurance purchased by Agent after providing Agent with evidence reasonably satisfactory to Agent that Borrowers has obtained insurance as required by this Agreement. Borrowers shall give Agent prompt notice of any loss exceeding $1,000,000 covered by Borrowers' casualty or business interruption insurance. Upon the occurrence and during the continuance of an Event of Default, Agent shall have the sole right to file claims under any property and general liability insurance policies in respect of the Collateral, to receive, receipt and give acquittance for any payments that may be payable thereunder, and to execute any and all endorsements, receipts, releases, assignments, reassignments or other documents that may be necessary to effect the collection, compromise or settlement of any claims under any such insurance policies; provided, that in the event that an applicable Loan Party may lose a right to file such a claim due to the expiration of a statute of limitations, then no earlier than sixty (60) days prior to such expiration, such Loan Party may provide written notice to Agent of its desire to file such claim, and if Agent fails to file such claim at least ten (10) days prior to such expiration, Loan Party shall have the right to file such claim. Subject to Section 2.3(e)(iii) so long as no Event of Default shall have occurred and be continuing, any insurance proceeds paid to the Agent shall, upon the receipt thereof, be applied as a Collection in accordance with the applicable provisions of Section 2.15. After any Application Event, all proceeds of insurance shall be paid to Agent and upon receipt shall be applied to the Obligations as set forth in Section 2.3(b).

5.7. **Inspection**. Each Borrower will, and will cause each of its Subsidiaries to, permit Agent or any duly authorized representatives or agents of the Agent to visit any of its properties and inspect any of its assets or books and records, to examine and make copies of its books and records, and to discuss its affairs, finances, and accounts with, and to be advised as to the same by, its officers and employees (provided an authorized representative of such Borrower shall be allowed to be present and any Lender may participate in such visit, inspection, examination or discussion at their own cost) at such reasonable times and intervals as Agent or any Lender, as applicable, may designate.

5.8. **Compliance with Laws**. Loan Parties will comply with the requirements of all applicable laws, rules, regulations, and orders of any Governmental Authority, other than laws, rules, regulations, and orders the non-compliance with which, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

5.9. **Environmental**. Loan Parties will,

(a) Keep any property either owned or operated by the Loan Parties free of any Environmental Liens or post bonds or other financial assurances sufficient to satisfy the obligations or liability evidenced by such Environmental Liens,

(b) Comply, in all material respects, with Environmental Laws and provide to Agent documentation of such compliance which Agent reasonably requests,

(c) Promptly notify Agent of any release of which any Loan Party has knowledge of a Hazardous Material in any reportable quantity from or onto property owned or operated by the Loan Parties and take any Remedial Actions required to abate said release or

otherwise to come into compliance, in all material respects, with applicable Environmental Law, and

(d) Promptly, but in any event within 5 Business Days of its receipt thereof, provide Agent with written notice of any of the following: (i) notice that an Environmental Lien has been filed against any of the real or personal property of the Loan Parties, (ii) commencement of any Environmental Action or written notice that an Environmental Action will be filed against the Loan Parties, and (iii) written notice of a violation, citation, or other administrative order from a Governmental Authority relating to any potential environmental liability.

5.10. **Disclosure Updates**. Borrowers will, promptly and in no event later than 5 Business Days after obtaining knowledge thereof, notify Agent if any written information, exhibit, or report (other than information of a general economic nature and general information about the Borrowers' industry) furnished to Agent or the Lenders contained, at the time it was furnished, any untrue statement of a material fact or omitted to state any material fact necessary to make the statements contained therein not misleading in any material respect in light of the circumstances in which made. The foregoing to the contrary notwithstanding, any notification pursuant to the foregoing provision will not cure or remedy the effect of the prior untrue statement of a material fact or omission of any material fact nor shall any such notification have the effect of amending or modifying this Agreement or any of the Schedules hereto.

5.11. **Further Assurances**. Loan Parties will, at any time upon the reasonable request of Agent, execute or deliver to Agent any and all financing statements, fixture filings, security agreements, pledges, assignments (related to the other Additional Documents), and all other documents (the "Additional Documents") that Agent may reasonably request in form and substance reasonably satisfactory to Agent, to create, perfect, and continue perfected or to better perfect Agent's Liens in all of the assets of the Loan Parties (whether now owned or hereafter arising or acquired, tangible or intangible, real or personal), to create and perfect Liens in favor of Agent in any Real Property owned in fee acquired by any Loan Party, and in order to fully consummate all of the transactions contemplated hereby and under the other Loan Documents, provided that the foregoing shall not apply to provide security from any Subsidiary of US Borrower that is a CFC or Foreign Holding Company if providing such documents would result in adverse tax consequences to the Loan Parties. To the maximum extent permitted by applicable law, if any Loan Party refuses or fails to execute or deliver any Additional Documents reasonably requested in accordance with the terms hereof within a reasonable period of time following the request to do so, each Loan Party hereby authorizes Agent to execute any such Additional Documents in the applicable Loan Party's name and authorizes Agent to file such executed Additional Documents in any appropriate filing office. In furtherance of, and not in limitation of, the foregoing, each Loan Party shall take such actions as Agent may reasonably request from time to time to ensure that the Obligations are guaranteed by the Loan Parties and are secured by substantially all of the assets of Loan Parties.

5.12. **Formation of Subsidiaries**. Each Loan Party will obtain the prior written consent of Agent (which will be provided upon Agent's sole discretion) before acquiring, creating, or allowing to be created or acquired, any direct or indirect Subsidiary.

5.13. **Location of Chief Executive Office**. Each Loan Party will keep its chief executive offices only at the locations identified on Schedule 4.23.

5.14. **Reserved**.

5.15. **Chief Restructuring Officer**. The Company will (a) retain, at all times, a Chief Restructuring Officer satisfactory to Agent, and on terms and conditions satisfactory to Agent and (b) provide reasonable, direct access to such Chief Restructuring Officer for Agent, at Borrowers' expense.

5.16. **Sale Milestones**. Borrowers will timely perform and deliver each of the items set forth on Schedule 5.16 attached hereto on or before the dates specified therein, or by such later date as agreed by the Borrower and Agent.

5.17. **Bankruptcy Matters**. Borrowers will: (a) contemporaneously with the filing thereof, deliver to Agent copies of all pleadings, motions, applications, financial information and other papers and documents filed by the Loan Parties in the Cases, which copies of such papers and documents may be provided to or served on Agent's counsel; and contemporaneously with the receipt thereof, deliver to Agent copies of all letters of intent, expressions of interest, offers to purchase or draft purchase agreements (together with subsequent drafts) with respect to any of the Collateral.

6. NEGATIVE COVENANTS.

Each Borrower covenants and agrees that, until termination of all of the Commitments and payment in full of the Obligations:

6.1. **Indebtedness**. Each Loan Party will not create, incur, assume, suffer to exist, guarantee, or otherwise become or remain, directly or indirectly, liable with respect to any Indebtedness, except for Permitted Indebtedness.

6.2. **Liens**. Each Loan Party will not create, incur, assume, or suffer to exist, directly or indirectly, any Lien on or with respect to any of its assets, of any kind, whether now owned or hereafter acquired, or any income or profits therefrom, except for Permitted Liens.

6.3. **Restrictions on Fundamental Changes**. Each Loan Party will not

(a) **Reserved**.

(b) Liquidate, wind up, or dissolve itself (or suffer any liquidation or dissolution), except for pursuant to a confirmed chapter 11 plan of reorganization or an order approving a sale pursuant to 11 U.S.C. § 363, in each case provided that the terms and conditions thereof are satisfactory to Agent in its Permitted Discretion, or

(c) Suspend or cease operating a substantial portion of the business of any Loan Party, except as permitted pursuant to clause (b) above or in connection with a transaction permitted under Section 6.4.

6.4. **Disposal of Assets**. Other than Permitted Dispositions or transactions permitted by Sections 6.3 or 6.9, each Loan Party will not convey, sell, lease, license, assign, transfer, or otherwise dispose of (or (unless the effectiveness of such agreement is expressly conditioned upon the consent thereto by the Agent or the repayment in full of the Prepetition Obligations and Obligations) enter into an agreement to convey, sell, lease, license, assign, transfer, or otherwise dispose of) any of their assets. In connection with any disposition of Collateral permitted by this Section 6.4, subject to Section 5.11, Agent shall promptly execute and deliver to the relevant Loan Party (at the sole cost and expense of Loan Parties) all releases or other documents (including without limitation Uniform Commercial Code termination statements or amendments) necessary or reasonably requested for the release of the Liens created by the Loan Documents on such Collateral.

6.5. **Nature of Business**. Each Loan Party will not engage in any material line of business substantially different from those lines of business conducted by any Borrower and its Subsidiaries that are Loan Parties on the Closing Date; provided, that the foregoing shall not prevent Company and its Subsidiaries from engaging in any business that is reasonably related or ancillary to its or their business.

6.6. **Prepayments and Amendments**. Each Loan Party will not, without prior written consent of Agent,

(a) prepay, redeem, defease, purchase, or otherwise acquire any Indebtedness of any Borrower (other than (i) the Prepetition Obligations, (ii) prepayments of the Obligations in accordance with this Agreement, and (iii) prepayments of Indebtedness of any Borrower or its Subsidiaries under the IBM Financing Agreement so long as, with respect to this clause (iii), no Event of Default has occurred and is continuing and such payments are in accordance with the Financing Order), or make any payment on account of Indebtedness that has been contractually subordinated in right of payment to any of the Obligations if such payment is not permitted at such time under the subordination terms and conditions applicable thereto, or

(b) Directly or indirectly, amend, modify, or change any of the terms or provisions of

(i) any agreement, instrument, document, indenture, or other writing evidencing or concerning Permitted Indebtedness other than (A) the Obligations in accordance with this Agreement, (B) Permitted Intercompany Advances, (C) Permitted Indebtedness, and (D) the Prepetition Obligations, or

(ii) the Governing Documents of any Loan Party if the effect thereof would be materially adverse to the Lender Group.

6.7. **Restricted Payments**. Each Loan Party will not make any Restricted Payment, excluding Restricted Payments by a Loan Party to another Loan Party that are expressly set forth in the Budget and permitted by the Financing Order.

6.8. **Accounting Methods**. Each Loan Party will not, and will not permit any of its Subsidiaries that are Loan Parties to modify or change its fiscal year or its method of accounting (other than as may be required to conform to GAAP).

6.9. **Investments**. Each Loan Party will not directly or indirectly, make or acquire any Investment or otherwise transfer any property to an Affiliate except for Permitted Investments.

6.10. **Transactions with Affiliates**. Each Loan Party will not directly or indirectly, enter into or permit to exist any transaction with any Affiliate of Loan Parties except for:

(a) Transactions between Loan Parties, on the one hand, and any Affiliate of any Loan Party, on the other hand, that are (i) Permitted Investments described in clause (e), (g), (n) or (o) of the definition thereof or (ii) so long as such transactions are no less favorable, taken as a whole, to such Loan Party, as applicable, as would be obtained in an arm's length transaction with a non-Affiliate,

(b) So long as it has been approved by a Loan Party's board of directors (or comparable governing body) in accordance with applicable law, any indemnity provided for the benefit of directors (or comparable managers) of such Loan Party,

(c) So long as it has been approved by such a Loan Party's board of directors (or comparable governing body) in accordance with applicable law and expressly set forth in the Approved Budget, the payment of reasonable compensation (including retirement bonuses, health, stock option and other benefit plans), severance, or employee benefit arrangements to employees, officers, and directors of such Loan Party in the ordinary course of business and consistent with industry practice, or

(d) So long as it is expressly contemplated by the Approved Budget, with respect to any other transactions occurring on or after the Closing Date.

6.11. **Use of Proceeds**. Borrowers will not use the proceeds of any Loan made hereunder for any purpose other than (a) to pay the fees, costs, and expenses incurred in connection with this Agreement, the other Loan Documents, and the transactions contemplated hereby and thereby, (b) to finance ongoing working capital needs of the Borrowers and their Subsidiaries (including, without limitation, payments with respect to the Carveout) in accordance with the Approved Budget and Financing Order, (c) to provide payments of "adequate protection" (as set forth in Section 361 of the Bankruptcy Code) in favor of the Prepetition Lenders as provided in the Financing Order, and (d) otherwise consistent with the terms and conditions hereof.

6.12. **Limitation on Issuance of Equity Interests**. Each Loan Party will not issue or sell or enter into any agreement or arrangement for the issuance or sale of any of its Equity Interests.

6.13. **Change Name**. Each Loan Party will not allow such Loan Party's name, organizational identification number, company number, state of organization; jurisdiction of incorporation or form of organizational.

6.14. **Reserved**.

6.15. **Financing Order**. Loan Parties will not:

(a) seek, consent to or suffer to exist at any time any modification, stay, vacation or amendment of the Financing Order, except for modifications and amendments joined in or agreed to in writing by Agent;

(b) seek the use of "Cash Collateral" (as defined in the Financing Order) in a manner inconsistent with the terms of the Financing Order without the prior written consent of Agent;

(c) suffer to exist at any time a priority for any administrative expense or unsecured claim against any Loan Party (now existing or hereafter arising of any kind or nature whatsoever, including, without limitation, any administrative expenses of the kind specified in Sections 105, 326, 328, 503((b), 506(c), 507(a), 507(b), 546(c), 552(b), 726 and 1114 of the Bankruptcy Code) or any super priority claim which is equal or superior to the priority of the Agent or the Lenders in respect of the Obligations or the Prepetition Agent in respect of the Prepetition Obligations, except for the Carveout;

(d) directly or indirectly seek, consent to, or allow to exist at any time after the Closing Date any Lien on any properties, assets or rights except for Permitted Liens; or

(e) prior to the date on which the Prepetition Obligations (and any Reinstated Prepetition Obligations) and Obligations have been paid in full, pay any administrative expenses, except administrative expenses incurred in accordance with the Approved Budget.

7. FINANCIAL COVENANTS.

Each Borrower covenants and agrees that, until termination of all of the Commitments and payment in full of the Obligations, Borrowers will:

7.1. Not permit (a) aggregate disbursements, measured on a rolling, two-week basis (first measured following the second full week after the Filing Date), to exceed 105% of the forecasted expenditures set forth in the Approved Budget for each such two-week period; or (b) aggregate receipts, measured on a rolling, two-week basis (first measured following the second full week after the Filing Date) to be less than 90% of the forecasted receipts set forth in the Approved Budget for each such two-week period.

8. EVENTS OF DEFAULT.

Any one or more of the following events shall constitute an event of default (each, an "Event of Default") under this Agreement:

8.1. **Payments**. If a Loan Party fails to pay when due and payable, or when declared due and payable, (a) all or any portion of the Obligations consisting of interest, fees, or charges due the Lender Group, reimbursement of Lender Group Expenses, or other amounts (other than any principal of the Loans) constituting Obligations (including any portion thereof that accrues after the commencement of an Insolvency Proceeding, regardless of whether

allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), and such failure continues for a period of 2 Business Days or (b) any principal of the Loans;

8.2. **Covenants**. If any Loan Party fails to perform or observe any covenant or other agreement contained in this Agreement, any other Loan Document, or the Financing Order, provided that with respect to Sections 5.3, 5.4, 5.5, 5.6, 5.8, 5.9, and 5.10 such failure continues for a period of 15 days after the date on which such failure shall first become known to any Responsible Officer of any Loan Party.

8.3. **Judgments**. If, after the Filing Date, one or more judgments, orders, or awards for the payment of money involving an aggregate amount of $500,000, or more (except to the extent fully covered (other than to the extent of customary deductibles) by insurance pursuant to which the insurer has not denied coverage) is entered or filed, other than with respect to unsecured non-priority prepetition claims, against any Loan Party, or with respect to any of their respective assets, and either (a) there is a period of 30 consecutive days at any time after the entry of any such judgment, order, or award during which (1) the same is not discharged, satisfied, vacated, or bonded pending appeal, or (2) a stay of enforcement thereof is not in effect, or (b) enforcement proceedings are commenced upon such judgment, order, or award;

8.4. **Reserved**.

8.5. **Reserved**.

8.6. **Reserved**.

8.7. **Representations, etc**. If any warranty, representation, certificate, statement, or Record made herein or in any other Loan Document or delivered in writing to Agent or any Lender in connection with this Agreement or any other Loan Document proves to be untrue in any material respect (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of the date of issuance or making or deemed making thereof;

8.8. **Guaranty**. If the obligation of any Guarantor under any guaranty of the Obligations is limited or terminated by operation of law or by such Guarantor (other than in accordance with the terms of the Loan Documents);

8.9. **Security Documents**. If the Financing Order or any other Loan Document that purports to create a Lien, shall, for any reason, fail or cease to create a valid and perfected (to the extent required under the applicable Financing Order or other Loan Document) and, except to the extent of Permitted Liens, first priority Lien on the Collateral covered thereby, except (a) as a result of a disposition of the applicable Collateral in a transaction permitted under this Agreement or (b) as the result of an action or failure to act on the part of Agent;

8.10. **Loan Documents**. The validity or enforceability of any Loan Document or any Prepetition Loan Document shall at any time for any reason (other than solely as the result of an action or failure to act on the part of Agent) be declared to be null and void, or a proceeding shall be commenced by a Loan Party, or by any Governmental Authority having jurisdiction over a Loan Party, seeking to establish the invalidity or unenforceability thereof, or a

Loan Party shall deny that such Loan Party has any liability or obligation purported to be created under any Loan Document;

8.11. **Change of Control**. A Change of Control shall occur;

8.12. **Reserved**.

8.13. **Reserved**.

8.14. **Reserved**.

8.15. **Curtailment of Business**. If the authority or ability of any Loan Party to conduct its business is wholly or substantially curtailed by any seizure, expropriation, nationalization, intervention, restriction or other action by or on behalf of any Governmental Authority or other person in relation to any Loan Party or any of its assets and such curtailment is reasonably likely to have Material Adverse Effect.

8.16. **Reserved**.

8.17. **Reserved**.

8.18. **Reserved**.

8.19. **Bankruptcy Defaults**.

(a) the Final Order is not entered within twenty one (21) days (or such other period as Agent may agree to in writing) following the Filing Date; or any Financing Order is stayed, revised, revoked, remanded, rescinded, amended, reversed, vacated, or modified in any manner not acceptable to Agent;

(b) any Loan Party shall file a pleading seeking to modify or otherwise alter the Interim Order or the Final Order without the prior consent of Agent;

(c) an order with respect to any of the Cases shall be entered by the Bankruptcy Court (A) appointing a trustee under Section 1104 of the Bankruptcy Code, or an examiner with enlarged powers relating to the operation of the business of the Loan Parties under Section 1106(b) of the Bankruptcy Code or (B) terminating any Loan Party's exclusive rights to file and solicit acceptances for its plan;

(d) (A) any Loan Party shall attempt to invalidate, reduce or otherwise impair the Liens or security interests of Agent, Prepetition Agent, any Lender or any Prepetition Lender, claims or rights against the Loan Parties or any of their Subsidiaries or to subject any Collateral to assessment pursuant to Section 506(c) or 552(b) of the Bankruptcy Code, (B) any Lien, security interest or superpriority claim created by this Agreement, the Prepetition Credit Agreement, the Financing Order shall, for any reason, ceases to be valid or (C) any action is commenced by any Loan Party or any of its Subsidiaries which contests the validity, perfection or enforceability of any of the Liens and security interests

of Agent, Prepetition Agent, any Lender or Prepetition Lender created by this Agreement, the Prepetition Credit Agreement or the Financing Order;

(e) any filing of a motion by any Loan Party, or any of their respective Affiliates to dismiss the Cases or convert the Bankruptcy Case to a case under chapter 7 of the Bankruptcy Code or an order with respect to the Cases shall be entered by the Bankruptcy Court dismissing the Cases or converting the Cases (or any case comprising part of the Cases) to a case under chapter 7 of the Bankruptcy Code;

(f) any plan of reorganization is filed that, or an order shall be entered by the Bankruptcy Court confirming a reorganization plan in the Bankruptcy Case which, does not contain a provision for termination of this Agreement and, if in effect at such time, the Prepetition Credit Agreement and the payment in full in cash of the Obligations, and, if any remain, the Prepetition Obligations and any Reinstated Prepetition Obligations on or before the effective date of such plan;

(g) any sale of, or motion by the Loan Parties to sell, all or substantially all assets pursuant to Section 363 of the Bankruptcy Code on a basis that will not provide sufficient proceeds to cause the payment in full of the Obligations, the Prepetition Obligations and Reinstated Prepetition Obligations;

(h) an order with respect to the Cases shall be entered without the express prior written consent of Agent, except as contemplated herein, (i) to revoke, vacate, reverse, stay, modify, supplement or amend this Agreement and the transactions contemplated hereby, any Loan Document or the Financing Order, or (ii) to permit any administrative expense or any claim (now existing or hereafter arising, of any kind or nature whatsoever) to have administrative priority as to Borrowers' equal or superior to the priority of the Agent, Prepetition Agent, the Lenders and Prepetition Lender in respect of the Obligations and the Prepetition Obligations, except for the Permitted Priority Liens;

(i) Granting of relief from the automatic stay in any of the Cases to permit foreclosure or enforcement on assets of any Borrower or any other Loan Party that have a value that exceeds $250,000 in the aggregate;

