UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:	Case No. 17-42267 (659)
	CHAPTER 11
PAYLESS HOLDINGS LLC, *et al.*,[1]	
	(Joint Administration Requested)
Debtors.	Hearing Date: April 5, 2017
	Hearing Time: 1:30 P.M.
	Hearing Location: Courtroom 7 North

DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO OBTAIN POSTPETITION FINANCING, (II) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL, (III) GRANTING LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (IV) GRANTING ADEQUATE PROTECTION TO THE PREPETITION LENDERS, (V) MODIFYING THE AUTOMATIC STAY, (VI) SCHEDULING A FINAL HEARING, AND (VII) GRANTING RELATED RELIEF

The above-captioned debtors and debtors in possession (collectively, the "Debtors")[2] respectfully state the following in support of this motion (this "Motion"): In support of this

[1] The Debtors (as defined herein) in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Payless Holdings LLC [5704]; Payless Intermediate Holdings LLC [N/A]; WBG-PSS Holdings LLC [N/A]; Payless Inc. [3160]; Payless Finance, Inc. [2101]; Collective Brands Services, Inc. [7266]; PSS Delaware Company 4, Inc. [1466]; Shoe Sourcing, Inc. [4075]; Payless ShoeSource, Inc. [4097]; Eastborough, Inc. [2803]; Payless Purchasing Services, Inc. [3043]; Payless ShoeSource Merchandising, Inc. [0946]; Payless Gold Value CO, Inc. [3581]; Payless ShoeSource Distribution, Inc. [0944]; Payless ShoeSource Worldwide, Inc. [6884]; Payless NYC, Inc. [4126]; Payless ShoeSource of Puerto Rico, Inc. [9017]; Payless Collective GP, LLC [N/A]; Collective Licensing, LP [1256]; Collective Licensing International LLC [5451]; Clinch, LLC [9836]; Collective Brands Franchising Services, LLC [3636]; Payless International Franchising, LLC [6448]; Collective Brands Logistics, Limited [6466]; Dynamic Assets Limited [1978]; PSS Canada, Inc. [4969]; Payless ShoeSource Canada Inc. [4180]; Payless ShoeSource Canada GP Inc. [4182]; and Payless ShoeSource Canada LP [4179]. The location of Debtor Payless Holdings LLC's corporate headquarters and the Debtors' service address is: c/o Payless ShoeSource, Inc., 3231 SE 6th Avenue, Topeka, KS 66607, United States.

[2] A detailed description of the Debtors and their businesses, and the facts and circumstances supporting this Motion and the Debtors' chapter 11 cases, are set forth in greater detail in the *Declaration of Michael Schwindle in Support of Debtors' Chapter 11 Proceedings And First Day Pleadings*, (the "First Day Declaration"), filed contemporaneously with the Debtors' voluntary petitions for relief filed under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"), on April 4, 2017 (the Petition Date").

Motion, the Debtors respectfully proffer the *Declaration of Morgan Suckow in Support of the Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Secured Financing Pursuant, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Prepetition Lenders, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* (the "Suckow Declaration"), filed contemporaneously herewith, and the First Day Declaration. In further support of this Motion, the Debtors respectfully state the following:

Relief Requested

1. The Debtors seek entry of an interim order, (the "Interim Order"), and a final order (the "Final Order,"[3] and together with the Interim Order, the "DIP Orders"):

   a. authorizing certain of the Debtors to obtain senior secured postpetition financing on a superpriority basis (the "DIP ABL Credit Facilities") consisting of a senior secured superpriority revolving credit facility pursuant to the terms and conditions of that certain Debtor-in-Possession Credit Agreement, by and among the Borrowers[4] party thereto, the Guarantors party thereto, Wells Fargo Bank, N.A., as collateral agent, administrative agent, and Swing Line Linder (the "DIP Tranche A ABL Agent"), for and on behalf of itself and the other applicable lenders party thereto and TPG Specialty Lending, Inc., as the Tranche A-1 ABL Agent, for and on behalf of itself and the other applicable lenders party thereto (the "DIP Tranche A-1 ABL Agent" and, together with the DIP Tranche A ABL Agent, the "DIP Tranche A ABL Agent") (the lenders, collectively, including the DIP ABL Agent, the "DIP ABL Lenders"), substantially in the form attached hereto as **Exhibit A** (as the same may be amended, restated, supplemented, or otherwise modified from time to time, the "DIP ABL Agreement") and the Loan Documents (as defined in the DIP ABL Agreement) (the "DIP ABL Documents"), under which Tranche A Loans, Tranche A-1 Loans, and Letters of Credit (each as defined in the DIP ABL Agreement, and collectively, the "DIP ABL Loans") may be advanced and

[3] The Debtors will file a proposed form of Final Order prior to the Final Hearing (as defined herein).