(j) a motion shall be filed by the Loan Parties seeking authority, or an order shall be entered in the Cases, that (A) permits any Loan Party or any Subsidiary of any Loan Party to incur Indebtedness secured by any claim under Bankruptcy Code Section 364(c)(1) or by a Lien pari passu with or superior to the Lien granted under the Loan Documents and the Prepetition Loan Documents and Bankruptcy Code Sections 364(c)(2) or (d), unless (1) all of the Obligations, Prepetition Obligations and Reinstated Prepetition Obligations have been paid in full at the time of the entry of any such order, (2) the Obligations, Prepetition Obligations and Reinstated Prepetition Obligations are paid in full with such debt, or (3) such Indebtedness is subject to an Intercreditor agreement in form and substance satisfactory to Agent in its sole discretion or (B) permits any Loan Party or any Subsidiary of any Loan Party the right to use Collateral other than

in accordance with the terms of the Financing Order, unless all of the Obligations and Prepetition Obligations shall have been paid in full;

(k) proceeds of any sale of assets of Loan Parties outside the ordinary course of business are not directly remitted to Agent at the closing thereof, and the Obligations and Prepetition Obligations are not paid in accordance with the terms of this Agreement from such proceeds;

(l) any motions by the Loan Parties to sell Collateral or approve procedures regarding the same, any plan or disclosure statement filed by the Loan Parties or supplements or amendments thereto, or any orders approving or amending any of the foregoing, are not in form and substance acceptable to Agent, or Borrowers modify any procedures approved pursuant to such orders in a manner not acceptable to Agent in its Permitted Discretion;

(m) Borrowers require that any party interested in bidding upon their assets execute a confidentiality agreement, on or after the Closing Date, that would restrict any such party from entering into any transactions with Agent or Lenders;

(n) the automatic stay terminates or expires unless all of the Obligations, Prepetition Obligations and Reinstated Prepetition Obligations shall have been paid in full;

(o) the termination or shortening of the Loan Parties' exclusivity periods under Section 1121 of the Bankruptcy Code;

(p) any Loan Party, any Subsidiary of any Loan Party, or any of their respective Affiliates challenges the extent, validity or priority of the Obligations or the Prepetition Obligations or the application of any payments or collections received by Agent, Prepetition Agent, Lenders, or Prepetition Lender to the Obligations or Prepetition Obligations as provided for herein or in the Financing Order;

(q) any Loan Party, any Subsidiary of any Loan Party, or any of their respective Affiliates challenges the validity, extent, perfection or priority of any Liens granted in the Collateral to secure the Obligations or the Prepetition Obligations

(r) (i) Agent, Prepetition Agent, Lenders, Prepetition Lenders or the Collateral are surcharged, or (ii) a Loan Party seeks to surcharge Agent, Prepetition Agent, Lenders, Prepetition Lenders or the Collateral, pursuant to Sections 105, 506(c), 552 or any other section of the Bankruptcy Code or (iii) the extent of the Liens on Collateral are otherwise limited by any such Section of the Bankruptcy Code in any amount;

(s) payment of or granting adequate protection with respect to pre-petition debt (other than to the Prepetition Lenders);

(t) any guarantor or co-obligor of the Prepetition Obligations or the Obligations asserts any right of subrogation or contribution against any Loan Party before

the payment in full of the Obligations, Prepetition Obligations and Reinstated Prepetition Obligations;

(u) any other violation by the Debtors of the terms of the Financing Order; or

(v) any order is entered by the Bankruptcy Court sustaining any objection or challenge of any kind or nature to the validity, priority, or amount of the liens in favor of or claims held by the Agent or Lenders, or the Prepetition Agent or the Prepetition Lenders, including an action to recharacterize or subordinate the Agent or Lenders, or the Prepetition Agent or Prepetition Lenders.

9. RIGHTS AND REMEDIES.

9.1. **Rights and Remedies**. Notwithstanding Section 362 of the Bankruptcy Code, upon the occurrence and during the continuation of an Event of Default, Agent and, may and, at the instruction of the Required Lenders, shall (in each case under clauses (a) or (b) below by written notice to Borrower), in addition to any other rights or remedies provided for hereunder or under any other Loan Document or by applicable law, do any one or more of the following:

(a) declare the principal of, and any and all accrued and unpaid interest and fees in respect of, the Loans and all other Obligations (other than the Bank Product Obligations), whether evidenced by this Agreement or by any of the other Loan Documents to be immediately due and payable, whereupon the same shall become and be immediately due and payable and Borrowers shall be obligated to repay all of such Obligations in full, without presentment, demand, protest, or further notice or other requirements of any kind, all of which are hereby expressly waived by Borrowers;

(b) declare the Commitments terminated, whereupon the Commitments shall immediately be terminated together with any obligation of any Revolving Lender to make Revolving Loans; and

(c) subject to the applicable terms of the Financing Order, if any, exercise all other rights and remedies available to Agent or the Lenders under the Loan Documents, under applicable law, or in equity.

9.2. **Remedies Cumulative**. The rights and remedies of the Lender Group under this Agreement, the other Loan Documents, and all other agreements shall be cumulative. The Lender Group shall have all other rights and remedies not inconsistent herewith as provided under the Code, by law, or in equity. No exercise by the Lender Group of one right or remedy shall be deemed an election. An Event of Default is continuing if it has not been waived, and no waiver by the Lender Group of any Event of Default shall be deemed a continuing waiver. No delay by the Lender Group shall constitute a waiver, election, or acquiescence by it. No failure to exercise, nor any delay in exercising, on the part of Agent or any member of the Lender Group, any right or remedy under the Loan Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy.

10. WAIVERS; INDEMNIFICATION.

10.1. **Demand; Protest; etc**. Each Borrower waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, nonpayment at maturity, release, compromise, settlement, extension, or renewal of documents, instruments, chattel paper, and guarantees at any time held by the Lender Group on which it may in any way be liable.

10.2. **Lender Group's Liability for Collateral**. Each Borrower hereby agrees that: (a) so long as Agent complies with its obligations, if any, under the Code, the Lender Group shall not in any way or manner be liable or responsible for: (i) the safekeeping of the Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value thereof, or (iv) any act or default of any carrier, warehouseman, bailee, forwarding agency, or other Person, and (b) all risk of loss, damage, or destruction of the Collateral shall be borne by Borrowers.

10.3. **Indemnification**. Borrowers shall pay, indemnify, defend, and hold the Agent-Related Persons, the Lender-Related Persons, and each Participant (each, an "Indemnified Person") harmless (to the fullest extent permitted by law) from and against any and all claims, demands, suits, actions, investigations, proceedings, liabilities, fines, costs, penalties, and damages, and all reasonable fees and disbursements of attorneys', experts, or consultants and all other costs and expenses actually incurred in connection therewith or in connection with the enforcement of this indemnification (as and when they are incurred and irrespective of whether suit is brought), at any time asserted against, imposed upon, or incurred by any of them (a) in connection with or as a result of or related to the execution and delivery (provided that Borrowers shall not be liable for costs and expenses (including attorneys' fees) of any Lender incurred in advising, structuring, drafting, reviewing, administering or syndicating the Loan Documents), enforcement, performance, or administration (including any restructuring or workout with respect hereto) of this Agreement, any of the other Loan Documents, or the transactions contemplated hereby or thereby or the monitoring of Loan Parties' compliance with the terms of the Loan Documents (provided, that the indemnification in this clause (a) shall not extend to (i) disputes solely between or among the Lenders, (ii) disputes solely between or among the Lenders and their respective Affiliates; it being understood and agreed that the indemnification in this clause (a) shall extend to Agent (but not the Lenders) relative to disputes between or among Agent on the one hand, and one or more Lenders, or one or more of their Affiliates, on the other hand, or (iii) any claims primarily related to Taxes, which shall be governed by Sections 16), (b) with respect to any investigation, litigation, or proceeding related to this Agreement, any other Loan Document, or the use of the proceeds of the credit provided hereunder (irrespective of whether any Indemnified Person is a party thereto), or any act, omission, event, or circumstance in any manner related thereto, and (c) in connection with or arising out of any presence or release of Hazardous Materials at, on, under, to or from any assets or properties owned, leased or operated by any Loan Party or any Environmental Actions, Environmental Liabilities or Remedial Actions related in any way to any such assets or properties of any Loan Party (each and all of the foregoing, the "Indemnified Liabilities"). The foregoing to the contrary notwithstanding, no Borrower shall have any obligation to any Indemnified Person under this Section 10.3 with respect to any Indemnified Liability that (a) a court of competent jurisdiction finally determines to have resulted from the gross negligence or

willful misconduct of such Indemnified Person or its officers, directors, employees, attorneys', or agents or (b) result from a claim bought by any Borrower or any other Loan Party against an Indemnified Person for breach in bad faith of such Indemnified Person's obligations hereunder or under any other Loan Document, if such Borrower or such other Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. This provision shall survive the termination of this Agreement and the repayment in full of the Obligations. If any Indemnified Person makes any payment to any other Indemnified Person with respect to an Indemnified Liability as to which Borrowers were required to indemnify the Indemnified Person receiving such payment, the Indemnified Person making such payment is entitled to be indemnified and reimbursed by Borrowers with respect thereto. **WITHOUT LIMITATION, THE FOREGOING INDEMNITY SHALL APPLY TO EACH INDEMNIFIED PERSON WITH RESPECT TO INDEMNIFIED LIABILITIES WHICH IN WHOLE OR IN PART ARE CAUSED BY OR ARISE OUT OF ANY NEGLIGENT ACT OR OMISSION OF SUCH INDEMNIFIED PERSON OR OF ANY OTHER PERSON.**

11. NOTICES.

Unless otherwise provided in this Agreement, all notices or demands relating to this Agreement or any other Loan Document shall be in writing and (except for financial statements and other informational documents which may be sent by first-class mail, postage prepaid) shall be personally delivered or sent by registered or certified mail (postage prepaid, return receipt requested), overnight courier, electronic mail (at such email addresses as a party may designate in accordance herewith), or telefacsimile. In the case of notices or demands to any Borrower or Agent, as the case may be, they shall be sent to the respective address set forth below:

If to any Borrower:	**CIBER, INC.** 6363 South Fiddler's Green Circle, Suite 1400 Greenwood Village, Colorado 80111 Attn: Chief Financial Officer and General Counsel Fax No. 303-224-4125
with copies to:	**MORRISON & FOERSTER LLP** 250 West 55th Street New York, NY 10019-9601 Attn: Brett Miller Fax No. Email: brettmiller@mofo.com
If to Agent:	**WELLS FARGO BANK, N.A.** 100 W. Washington St., Floor 15 Phoenix, AZ 85003 Attn: Business Finance Division Manager Fax No. _____

with copies to:

GOLDBERG KOHN LTD.
55 East Monroe Street, Suite 3300
Chicago, Illinois 60603
Attn: Jeremy M. Downs
Fax No. (312) 863-7893
Email: Jeremy.Downs@goldbergkohn.com

Any party hereto may change the address at which they are to receive notices hereunder, by notice in writing in the foregoing manner given to the other party. All notices or demands sent in accordance with this Section 11, shall be deemed received on the earlier of the date of actual receipt or 3 Business Days after the deposit thereof in the mail; provided, that (a) notices sent by overnight courier service shall be deemed to have been given when received, (b) notices by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient) and (c) notices by electronic mail shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgment).

12. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER; JUDICIAL REFERENCE PROVISION.

(a) **THE VALIDITY OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN ANOTHER LOAN DOCUMENT IN RESPECT OF SUCH OTHER LOAN DOCUMENT), THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF AND THEREOF, THE RIGHTS OF THE PARTIES HERETO AND THERETO WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO, AND ANY CLAIMS, CONTROVERSIES OR DISPUTES ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

(b) **IF THE BANKRUPTCY COURT ABSTAINS FROM HEARING OR REFUSES TO EXERCISE JURISDICTION OVER ANY ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, FEDERAL COURTS LOCATED IN THE CITY OF NEW YORK, STATE OF NEW YORK; EACH BORROWER AND EACH MEMBER OF THE LENDER GROUP WAIVES, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 12(b).**

(c) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH BORROWER AND EACH MEMBER OF THE LENDER GROUP HEREBY WAIVES ITS RESPECTIVE RIGHTS, IF ANY, TO A JURY TRIAL OF ANY CLAIM, CONTROVERSY, DISPUTE OR CAUSE OF ACTION DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS (EACH A "CLAIM"). EACH BORROWER AND EACH MEMBER OF THE LENDER GROUP REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

(d) EACH BORROWER HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE CITY OF NEW YORK AND THE STATE OF NEW YORK AND THE BANKRUPTCY COURT, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENTS, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND HEREBY AGREES TO WAIVE ANY RIGHTS IT MAY HAVE TO OBJECT TO ADJUDICATION BY A JUDGE OF THE BANKRUPTCY COURT ON THE BASIS OF A RIGHT TO HAVE MATTERS ADJUDICATED IN FRONT OF AN ARTICLE III JUDGE. EACH OF THE PARTIES HERETO 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. NOTHING IN THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT AGENT MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST ANY LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(e) NO CLAIM MAY BE MADE BY ANY LOAN PARTY AGAINST THE AGENT, ANY LENDER, OR ANY AFFILIATE, DIRECTOR, OFFICER, EMPLOYEE, COUNSEL, REPRESENTATIVE, AGENT, OR ATTORNEY-IN-FACT OF ANY OF THEM FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES IN RESPECT OF ANY CLAIM FOR BREACH OF CONTRACT OR ANY OTHER THEORY OF LIABILITY ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR ANY ACT, OMISSION, OR EVENT OCCURRING IN CONNECTION THEREWITH, AND EACH LOAN PARTY HEREBY WAIVES, RELEASES, AND AGREES NOT TO SUE UPON ANY CLAIM FOR SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR.

13. ASSIGNMENTS AND PARTICIPATIONS; SUCCESSORS.

13.1. **Assignments and Participations**.

(a) Any Lender may assign and delegate all or any portion of its rights and duties under the Loan Documents (including the Obligations owed to it and its Commitments) to one or more assignees (each, an "Assignee"), with the prior written consent of the Agent.

(b) From and after the date that Agent receives the executed Assignment and Acceptance and, if applicable, payment of the required processing fee and such assignment has been entered into the Register in accordance with Section 13.1(g), (i) the Assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such Assignment and Acceptance, shall be a "Lender" and shall have the rights and obligations of a Lender under the Loan Documents, and (ii) the assigning Lender shall, to the extent that rights and obligations hereunder and under the other Loan Documents have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights (except with respect to Section 10.3) with respect to the assigned portions of the Commitments and be released from any future obligations under this Agreement with respect to the assigned portions of the Commitments (and in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement and the other Loan Documents, such Lender shall cease to be a party hereto and thereto); provided, that nothing contained herein shall release any assigning Lender from obligations that survive the termination of this Agreement, including such assigning Lender's obligations under Section 15 and Section 17.9(a).

(c) Immediately upon Agent's delivery of notice to the assigning Lender pursuant to Section 13.1(b), this Agreement shall automatically be deemed to be amended to the extent, but only to the extent, necessary to reflect the addition of the Assignee and the resulting adjustment of the Commitments arising therefrom. The Commitment allocated to each Assignee shall reduce such Commitments of the assigning Lender *pro tanto*.

(d) Any Lender may at any time sell to one or more commercial banks, financial institutions, or other Persons (a "Participant") participating interests in all or any portion of its Obligations, its Commitment, and the other rights and interests of that Lender (the "Originating Lender") hereunder and under the other Loan Documents; provided, that (i) the Originating Lender shall remain a "Lender" for all purposes of this Agreement and the other Loan Documents and the Participant receiving the participating interest in the Obligations, the Commitments, and the other rights and interests of the Originating Lender hereunder shall not constitute a "Lender" hereunder or under the other Loan Documents and the Originating Lender's obligations under this Agreement shall remain unchanged, (ii) the Originating Lender shall remain solely responsible for the performance of such obligations, (iii) Borrowers, Agent, and the Lenders shall continue to deal solely and directly with the Originating Lender in connection with the Originating Lender's rights and obligations under this Agreement and the other Loan Documents, (iv) no Lender shall transfer or grant any participating interest under which the Participant has the right to approve any amendment to, or any consent or waiver with respect to, this Agreement or any other Loan Document, except to the extent such amendment to, or consent or waiver with respect to this Agreement or of any other Loan Document would (A) extend the

final maturity date of the Obligations hereunder in which such Participant is participating, (B) reduce the interest rate applicable to the Obligations hereunder in which such Participant is participating, (C) release all or substantially all of the Collateral or guaranties (except to the extent expressly provided herein or in any of the Loan Documents) supporting the Obligations hereunder in which such Participant is participating, (D) postpone the payment of, or reduce the amount of, the interest or fees payable to such Participant through such Lender (other than a waiver of default interest), or (E) decreases the amount or postpones the due dates of scheduled principal repayments or prepayments or premiums payable to such Participant through such Lender, (v) no participation shall be sold to a natural person, (vi) no participation shall be sold to a Loan Party, an Affiliate of a Loan Party without Agent's consent, and (vii) all amounts payable by Borrowers hereunder shall be determined as if such Lender had not sold such participation, except that, if amounts outstanding under this Agreement are due and unpaid, or shall have been declared or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of set off in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement. The rights of any Participant only shall be derivative through the Originating Lender with whom such Participant participates and no Participant shall have any rights under this Agreement or the other Loan Documents or any direct rights as to the other Lenders, Agent, Borrowers, the Collateral, or otherwise in respect of the Obligations. No Participant shall have the right to participate directly in the making of decisions by the Lenders among themselves.

(e) In connection with any such assignment or participation or proposed assignment or participation or any grant of a security interest in, or pledge of, its rights under and interest in this Agreement, a Lender may, subject to the provisions of Section 17.9, disclose all documents and information which it now or hereafter may have relating to Company and its Subsidiaries and their respective businesses.

(f) Any other provision in this Agreement notwithstanding, any Lender may at any time create a security interest in, or pledge, all or any portion of its rights under and interest in this Agreement in favor of any Federal Reserve Bank in accordance with Regulation A of the Federal Reserve Bank or U.S. Treasury Regulation 31 CFR §203.24, and such Federal Reserve Bank may enforce such pledge or security interest in any manner permitted under applicable law.

(g) Agent (as a non-fiduciary agent on behalf of Borrowers) shall maintain, or cause to be maintained, a register (the "Register") on which it enters the name and address of each Lender as the registered owner of the Commitments (and the principal amount thereof and stated interest thereon and the portion of principal amount and interest of the Obligations assigned or transferred) held by such Lender (each, a "Registered Loan"). Other than in connection with an assignment by a Lender of all or any portion of its portion of the Commitments to an Affiliate of such Lender or a Related Fund of such Lender (i) a Registered Loan (and the registered note, if any, evidencing the same) may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register (and each registered note shall expressly so provide) and (ii) any assignment or sale of all or part of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by registration of such assignment or sale on the Register, together with the surrender of the registered note, if any,

evidencing the same duly endorsed by (or accompanied by a written instrument of assignment or sale duly executed by) the holder of such registered note, whereupon, at the request of the designated assignee(s) or transferee(s), one or more new registered notes in the same aggregate principal amount shall be issued to the designated assignee(s) or transferee(s). Prior to the registration of assignment or sale of any Registered Loan (and the registered note, if any evidencing the same), Borrowers shall treat the Person in whose name such Registered Loan (and the registered note, if any, evidencing the same) is registered as the owner thereof for the purpose of receiving all payments thereon and for all other purposes, notwithstanding notice to the contrary. In the case of any assignment by a Lender of all or any portion of its Commitments to an Affiliate of such Lender or a Related Fund of such Lender, and which assignment is not recorded in the Register, the assigning Lender, on behalf of Borrowers, shall maintain a register comparable to the Register. In the absence of manifest error, the entries in the Register shall be conclusive and the Borrowers, Agent and the Lenders shall treat each person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. Notwithstanding anything to the contrary, any assignment of any Obligation shall be effective only upon appropriate entries with respect thereto being made in the Register. The Register shall be available for inspection by the Borrowers, Agent and any Lender (solely with respect to its Obligations and/or Commitment), at any reasonable time and from time to time upon reasonable prior notice. This Section shall be construed so that the Obligations are at all times maintained in "registered form" within the meaning of Sections 163(f), 165(j), 871(h)(2), 881(c)(2) and 4701 of the IRC and any related regulations (and any successor provisions).

(h) In the event that a Lender sells participations in the Registered Loan, such Lender, as a non-fiduciary agent on behalf of Borrowers, shall maintain (or cause to be maintained) a register on which it enters the name of all participants in the Registered Loans held by it (and the principal amount (and stated interest thereon) of the portion of such Registered Loans that is subject to such participations) (the "Participant Register"). A Registered Loan (and the Registered Note, if any, evidencing the same) may be participated in whole or in part only by registration of such participation on the Participant Register (and each registered note shall expressly so provide). Any participation of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by the registration of such participation on the Participant Register. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. No Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under the IRC and Section 5f.103-1(c) of the United States Treasury Regulations. For the avoidance of doubt, the Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(i) Agent shall make a copy of the Register (and each Lender shall make a copy of its Participant Register in the extent it has one) available for review by Borrowers from time to time as Borrowers may reasonably request.

13.2. **Successors**. This Agreement shall bind and inure to the benefit of the respective successors and assigns of each of the parties; provided, that no Borrower may assign this Agreement or any rights or duties hereunder without the Lenders' prior written consent and any prohibited assignment shall be absolutely void *ab initio*. No consent to assignment by the Lenders shall release Borrowers from their Obligations. A Lender may assign this Agreement and the other Loan Documents and its rights and duties hereunder and thereunder pursuant to Section 13.1 and, except as required pursuant to Section 13.1, no consent or approval by Borrowers is required in connection with any such assignment.

14. AMENDMENTS; WAIVERS.

14.1. **Amendments and Waivers**.

(a) No amendment, waiver or other modification of any provision of this Agreement or any other Loan Document (other than Bank Product Agreements) and no consent with respect to any departure by Loan Parties therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by Agent at the written request of the Required Lenders), Company (on behalf of each applicable Loan Party thereto) and then any such waiver or consent shall be effective, but only in the specific instance and for the specific purpose for which given.

(b) **[Reserved].**

(c) Anything in this Section 14.1 to the contrary notwithstanding any amendment, modification, elimination, waiver, consent, termination, or release of, or with respect to, any provision of this Agreement or any other Loan Document that relates only to the relationship of the Lender Group among themselves, and that does not directly or indirectly affect the rights or obligations of any Loan Party (it being understood, however, that any amendment to the voting provisions described in this Section 14.1, the lender assignment and participation provisions and the collateral release provisions shall in any event be deemed to affect the rights of the Loan Parties), shall not require consent by or the agreement of any Loan Party.

14.2. **Reserved**.

14.3. **No Waivers; Cumulative Remedies**. No failure by Agent or any Lender to exercise any right, remedy, or option under this Agreement or any other Loan Document, or delay by Agent or any Lender in exercising the same, will operate as a waiver thereof. No waiver by Agent or any Lender will be effective unless it is in writing, and then only to the extent specifically stated. No waiver by Agent or any Lender on any occasion shall affect or diminish Agent's and each Lender's rights thereafter to require strict performance by each Borrower of any provision of this Agreement. Agent's and each Lender's rights under this Agreement and the other Loan Documents will be cumulative and not exclusive of any other right or remedy that Agent or any Lender may have.

15. AGENT; THE LENDER GROUP.

15.1. **Appointment and Authorization of Agent**. Each Lender hereby designates and appoints Wells Fargo as its agent under this Agreement and the other Loan Documents and each Lender hereby irrevocably authorizes (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to designate, appoint, and authorize) Agent to execute and deliver each of the other Loan Documents on its behalf and to take such other action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to Agent by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Agent agrees to act as agent for and on behalf of the Lenders (and the Bank Product Providers) on the conditions contained in this Section 15. Any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document notwithstanding, Agent shall not have any duties or responsibilities, except those expressly set forth herein or in the other Loan Documents, nor shall Agent have or be deemed to have any fiduciary relationship with any Lender (or Bank Product Provider), and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against Agent. Without limiting the generality of the foregoing, the use of the term "agent" in this Agreement or the other Loan Documents with reference to Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only a representative relationship between independent contracting parties. Each Lender hereby further authorizes (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent to act as the secured party under each of the Loan Documents that create a Lien on any item of Collateral. Except as expressly otherwise provided in this Agreement, Agent shall have and may use its sole discretion with respect to exercising or refraining from exercising any discretionary rights or taking or refraining from taking any actions that Agent expressly is entitled to take or assert under or pursuant to this Agreement and the other Loan Documents. Without limiting the generality of the foregoing, or of any other provision of the Loan Documents that provides rights or powers to Agent, Lenders agree that Agent shall have the right to exercise the following powers as long as this Agreement remains in effect: (a) maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Obligations, the Collateral, payments and proceeds of Collateral, and related matters, (b) execute or file any and all financing or similar statements or notices, amendments, renewals, supplements, documents, instruments, proofs of claim, notices and other written agreements with respect to the Loan Documents, (c) make Revolving Loans, for itself or on behalf of Lenders, as provided in the Loan Documents, (d) exclusively receive, apply, and distribute payments and proceeds of the Collateral as provided in the Loan Documents, (e) open and maintain such bank accounts and cash management arrangements as Agent deems necessary and appropriate in accordance with the Loan Documents for the foregoing purposes, (f) perform, exercise, and enforce any and all other rights and remedies of the Lender Group with respect to Company or its Subsidiaries, the Obligations, the Collateral, or otherwise related to any of same as provided in the Loan Documents, and (g) incur and pay such Lender Group Expenses as Agent may deem necessary or appropriate for the performance and fulfillment of its functions and powers pursuant to the Loan Documents.

15.2. **Delegation of Duties**. Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents, employees or attorneys' in fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. Agent shall not be responsible for the negligence or misconduct of any agent or attorney in fact that it selects as long as such selection was made without gross negligence or willful misconduct.

15.3. **Reserved**.

15.4. **Reserved**.

15.5. **Reserved**.

15.6. **Reserved**.

15.7. **Reserved**.

15.8. **Reserved**.

15.9. **Successor Agent**. Agent may resign as Agent upon 10 days prior written notice to the Lenders (unless such notice is waived by the Required Lenders), and without any notice to the Bank Product Providers. If Agent resigns under this Agreement, the Required Lenders shall be entitled, to appoint a successor Agent for the Lenders (and the Bank Product Providers). If no successor Agent is appointed prior to the effective date of the resignation of Agent, Agent may appoint, after consulting with the Lenders, a successor Agent. If Agent has materially breached or failed to perform any material provision of this Agreement or of applicable law, the Required Lenders may agree in writing to remove and replace Agent with a successor Agent from among the Lenders. In any such event, upon the acceptance of its appointment as successor Agent hereunder, such successor Agent shall succeed to all the rights, powers, and duties of the retiring Agent and the term "Agent" shall mean such successor Agent and the retiring Agent's appointment, powers, and duties as Agent shall be terminated. After any retiring Agent's resignation hereunder as Agent, the provisions of this Section 15 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement. If no successor Agent has accepted appointment as Agent by the date which is 10 days following a retiring Agent's notice of resignation, the retiring Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of Agent hereunder until such time, if any, as the Lenders appoint a successor Agent as provided for above.

15.10. **Reserved**.

15.11. **Collateral Matters**.

(a) The Lenders hereby irrevocably authorize (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent to release any Lien on any Collateral (i) upon the termination of the Commitments and payment and satisfaction in full by Borrowers of all of the Obligations, (ii) constituting property being sold or disposed of if a release is required or desirable in connection therewith and if Borrowers certify to Agent that the sale or disposition is permitted under Section 6.4 (and Agent may rely

conclusively on any such certificate, without further inquiry), (iii) constituting property in which the Borrowers and their Subsidiaries owned no interest at the time Agent's Lien was granted nor at any time thereafter, or (iv) as approved pursuant to Section 14.1, (v) constituting property leased to Borrowers or their Subsidiaries under a lease that has expired or is terminated in a transaction permitted under this Agreement or (vi) constituting assets that are Excluded Collateral pursuant to the Security Documents. The Loan Parties and the Lenders hereby irrevocably authorize (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent, based upon the instruction of the Required Lenders, to (a) consent to, credit bid or purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Section 363 of the Bankruptcy Code, (b) credit bid or purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral at any sale or other disposition thereof conducted under the provisions of the Code, including pursuant to Sections 9-610 or 9-620 of the Code, or (c) credit bid or purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral at any other sale or foreclosure conducted by Agent (whether by judicial action or otherwise) in accordance with applicable law. In connection with any such credit bid or purchase, (i) the Obligations owed to the Lenders and the Bank Product Providers shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims being estimated for such purpose if the fixing or liquidation thereof would not unduly delay the ability of Agent to credit bid or purchase at such sale or other disposition of the Collateral and, if such claims cannot be estimated without unduly delaying the ability of Agent to credit bid, then such claims shall be disregarded, not credit bid, and not entitled to any interest in the asset or assets purchased by means of such credit bid) and the Lenders and the Bank Product Providers whose Obligations are credit bid shall be entitled to receive interests (ratably based upon the proportion of their Obligations credit bid in relation to the aggregate amount of Obligations so credit bid) in the asset or assets so purchased (or in the Equity Interests of the acquisition vehicle or vehicles that are used to consummate such purchase), and (ii) Agent, based upon the instruction of the Required Lenders, may accept non-cash consideration, including debt and equity securities issued by such acquisition vehicle or vehicles and in connection therewith Agent may reduce the Obligations owed to the Lenders and the Bank Product Providers (ratably based upon the proportion of their Obligations credit bid in relation to the aggregate amount of Obligations so credit bid) based upon the value of such non-cash consideration. Except as provided above, Agent will not execute and deliver a release of any Lien on any Collateral without the prior written authorization of (y) if the release is of all or substantially all of the Collateral, all of the Lenders (without requiring the authorization of the Bank Product Providers), or (z) otherwise, the Required Lenders (without requiring the authorization of the Bank Product Providers). Upon request by Agent or Borrowers at any time, the Lenders will (and if so requested, the Bank Product Providers will) confirm in writing Agent's authority to release any such Liens on particular types or items of Collateral pursuant to this Section 15.11, and if received, Agent will promptly execute and deliver such documentation as Borrowers may reasonably request to evidence such release; provided, that (1) Agent shall not be required to execute any document necessary to evidence such release on terms that, in Agent's opinion, would expose Agent to liability or create any obligation or entail any consequence other than the release of such Lien without recourse, representation, or warranty, and (2) such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than

those expressly being released) upon (or obligations of any Loan Party in respect of) all interests retained by any Loan Party, including, the proceeds of any sale, all of which shall continue to constitute part of the Collateral. The Lenders further hereby irrevocably authorize (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent, at its option and in its sole discretion, to subordinate any Lien granted to or held by Agent under any Loan Document to the holder of any Permitted Lien on such property if such Permitted Lien secures Permitted Purchase Money Indebtedness.

(b) The Lenders hereby irrevocably authorize (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent to release any Guarantor from its obligations under the applicable guaranty agreement if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder or such release is otherwise approved in accordance with the requirements of Section 14.1, and at the request of Borrowers, subject to Section 5.11, Agent will promptly execute and deliver such documentation as Borrowers may reasonably request to evidence such release.

15.12. **Reserved**.

15.13. **Agency for Perfection**. Agent hereby appoints each other Lender (and each Bank Product Provider) as its agent (and each Lender hereby accepts (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to accept) such appointment) for the purpose of perfecting Agent's Liens in assets which, in accordance with Article 8 or Article 9, as applicable, of the Code, or other applicable law, can be perfected by possession or control. Should any Lender obtain possession or control of any such Collateral, such Lender shall notify Agent thereof, and, promptly upon Agent's request therefor shall deliver possession or control of such Collateral to Agent or in accordance with Agent's instructions.

15.14. **Payments by Agent to the Lenders**. All payments to be made by Agent to the Lenders (or Bank Product Providers) shall be made by bank wire transfer of immediately available funds pursuant to such wire transfer instructions as each party may designate for itself by written notice to Agent. Concurrently with each such payment, Agent shall identify whether such payment (or any portion thereof) represents principal, premium, fees, or interest of the Obligations.

15.15. **Concerning the Collateral and Related Loan Documents**. Each member of the Lender Group authorizes and directs Agent to enter into this Agreement and the other Loan Documents. Each member of the Lender Group agrees (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to agree) that any action taken by Agent in accordance with the terms of this Agreement or the other Loan Documents relating to the Collateral and the exercise by Agent of its powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Lenders (and such Bank Product Provider).

15.16. **Reserved**.

15.17. **Several Obligations; No Liability**. Notwithstanding that certain of the Loan Documents now or hereafter may have been or will be executed only by or in favor of Agent in

its capacity as such, and not by or in favor of the Lenders, any and all obligations on the part of Agent (if any) to make any credit available hereunder shall constitute the several (and not joint) obligations of the respective Lenders on a ratable basis, according to their respective Commitments, to make an amount of such credit not to exceed, in principal amount, at any one time outstanding, the amount of their respective Commitments. Nothing contained herein shall confer upon any Lender any interest in, or subject any Lender to any liability for, or in respect of, the business, assets, profits, losses, or liabilities of any other Lender. Each Lender shall be solely responsible for notifying its Participants of any matters relating to the Loan Documents to the extent any such notice may be required, and no Lender shall have any obligation, duty, or liability to any Participant of any other Lender. Except as provided in Section 15.7, no member of the Lender Group shall have any liability for the acts of any other member of the Lender Group. No Lender shall be responsible to any Borrower or any other Person for any failure by any other Lender (or Bank Product Provider) to fulfill its obligations to make credit available hereunder, nor to advance for such Lender (or Bank Product Provider) or on its behalf, nor to take any other action on behalf of such Lender (or Bank Product Provider) hereunder or in connection with the financing contemplated herein.

15.18. **Reserved.**

15.19. **Reserved.**

16. WITHHOLDING TAXES.

16.1 **Payments**. All payments made by any Loan Party hereunder or under any note or other Loan Document will be made without setoff, counterclaim, or other defense. In addition, all such payments will be made free and clear of, and without deduction or withholding for, any present or future Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable withholding agent) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding. If any Indemnified Taxes are so levied or imposed, the Loan Parties agree to pay the full amount of such Indemnified Taxes and such additional amounts as may be necessary so that every payment of all amounts due under this Agreement, any note, or Loan Document, including any amount paid pursuant to this Section 16.1 after withholding or deduction for or on account of any Indemnified Taxes, shall not be less than the amount provided for herein had such withholding or deduction not occurred; provided, that the Loan Parties shall not be required to increase any such amounts to the extent that the increase in such amount payable results from Agent's or such Lender's own willful misconduct or gross negligence (as finally determined by a court of competent jurisdiction). Borrowers will furnish to Agent as promptly as practicable after the date the payment of any Indemnified Tax is due pursuant to applicable law, certified copies of tax receipts evidencing such payment by Borrowers or other evidence of payment reasonably satisfactory to Agent. The Loan Parties agree to pay any present or future stamp, value added or documentary taxes or any other excise or property taxes, charges, or similar levies that arise from any payment made hereunder or from the execution, delivery, performance, recordation, or filing of, or otherwise with respect to this Agreement or any other Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment by a Lender after the date hereof under Section 13.1 (other than any assignment made at the request of any

Loan Party, or pursuant to Section 2.13(b), or following an Event of Default set forth in Section 8.1, 8.8, 8.9, 8.10, and 8.19) ("Other Taxes"). The Loan Parties shall jointly and severally indemnify each Indemnified Person (as defined in Section 10.3) (a "Tax Indemnitee") for the full amount of Indemnifiable Taxes or Other Taxes arising in connection with this Agreement or any other Loan Document (including, without limitation, any Indemnifiable Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under Section 16) paid by such Tax Indemnitee and all reasonable fees and disbursements of attorneys, experts, or consultants and all other costs and expenses actually incurred in connection therewith or in connection with the enforcement of this indemnification, as and when they are incurred and irrespective of whether suit is brought, whether or not such Indemnifiable Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority (other than Indemnifiable Taxes or Other Taxes resulting from gross negligence or willful misconduct of such Tax Indemnitee as finally determined by a court of competent jurisdiction).

16.2 **Exemptions**.

(a) If a Lender or Participant is entitled to claim an exemption or reduction from withholding Tax, such Lender or Participant agrees with and in favor of Agent, to deliver to Agent (or, in the case of a Participant, to the Lender granting the participation only) at the time or times reasonably requested by the Borrower or the Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Agent as will enable the Borrower or the Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 16.2(a)(i)-(v) and 16.2(c) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender or its Affiliates. Without limiting the generality of the foregoing, such Lender or Participant shall deliver the following (as applicable) before receiving its first payment under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or Agent):

(i) if such Lender or Participant is entitled to claim an exemption from United States withholding Tax pursuant to the portfolio interest exemption, (A) a statement of the Lender or Participant, signed under penalty of perjury, that it is not a (I) a "bank" within the meaning of Section 881(c)(3)(A) of the IRC, (II) a "10% shareholder" of any Borrower within the meaning of Section 881(c)(3)(B) of the IRC, or (III) a "controlled foreign corporation" related to any Borrower within the meaning of Section 881(c)(3)(C) of the IRC, and (B) a properly completed and executed IRS Form W-8BEN-E or W-8BEN or Form W-8IMY (with proper attachments);

(ii) if such Lender or Participant is entitled to claim an exemption from, or a reduction of, withholding Tax under a United States tax treaty, a properly completed and executed copy of IRS Form W-8BEN-E or W-8BEN establishing an exemption from, or

reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(iii) if such Lender or Participant is entitled to claim that interest paid under this Agreement is exempt from United States withholding Tax because it is effectively connected with a United States trade or business of such Lender, a properly completed and executed copy of IRS Form W-8ECI;

(iv) if such Lender or Participant is entitled to claim that interest paid under this Agreement is exempt from United States withholding Tax because such Lender or Participant serves as an intermediary, a properly completed and executed copy of IRS Form W-8IMY (with proper attachments) accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BEN-E, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; or

(v) a properly completed and executed copy of any other form or forms, including IRS Form W-9, as may be required under the IRC or other laws of the United States as a condition to exemption from, or reduction of, United States withholding or backup withholding Tax.

(b) Each Lender or Participant shall provide new forms (or successor forms) upon (i) the expiration or obsolescence of any previously delivered forms and to promptly notify Agent (or, in the case of a Participant, to the Lender granting the participation only), (ii) of any change in circumstances which would modify or render invalid any claimed exemption or reduction and (iii) upon the reasonable request of the Agent (as applicable) or the Borrowers.

(c) If a payment made to a Lender under any Loan Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Lender fails to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the IRC, as applicable), such Lender shall deliver promptly to the Borrowers and Agent documentation reasonably requested by the Borrowers or Agent (as applicable) sufficient for the Borrowers or Agent (as applicable) to comply with its obligations under FATCA and to determine that such Lender has complied with such applicable reporting requirements. Solely for purposes of this Section 16.2(c), "FATCA" shall include any amendments made to FATCA after the date of this Agreement

(d) **Reserved.**

(e) Each Borrower agrees that each Participant shall be entitled to the benefits of this Section 16 with respect to its participation in any portion of the Commitments and the Obligations so long as such Participant complies with the obligations set forth in this Section 16 with respect thereto and complies with all requirements of a Lender in this Section 16 (including the documentation requirements); provided that such Participant (A) agrees to be subject to the provisions of Sections 2.13(b) as if it were an assignee; and (B) shall not be entitled to receive any greater payment under Section 16, with respect to any participation, than its participating

Lender would have been entitled to receive, except as the result of a change in law, ruling, treaty, regulation, or other directive of a Governmental Authority after the date such participation was made.

16.3 **Reductions**.

(a) If a Lender or a Participant is entitled to a reduction in the applicable withholding Tax, Agent (or, in the case of a Participant, to the Lender granting the participation) may withhold from any payment to such Lender or such Participant an amount equivalent to the applicable withholding Tax after taking into account such reduction. If the forms or other documentation required by Section 16.2(a) or 16.2(c) are not delivered to Agent (or, in the case of a Participant, to the Lender granting the participation), then Agent (or, in the case of a Participant, to the Lender granting the participation) may withhold from any payment to such Lender or such Participant not providing such forms or other documentation an amount equivalent to the applicable withholding Tax.

(b) If the IRS or any other Governmental Authority of the United States or other jurisdiction asserts a claim that Agent (or, in the case of a Participant, to the Lender granting the participation) did not properly withhold Tax from amounts paid to or for the account of any Lender or any Participant due to a failure on the part of the Lender or any Participant (because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify Agent (or such Participant failed to notify the Lender granting the participation) of a change in circumstances which rendered the exemption from, or reduction of, withholding Tax ineffective, or for any other reason) such Lender shall indemnify and hold Agent harmless (or, in the case of a Participant, such Participant shall indemnify and hold the Lender granting the participation harmless) for all amounts paid, directly or indirectly, by Agent (or, in the case of a Participant, to the Lender granting the participation), as Tax or otherwise, including penalties and interest, and including any Taxes imposed by any jurisdiction on the amounts payable to Agent (or, in the case of a Participant, to the Lender granting the participation only) under this Section 16, together with all costs and expenses.

16.4 **Refunds**. If Agent or a Lender determines, in its reasonable discretion, that it has received a refund (or credit elected in lieu of such refund) any Taxes as to which any Borrower has paid additional amounts or indemnified pursuant to Section 16.1, so long as no Event of Default has occurred and is continuing, it shall pay over such refund or credit to such Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by such Borrower under this Section 16 with respect to Indemnified Taxes or Other Taxes giving rise to such a refund (or credit elected in lieu of such refund), net of all out-of-pocket expenses of Agent or such Lender and without interest (other than any interest paid by the applicable Governmental Authority with respect to such a refund); provided, that Borrowers, upon the request of Agent or such Lender, agree to repay the amount paid over to any Borrower (plus any penalties, interest or other charges, imposed by the applicable Governmental Authority, other than such penalties, interest or other charges imposed as a result of the willful misconduct or gross negligence of Agent hereunder) to Agent or such Lender in the event Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything in this Agreement to the contrary, this Section 16.4 shall not be construed to require Agent or any Lender to (i) make available its tax returns (or any other information which it deems

confidential) to any Borrower or any other Person or (ii) to pay any amount under this Section 16.4 the payment of which would place such Lender or Agent (or its Affiliates) in a less favorable net after-Tax position than such Lender or Agent (or its Affiliates) would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid.