[4] Capitalized terms used but not defined herein have the meanings ascribed to them in the DIP ABL Documents (as defined herein), the DIP Term Loan Documents (as defined herein), or in the Interim Order, as applicable.

made available to the Debtors by the DIP ABL Lenders in the aggregate principal amount of $305 million pursuant to the Interim Order);

b. authorizing certain of the Debtors to obtain senior secured postpetition financing on a superpriority basis (the "DIP Term Loan Facility," and together with the DIP ABL Credit Facilities, the "DIP Facilities") pursuant to the terms and conditions of that certain Superpriority Secured Term Loan and Guarantee Agreement, by and among the Borrowers party thereto, the Guarantors party thereto, the Lenders that are parties thereto, and Cortland Products Corp. as administrative agent and collateral agent (in such capacity, the "DIP Term Loan Agent," and together with the DIP ABL Agent, the "DIP Agents") for and on behalf of itself and the other lenders party thereto (collectively, including the DIP Term Loan Agent, the "DIP Term Loan Lenders," and together with the DIP ABL Lenders, the "DIP Lenders"), substantially in the form attached hereto as **Exhibit B** (as the same may be amended, restated, supplemented, or otherwise modified from time to time, the "DIP Term Loan Agreement," and together with the DIP ABL Agreement, the "DIP Agreements") and the Loan Documents (as defined in the DIP Term Loan Agreement) (the "DIP Term Loan Documents," and together with the DIP ABL Documents, the "DIP Documents"), under which Initial DIP Borrowings and the Subsequent DIP Borrowing (each as defined in the DIP Term Loan Agreement, and collectively, the "DIP Term Loans," and together with the DIP ABL Loans, the "DIP Loans") may be advanced and made available to the Debtors by the DIP Term Loan Lenders in the aggregate maximum principal amount of $30 million after the entry of the Final Order and $50 million (subject to entry of the Final Order), following entry of a disclosure statement order through the Effective Date (subject to the consent of the Required Lenders), including a final draw of remaining availability, if any, under the DIP Term Facility in an amount sufficient to provide the Debtors with no more than $25 million of liquidity upon emergence, in each case subject to and pursuant to the terms and conditions set forth in the DIP Orders and the Term Loan DIP Documents;

c. authorizing the Debtors to enter into, be bound by, and perform under the DIP Documents and to perform such other and further acts as may be necessary or appropriate in connection therewith;

d. granting to the DIP Agents, as applicable, for the benefit of themselves and the DIP Lenders (as applicable): (i) valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition security interests in and liens on (collectively, the "DIP Liens") the applicable DIP Collateral and (ii) allowed superpriority administrative expense claims (the "DIP Superpriority Claims") for all (x) obligations owing to the DIP ABL Agent and DIP ABL Lenders under the DIP ABL Credit Facilities and the DIP ABL Documents (the "DIP ABL Obligations") and (y) obligations owing to the DIP Term Loan Agent and

the DIP Term Loan Lenders under the DIP Term Loan Facility and the DIP Term Loan Documents (the "DIP Term Loan Obligations, and together with the DIP ABL Obligations, the "DIP Obligations"), in each case, which DIP Liens and DIP Superpriority Claims shall be junior and subordinate to the Carve Out (as defined in the DIP Orders) and otherwise subject to the priorities set forth in the DIP Orders and DIP Documents.

e. authorizing the Debtors to use the Prepetition Collateral, including the Cash Collateral (each as defined in the DIP Orders), that is subject to the existing liens and security interests in favor of the of the Prepetition Secured Parties (as defined herein), and granting to those Prepetition Secured Parties certain adequate protection (including Adequate Protection Liens, Adequate Protection Superpriority Claims, and Adequate Protection Payments (each as defined herein)), solely to the extent of any diminution in value of such Prepetition Secured Parties' interest in the Prepetition Collateral;