16.5 **Survival**. Each party's obligations under this Section 16 shall survive the resignation or replacement of the Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

17. GENERAL PROVISIONS.

17.1. **Effectiveness**. This Agreement shall be binding and deemed effective upon the satisfaction of the items listed on Schedule 3.1.

17.2. **Section Headings**. Headings and numbers have been set forth herein for convenience only. Unless the contrary is compelled by the context, everything contained in each Section applies equally to this entire Agreement.

17.3. **Interpretation**. Neither this Agreement nor any uncertainty or ambiguity herein shall be construed against the Lender Group or any Borrower, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to accomplish fairly the purposes and intentions of all parties hereto. To the extent of any conflict between the terms of the Financing Order and the terms of this Agreement, the terms of the Financing Order shall govern and control.

17.4. **Severability of Provisions**. Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

17.5. **Bank Product Providers**. Each Bank Product Provider shall be deemed a third party beneficiary hereof and of the provisions of the other Loan Documents for purposes of any reference in a Loan Document to the parties for whom Agent is acting. Agent hereby agrees to act as agent for such Bank Product Providers and, by virtue of entering into a Bank Product Agreement, the applicable Bank Product Provider shall be automatically deemed to have appointed Agent as its agent and to have accepted the benefits of the Loan Documents; it being understood and agreed that the rights and benefits of each Bank Product Provider under the Loan Documents consist exclusively of such Bank Product Provider's being a beneficiary of the Liens and security interests (and, if applicable, guarantees) granted to Agent and the right to share in payments and collections out of the Collateral as more fully set forth herein. In addition, each Bank Product Provider, by virtue of entering into a Bank Product Agreement, shall be automatically deemed to have agreed that Agent shall have the right, but shall have no obligation, to establish, maintain, relax, or release reserves in respect of the Bank Product Obligations and that if reserves are established in accordance with the terms and provisions of

this Agreement there is no obligation on the part of Agent to determine or insure whether the amount of any such reserve is appropriate or not. In connection with any such distribution of payments or proceeds of Collateral, Agent shall be entitled to assume no amounts are due or owing to any Bank Product Provider unless such Bank Product Provider has provided a written certification (setting forth a reasonably detailed calculation) to Agent as to the amounts that are due and owing to it and such written certification is received by Agent a reasonable period of time prior to the making of such distribution. Agent shall have no obligation to calculate the amount due and payable with respect to any Bank Products, but may rely upon the written certification of the amount due and payable from the applicable Bank Product Provider. In the absence of an updated certification, Agent shall be entitled to assume that the amount due and payable to the applicable Bank Product Provider is the amount last certified to Agent by such Bank Product Provider as being due and payable (less any distributions made to such Bank Product Provider on account thereof). Borrowers may obtain Bank Products from any Bank Product Provider, although no Borrower is required to do so. Borrowers acknowledge and agree that no Bank Product Provider has committed to provide any Bank Products and that the providing of Bank Products by any Bank Product Provider is in the sole and absolute discretion of such Bank Product Provider. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, no provider or holder of any Bank Product shall have any voting or approval rights hereunder (or be deemed a Lender) solely by virtue of its status as the provider or holder of such agreements or products or the Obligations owing thereunder, nor shall the consent of any such provider or holder be required (other than in their capacities as Lenders, to the extent applicable) for any matter hereunder or under any of the other Loan Documents, including as to any matter relating to the Collateral or the release of Collateral or Guarantors.

17.6. **Debtor-Creditor Relationship**. The relationship between the Lenders and Agent, on the one hand, and the Loan Parties, on the other hand, is solely that of creditor and debtor. No member of the Lender Group has (or shall be deemed to have) any fiduciary relationship or duty to any Loan Party arising out of or in connection with the Loan Documents or the transactions contemplated thereby, and there is no agency or joint venture relationship between the members of the Lender Group, on the one hand, and the Loan Parties, on the other hand, by virtue of any Loan Document or any transaction contemplated therein.

17.7. **Counterparts; Electronic Execution**. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement. Delivery of an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement. The foregoing shall apply to each other Loan Document *mutatis mutandis*.

17.8. **Revival and Reinstatement of Obligations; Certain Waivers**. If the incurrence or payment of the Obligations by any Borrower or any Guarantor or the transfer to the Lender Group of any property should for any reason subsequently be asserted, or declared, to be

void or voidable under any state or federal law relating to creditors' rights, including provisions of the Bankruptcy Code relating to fraudulent conveyances, preferences, or other voidable or recoverable payments of money or transfers of property (each, a "Voidable Transfer"), and if the Lender Group is required to repay or restore, in whole or in part, any such Voidable Transfer, or elects to do so upon the advice of counsel, then, as to any such Voidable Transfer, or the amount thereof that the Lender Group is required or elects to repay or restore, and as to all reasonable costs, expenses, and attorneys' fees of the Lender Group related thereto, the liability of such Borrower or such Guarantor automatically shall be revived, reinstated, and restored and shall exist as though such Voidable Transfer had never been made.

17.9. **Confidentiality**.

(a) Agent and Lenders each individually (and not jointly or jointly and severally) agree that material, non-public information received from any Borrower and its Subsidiaries, their operations, assets, and existing and contemplated business plans ("Confidential Information") shall be treated by Agent and the Lenders in a confidential manner, and shall not be disclosed by Agent and the Lenders to Persons who are not parties to this Agreement, except: (i) to attorneys' for and other advisors, accountants, auditors, and consultants to any member of the Lender Group and to employees, directors and officers of any member of the Lender Group (the Persons in this clause (i), "Lender Group Representatives") on a "need to know" basis in connection with this Agreement and the transactions contemplated hereby and on a confidential basis, (ii) to Subsidiaries and Affiliates of any member of the Lender Group (including the Bank Product Providers), provided that any such Subsidiary or Affiliate shall have agreed to receive such information hereunder subject to the terms of this Section 17.9, (iii) as may be required by regulatory authorities so long as such authorities are informed of the confidential nature of such information, (iv) as may be required by statute, decision, or judicial or administrative order, rule, or regulation; provided that (x) prior to any disclosure under this clause (iv), the disclosing party agrees to provide Borrower with prior notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior notice to Borrower pursuant to the terms of the applicable statute, decision, or judicial or administrative order, rule, or regulation and (y) any disclosure under this clause (iv) shall be limited to the portion of the Confidential Information as may be required by such statute, decision, or judicial or administrative order, rule, or regulation, (v) as may be agreed to in advance in writing by Borrower, (vi) as requested or required by any Governmental Authority pursuant to any subpoena or other legal process, provided, that, (x) prior to any disclosure under this clause (vi) the disclosing party agrees to provide Borrower with prior written notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior written notice to Borrower pursuant to the terms of the subpoena or other legal process and (y) any disclosure under this clause (vi) shall be limited to the portion of the Confidential Information as may be required by such Governmental Authority pursuant to such subpoena or other legal process, (vii) as to any such information that is or becomes generally available to the public (other than as a result of prohibited disclosure by Agent or the Lenders or the Lender Group Representatives), (viii) in connection with any assignment, participation or pledge of any Lender's interest under this Agreement to an Eligible Transferee, provided that prior to receipt of Confidential Information any such assignee, participant, or pledgee shall have agreed in writing to receive such Confidential Information hereunder in accordance with the terms of this Section, (ix) in connection with any litigation or

other adversary proceeding involving parties hereto which such litigation or adversary proceeding involves claims related to the rights or duties of such parties under this Agreement or the other Loan Documents; provided, that, prior to any disclosure to any Person (other than any Loan Party, Agent, any Lender, any of their respective Affiliates, or their respective counsel) under this clause (ix) with respect to litigation involving any Person (other than any Borrower, Agent, any Lender, any of their respective Affiliates, or their respective counsel), the disclosing party agrees to provide Borrower with prior written notice thereof, and (x) in connection with, and to the extent reasonably necessary for, the exercise of any secured creditor remedy under this Agreement or under any other Loan Document.

(b) Anything in this Agreement to the contrary notwithstanding, Agent may disclose information concerning the terms and conditions of this Agreement and the other Loan Documents to loan syndication and pricing reporting services or in its marketing or promotional materials, with such information to consist of deal terms and other information customarily found in such publications or marketing or promotional materials and may otherwise use the name, logos, and other insignia of any Borrower or the other Loan Parties and the Commitments provided hereunder in any "tombstone" or other advertisements, on its website or in other marketing materials of the Agent.

(c) The Loan Parties hereby acknowledge that Agent or its Affiliates may make available to the Lenders materials or information provided by or on behalf of Borrowers hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, SyndTrak or another similar electronic system (the "Platform") and certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Loan Parties or their securities) (each, a "Public Lender"). The Loan Parties shall be deemed to have authorized Agent and its Affiliates and the Lenders to treat Borrower Materials marked "PUBLIC" or otherwise at any time filed with the SEC as not containing any material non-public information with respect to the Loan Parties or their securities for purposes of United States federal and state securities laws. All Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor" (or another similar term). Agent and its Affiliates and the Lenders shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" or that are not at any time filed with the SEC as being suitable only for posting on a portion of the Platform not marked as "Public Investor" (or such other similar term).

17.10. **Survival**. All representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that Agent, or any Lender may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of, or any accrued interest on, any Loan or any fee or any other amount payable under this Agreement is outstanding or unpaid and so long as the Commitments have not expired or been terminated.

17.11. **Patriot Act**. Each Lender that is subject to the requirements of the Patriot Act hereby notifies Borrowers that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies Borrowers, which information includes the name and address of Borrowers and other information that will allow such Lender to identify Borrowers in accordance with the Patriot Act. In addition, if Agent is required by law or regulation or internal policies to do so, it shall have the right to periodically conduct (a) Patriot Act searches, OFAC/PEP searches, and customary individual background checks for the Loan Parties and (b) OFAC/PEP searches and customary individual background checks for the Loan Parties' senior management and key principals, and Borrowers agree to cooperate in respect of the conduct of such searches and further agrees that the reasonable costs and charges for such searches shall constitute Lender Group Expenses hereunder and be for the account of Borrower.

17.12. **Integration**. This Agreement, together with the other Loan Documents, reflects the entire understanding of the parties with respect to the transactions contemplated hereby and shall not be contradicted or qualified by any other agreement, oral or written, before the date hereof. The foregoing to the contrary notwithstanding, all Bank Product Agreements, if any, are independent agreements governed by the written provisions of such Bank Product Agreements, which will remain in full force and effect, unaffected by any repayment, prepayments, acceleration, reduction, increase, or change in the terms of any credit extended hereunder, except as otherwise expressly provided in such Bank Product Agreement.

17.13. **Administrative Borrowers**.

(a) Each Borrower hereby irrevocably appoints Company as the borrowing agent and attorney-in-fact for all Borrowers (the "Administrative Borrower") for the purposes of each Loan Document, which appointment shall remain in full force and effect unless and until Agent shall have received prior written notice signed by each Borrower that such appointment has been revoked and that another Borrower has been appointed Administrative Borrower. Each Borrower hereby irrevocably appoints and authorizes the Administrative Borrower (a) to provide Agent with all notices with respect to Revolving Loans and all other notices and instructions under this Agreement, and (b) to take such action as the Administrative Borrower deems appropriate on its behalf to obtain Revolving Loans and to exercise such other powers as are reasonably incidental thereto to carry out the purposes of this Agreement. Borrowers agree that any notice to be given by Agent or any other member of the Lender Group under the Loan Documents to any Loan Party may be given to Administrative Borrower. It is understood that the handling of the Loan Account and Collateral in a combined fashion, as more fully set forth herein, is done solely as an accommodation to Borrowers in order to utilize the collective borrowing powers of Borrowers in the most efficient and economical manner and at their request, and that Lender Group shall not incur liability to any Borrower as a result hereof. Each Borrower expects to derive benefit, directly or indirectly, from the handling of the Loan Account and the Collateral in a combined fashion since the successful operation of each Borrower is dependent on the continued successful performance of the integrated group. To induce the Lender Group to do so, and in consideration thereof, each Borrower hereby jointly and severally agrees to indemnify each member of the Lender Group and hold each member of the Lender Group harmless against any and all liability, expense, loss or claim of damage or injury, made against the Lender Group by any Borrower or by any third party whosoever, arising from or incurred by reason of (a) the handling of the Loan Account and Collateral of Borrowers as herein

provided, or (b) the Lender Group's relying on any instructions of the Administrative Borrower, except that Borrowers will have no liability to the relevant Agent-Related Person or Lender-Related Person under this Section 17.13 with respect to any liability that has been finally determined by a court of competent jurisdiction to have resulted solely from the gross negligence or willful misconduct of such Agent-Related Person or Lender-Related Person, as the case may be.

[Signature pages to follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the date first above written.

BORROWERS:

CIBER, INC., a Delaware corporation

By: _____
Name: _____
Title: _____

:

CIBER CONSULTING INCORPORATED., an Illinois corporation

By: _____
Name: _____
Title: _____

:

CIBER INTERNATIONAL LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

AGENT and LENDER:

WELLS FARGO BANK, N.A., a national banking association

By: _____
Name: _____
Its Authorized Signatory

Exhibit A

Approved Budget

Exhibit B-1

Form of Borrowing Base Certificate

Exhibit B-2

Form of Bank Product Provider Agreement

Exhibit C-1

Form of Compliance Certificate

Schedule A-1

Agent's Applicable Account

(a) Agent's Account

Bank: Wells Fargo Bank, N.A.
420 Montgomery Street
San Francisco, California
ABA # 121-000-248

Account Name: Wells Fargo Bank, N.A.
Account Number: 4124923723
Ref: CIBER, Inc.

Standard settlement instructions:

CURRENCY	BANK NAME	SWIFT CODE	ACCOUNT NUMBER
Dollars	WELLS FARGO BANK N.A., NEW YORK	PNBPUS3NNYC	2000193507214, ABA 026005092 Account Name: Loans Admin re CIBER

Schedule A-2

Authorized Persons

Schedule C-1

Commitments

Lender	Revolver Commitment	Total Commitment
Wells Fargo Bank, National Association	[__]	[__]
All Lenders	[__]	[__]

Schedule C-2

Non-Wholly Owned Loan Parties

Schedule D-2

US Designated Account

Schedule P-1

Permitted Investments

Schedule P-2

Permitted Liens

Schedule 1.1

Definitions

As used in the Agreement, the following terms shall have the following definitions:

"Account" means an account (as that term is defined in the Code).

"Account Debtor" means any Person who is obligated on an Account, chattel paper, or a general intangible.

"Accounting Changes" means changes in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants (or successor thereto or any agency with similar functions).

"Additional Documents" has the meaning specified therefor in Section 5.12 of the Agreement.

"Administrative Borrower" has the meaning specified therefor in Section 17.13(a) of the Agreement.

"Affected Lender" has the meaning specified therefor in Section 2.13(b) of the Agreement.

"Affiliate" means, as applied to any Person, any other Person who controls, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" means the possession, directly or indirectly through one or more intermediaries, of the power to direct the management and policies of a Person, whether through the ownership of Equity Interests, by contract, or otherwise; provided, that, for purposes of the definition of Eligible Accounts and Section 6.10 of the Agreement: (a) any Person which owns directly or indirectly 10% or more of the Equity Interests having ordinary voting power for the election of directors or other members of the governing body of a Person or 10% or more of the partnership or other ownership interests of a Person (other than as a limited partner of such Person) shall be deemed an Affiliate of such Person, (b) each director (or comparable manager) of a Person shall be deemed to be an Affiliate of such Person, and (c) each partnership in which a Person is a general partner shall be deemed an Affiliate of such Person.

"Agent" has the meaning specified therefor in the preamble to the Agreement.

"Agent-Related Persons" means Agent, together with its Affiliates, officers, directors, employees, attorneys', agents, consultants, and each of their respective sub-agents.

"Agent's Account" means the Deposit Account of Agent identified on Schedule A-1 as Agent's Account (or such other Deposit Account of Agent that has been designated as such, in writing, by Agent to Borrowers and the Lenders).

"Agent's Liens" means the Liens granted by Borrowers or their Subsidiaries to Agent under the Loan Documents and securing all or a portion of the Obligations.

"Agreement" means the Debtor-in-Possession Credit Agreement to which this Schedule 1.1 is attached.

"Applicable Margin" means, as of any date of determination and with respect to Base Rate Loans, the applicable margin set forth in the following table:

Applicable Margin Relative to Base Rate Loans (the "Base Rate Margin")
5.25 percentage points

"Approved Budget" means the 8-week "Budget" approved by Agent and in effect from time to time pursuant to the terms of the Financing Order, *provided that* Agent and Borrowers, acting together, may agree in writing to update or supplement the Approved Budget from time to time. A copy of the initial Approved Budget is attached hereto as Exhibit A.

"Assignee" has the meaning specified therefor in Section 13.1(a) of the Agreement.

"Authorized Person" means any one of the individuals identified on Schedule A-2 to the Agreement, as such schedule is updated from time to time by written notice from Borrowers to Agent.

"Availability" means, as of any date of determination, the amount that Borrowers are entitled to borrow as Revolving Loans under Section 2.1 of the Agreement (after giving effect to the then outstanding Revolver Usage, the Prepetition Obligations and Reinstated Prepetition Obligations then-outstanding).

"Availability Block" means $0 on the Closing Date, but shall be increased by the aggregate amount, determined from time to time from and after the Closing Date, that Borrowers have or are required to pay or remit to Agent pursuant to Sections 2.4(e)(ii)-(v).

"Avoidance Action" means any and all claims and causes of action of any Borrower's estate arising under Sections 542, 544, 545, 547, 548, 549, 550, 551, 553(b) or 724(a) of the Bankruptcy Code, together with any proceeds therefrom.

"Avoided Payment" has the meaning set forth in Section 2.4(g) of this Agreement.

"Bank Product" means any one or more of the following financial products or accommodations extended to Borrowers or their Subsidiaries by a Bank Product Provider: (a) credit cards (including commercial credit cards (including so-called "procurement cards" or

"P-cards")), (b) credit card processing services, (c) debit cards, (d) stored value cards, (e) Cash Management Services, or (f) transactions under Hedge Agreements.

"Bank Product Agreements" means those agreements entered into from time to time by Borrowers or their Subsidiaries with a Bank Product Provider in connection with the obtaining of any of the Bank Products.

"Bank Product Collateralization" means, with respect to the Bank Product Obligations, providing cash collateral (pursuant to documentation reasonably satisfactory to Agent) to be held by Agent for the benefit of the Bank Product Providers (other than the Hedge Providers) in an amount determined by Agent as sufficient to satisfy the reasonably estimated credit exposure with respect to the then existing Bank Product Obligations (other than Hedge Obligations).

"Bank Product Obligations" means (a) all obligations, liabilities, reimbursement obligations, fees, or expenses owing by a Borrower or its Subsidiaries to any Bank Product Provider pursuant to or evidenced by a Bank Product Agreement and irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, (b) all Hedge Obligations, and (c) all amounts that Agent or any Lender is obligated to pay to a Bank Product Provider as a result of Agent or such Lender purchasing participations from, or executing guarantees or indemnities or reimbursement obligations to, a Bank Product Provider with respect to the Bank Products provided by such Bank Product Provider to a Borrower or its Subsidiaries; provided, in order for any item described in clauses (a) (b), or (c) above, as applicable, to constitute "Bank Product Obligations", if the applicable Bank Product Provider is any Person other than Agent or its Affiliates, then the applicable Bank Product must have been provided on or after the Closing Date and Agent shall have received a Bank Product Provider Agreement within 10 days after the date of the provision of the applicable Bank Product to such Borrower or its Subsidiaries.

"Bank Product Provider" means any Lender or any of its Affiliates, including each of the foregoing in its capacity, if applicable, as a Hedge Provider; provided, that no such Person (other than Agent or its Affiliates) shall constitute a Bank Product Provider with respect to a Bank Product unless and until Agent shall have received a Bank Product Provider Agreement from such Person and with respect to the applicable Bank Product within 10 days after the provision of such Bank Product to a Borrower or its Subsidiaries; provided further, that if, at any time, a Lender ceases to be a Lender under the Agreement, then, from and after the date on which it ceases to be a Lender thereunder, the obligations with respect to Bank Products provided by such former Lender or any of its Affiliates shall constitute Former Lender Bank Product Obligations.

"Bank Product Provider Agreement" means an agreement in substantially the form attached hereto as Exhibit B-2 to the Agreement, or otherwise in form and substance reasonably satisfactory to Agent, duly executed by the applicable Bank Product Provider, Borrower, and Agent.

"Bank Product Reserves" means, as of any date of determination, those reserves that Agent deems necessary or appropriate to establish (based upon the Bank Product Providers'

determination of the liabilities and obligations of the Borrowers and their Subsidiaries in respect of Bank Product Obligations) in respect of Bank Products then provided or outstanding; provided that reserves with respect to Bank Products entered in connection with foreign exchange transactions shall be established based upon Agent's determination in its Permitted Discretion of the marked-to-market exposure with respect thereto.

"Bankruptcy Code" means title 11 of the United States Code, as in effect from time to time.

"Bankruptcy Court" has the meaning given to it in the Recitals.

"Base Rate" means the greatest of (a) the Federal Funds Rate plus ½%, (b) the LIBOR Rate (which rate shall be calculated based upon an Interest Period of 1 month and shall be determined on a daily basis), plus 1 percentage point, and (c) the rate of interest announced, from time to time, within Agent at its principal office in San Francisco as its "prime rate", with the understanding that the "prime rate" is one of Agent's base rates (not necessarily the lowest of such rates) and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto and is evidenced by the recording thereof after its announcement in such internal publications as Agent may designate.

"Base Rate Loan" means each portion of the Revolving Loans that bears interest at a rate determined by reference to the Base Rate. All Base Rate Loans shall be denominated in Dollars.

"Base Rate Margin" has the meaning set forth in the definition of Applicable Margin.

"Benefit Plan" means a "defined benefit plan" (as defined in Section 3(35) of ERISA subject to Title IV of ERISA or Section 412 of the IRC) for which any Loan Party or ERISA Affiliates has been an "employer" (as defined in Section 3(5) of ERISA) within the past six years.

"Board of Directors" means, as to any Person, the board of directors (or comparable managers) of such Person, or any committee thereof duly authorized to act on behalf of the board of directors (or comparable managers).

"Board of Governors" means the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower" has the meaning specified therefor in the preamble to the Agreement.

"Borrower Materials" has the meaning specified therefor in Section 17.9(c) of the Agreement.

"Borrowing" means a borrowing consisting of Revolving Loans made on the same day by the Lenders (or Agent on behalf thereof.

"Borrowing Base" means, as of any date of determination, the result of:

(a) 85% of the amount of Eligible Accounts that are Tier One Accounts, less the amount, if any, of the Dilution Reserve, plus

(b) 75% of the amount of Eligible Accounts that are Tier Two Accounts, less the amount, if any, of the Dilution Reserve; provided that such amount shall not exceed an amount equal to the Tier Two Maximum Billed Amount, plus

(c) 70% of the amount of Eligible Unbilled Accounts that are Tier One Accounts, less the amount, if any, of the Unbilled Dilution Reserve; provided that (i) such amount, plus (ii) the amount set forth in clause (d) of the Borrowing Base for such date of determination shall not in the aggregate exceed an amount equal to the Tier One Maximum Unbilled Amount, plus

(d) 70% of the amount of any Eligible Unbilled Accounts that are Tier Two Accounts, less the amount, if any, of the Unbilled Dilution Reserve; provided that such amount shall not exceed an amount equal to the Tier Two Maximum Unbilled Amount, plus

(e) the Permitted Overadvance, plus

(f) the Carveout Overadvance, minus

(g) the Availability Block, minus

(h) the Carveout Reserve, minus

(i) the Payroll Reserve, minus

(j) the sum of the aggregate amount of other reserves, if any, established by Agent under Section 2.1(c) of the Agreement, to the extent that such reserves relate to Eligible Accounts or liabilities of any of the Loan Parties.

"Borrowing Base Certificate" means a certificate in the form of Exhibit B-1 or such other form reasonably acceptable to Agent.

"Business Day" means any day that is not a Saturday, Sunday, or other day on which banks are authorized or required to close in the state of California.

"Capitalized Lease Obligation" means that portion of the obligations under a Capital Lease that is required to be capitalized in accordance with GAAP.

"Capital Lease" means a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

"Carveout" has the meaning specified in the Financing Order.

"Carveout Overadvance" means, as of each determination from time to time, an amount equal to the then-existing Carveout Reserve, plus the aggregate amount of "Carveout" (as defined in the Financing Order) that has been paid as of such determination.

"Carveout Reserve" means, a reserve in an amount equal to the projected Carveout amount set forth in the Approved Budget for the period commencing on the Filing Date and ending at the end of the week of any given date of determination; *provided* that a portion of the Carveout Reserve shall be released from time to time on account of fees and expenses of the Carveout Professionals (as defined in the Financing Order) that are set forth in the Approved Budget and allowed by the Bankruptcy Court and have been duly paid.

"Cases" has the meaning given to it in the Recitals.

"Cash Equivalents" means (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within 1 year from the date of acquisition thereof, (b) marketable direct obligations issued or fully guaranteed by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within 1 year from the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from either Standard & Poor's Rating Group ("S&P") or Moody's Investors Service, Inc. ("Moody's"), (c) commercial paper maturing no more than 270 days from the date of creation thereof and, at the time of acquisition, having a rating of at least A-1 from S&P or at least P-1 from Moody's, (d) certificates of deposit, time deposits, overnight bank deposits or bankers' acceptances maturing within 1 year from the date of acquisition thereof issued by any bank organized under the laws of the United States or any state thereof or the District of Columbia or any United States branch of a foreign bank having at the date of acquisition thereof combined capital and surplus of not less than $1,000,000,000, (e) Deposit Accounts maintained with (i) any bank that satisfies the criteria described in clause (d) above, or (ii) any other bank organized under the laws of the United States or any state thereof so long as the full amount maintained with any such other bank is insured by the Federal Deposit Insurance Corporation, (f) repurchase obligations of any commercial bank satisfying the requirements of clause (d) of this definition or recognized securities dealer having combined capital and surplus of not less than $1,000,000,000, having a term of not more than seven days, with respect to securities satisfying the criteria in clauses (a) or (d) above, (g) debt securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any commercial bank satisfying the criteria described in clause (d) above, and (h) Investments in money market funds substantially all of whose assets are invested in the types of assets described in clauses (a) through (g) above.

"Cash Management Order" means that certain order authorizing the Debtors to continue using their current Cash Management Services and is in form and substance satisfactory to Agent.

"Cash Management Services" means any cash management or related services including treasury, depository, return items, overdraft, controlled disbursement, merchant store value cards, e-payables services, electronic funds transfer, interstate depository network, automatic clearing house transfer (including the Automated Clearing House processing of

electronic funds transfers through the direct Federal Reserve Fedline system) and other customary cash management arrangements.

"CFC" means a controlled foreign corporation (as that term is defined in the IRC) of which any Loan Party is a United States shareholder within the meaning of Section 951(b) of the IRC.

"Change of Control" means that:

(a) any Person or two or more Persons acting in concert, shall have acquired beneficial ownership, directly or indirectly, of Equity Interests of Borrowers (or other securities convertible into such Equity Interests) representing 30% or more of the combined voting power of all Equity Interests of Borrowers entitled (without regard to the occurrence of any contingency) to vote for the election of members of the Board of Directors of Borrower;

(b) any Person or two or more Persons acting in concert, shall have acquired by contract or otherwise, or shall have entered into a contract or arrangement that, upon consummation thereof, will result in its or their acquisition of the power to exercise, directly or indirectly, a controlling influence over the management or policies of Borrowers or control over the Equity Interests of such Person entitled to vote for members of the Board of Directors of Borrowers on a fully-diluted basis (and taking into account all such Equity Interests that such Person or group has the right to acquire pursuant to any option right) representing 30% or more of the combined voting power of such Equity Interests;

(c) during the Cases, the occurrence of a change in the composition of the Board of Directors of Borrowers such that a majority of the members of such Board of Directors are not Continuing Directors;

(d) Except as permitted pursuant to Sections 6.3 and 6.4, Company fails to own and control, directly or indirectly, 100% of the Equity Interests of each other Loan Party except for the Loan Parties set forth on Schedule C-2; or

(e) the chief restructuring officer is no longer employed by the Loan Parties or there is a material reduction or change in their roles or authority (individually or in the aggregate) within the Loan Parties relative to his role and authority as of the Closing Date and a successor (or interim successor) reasonably acceptable to the Agent and the Required Lenders is not appointed on terms reasonably acceptable to the Agent and the Required Lenders within 3 Business Days after such material reduction or change, or within such longer period as may be acceptable to the Agent in its sole discretion).

"CLAIM" meaning specified therefor in Section 12(c) of the Agreement.

"Closing Fee" meaning specified therefor in Section 2.10(c) of the Agreement.

"Closing Date" means the date of the making of the initial Revolving Loan (or other extension of credit) under the Agreement.

"Code" means the Uniform Commercial Code as in effect in any applicable jurisdiction; provided that, unless specified otherwise or the context otherwise requires, such term shall refer to New York Uniform Commercial Code, as in effect from time to time.

"Collateral" means all assets and interests in assets and proceeds thereof now owned or hereafter acquired by any Borrower or its Subsidiaries in or upon which a Lien is granted by such Person in favor of Agent or the Lenders under any of the Loan Documents, including, without limitations, Avoidance Actions.

"Collections" means all cash, checks, notes, instruments, and other items of payment (including insurance proceeds, rental proceeds, and tax refunds).

"Collection Deposit Accounts" means a Deposit Account into which Account Debtors of Borrowers are to direct payment.

"Commitment" means, with respect to each Lender, its Revolver Commitment and, with respect to all Lenders, their Revolver Commitments, in each case as such Dollar amounts are set forth beside such Lender's name under the applicable heading on Schedule C-1 to the Agreement or in the Assignment and Acceptance pursuant to which such Lender became a Lender under the Agreement, as such amounts may be reduced or increased from time to time pursuant to assignments made in accordance with the provisions of Section 13.1 of the Agreement.

"Company" has the meaning specified therefor in the preamble to the Agreement.

"Compliance Certificate" means a certificate substantially in the form of Exhibit C-1 to the Agreement delivered by Borrowers to Agent.

"Confidential Information" has the meaning specified therefor in Section 17.9(a) of the Agreement.

"Continuing Director" means (a) any member of the Board of Directors who was a director (or comparable manager) of a specific Borrower on the Closing Date, (b) any individual who becomes a member of the Board of Directors after the Closing Date if such individual was approved, appointed or nominated for election to such Board of Directors by (i) individuals referred to in clause (a) above constituting at the time of such election or nomination at least a majority of such Board of Directors or (ii) individuals referred to in clauses (a) and (b)(i) above constituting at the time of such election or nomination at least a majority of such Board of Directors.

"Control Agreement" means a control agreement, in form and substance reasonably satisfactory to Agent, executed and delivered by a Loan Party, Agent, and the applicable securities intermediary (with respect to a Securities Account) or bank (with respect to a Deposit Account) or its equivalent in any jurisdiction.

"Debtors" has the meaning given to it in the Recitals.

"Default" means an event, condition, or default that, with the giving of notice, the passage of time, or both, would be an Event of Default.

"Deposit Account" means any deposit account (as that term is defined in the Code).

"Designated Account" means the Deposit Account identified on Schedule D-2 to the Agreement (or such other Deposit Account of Borrowers located at Designated Account Bank that has been designated as such, in writing, by Borrowers to Agent).

"Designated Account Bank" has the meaning specified therefor in Schedule D-2 to the Agreement (or such other bank that is located within the United States that has been designated as such, in writing, by Borrowers to Agent).

"Dilution" means, as of any date of determination, a percentage, based upon the experience of the immediately prior 12 months, that is the result of dividing the Dollar amount of (a) bad debt write-downs, discounts, advertising allowances, credits, or other dilutive items with respect to a Borrower's Accounts during such period, by (b) a Borrower's billings with respect to Accounts during such period.

"Dilution Reserve" means, as of any date of determination, an amount sufficient to reduce the advance rate against Eligible Accounts by 1 percentage point for each percentage point by which Dilution is in excess of 5%.

"DIP Facility" has the meaning given to it in the Recitals.

"Disqualified Equity Interests" shall mean any Equity Interests that, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable prior to the date that is 180 days after the Maturity Date (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except (i) upon payment in full of the Obligations and termination of the Commitments or (ii) as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) provides for the scheduled payments of dividends in cash unless such dividends may be accrued in lieu of paying cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in the case of clauses (b), (c) and (d), prior to the date that is 180 days after the Maturity Date provided, however, that Equity Interest issued to an employee or to any plan for the benefit of employees of any Borrower or one of its Subsidiaries or by any such plan to such employees shall not constitute Disqualified Equity Interest solely because it may be required to be repurchased by such Borrower or one of its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, resignation, death or disability.

"Dollars" or "$" means United States dollars.

"Eligible Accounts" means those Accounts created by Borrowers in the ordinary course of its business, that arise out of Borrowers' sale of goods or rendition of services, that comply with each of the representations and warranties respecting Eligible Accounts made in the Loan Documents, and that are not excluded as ineligible by virtue of one or more of the excluding criteria set forth below; provided, that such criteria may be revised from time to time by Agent in Agent's Permitted Discretion to address the results of any field examination performed by (or on behalf of) Agent from time to time after the Closing Date. In determining the amount to be included, Eligible Accounts shall be calculated net of customer deposits, unapplied cash, taxes, discounts, credits, allowances, and rebates. Eligible Accounts shall not include the following:

(a) Accounts (i) with respect to which invoice payment terms exceed 60 days (or 67 days with respect to Accounts owing by Ford Motor Company, Chrysler LLC or GlaxoSmithKlein to the extent such Accounts are classified as "R6O") or (ii) Accounts that the Account Debtor has failed to pay within 120 days of original invoice date or 60 days of original due date,

(b) Accounts owed by an Account Debtor (or its Affiliates) where 50% or more of all Accounts owed by that Account Debtor (or its Affiliates) to Borrowers are deemed ineligible under clause (a) above,

(c) Accounts with respect to which the Account Debtor is an Affiliate of a Loan Party or an employee or agent of a Loan Party or any Affiliate of a Loan Party,

(d) Accounts arising in a transaction wherein goods are placed on consignment or are sold pursuant to a guaranteed sale, a sale or return, a sale on approval, a bill and hold, or any other terms by reason of which the payment by the Account Debtor may be conditional,

(e) Accounts that are not payable in Dollars,

(f) Accounts with respect to which the Account Debtor either (i) does not maintain its chief executive office in the United States or Canada, or (ii) is not organized under the laws of the United States or any state thereof or Canada or any province thereof, or (iii) is the government of any foreign country or sovereign state, or of any state, province, municipality, or other political subdivision thereof, or of any department, agency, public corporation, or other instrumentality thereof, unless (A) the Account is supported by an irrevocable letter of credit reasonably satisfactory to Agent (as to form, substance, and issuer or domestic confirming bank) that has been delivered to Agent and is directly drawable by Agent, or (B) the Account is covered by credit insurance in form, substance, and amount, and by an insurer, reasonably satisfactory to Agent,

(g) Accounts with respect to which the Account Debtor is either (i) the United States or any department, agency, or instrumentality of the United States (exclusive, however, of Accounts with respect to which Borrowers have complied, to the reasonable satisfaction of Agent, with the Assignment of Claims Act, 31 USC §3727), or (ii) any state of the United States or any city, county or municipal Governmental Authority (provided that up to $12,000,000 of

Accounts with respect to which the Account Debtor is a state, city, county or municipal Governmental Authority may be Eligible Accounts notwithstanding this clause (g)),

(h) Accounts with respect to which the Account Debtor is a creditor of any Borrower, has or has asserted a right of recoupment or setoff, or has disputed its obligation to pay all or any portion of the Account, or Accounts which have deferred revenue, to the extent of such claim, right of recoupment or setoff, or dispute or such amount of deferred revenue,

(i) Accounts with respect to an Account Debtor whose total obligations owing to Borrowers exceed (a) 10% or (b), in the case of T-Mobile USA, Inc., 20% (such percentage, as applied to a particular Account Debtor, being subject to reduction by Agent in its Permitted Discretion if the creditworthiness of such Account Debtor deteriorates) of all Eligible Accounts, to the extent of the obligations owing by such Account Debtor in excess of such percentage; provided, that, in each case, the amount of Eligible Accounts that are excluded because they exceed the foregoing percentage shall be determined by Agent based on all of the otherwise Eligible Accounts prior to giving effect to any eliminations based upon the foregoing concentration limit,

(j) Accounts with respect to which the Account Debtor is subject to an Insolvency Proceeding, is not Solvent, has gone out of business, or as to which any Loan Party has received notice of an imminent Insolvency Proceeding or a material impairment of the financial condition of such Account Debtor,

(k) Accounts, the collection of which, Agent, in its Permitted Discretion, believes to be doubtful, including by reason of the Account Debtor's financial condition,

(l) Accounts that are not subject to a valid and perfected first priority Agent's Lien (provided that Accounts shall not be ineligible solely due to the existence of a Lien permitted by clause (t) of the definition of Permitted Liens so long as an applicable Reserve has been established by the Agent equal to the outstanding principal amount of the corresponding Indebtedness permitted by clause (r) of the definition of Permitted Indebtedness),

(m) Accounts with respect to which (i) the goods giving rise to such Account have not been shipped and billed to the Account Debtor, or (ii) the services giving rise to such Account have not been performed and billed to the Account Debtor,

(n) Accounts with respect to which the Account Debtor is a Sanctioned Person or Sanctioned Entity,

(o) **Reserved**,

(p) Accounts with respect to which the Account Debtor is located in a jurisdiction that requires, as a condition to access to the courts of such jurisdiction, that a creditor qualify to transact business, file a business activities report or other report or form, or take one or more other actions, unless the Borrowers have so qualified, filed such reports or forms, or taken such actions (and, in each case, paid any required fees or other charges), except to the extent that the Borrowers may qualify subsequently as a foreign entity authorized to transact business in such jurisdiction and gain access to such courts, without incurring any cost or penalty viewed by

Agent to be significant in amount, and such later qualification cures any access to such courts to enforce payment of such Account,

(q) Accounts for which the assignment thereof are restricted or prohibited by the terms of such Account or by law except to the extent such restriction or prohibition does not prevent the collection thereof by the Borrowers or affect or impair the validity or perfection of the Agent's Liens therein,

(r) Accounts with respect to which the Account Debtor has delivered a notice of contract termination or suspension or of a dispute relating to the scope of engagement or billing,

(s) Accounts identified in the general ledger under the following numbers, or any successor accounts with respect thereto: 21302, 21100, 21506 or 11500, or

(t) Accounts with respect to which a Loan Party delivered a performance, surety or similar Bond.

"Eligible Transferee" means any Person approved by Agent in its sole discretion.

"Eligible Unbilled Accounts" means Accounts of Borrowers arising from the rendition of services for the applicable Account Debtor with respect to which expenses with respect to time and materials have been incurred but invoices have not yet been sent and which otherwise qualify as Eligible Accounts except that such Accounts do not meet the standard of clause (m) of the definition of Eligible Accounts due to the fact that they have not yet been billed to the applicable Account Debtor; provided that an Account shall cease to be a Eligible Unbilled Account upon the earlier of (i) the date such Account is billed to the applicable Account Debtor and (ii) with respect to Accounts set forth in clause (c) of the definition of "Borrowing Base", the earlier of (x) 30 days after the services giving rise to such Account have been rendered to the applicable Account Debtor and (y) 30 days after the entry of such Account into the unbilled schedule. In determining the amount to be included, Eligible Unbilled Accounts shall be calculated net of customer deposits and unapplied cash.

"Employee Benefit Plan" means any "employee benefit plan" within the meaning of Section 3(3) of ERISA established for the employees of any Loan Party, or for which any Loan Party has a present or future obligation to make contributions (including as the result of being an ERISA Affiliate), other than a Multiemployer Plan.

"Environmental Action" means any written complaint, summons, citation, notice, directive, order, claim, litigation, investigation, judicial or administrative proceeding, judgment, letter, or other written communication from any Governmental Authority, or any third party involving violations of Environmental Laws or releases of Hazardous Materials (a) from any assets, properties, or businesses of any Loan Party, or any of their predecessors in interest, (b) from adjoining properties or businesses, or (c) from or onto any facilities which received Hazardous Materials generated by any Loan Party, or any of their predecessors in interest.

"Environmental Law" means any applicable federal, state, provincial, foreign or local statute, law, rule, regulation, ordinance, code, binding and enforceable guideline, binding

and enforceable written policy, or rule of common law now or hereafter in effect and in each case as amended, or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, in each case, to the extent binding on any Loan Party, relating to the environment, the effect of the environment on employee health, or Hazardous Materials, in each case as amended from time to time.

"Environmental Liabilities" means all liabilities, monetary obligations, losses, damages, costs and expenses (including all reasonable fees, disbursements and expenses of counsel, experts, or consultants, and costs of investigation and feasibility studies), fines, penalties, sanctions, and interest incurred as a result of any claim or demand, or Remedial Action required, by any Governmental Authority or any third party, and which relate to any Environmental Action.

"Environmental Lien" means any Lien in favor of any Governmental Authority for Environmental Liabilities.

"Equipment" means equipment (as that term is defined in the Code).

"Equity Interests" means, with respect to a Person, all of the shares, options, warrants, interests, participations, or other equivalents (regardless of how designated) of or in such Person, whether voting or nonvoting, including capital stock (or other ownership or profit interests or units), preferred stock, any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the SEC under the Exchange Act), or any instrument treated as equity for U.S. federal income tax purposes.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute thereto.