f. vacating and modifying the automatic stay imposed by section 362 of the Bankruptcy Code to permit the DIP Agents (as applicable), acting on behalf of themselves and the DIP Lenders, to perform any act authorized or permitted under or by virtue of the DIP Orders or the DIP Documents, including, without limitation, (i) to implement the postpetition financing arrangements, (ii) to take any act to create, validate, evidence, attach, or perfect any lien, security interest, right, or claim in the DIP Collateral, and (iii) upon the occurrence of an Event of Default under the DIP Documents (as defined in the DIP Orders) and after providing five business days prior written notice (to the extent applicable), to exercise remedies under the applicable DIP Documents;

g. scheduling a final hearing (the "Final Hearing") to consider entry of the Final Order for a date that is before the 35th day after the Petition Date to consider entry of the Final Order, and fixing the time and date prior to the Final Hearing for parties in interest to file objections to this Motion; and

h. granting related relief.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Eastern District of Missouri (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and Rule 81.901(B)(1) of the Local Rules of the United States District Court for the Eastern District of Missouri (the "Local Rules"). The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy 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.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105, 361, 362, 363, 364, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004, and 9014.

Preliminary Statement

5. Immediate access to incremental liquidity in the form of postpetition financing and access to Cash Collateral is critical to preserving the value of the Debtors' estates and maximizing the likelihood of a going-concern reorganization. The postpetition financing sends a strong message to customers, vendors, employees, and stakeholders that their restructuring is both well-funded and well-positioned to succeed. Accordingly, by this Motion, the Debtors seek approval of postpetition financing in the form of:

a. the DIP ABL Credit Facilities, a $305 million (aggregate amount) asset-based lending facility consisting of a $245 Tranche A Credit Facility and a $60 million Tranche A-1 Credit Facility, which facility will roll up the prepetition asset-based lending facility with the net proceeds of the DIP ABL Collateral pursuant to the Interim Order and will roll up the remaining amount of the prepetition asset-based lending facility in full pursuant the Final Order; and

b. the DIP Term Loan Facility, a term loan facility in an aggregate amount not to exceed $80 million of principal loaned (subject to original issue discount) consisting of (a) a $30 million initial draw that will only be authorized to be drawn pursuant to the Final Order and (b) up to an aggregate of $50 million in additional draws that would be available to be drawn following entry of a disclosure statement order through the Effective Date (subject to the consent of the Required Lenders), including a final draw of remaining availability, if any, under the DIP Term Facility in an amount sufficient to provide the Debtors with no more than $25 million of liquidity upon emergence.

6. As discussed in the First Day Declaration, recent adverse economic trends (including a shift away from brick-and-mortar to online retail channels) and other specific, non-recurring factors discussed further herein resulted in Payless experiencing weaker-than-anticipated financial performance in 2015 and 2016, pressuring the Debtors' capital structure and straining liquidity. To protect the inherent value in the business while addressing the difficulties it faced in 2015 and 2016, Payless has been proactive in developing strategies to maintain its market position and improve performance in a challenging retail environment. In particular, Payless has prioritized near- and long-term initiatives designed to maintain the core value proposition for its customers through its merchandising and procurement strategy, as well as expansion into e-commerce and the omni-channel experience, while also ensuring a sustainable capital structure and rationalized store fleet.

7. Consistent with that strategy, for the past several months, the Debtors have been working with a steering committee of their secured term loan lenders to develop a comprehensive financing, restructuring and recapitalization plan that will be implemented through these chapter 11 cases. Specifically, the Debtors have received support from stakeholders representing approximately 2/3 of their capital structure for a comprehensive restructuring that will provide Payless with (a) a $305 million revolving debtor-in-possession credit facility to finance its business through this process; (b) up to $80 million in new capital from certain existing term lenders to support these cases and help the Debtors emerge with a right-sized balance sheet; (c) a plan framework that will reduce the Debtors' funded debt from $838 million to an estimated $469 million (inclusive of assumed revolving loans) while ensuring fair recoveries to all stakeholders in accordance with their respective priorities; and (d) a framework to enable the Debtors to rationalize their store fleet and profitability..

8. A critical component of the Debtors' transition into chapter 11 in a value-maximizing manner is the Debtors' ability to immediately access the DIP ABL Credit Facilities and Cash Collateral so they can purchase fresh inventory and otherwise make clear to their vendors, customers, and other stakeholders that the Debtors have the liquidity necessary to implement an expeditious restructuring and emerge as a going concern. Importantly, the DIP ABL Facilities provide approximately $40 million of incremental net liquidity compared to the borrowing base under the Prepetition ABL Facility, some of which is due to the addition of the assets of the Canadian Debtors[5] in the borrowing base. The DIP ABL Lenders are unwilling to make the DIP ABL Credit Facilities available to the Debtors unless the Canadian Debtors provide a secured guarantee of all amounts made available in respect of such DIP ABL Credit Facilities.