"ERISA Affiliate" means (a) any Person subject to ERISA whose employees are treated as employed by the same employer as the employees of any Loan Party under IRC Section 414(b), (b) any trade or business subject to ERISA whose employees are treated as employed by the same employer as the employees of any Loan Party under IRC Section 414(c), (c) solely for purposes of Section 302 of ERISA and Section 412 of the IRC, any organization subject to ERISA that is a member of an affiliated service group of which any Loan Party is a member under IRC Section 414(m), or (d) solely for purposes of Section 302 of ERISA and Section 412 of the IRC, any Person subject to ERISA that is a party to an arrangement with any Loan Party and whose employees are aggregated with the employees of any Loan Party under IRC Section 414(o).

"ERISA Event" means (a) a "Reportable Event" described in Section 4043 of ERISA for which the notice requirement has not been waived by the PBGC, (b) the withdrawal of any Loan Party or any ERISA Affiliate from a Pension Plan during a plan year in which it was a "substantial employer" as defined in Section 4001(a)(2) of ERISA, (c) the termination of a Pension Plan, the filing of a notice of intent to terminate a Pension Plan or the treatment of a Pension Plan amendment as a termination, under Section 4041 of ERISA, if the plan assets are not sufficient to pay all plan liabilities, (d) the institution of proceedings to terminate, or the appointment of a trustee with respect to, any Pension Plan by the PBGC, (e) the imposition of a

Lien pursuant to Section 412 or 430 of the IRC or Section 302 or 4068 of ERISA, (f) the partial or complete withdrawal of any Loan Party or any ERISA Affiliate from a Multiemployer Plan, (g) any event or condition which results in the insolvency of a Multiemployer Plan under Section 4245 of ERISA, (h) any event or condition which results in the termination of a Multiemployer Plan under Section 4041A of ERISA or the institution by the PBGC of proceedings to terminate or to appoint a trustee to administer a Multiemployer Plan under Section 4042 of ERISA, (i) any Pension Plan being in "at risk status" within the meaning of IRC Section 430(i), (j) any Multiemployer Plan being in "endangered status" or "critical status" within the meaning of IRC Section 432(b), (k) with respect to any Pension Plan, any Loan Party or any ERISA Affiliate incurring a substantial cessation of operations within the meaning of ERISA Section 4062(e); or (l) any event that causes any Loan Party or any of their ERISA Affiliates to incur liability under Section 409, 502(i), 502(l), 515, 4062, 4063, 4064, 4069, 4201, 4204 or 4212 of ERISA or Section 4971 or 4975 of the IRC.

"Event of Default" has the meaning specified therefor in Section 8 of the Agreement.

"Exchange Act" means the Securities Exchange Act of 1934, as in effect from time to time.

"Excluded Taxes" means (i) any Tax imposed on or measured by the net income (however denominated) or net profits of any Lender or any Participant (including any franchise and branch profits Taxes), in each case (A) imposed by the jurisdiction (or by any political subdivision or taxing authority thereof) in which such Lender or such Participant is organized or the jurisdiction (or by any political subdivision or taxing authority thereof) in which such Lender's or such Participant's principal office (or in the case of any Lender, its applicable lending office) is or was located or (B) that are Other Connection Taxes; (ii) United States federal withholding Taxes resulting from a Lender's or a Participant's failure to comply with the requirements of Section 16.2 of the Agreement; and (iii) U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to the applicable law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment or (ii) such Lender changes its lending office (other than a change made at the request of any Loan Party), except in each case to the extent that, pursuant to Section 16, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office; and (iv) United States federal Taxes imposed by FATCA.

"Extraordinary Receipts" means any payments received by any Loan Party not in the ordinary course of business (and not consisting of proceeds described in Section 2.4(e)(ii) of the Agreement) consisting of (i) proceeds of judgments, proceeds of settlements, or other consideration of any kind received in connection with any cause of action or claim, (ii) indemnity payments (other than to the extent such indemnity payments are immediately payable to a Person that is not an Affiliate of any Loan Party), and (iii) any purchase price adjustment received in connection with any purchase agreement, in each case, net of any expenses incurred by Borrowers and their Subsidiaries in connection therewith.

"FATCA" means Sections 1471 through 1474 of the IRC as of the date of this Agreement, (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any applicable intergovernmental agreement entered into by the United States thereunder (and any foreign legislation implemented to give effect to such intergovernmental agreements) and any agreement entered into pursuant to Section 1471(b)(1) of the Code.

"Federal Funds Rate" means, for any period, a fluctuating interest rate per annum equal to, for each day during such period, the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by Agent from three Federal funds brokers of recognized standing selected by it.

"Filing Date" has the meaning given to it in the Recitals.

"Final Order" means the Final Order as defined in the Interim Order.

"Financing Order" means, as applicable, the Interim Order and Final Order, as the same may be amended or modified from time to time with Agent's written consent.

"Floating Rate" means with respect to Revolving Loans, the rate applicable from time to time with respect to Revolving Loans that are Base Rate Loans.

"Foreign Holding Company" means any Subsidiary (including an entity that is disregarded as an entity separate from its owner for U.S. federal income tax purposes) of a Loan Party all of whose assets (other than a de minimis amount) are Equity Interests of CFC.

"Former Lender Bank Product Obligations" means the Bank Product Obligations owed to any Person that is Bank Product Provider but not a Lender or an Affiliate of a Lender.

"Funding Date" means the date on which a Borrowing occurs.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States, consistently applied.

"Governing Documents" means (a) with respect to any corporation, its certificate or articles of incorporation or organization, as amended, and its by-laws, as amended (in each case, or document of similar import), (b) with respect to any limited partnership, its certificate of limited partnership, as amended, and its partnership agreement, as amended (in each case, or document of similar import), (c) with respect to any general partnership, its partnership agreement, as amended (in each case, or document of similar import), (d) with respect to any limited liability company, its articles of organization (or its memorandum and articles of association (in each case, or document of similar import)), as amended, and its operating agreement, as amended (in each case, or document of similar import), and (e) with respect to any other Person, the organizational documents of such Person.

"Governmental Authority" means any federal, state, local, foreign or other governmental or administrative body, instrumentality, board, department, or agency or any court, tribunal, administrative hearing body, arbitration panel, commission, or other similar dispute-resolving panel or body.

"Guarantor" means each Subsidiary of any Borrower that is or becomes a guarantor of all or a part of the Obligations.

"Hazardous Materials" means (a) substances that are defined or listed in, or otherwise classified pursuant to, any applicable laws or regulations as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic substances," or any other formulation intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, reproductive toxicity, or "EP toxicity", (b) oil, petroleum, or petroleum derived substances, natural gas, natural gas liquids, synthetic gas, drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal resources, (c) any flammable substances or explosives or any radioactive materials, and (d) asbestos in any form or electrical equipment that contains any oil or dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million.

"Hedge Agreement" means a "swap agreement" as that term is defined in Section 101(53B)(A) of the Bankruptcy Code.

"Hedge Obligations" means any and all obligations or liabilities, whether absolute or contingent, due or to become due, now existing or hereafter arising, of Loan Parties or their Subsidiaries arising under, owing pursuant to, or existing in respect of Hedge Agreements entered into with one or more of the Hedge Providers.

"Hedge Provider" means any Lender or any of its Affiliates; provided, that no such Person (other than Agent or its Affiliates) shall constitute a Hedge Provider unless and until Agent shall have received a Bank Product Provider Agreement from such Person and with respect to the applicable Hedge Agreement within 10 days after the execution and delivery of such Hedge Agreement with a Loan Party; provided further, that if, at any time, a Lender ceases to be a Lender under the Agreement, then, from and after the date on which it ceases to be a Lender thereunder, neither it nor any of its Affiliates shall constitute Hedge Providers and the obligations with respect to Hedge Agreements entered into with such former Lender or any of its Affiliates shall no longer constitute Hedge Obligations.

"IBM Financing Agreement" means that certain Agreement for Wholesale Financing, dated as of March 9, 2004, between IBM Credit Corporation and CIBER, Inc., as amended pursuant to that certain Amendment to Agreement for Wholesale Financing, dated as of November 3, 2006, between IBM Credit Corporation and CIBER, Inc., and as may be further amended or otherwise modified from time to time.

"Indebtedness" as to any Person means (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes, or other similar instruments and all reimbursement or other obligations in respect of letters of credit, bankers acceptances, or other similar financial products, (c) all obligations of such Person

as a lessee under Capital Leases, (d) all obligations or liabilities of others secured by a Lien on any asset of such Person, irrespective of whether such obligation or liability is assumed, (e) all obligations of such Person to pay the deferred purchase price of assets (other than trade payables incurred in the ordinary course of business and repayable in accordance with customary trade practices and, for the avoidance of doubt, other than royalty payments payable in the ordinary course of business in respect of non-exclusive licenses), (f) all monetary obligations of such Person owing under Hedge Agreements (which amount shall be calculated based on the amount that would be payable by such Person if the Hedge Agreement were terminated on the date of determination), (g) any Disqualified Equity Interests of such Person, and (h) any obligation of such Person guaranteeing or intended to guarantee (whether directly or indirectly guaranteed, endorsed, co-made, discounted, or sold with recourse) any obligation of any other Person that constitutes Indebtedness under any of clauses (a) through (g) above. For purposes of this definition, (i) the amount of any Indebtedness represented by a guaranty or other similar instrument shall be the lesser of the principal amount of the obligations guaranteed and still outstanding and the maximum amount for which the guaranteeing Person may be liable pursuant to the terms of the instrument embodying such Indebtedness, and (ii) the amount of any Indebtedness which is limited or is non-recourse to a Person or for which recourse is limited to an identified asset shall be valued at the lesser of (A) if applicable, the limited amount of such obligations, and (B) if applicable, the fair market value of such assets securing such obligation.

"Indemnified Liabilities" has the meaning specified therefor in Section 10.3 of the Agreement.

"Indemnified Person" has the meaning specified therefor in Section 10.3 of the Agreement.

"Indemnified Taxes" means, any Taxes other than Excluded Taxes.

"Insolvency Proceeding" means any proceeding commenced by or against any Person under any provision of the Bankruptcy Code or under any other state or federal bankruptcy or insolvency law, assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief

"Interest Period" means a period commencing on the date of the making of such loan ending 1 month thereafter.

"Interim Order" means that certain Order Authorizing the Debtors (A) Use Cash Collateral on an Emergency Basis Pending a Final Hearing; (B) Incur Postpetition Debt on an Emergency Basis Pending a Final Hearing; and (C) Grant Adequate Protection and Provide Security and Other Relief to Wells Fargo Bank, N.A., as Agent and the Lenders, entered on April [__], 2017 in the Cases at docket number [__].

"Inventory" means inventory (as that term is defined in the Code).

"Investment" means, with respect to any Person, any investment by such Person in any other Person (including Affiliates) in the form of loans, guarantees, advances, capital contributions (excluding (a) commission, travel, relocation and similar advances to officers and

employees of such Person made in the ordinary course of business, and (b) bona fide accounts receivable arising in the ordinary course of business), or acquisitions of Indebtedness, Equity Interests, or all or substantially all of the assets of such other Person (or of any division or business line of such other Person), and any other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. The amount of any Investment shall be the original cost of such Investment plus the cost of all additions thereto, without any adjustment for increases or decreases in value, or write-ups, write-downs, or write-offs with respect to such Investment.

"IRC" means the Internal Revenue Code of 1986, as in effect from time to time.

"Lender" has the meaning set forth in the preamble to the Agreement, shall include each Lender, and shall also include any other Person made a party to the Agreement pursuant to the provisions of Section 13.1 of the Agreement and "Lenders" means each of the Lenders or any one or more of them.

"Lender Group" means each of the Lenders and Agent, or any one or more of them.

"Lender Group Expenses" means all (a) costs or expenses (including taxes and insurance premiums) required to be paid by Borrowers or their Subsidiaries under any of the Loan Documents that are paid, advanced, or incurred by the Lender Group, (b) documented out-of-pocket fees or charges paid or incurred by Agent in connection with the Lender Group's transactions with Borrowers or their Subsidiaries under any of the Loan Documents, including, fees or charges for background checks, OFAC/PEP searches, photocopying, notarization, couriers and messengers, telecommunication, public record searches, filing fees, recording fees, publication, and other fees and charges (and up to the amount of any limitation) contained in the Agreement), real estate surveys, real estate title policies and endorsements, and environmental audits, (c) Agent's customary fees and charges (as adjusted from time to time) with respect to the disbursement of funds (or the receipt of funds) to or for the account of a Borrower (whether by wire transfer or otherwise), together with any out-of-pocket costs and expenses incurred in connection therewith, (d) customary charges imposed or incurred by Agent resulting from the dishonor of checks payable by or to any Loan Party, (e) reasonable documented out-of-pocket costs and expenses paid or incurred by the Lender Group to correct any default or enforce any provision of the Loan Documents, or during the continuance of an Event of Default, in gaining possession of, maintaining, handling, preserving, storing, shipping, selling, preparing for sale, or advertising to sell the Collateral, or any portion thereof, irrespective of whether a sale is consummated, (f) field examination, appraisal, and valuation fees and expenses of Agent related to any field examinations, appraisals, or valuation to the extent of the fees and charges (and up to the amount of any limitation) provided in Section 2.10 of the Agreement, (g) Agent's reasonable documented out-of-pocket costs and expenses (including reasonable documented attorneys' fees and expenses) relative to third party claims or any other lawsuit or adverse proceeding paid or incurred, whether in enforcing or defending the Loan Documents or otherwise in connection with the transactions contemplated by the Loan Documents, Agent's Liens in and to the Collateral, or the Lender Group's relationship with Borrowers or any of their Subsidiaries, (h) Agent's reasonable documented out-of-pocket costs and expenses (including reasonable documented attorneys' fees and due diligence expenses) incurred in advising, structuring, drafting, reviewing,

administering (including travel, meals, and lodging), syndicating (including reasonable costs and expenses relative to CUSIP, DXSyndicate™, SyndTrak or other communication costs incurred in connection with a syndication of the loan facilities), or amending, waiving, or modifying the Loan Documents, (i) Agent's and each Lender's reasonable documented out-of-pocket costs and expenses (including reasonable documented attorneys', accountants, consultants, and other advisors fees and expenses) incurred in terminating, enforcing (including attorneys', accountants, consultants, and other advisors fees and expenses incurred in connection with a "workout," a "restructuring," or an Insolvency Proceeding concerning Borrowers or any of their Subsidiaries or in exercising rights or remedies under the Loan Documents), or defending the Loan Documents, irrespective of whether a lawsuit or other adverse proceeding is brought, or in taking any enforcement action or any Remedial Action with respect to the Collateral and (j) any expenses that would be considered "Lender Group Expenses" as defined in or under the Prepetition Credit Agreement.

"Lender Group Representatives" has the meaning specified therefor in Section 17.9 of the Agreement.

"Lender-Related Person" means, with respect to any Lender, such Lender, together with such Lender's Affiliates (including any Applicable Designee), officers, directors, employees, attorneys', and agents.

"LIBOR Base Rate" means the rate per annum equal to the rate appearing on Bloomberg L.P.'s (the "Service") Page BBAM1/(Official BBA Libor Fixings) (or on any successor or substitute page of such Service, or any successor to or substitute for such Service) at approximately 11:00 a.m. (London time), 2 Business Days prior to the commencement of the Interest Period, for a term and in an amount comparable to the Interest Period and the amount of the loan requested by Borrowers in accordance with the Agreement, which determination by the Agent shall be conclusive in the absence of manifest error.

"LIBOR Rate" means the rate per annum rate determined by Agent pursuant to the following formula:

$$\text{LIBOR Rate} = \frac{\text{LIBOR Base Rate}}{\text{1.00-LIBOR Reserve Percentage}}$$

"LIBOR Reserve Percentage" means, for any day during any Interest Period, the reserve percentage (expressed as a decimal, carried out to five decimal places) in effect on such day applicable to member banks under regulations issued from time to time by the Federal Reserve Bank for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to LIBOR Rate Loans (as defined in the Prepetition Credit Agreement and currently referred to as "Eurocurrency liabilities"). The LIBOR Rate shall be adjusted automatically as of the effective date of any change in the LIBOR Reserve Percentage.

"Lien" means any mortgage, deed of trust, debenture, pledge, hypothecation, assignment, assignation, standard security charge (whether fixed or floating) deposit arrangement, encumbrance, easement, lien (statutory or other), security interest or other security

arrangement and any other preference, priority, or preferential arrangement of any kind or nature whatsoever, including any conditional sale contract or other title retention agreement, the interest of a lessor under a Capital Lease and any synthetic or other financing lease having substantially the same economic effect as any of the foregoing.

"Loan" shall mean any Revolving Loan made (or to be made) hereunder.

"Loan Account" has the meaning specified therefor in Section 2.9 of the Agreement.

"Loan Documents" means the Agreement, the Financing Order, the Control Agreements, any Borrowing Base Certificate, note or notes executed by any Borrower in connection with the Agreement and payable to any member of the Lender Group, and any other instrument or agreement entered into, now or in the future, by any Borrower or any of its Subsidiaries and any member of the Lender Group in connection with the Agreement.

"Loan Parties" means any Borrower or any Guarantor.

"Margin Stock" as defined in Regulation U of the Board of Governors as in effect from time to time.

"Material Adverse Effect" means (a) a material adverse effect in the business, operations, results of operations, assets, liabilities or financial condition of Loan Parties, taken as a whole, (b) a material impairment of any Loan Party's ability to perform its obligations under the Loan Documents to which it is a party or of the Lender Group's ability to enforce the Obligations or realize upon the Collateral (other than as a result of as a result of an action taken or not taken that is solely in the control of Agent), or (c) a material impairment of the enforceability or priority of Agent's Liens with respect to all or a material portion of the Collateral as a result of an action or failure to act on the part of any Loan Party.

"Maturity Date" means the "Termination Date" under and as defined in the Financing Order.

"Maximum Revolver Amount" means $37,000,000, *provided that* so long as no Event of Default has occurred under this Agreement when the Final Order is entered, effective upon entry of such Final Order, the Maximum Revolver Amount will mean $41,000,000 from and after April 30, 2017, in both cases decreased by the amount of reductions in the Commitments made in accordance with Section 2.4(c) of the Agreement.

"Moody's" has the meaning specified therefor in the definition of Cash Equivalents.

"Multiemployer Plan" means any multiemployer plan within the meaning of Section 3(37) of ERISA with respect to which any Loan Party or any of their ERISA Affiliates has an obligation to contribute or otherwise has any liability.

"Net Cash Proceeds" means:

(a) with respect to any sale or disposition by any Loan Party of assets, the amount of cash proceeds received (directly or indirectly) from time to time (whether as initial consideration or through the payment of deferred consideration) by or on behalf of such Loan Party, in connection therewith after deducting therefrom only the amount of any Indebtedness secured by any Permitted Priority Lien on any asset; and

(b) with respect to the issuance or incurrence of any Indebtedness by any Loan Party, or the issuance by any Loan Party of any Equity Interests, the aggregate amount of cash received (directly or indirectly) from time to time (whether as initial consideration or through the payment or disposition of deferred consideration) by or on behalf of such Loan Party in connection with such issuance or incurrence.

"Obligations" means (a) all loans (including the Revolving Loans), debts, principal, interest (including any interest that accrues after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), premiums, liabilities (including all amounts charged to the Loan Account pursuant to the Agreement), obligations (including indemnification obligations) of any Loan Party, fees of any Loan Party, Lender Group Expenses (including any fees or expenses that accrue after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding) of any Loan Party, guaranties by any Loan Party, and all covenants and duties of any other kind and description owing by any Loan Party arising out of, under, pursuant to, in connection with, or evidenced by the Agreement or any of the other Loan Documents and irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and including all interest not paid when due and all other expenses or other amounts that any Loan Party is required to pay or reimburse by the Loan Documents or by law or otherwise in connection with the Loan Documents and (b) all Bank Product Obligations. Without limiting the generality of the foregoing, the Obligations under the Loan Documents include the obligation to pay (i) the principal of the Revolving Loans, (ii) interest accrued on the Revolving Loans, (iii) Lender Group Expenses of any Loan Party, (iv) fees payable by any Loan Party under the Agreement or any of the other Loan Documents, (v) indemnities and other amounts payable by any Loan Party under any Loan Document, and (vi) any guaranties by any Loan Party in favor of Agent or Lenders under the Loan Documents. Any reference in the Agreement or in the Loan Documents to the Obligations shall include all or any portion thereof and any extensions, modifications, renewals, or alterations thereof, both prior and subsequent to any Insolvency Proceeding.

"OFAC" means The Office of Foreign Assets Control of the U.S. Department of the Treasury.

"Originating Lender" has the meaning specified therefor in Section 13.1(e) of the Agreement.

"Other Connection Taxes" means, with respect to any Lender or Participant, Taxes imposed as a result of a present or former connection between such Lender or such

Participant and the jurisdiction or taxing authority imposing the Tax (other than any such connection arising solely from such Lender or such Participant having executed, delivered or performed its obligations or received payment under, or enforced its rights or remedies under the Agreement or any other Loan Document).

"Other Taxes" has the meaning set forth in Section 16.1 of the Agreement.

"Overadvance" means, as of any date of determination, that the Revolver Usage is greater than any of the limitations set forth in Section 2.1 or Section 2.10.

"Participant" has the meaning specified therefor in Section 13.1(e) of the Agreement.

"Participant Register" has the meaning set forth in Section 13.1(i) of the Agreement.

"Patriot Act" has the meaning specified therefor in Section 4.13 of the Agreement.

"Payroll Reserve" means $8,926,000.

"PBGC" means the Pension Benefit Guaranty Corporation or any successor agency.

"Pension Plan" means any Employee Benefit Plan, other than a Multiemployer Plan, which is subject to the provisions of Title IV of ERISA or Section 412 of the Code.

"Permitted Discretion" means a determination made in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment.

"Permitted Dispositions" means:

(a) Sales, abandonment, or other dispositions of Equipment that is substantially worn, damaged, or obsolete or no longer used or useful in the ordinary course of business and leases or subleases of Real Property not useful in the conduct of the business of any Borrower and its Subsidiaries,

(b) Sales of Inventory to buyers in the ordinary course of business,

(c) The use or transfer of money or Cash Equivalents in a manner that is not prohibited by the terms of the Agreement, the Financing Order or the other Loan Documents,

(d) The licensing, on a non-exclusive basis, of patents, trademarks, copyrights, and other intellectual property rights in the ordinary course of business,

(e) The granting of Permitted Liens,

(f) The sale or discount, in each case without recourse, of Accounts receivable arising in the ordinary course of business, but only in connection with the compromise or collection thereof,

(g) Any involuntary loss, damage or destruction of property,

(h) Any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property,

(i) The leasing or subleasing of assets of Borrowers in the ordinary course of business,

(j) **Reserved**,

(k) The lapse of registered patents, trademarks, copyrights and other intellectual property of Borrowers to the extent not economically desirable in any material respect the conduct of their business or (ii) the abandonment of patents, trademarks, copyrights, or other intellectual property rights in the ordinary course of business so long as (in each case under clauses (i) and (ii)), (A) with respect to copyrights, such copyrights are not material revenue generating copyrights, and (B) such lapse is not materially adverse to the interests of the Lender Group,

(l) The making of Restricted Payments that are permitted to be made pursuant to this Agreement and the Financing Order,

(m) The making of Permitted Investments, and

(n) Sales or dispositions in accordance with the Financing Order and the Approved Budget.

Notwithstanding the foregoing, except as expressly otherwise provided by this definition no Loan Party shall convey, sell, lease, license, assign, transfer, or otherwise dispose of or enter into an agreement to convey, sell, lease, license, assign, transfer, or otherwise dispose of any of the Equity Interests or a material portion of the assets of any Loan Party other than with the prior written consent of Agent in its sole and absolute discretion.

"Permitted Indebtedness" means:

(a) Indebtedness evidenced by the Agreement, the Prepetition Loan Documents (including Reinstated Prepetition Obligations), or the other Loan Documents, as well as Indebtedness in connection with Bank Products,

(b) Indebtedness set forth on Schedule 4.14 to the Agreement,

(c) Permitted Purchase Money Indebtedness existing as of the Closing Date,

(d) Endorsement of instruments or other payment items for deposit,

(e) Indebtedness consisting of (i) unsecured guarantees incurred in the ordinary course of business with respect to surety and appeal bonds, performance bonds, bid bonds, appeal bonds, completion guarantee and similar obligations; (ii) unsecured guarantees arising with respect to customary indemnification obligations to purchasers in connection with

Permitted Dispositions; and (iii) unsecured guarantees with respect to Indebtedness of Borrowers or their Subsidiaries, to the extent that (A) the Person that is obligated under such guaranty could have incurred such underlying Indebtedness and (B) such guarantees constitute Permitted Intercompany Advances,

(f) **Reserved**,

(g) **Reserved**,

(h) **Reserved**,

(i) Indebtedness incurred in the ordinary course of business under performance, surety, statutory, or appeal bonds,

(j) Indebtedness owed to any Person providing property, casualty, liability, or other insurance to Borrowers or any of their Subsidiaries, so long as the amount of such Indebtedness is not in excess of the amount of the unpaid cost of, and shall be incurred only to defer the cost of, such insurance for the year in which such Indebtedness is incurred and such Indebtedness is outstanding only during such year,

(k) **Reserved**.

(l) Indebtedness incurred in the ordinary course of business in respect of credit cards, credit card processing services, debit cards, stored value cards, purchase cards (including so-called "procurement cards" or "P-cards"), or Cash Management Services,

(m) **Reserved**,

(n) Indebtedness incurred in accordance with the requirements of the Financing Order or as specifically set forth in the Approved Budget,

(o) Indebtedness comprised of Permitted Investments,

(p) Unsecured Indebtedness incurred in respect of netting services, overdraft protection, and other like services, in each case, incurred in the ordinary course of business, and

(q) Accrual of interest, accretion or amortization of original issue discount, or the payment of interest in kind, in each case, on Indebtedness that otherwise constitutes Permitted Indebtedness, and

(r) Indebtedness under the IBM Financing Agreement in an aggregate principal amount at any time outstanding not to exceed $2,000,000.

"Permitted Intercompany Advances" means loans, guaranties or other Investments made by (a) a Loan Party to another Loan Party or (b) by a Loan Party to any Subsidiary that is not a Loan Party so long as such loans, guaranties or other Investments meets the requirements of the Financing Order and are specifically set forth in the Approved Budget (as applied through the Financial Covenants of this Agreement).

"Permitted Investments" means:

(a) Investments by Loan Parties in cash and Cash Equivalents,

(b) Investments in negotiable instruments deposited or to be deposited for collection in the ordinary course of business,

(c) Advances made in connection with purchases of goods or services in the ordinary course of business,

(d) Investments received in settlement of amounts due to any Loan Party or any of its Subsidiaries effected in the ordinary course of business or owing to any Loan Party or any of its Subsidiaries as a result of Insolvency Proceedings involving an Account Debtor or upon the foreclosure or enforcement of any Lien in favor of a Loan Party or its Subsidiaries,

(e) Investments owned by any Loan Party on the Closing Date and set forth on Schedule P-1 to the Agreement,

(f) Guarantees permitted under the definition of Permitted Indebtedness,

(g) Permitted Intercompany Advances,

(h) Equity Interests or other securities acquired in connection with the satisfaction or enforcement of Indebtedness or claims due or owing to a Loan Party or its Subsidiaries (in bankruptcy of customers or suppliers or otherwise outside the ordinary course of business) or as security for any such Indebtedness or claims,

(i) Deposits of cash or Cash Equivalents made in the ordinary course of business to secure performance of operating leases or any other obligations not constituting Indebtedness,

(j) **Reserved**,

(k) **Reserved**,

(l) Investments in the form of capital contributions and the acquisition of Equity Interests existing as of the Closing Date by any Loan Party in any other Loan Party (other than capital contributions to or the acquisition of Equity Interests of Company),

(m) Investments resulting from entering into (i) Bank Product Agreements by Loan Parties, or (ii) agreements relative to Indebtedness that is permitted under clause (j) of the definition of Permitted Indebtedness,

(n) Equity Investments by any Loan Party in any Subsidiary of such Loan Party which is required by law as of the Closing Date to maintain a minimum net capital requirement or as may be otherwise required by applicable law, to the extent not requiring a payment or transfer of Cash or Cash Equivalents by any Loan Party,

(o) Investments in a form permitted by term of the Financing Order, and

(p) to the extent constituting an Investments, escrow deposits to secure Loan indemnification obligations in connection with a Permitted Disposition.

"Permitted Liens" means

(a) Liens granted to, or for the benefit of, Agent to secure all or any of the Prepetition Obligations, Reinstated Prepetition Obligations or the Obligations,

(b) Liens for unpaid taxes, assessments, or other governmental charges or levies that either (i) are not yet delinquent or (ii) do not have priority over Agent's Liens and the underlying taxes, assessments, or charges or levies are the subject of Permitted Protests,

(c) Judgment Liens arising solely as a result of the existence of judgments, orders, or awards that do not constitute an Event of Default under Section 8.3 of the Agreement,

(d) Liens set forth on Schedule P-2 to the Agreement; provided, that to qualify as a Permitted Lien, any such Lien described on Schedule P-2 to the Agreement shall only secure the Indebtedness that it secures on the Closing Date,

(e) The interests of lessors under operating leases and non-exclusive licensors under license agreements,

(f) Purchase money Liens or the interests of lessors under Capital Leases to the extent that such Liens or interests secure Permitted Purchase Money Indebtedness and so long as (i) such Lien attaches only to the asset purchased or acquired and the proceeds thereof, and (ii) such Lien only secures the Indebtedness that was incurred to acquire the asset purchased or acquired,

(g) Liens arising by operation of law in favor of warehousemen, landlords, carriers, mechanics, materialmen, laborers, or suppliers, incurred in the ordinary course of business and not in connection with the borrowing of money, and which Liens either (i) are for sums not yet delinquent, or (ii) are the subject of Permitted Protests, and in all cases solely to the extent existing as of the Closing Date or, if arising after the Closing Date, are on account of expenses reflected in the Approved Budget,

(h) Liens on amounts deposited to secure any Borrower's and its Subsidiaries' obligations in connection with worker's compensation or other unemployment insurance or other types of similar employment insurance,

(i) Liens on amounts deposited to secure any Borrower's obligations in connection with the making or entering into of bids, tenders, or leases in the ordinary course of business and not in connection with the borrowing of money,

(j) Liens on amounts deposited to secure any Borrower's and its Subsidiaries' reimbursement obligations with respect to surety, performance or appeal bonds obtained in the ordinary course of business,

(k) With respect to any Real Property, easements, rights of way, covenants, conditions and zoning restrictions and minor defects in title that do not materially interfere with or impair the use or operation thereof,

(l) Non-exclusive licenses of patents, trademarks, copyrights, and other intellectual property rights in the ordinary course of business,

(m) **Reserved**,

(n) Rights of setoff or bankers' liens upon deposits of funds in favor of banks or other depository institutions, solely to the extent incurred in connection with the maintenance of such Deposit Accounts in the ordinary course of business,

(o) Liens granted in the ordinary course of business on the unearned portion of insurance premiums and on any loss payments which reduce the unearned portion of insurance premiums securing the financing of insurance premiums to the extent the financing is permitted under the definition of Permitted Indebtedness,

(p) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods,

(q) **Reserved**,

(r) **Reserved**,

(s) The filing of UCC financing statements solely as a precautionary measure in connection with an operating lease, in each case, relating solely to the property that is the subject of such operating lease,

(t) Liens pursuant to the IBM Financing Agreement; provided that the scope of such Liens is not expanded from that in effect as of the Closing Date,

(u) Liens in respect of Cash Equivalents in deposit accounts which are subject to the Lien in favor of Agent pursuant to the Financing Order to the extent securing Indebtedness permitted by clause (t) of the definition of Permitted Indebtedness,

(v) Liens applicable to the assets of any Subsidiary of a Borrower that is not organized under the a laws of the United States, so long as such Liens secure Indebtedness or other obligations otherwise permitted to be incurred pursuant to the Loan Documents,

(w) Liens securing the Prepetition Obligations,

(x) Permitted Priority Liens, and

(y) Liens granted by the Financing Order.

Notwithstanding anything to the contrary in this Agreement or other Loan Documents, after the Closing Date, no Loan Party will create, incur, assume or suffer to exist, directly or indirectly,

any Lien with priority over the Liens created by the Loan Documents except for the Permitted Priority Liens or pursuant to an order of the Bankruptcy Court. Any such Lien violating this requirement is *per se* not a Permitted Lien.

"Permitted Overadvance" means $9,000,000.

"Permitted Priority Liens" mean (a) the Carveout, (b) all Liens in favor of third parties, which third-party liens, as of the Filing Date, had priority under applicable law over the Liens in favor of the Prepetition Agent, solely to the extent that such Liens are valid and non-avoidable as of the Filing Date and are either perfected as of the Filing Date or subject to perfection after the Filing Date pursuant to section 546(b) of the Bankruptcy Code, were not subordinated by agreement or applicable law, and do not secure Indebtedness incurred on or after the Filing Date; in each case subject to the terms of the Financing Order and otherwise agreed to by Agent and (c) the Liens in favor of Prepetition Agent securing the Prepetition Obligations.

"Permitted Protest" means the right of any Loan Party to protest any Lien (other than any Lien that secures any of the Obligations), taxes (other than payroll taxes or taxes that are the subject of a United States federal tax lien), or rental payment, provided that (a) a reserve with respect to such obligation is established on Borrowers' or their Subsidiaries' books and records in such amount as is required under GAAP, (b) any such protest is instituted promptly and prosecuted diligently by such Borrower or its Subsidiary, as applicable, in good faith, and (c) Agent is reasonably satisfied that, while any such protest is pending, there will be no impairment of the enforceability, validity, or priority of any of Agent's Liens.

"Permitted Purchase Money Indebtedness" means, as of any date of determination, Indebtedness (other than the Obligations, but including Capitalized Lease Obligations), incurred before the Closing Date that would have been "Permitted Purchase Money Indebtedness" under the Prepetition Credit Agreement.

"Person" means natural persons, corporations, limited liability companies, limited partnerships, general partnerships, limited liability partnerships, joint ventures, trusts, land trusts, business trusts, or other organizations, irrespective of whether they are legal entities, and governments and agencies and political subdivisions thereof.

"Platform" has the meaning specified therefor in Section 17.9(c) of the Agreement.

"Prepetition Agent" has the meaning given to it in the Recitals.

"Prepetition Borrowers" has the meaning given to it in the Recitals.

"Prepetition Credit Agreement" as the meaning given to it in the Recitals.

"Prepetition Loan Documents" means the "Loan Documents" as defined in the Prepetition Credit Agreement.

"Prepetition Obligations" means the "Obligations" as defined in the Prepetition Credit Agreement, provided that (solely for purposes of this Agreement) Prepetition Obligations shall not include Reinstated Prepetition Obligations.

"Projections" means Borrowers' forecasted (a) balance sheets, (b) profit and loss statements, and (c) cash flow statements, all prepared on a basis consistent with Borrowers' historical financial statements, together with appropriate supporting details and a statement of underlying assumptions.

"Pro Rata Share" means, as of any date of determination:

(a) with respect to a Lender's obligation to make all or a portion of the Revolving Loans with respect to such Lender's right to receive payments of interest, fees, and principal with respect to the Revolving Loans, and with respect to all other computations and other matters related to the Commitments or the Revolving Loans, the percentage obtained by dividing (i) the Revolving Loan Exposure of such Lender by (ii) the aggregate Revolving Loan Exposure of all Lenders,

(b) **Reserved**, and

(c) with respect to all other matters and for all other matters as to a particular Lender (including the indemnification obligations arising under Section 15.7 of the Agreement), the percentage obtained by dividing (i) the Revolving Loan Exposure of such Lender by (ii) the aggregate Revolving Loan Exposure of all Lenders, in any such case as the applicable percentage may be adjusted by assignments permitted pursuant to Section 13.1; provided, that if all of the Loans have been repaid in full and all Commitments have been terminated, Pro Rata Share under this clause shall be determined as if the Revolving Loan Exposures had not been repaid, collateralized, or terminated and shall be based upon the Revolving Loan Exposures as they existed immediately prior to their repayment, collateralization, or termination.

"Public Lender" has the meaning specified therefor in Section 17.9(c) of the Agreement.

"Qualified Equity Interest" means and refers to any Equity Interests issued by Company (and not by one or more of its Subsidiaries) that is not a Disqualified Equity Interest.

"Real Property" means any estates or interests in real property now owned or hereafter acquired by any Loan Party and the improvements thereto.

"Receivable Reserves" means, as of any date of determination, those reserves, without duplication of any other reserves established pursuant to Section 2.1(b), that Agent deems necessary or appropriate, in its Permitted Discretion and subject to Section 2.1(d), to establish and maintain (including reserves for rebates, discounts, warranty claims, and returns) with respect to the Eligible Accounts, Eligible Unbilled Accounts, and/or the Maximum Revolver Amount.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Register" has the meaning set forth in Section 13.1(g) of the Agreement.

"Registered Loan" has the meaning set forth in Section 13.1(g) of the Agreement.

"Reinstated Prepetition Obligations" means any Prepetition Obligations constituting an Avoided Payment, to the extent such obligations have been reinstated, in each case, pursuant to, and subject to the requirements and terms of, a final and nonappealable order of the Bankruptcy Court.

"Related Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is administered, advised or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

"Remedial Action" means all actions taken to (a) clean up, remove, remediate, contain, treat, monitor, assess, evaluate, or in any way address Hazardous Materials in the indoor or outdoor environment, (b) prevent or minimize a release or threatened release of Hazardous Materials so they do not migrate or endanger or threaten to endanger public health or welfare or the indoor or outdoor environment, (c) restore or reclaim natural resources or the environment, (d) perform any pre-remedial studies, investigations, or post-remedial operation and maintenance activities, or (e) conduct any other actions with respect to Hazardous Materials required by Environmental Laws.

"Replacement Lender" has the meaning specified therefor in Section 2.13(b) of the Agreement.

"Report" has the meaning specified therefor in Section 15.16 of the Agreement.

"Required Lenders" means, at any time, Lenders having or holding more than 50% of the sum of (a) the aggregate Revolving Loan Exposure of all Lenders, provided at any time there are 2 or more Lenders, "Required Lenders" must include at least 2 Lenders (who are not Affiliates of one another).

"Reserves" means, as of any date of determination, those reserves (other than Receivable Reserves, Carveout Reserves and Bank Product Reserves) that Agent deems necessary or appropriate, in its Permitted Discretion and subject to Section 2.1(d), to establish and maintain (including reserves with respect to (a) sums that any Loan Party is required to pay under any Section of the Agreement or any other Loan Document (such as taxes, assessments, insurance premiums, or, in the case of leased assets, rents or other amounts payable under such leases) and has failed to pay, (b) amounts owing by any Loan Party to any Person to the extent secured by a Lien on, or trust over, or preferential claim by operation of law over, any of the Collateral (other than a Permitted Lien), which Lien, trust or preferential claims, in the Permitted Discretion of Agent likely would have a priority superior to the Agent's Liens (such as Liens, trusts or preferential claims in favor of landlords, warehousemen, carriers, employees, creditors, mechanics, materialmen, laborers, or suppliers, or Liens, trusts or preferential claims for ad valorem, excise, sales, value added or other taxes where given priority under applicable law) in

and to such item of the Collateral and (c) a payroll and related taxes reserve equal to at least one/two week[s] of payroll and related taxes.

"Responsible Officer" means the chief financial officer, president, chief executive officer, treasurer, controller or chief accounting officer of any Loan Party, as applicable.

"Restricted Payment" means to (a) declare or pay any dividend or make any other payment or distribution, directly or indirectly, on account of Equity Interests issued by Company (including any payment in connection with any merger or consolidation involving Company) or to the direct or indirect holders of Equity Interests issued by Company in their capacity as such (other than dividends or distributions payable in Qualified Equity Interests issued by Company, or (b) purchase, redeem, make any sinking fund or similar payment, or otherwise acquire or retire for value (including in connection with any merger or consolidation involving Company) any Equity Interests issued by Company, (c) make any payment to retire, or to obtain the surrender of, any outstanding warrants, options, or other rights to acquire Equity Interests of Company now or hereafter outstanding, and (d) make, or cause or suffer to permit any Loan Party to make, any payment or prepayment of principal of, premium, if any, or interest on, or redemption, purchase, retirement, defeasance (including in-substance or legal defeasance), sinking fund or similar payment with respect to, any Subordinated Indebtedness.

"Revolver Commitment" means, with respect to each Revolving Lender, its Commitment, and, with respect to all Revolving Lenders, their Revolver Commitments, in each case as such amounts are set forth beside such Revolving Lender's name under the applicable heading on Schedule C-1 to the Agreement or in the Assignment and Acceptance pursuant to which such Revolving Lender became a Revolving Lender under the Agreement, as such amounts may be reduced or increased from time to time pursuant to assignments made in accordance with the provisions of Section 13.1 of the Agreement.

"Revolver Usage" means, as of any date of determination, the amount of outstanding Revolving Loans.

"Revolving Lender" means a Revolving Lender that has a Revolving Loan Commitment or that has an outstanding Revolving Loan.

"Revolving Loan Exposure" means, with respect to any Revolving Lender, as of any date of determination (a) prior to the termination of the Commitments, the amount of such Lender's Commitment, and (b) after the termination of the Commitments, the aggregate outstanding principal amount of the Revolving Loans of such Lender.

"Revolving Loans" has the meaning specified therefor in Section 2.1(a) of the Agreement.

"Sanctioned Entity" means (a) a country or a government of a country, (b) an agency of the government of a country, (c) an organization directly or indirectly controlled by a country or its government, (d) a Person resident in or determined to be resident in a country, in each case, that is subject to a country sanctions program administered and enforced by OFAC.

"Sanctioned Person" means a person named on the list of Specially Designated Nationals maintained by OFAC.

"S&P" has the meaning specified therefor in the definition of Cash Equivalents.

"SEC" means the United States Securities and Exchange Commission and any successor thereto.

"Securities Account" means a securities account (as that term is defined in the Code).

"Securities Act" means the Securities Act of 1933, as amended from time to time, and any successor statute.

"Settlement" has the meaning specified therefor in Section 2.3(e)(i) of the Agreement.

"Settlement Date" has the meaning specified therefor in Section 2.3(e)(i) of the Agreement.

"Solvent" means, with respect to any Person as of any date of determination, that (a) at fair valuations, the sum of such Person's debts (including contingent liabilities) is less than all of such Person's assets, (b) such Person is not engaged or about to engage in a business or transaction for which the remaining assets of such Person are unreasonably small in relation to the business or transaction or for which the property remaining with such Person is an unreasonably small capital, and (c) such Person has not incurred and does not intend to incur, or reasonably believe that it will incur, debts beyond its ability to pay such debts as they become due (whether at maturity or otherwise). For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

"Subordinated Indebtedness" means any unsecured Indebtedness of any Loan Party incurred from time to time that is subordinated in right of payment to the Obligations and that (a) is only guaranteed by the Guarantors, (b) is not subject to scheduled amortization, redemption, sinking fund or similar payment and does not have a final maturity, in each case, on or before the date that is six months after the Maturity Date, (c) does not include any financial covenants or any covenant or agreement that is more restrictive or onerous on any Loan Party in any material respect than any comparable covenant in the Agreement, and (iv) contains customary subordination (including customary payment blocks during a payment default under any "senior debt" designated thereunder) and turnover provisions and shall be limited to cross-payment default and cross-acceleration to other "senior debt" designated thereunder.

"Subsidiary" of a Person means a corporation, partnership, limited liability company, or other entity in which that Person directly or indirectly owns or controls the Equity Interests having ordinary voting power to elect a majority of the Board of Directors of such corporation, partnership, limited liability company, or other entity.

"Taxes" means any taxes, levies, imposts, duties, fees, assessments or other charges of whatever nature now or hereafter imposed by any jurisdiction or by any political subdivision or taxing authority thereof or therein, and all interest, penalties or similar liabilities with respect thereto.

"Tax Indemnitee" meaning specified therefor in Section 16.1 of the Agreement.

"Tier One Accounts" means Accounts, which can be adjusted in Agent's Permitted Discretion, that have a scheduled billing characteristic with levels determined by hours worked, activities completed, hardware sales or flat billing on a monthly basis, and are coded in Borrowers' accounting systems and reasonably discernible to Agent with the following codes:

(b) Time and Materials (T&M);

(c) T&M to a Cap Non-Construction (LIMNC);

(d) Flat Billing Amount (FLAT);

(e) Level of Effort (LOE);

(f) Shipment of Hardware (PRODN and PRODG);

(g) Pass through (PT); and

(h) Training (Train).

"Tier One Maximum Unbilled Amount" means (a) at all times on or prior to December 1, 2016, $12,000,000 and (b) $11,000,000 at all times thereafter.

"Tier Two Accounts" means Accounts, which can be adjusted in Agent's Permitted Discretion, that do not have a scheduled billing characteristic or otherwise do not meet the criteria of Tier One Accounts and are coded in Borrowers' accounting systems and reasonably discernible to Agent with the following codes:

(a) Fixed Fee Construction (PER);

(b) T&M to a Cap Construction (LIMC);

(c) Fixed Fee Service Based (FSERV);

(d) Financing (FIN); and

(e) Multi-Element Arrangements (MEA).

"Tier Two Maximum Billed Amount" means (a) at all times on or prior to December 1, 2016, $4,300,000 and (b) $2,800,000 at all times thereafter.

"Tier Two Maximum Unbilled Amount" means $4,050,000, which amount shall be reduced by $50,000 at 5:00 p.m. Mountain Time on the last Business Day of each calendar week.

"Unbilled Dilution" means, as of any date of determination, a percentage, based upon the results of Agent's most recent field examination that is the result of dividing the amount of (a) credit adjustments to revenue recognized, or other dilutive items with respect to all Unbilled Accounts during such period by (b) all Borrowers' revenue recognized during such period.

"Unbilled Dilution Reserve" means, as of any date of determination, an amount equal to the greater of (a) Unbilled Dilution calculated over the immediately prior 3 months, (b) Unbilled Dilution calculated over the immediately prior 12 months and (c) the then applicable Dilution Reserve.

"United States" means the United States of America.

"Unused Line Fee" has the meaning specified therefor in Section 2.10(b) of the Agreement.

"Voidable Transfer" has the meaning specified therefor in Section 17.8 of the Agreement.

"Wells Fargo" means Wells Fargo Bank, National Association, a national banking association.

Schedule 3.1

Conditions Precedent

The obligation of each Lender to make its initial extension of credit provided for in the Agreement is subject to the fulfillment, to the satisfaction of each Lender (the making of such initial extension of credit by any Lender being conclusively deemed to be its satisfaction or waiver of the following), of each of the following conditions precedent (in each case, except to the extent that any such item has been expressly agreed to be provided as a post-closing item):

(a) the Closing Date shall occur on or before April 12, 2017;

(b) Agent shall have received each of the following documents, in form and substance satisfactory to Agent, duly executed and delivered, and each such document shall be in full force and effect:

(i) a completed Borrowing Base Certificate;

(ii) a reaffirmation of Prepetition Documents, and

(iii) this Agreement;

(c) Agent shall have received a certificate from the Secretary of each Borrower (i) attesting to the resolutions of such Borrower's board of directors authorizing its execution, delivery, and performance of the Loan Documents to which it is a party, (ii) authorizing specific officers of such Borrower to execute the same, and (iii) attesting to the incumbency and signatures of such specific officers of such Borrower;

(d) The Cases shall have been commenced in the Bankruptcy Court, no trustee or examiner shall have been appointed with respect to any of the Loan Parties or any property of or any estate of any Loan Party and the Bankruptcy Court shall have entered all "first day" orders (other than the Final Order), each in form and substance reasonably satisfactory to Agent;

(e) The Bankruptcy Court shall have entered the Interim Order, which Interim Order (x) shall have been entered upon an application or motion of the Loan Parties satisfactory in form and substance satisfactory to Agent and upon prior notice to such parties required to receive such notice and such other parties as may be reasonably requested by Agent; (y) shall be in full force and effect and shall not have been amended, modified or stayed, or reversed; and, if the Interim Order is the subject of a pending objection, appeal or motion for reconsideration in any respect, neither the Interim Order, nor the making of the Revolving Loans, or the performance by the Loan Parties of any of the Obligations shall be the subject of a presently effective stay, and (z) shall otherwise satisfy the requirements of the definition of Interim Order set forth herein; and

(f) The Bankruptcy Court shall have entered a Cash Management Order authorizing the Loan Parties to maintain and continue to use their Cash Management System in the ordinary course of business, in form and substance reasonably satisfactory to Agent.

(g) Agent shall have received a certificates of insurance, together with the endorsements thereto, as are required by Section 5.6, the form and substance of which shall be satisfactory to Agent;

(h) Borrowers shall have paid all Lender Group Expenses incurred in connection with the transactions evidenced by this Agreement;

(i) Loan Parties shall have received all licenses, approvals or evidence of other actions required by any Governmental Authority in connection with the execution and delivery of the Loan Documents or with the consummation of the transactions contemplated thereby; and

(j) all other documents and legal matters in connection with the transactions contemplated by this Agreement shall have been delivered, executed, or recorded and shall be in form and substance satisfactory to Agent.

Schedule 4.1(c)

Capitalization of Borrower

Schedule 4.1(d)

Subscriptions, Options, Warrants and Calls

Schedule 4.6

Litigation

Schedule 4.8

No Material Adverse Effect

Schedule 4.14

Permitted Indebtedness

[Schedule 4.19

Employee and Labor Matters]

Schedule 4.21

Leases

Schedule 4.23

Location of Chief Executive Offices

Schedule 5.1

Financial Statements, Reports, Certificates

Deliver to Agent, with copies to each Lender, each of the financial statements, reports, or other items set forth set forth below at the following times in form reasonably satisfactory to Agent:

as soon as available (but in any event by the end of each calendar week) for the prior two-week period, commencing the first two-week period after the Filing Date	(a) a reconciliation of actual performance of Loan Parties for the immediately prior two-week period versus their projected performance in the Approved Budget for such period, provided that management and the Borrowers' chief restructuring officer will concurrently provide written explanation (with support) for any variance in violation of Section 7.1 of this Agreement.
Upon entry of a Final Financing Order	(b) an updated Budget for the succeeding four-week period, which, upon Agent's notice of acceptance, in Agent's sole discretion, will be deemed to constitute the new Approved Budget with respect to such period.
as soon as available, but in any event within 30 days after the end of each month (other than the last month of each fiscal year, which, for such months, only Borrower-prepared drafts shall be delivered) during each of Borrowers' fiscal years	(c) an unaudited consolidated and consolidating balance sheet, income statement, and statement of cash flow covering Borrowers' and their Subsidiaries' operations during such period, and (d) a Compliance Certificate
if and within 5 Business Days of being filed by Borrowers,	(e) Form 10-Q quarterly reports, Form 10-K annual reports, and Form 8-K current reports, (f) any other filings made by Borrowers with the SEC with respect to material business developments, and (g) any other information that is provided by Borrowers to their

	shareholders generally. (h) provided however, that information required pursuant to the foregoing clauses (f), (g) and (h) shall be deemed to have been delivered if such information shall have been posted and made available on the website of the SEC at http:www.sec.gov or on the website of the Company at http://www.ciber.com,
Promptly, but in any event within 2 Business Days after any Loan Party has knowledge of any event or condition that constitutes a Default or an Event of Default,	(i) notice of such event or condition and a statement of the curative action that Loan Parties propose to take with respect thereto.
concurrently with the delivery of next Compliance Certificate pursuant to clause (b) or (d) of this Schedule 5.1,	(j) copies of any material amendments or modification to the IBM Financing Agreement.
promptly after a Responsible Officer obtaining knowledge thereof, but in any event within 5 Business Days after such knowledge,	(k) notice of all actions, suits, or proceedings brought by or against any Loan Party before any Governmental Authority which a Responsible Officer has determined could reasonably be expected to result in a Material Adverse Effect.
promptly following the request of Agent,	(l) any other information reasonably requested relating to the financial condition of Borrowers or their Subsidiaries.

Schedule 5.2

Collateral Reporting

Provide Agent (and if so requested by Agent, with copies for each Lender) with each of the documents set forth below at the following times in form satisfactory to Agent:

Weekly, no later than Wednesday of each week; provided that (A) item (a)(iii) shall be delivered monthly; (B) for purposes of items (c) unbilled accounts shall in any event not be required to be recalculated more frequently than on a monthly basis and (C) for purposes of item (b), information regarding accruals shall in any event not be required to be updated more frequently than on a monthly basis (no later than the 25th day of such month)	(a) (i) all amounts owed under the IBM Financing Agreement, (ii) report of items in the (1) Borrowers' general ledger under the following numbers, or any successor accounts with respect thereto: 21302, 21100, 21506 or 11500, or (iii) copies of each unbilled accounts receivable ledger, including those classified by any Borrower as T&M Accrual Schedule, Unbilled Schedule-Projects, and Hardware Accrual Schedule or successor reports (which ledger shall not be required to be updated more frequently than monthly), (b) sales journals, collection journals, credit registers and any other records in respect of the Accounts of Borrower, (c) a Borrowing Base Certificate (setting forth the Borrowing Base), and (d) a detailed report regarding Borrowers' and their Subsidiaries' cash and Cash Equivalents.
Monthly (no later than the 25th day of each month)	(e) a detailed aging, by total, of Accounts (which separately identifies the Accounts of Borrower), together with a reconciliation and supporting documentation for any reconciling items noted (delivered electronically in an acceptable format, if Borrowers have implemented electronic reporting), (f) a detailed general ledger Accounts and Deferred Revenue trial balance (which separately identifies Accounts and Deferred Revenue of Borrower), (g) a detailed calculation of those Accounts that are not eligible for the Borrowing Base if Borrowers have not implemented electronic

	reporting, (h) a summary aging, by vendor, of Loan Parties' accounts payable and any book overdraft (delivered electronically in an acceptable format, if Borrowers have implemented electronic reporting) and an aging, by vendor, of any held checks (which separately identifies the vendors of the Loan Parties), (i) a report demonstrating the amount, customer, and maturity of any performance, surety, or similar bond, (j) solely to the extent, changed, updated copies of Borrowers' revenue recognition procedures which capture Borrowers' policies and procedures concerning Tier One Accounts and Tier Two Accounts, (k) a monthly Account roll-forward (which separately identifies the Accounts of Borrower), in a format acceptable to Agent in its reasonable discretion, tied to the beginning and ending account receivable balances of the general ledger, (l) sales journals, collection journals, credit registers and any other records in respect of the Accounts of Borrower, tied to the beginning and ending account receivable balances of the general ledger, and (m) a report of employees and contractors of the Loan Parties at month-end, and average daily payroll and payroll taxes of each of the Loan Parties over the prior month.
Monthly (no later than the 30th day of each month)	(n) a reconciliation of Accounts and trade accounts payable of Borrowers' general ledger accounts to the monthly financial statements including any book reserves related to each category.
Within 5 Business Days of the occurrence thereof	(o) notice of all claims, offsets, or disputes asserted by Account Debtors with respect to Loan Parties' Accounts,
Upon request by Agent	(p) a report regarding Loan Parties' accrued, but unpaid, ad valorem taxes, (q) copies of invoices together with corresponding shipping and delivery documents, and credit memos together with corresponding supporting documentation, with respect to invoices and credit memos in excess of an amount determined in the sole discretion of Agent, from time to time, (r) a calculation of outstanding Permitted Intercompany Advances with respect to any period, (s) a copy of the then current Troubled Project Report for any applicable Loan Party, and (t) such other reports as to the Collateral or the financial condition of

	Borrowers and their Subsidiaries, as Agent may reasonably request.

Schedule 5.16

Sale Milestones

1. No later than one (1) day after the Filing Date, Borrowers will have filed (i) a motion to sell substantially all[1] of their assets pursuant to 11 U.S.C. § 363 and seeking approval of sale procedures (the "Sale Procedures Motion") and (ii) a motion to shorten notice on the Sale Procedures Motion (the "Motion to Shorten Notice").

2. No later than five (5) days after the Filing Date, Borrowers will have obtained an order granting the Motion to Shorten Notice, in form and substance acceptable to Agent, in its Permitted Discretion, and Borrower.

3. No later than fourteen (14) days after the Filing Date, Borrowers will have obtained an order granting the Sale Procedures Motion, in form and substance acceptable to Agent, in its Permitted Discretion, and Borrower.

4. No later than thirty-five (35) days after the Filing Date, Borrowers will hold an auction for substantially all of the assets of the Loan Parties, pursuant to the terms of the order entered on such Sale Procedures Motion.

5. No later than forty (40) days after the Filing Date, Borrowers will obtain an order approving a sale of substantially all of the assets of Borrowers, in form and substance acceptable to Agent and Borrowers.

6. No later than forty-five (45) days after the Filing Date, Borrowers will consummate one or more sales of substantially all of their assets and remit cash proceeds at the closing thereof to Agent in an amount sufficient to satisfy all Obligations in full, after fully and finally repaying all Prepetition Obligations, in cash.

[1] NTD – Pending confirmation on whether Infor sale could move forward on an accelerated timeline.

EXHIBIT C

Budget

Ciber
Cash Flow Forecast - DIP Budget - WE 4/08 Filing
($ 000s)

	Wk of Forecast	1	2	3	4	5	6	
	Wk Ending ->>	**4/15/2017**	**4/22/2017**	**4/29/2017**	**5/6/2017**	**5/13/2017**	**5/20/2017**	**Total**
		Fcst	*Fcst*	*Fcst*	*Fcst*	*Fcst*	*Fcst*	*Fcst*
RECEIPTS								
NA		3,684	5,222	4,446	6,033	4,919	7,312	**31,615**
India		15	15	665	15	15	15	**739**
International		-	-	-	-	-	-	**-**
Total Accounts Receivable		**3,698**	**5,237**	**5,111**	**6,048**	**4,934**	**7,327**	**32,354**
Total Other (Non AR) Receipts (1)		**-**	**-**	**-**	**-**	**-**	**50,000**	**50,000**
Total Receipts		**3,698**	**5,237**	**5,111**	**6,048**	**4,934**	**57,327**	**82,354**
DISBURSEMENTS								
NA		500	7,226	405	6,450	405	8,924	**23,910**
India		-	-	1,500	-	-	-	**1,500**
International		-	-	298	-	-	-	**298**
Total Payroll		**500**	**7,226**	**2,203**	**6,450**	**405**	**8,924**	**25,708**
NA		3,455	2,035	1,711	1,710	2,261	1,922	**13,093**
India		125	125	450	125	125	125	**1,075**
International		175	178	100	52	52	90	**647**
Total Accounts Payable		**3,755**	**2,338**	**2,261**	**1,887**	**2,438**	**2,137**	**14,815**
Total Employee Expense Reports		203	203	180	180	180	180	**1,125**
Restructuring Professional Fees (2)		-	-	-	-	-	5,128	**5,128**
Total Other (Interest/Fees/etc) (3)		400	-	400	276	-	558	**1,633**
Total Disbursements		**4,858**	**9,767**	**5,044**	**8,793**	**3,023**	**16,926**	**48,409**
Net (before Financing and other adjustments)		**(1,159)**	**(4,530)**	**67**	**(2,745)**	**1,911**	**40,402**	**33,946**
Change in Float/FX change/Restricted cash		-	(0)	-	-	(68)	1	**(67)**
Borrow/(Pay down) WF		(3,564)	(5,237)	(5,111)	(6,048)	(4,934)	(3,564)	**(28,457)**
Borrow/(Pay down) DIP		4,858	9,767	5,044	8,793	3,090	(31,551)	**-**
Net activity - Change in Cash		**135**	**-**	**-**	**-**	**-**	**5,287**	**5,422**
Opening Cash Balance		**165**	**300**	**300**	**300**	**300**	**300**	**165**
Closing Cash Balance		**300**	**300**	**300**	**300**	**300**	**5,587**	**5,587**
Amount Owing to IBM							***1,861***	***1,861***
Closing Cash less Amount Owing to IBM							***3,726***	***3,726***
Borrowing in Wells facility		24,893	19,656	14,546	8,498	3,564	-	**-**
Borrowing in DIP Facility (4)		4,858	14,624	19,668	28,461	31,551	-	**-**
Total WF Borrowings (5)		29,751	34,281	34,213	36,959	35,115	-	**-**
Borrowing Base (6)		37,339	37,289	37,239	37,189	37,139	-	**-**

(1) WE 5/20 - Sale of company for $50M estimated net proceeds
(2) Represents estimated restructuring professional fees in a chapter 11 for Company and lender advisors
(3) Total Other (Interest/Fees/etc) includes: WE 4/15, 4/29 and 5/20 $400k each related to fees on the DIP facility per DIP credit agreement (interim order, final order and 35th day); assumes post-filing interest on the DIP facility at base rate plus 5.25% per DIP credit agreement
(4) Assumes that collections are applied against pre-petition debt outstanding until paid down and then begin to pay down the DIP facility; all disbursements assumed to be drawn against the DIP facility
(5) Does not include debt with IBM,estimated at $1.9M as of filing
(6) Borrowing base forecast calculation is preliminary and subject to material change based on actual results

Case 17-10772 Doc 12-3 Filed 04/10/17 Page 2 of 3

DIP Model Assumptions /Inputs

Filing Date (Post - COB)	4/9/2017
Sale of Company Date	5/20/2017
Sale of Company Amount	50,000
Paydown Date - DIP	5/20/2017
Paydown Amount - DIP	31,551
Paydown Date - Pre-Petition	5/20/2017
Paydown Amount - Pre-Petition	3,564

Professional Fees - Carve-Out Budget

	1 4/15/2017 Fcst	2 4/22/2017 Fcst	3 4/29/2017 Fcst	4 5/6/2017 Fcst	5 5/13/2017 Fcst	6 5/20/2017 Fcst
Total Restructuring Professional Fees	***880***	***635***	***565***	***478***	***598***	***1,973***
Company - Legal Advisor	350	250	200	200	200	100
Company - Investment Banker	125	-	-	-	125	1,600
Company - Financial Advisor	190	170	150	125	120	120
Local Counsel - Saul Ewing	50	50	50	50	50	50
Claims Agent	40	40	40	40	40	40
Total Company Advisor	*755*	*510*	*440*	*415*	*535*	*1,910*
WF - Legal Advisor	75	75	75	38	38	38
WF - Financial Advisor	50	50	50	25	25	25
Total WF Advisor	*125*	*125*	*125*	*63*	*63*	*63*

DIP Borrowings Schedule

Total WF Borrowings	***29,751***	***34,281***	***34,213***	***36,959***	***35,115***	***36,854***
WF Borrowing Base	28,339	28,289	28,239	28,189	28,139	28,089
Overadvance	9,000	9,000	9,000	9,000	9,000	9,000
WF Borrowing Base (Incl. Overadvance)	37,339	37,289	37,239	37,189	37,139	37,089
Additional Overadvance for Cum. Prof. Fee Carve Out	880	1,515	2,080	2,558	3,155	4,128
WF Borrowing Base incl. Carve Out and Overadvance	38,219	38,804	39,319	39,747	40,294	41,217
Line Limit	37,000	37,000	37,000	41,000	41,000	41,000
Preliminary WF Borrowing plus Carve Out Reserve	30,631	35,796	36,293	39,516	38,270	40,982
Additional Overadvance/(Availability)	**6,369**	**1,204**	**707**	**230**	**2,024**	**18**

Case 17-10772 Doc 12-3 Filed 04/10/17 Page 3 of 3