9. Significantly, the Debtors are not seeking authority under the Interim Order to draw under the DIP Term Credit Facility or to approve any financing fees under the DIP Term Credit Facility, as the Debtors do not have an immediate need for that liquidity. The Debtors will seek to draw the $30 million under the DIP Term Credit Facility only pursuant to the Final Order. The DIP Term Credit Facility will also provide the Debtors with access to the liquidity they need to emerge from chapter 11, as it provides for $50 million in additional liquidity that would be available to be drawn following entry of a disclosure statement order and through the Effective Date (subject to the consent of the Required Lenders). A final draw of remaining availability under the DIP Term Facility, if any, may be made prior to emergence in an amount sufficient to provide the Debtors with no more than $25 million of liquidity upon emergence. This availability will best position the Debtors to maximize value by minimizing unnecessary

[5] The "Canadian Debtors" include Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc., and Payless ShoeSource Canada LP.

borrowings and related fees, while still making available the liquidity that the Debtors need to implement the Restructuring Support Agreement and emerge from chapter 11 as a going concern.

10. As discussed below and in the Suckow Declaration, the provisions of the DIP Agreements and the Interim Order were negotiated at arm's-length and in good faith, and the proposed DIP Facilities provide the best terms presently available to the Debtors. The Debtors, with the assistance of their advisors, solicited proposals for debtor-in-possession financing from a variety of potential lenders. While certain parties did offer alternative financing proposals, as explained below, such offers were not viable for the Debtors' estates. In the Debtors' business judgment, the DIP Facilities provided the best comprehensive postpetition financing, all things considered.

11. Thus, the DIP Facilities are the Debtors' best access to the liquidity they need to maintain their operations and increase the value of their estates. Because the Debtors believe that the DIP Facilities are reasonable, appropriate, and provide the best terms presently available to the Debtors, the Debtors respectfully submit that the Court should grant the relief requested herein.

Concise Statements Pursuant to Bankruptcy Rule 4001(b)[6]

I. Concise Statement Regarding the DIP ABL Credit Facilities

12. The below chart contains a summary of the material terms of the proposed DIP ABL Credit Facilities, together with references to the applicable sections of the relevant source documents, as required by Bankruptcy Rules 4001(b)(1)(B) and 4001(c)(1)(B).

6 The summaries contained in this Motion are qualified in their entirety by the provisions of the documents referenced, including the DIP ABL Credit Facilities, the DIP Term Loan Facility, and the Interim DIP Order, respectively. To the extent anything in this Motion is inconsistent with such documents, the terms of the applicable documents shall control. Capitalized terms used in this summary chart but not otherwise defined have the meanings ascribed to them in the DIP Loan Documents or the Interim DIP Order, as applicable.

Bankruptcy Code	Summary of Material Terms
Borrowers Bankruptcy Rule 4001(c)(1)(B)	Payless Inc. Payless ShoeSource, Inc. Payless ShoeSource Distribution, Inc. Payless Finance, Inc. *See* DIP ABL Agreement Preamble, Schedule 1.01
Guarantors Bankruptcy Rule 4001(c)(1)(B)	Certain of the Debtors (including the Canadian Debtors and Payless ShoeSource of Puerto Rico, Inc.), as set forth in Schedule 1.02. *See* DIP ABL Agreement Preamble, Schedule 1.02(a)-(b).
DIP Financing Lenders Bankruptcy Rule 4001(c)(1)(B)	Wells Fargo Bank, National Association, TPG Specialty Lending Inc., and the other lenders party thereto. *See* DIP ABL Agreement § 1.01.
Term Bankruptcy Rule 4001(b)(l)(B)(iii), 4001(c)(1)(B)	Stated Maturity Date. The earliest of: • the date that is 210 Days after the Closing Date; • if the Final Order is not entered within thirty five (35) calendar days after the Petition Date, immediately thereafter; • upon entry of an order confirming any plan of reorganization under Section 1129 of the Bankruptcy Code; and • the closing of a sale of all or substantially all of the working capital assets of the Debtor Loan Parties pursuant to Section 363 of the Bankruptcy Code *See* DIP ABL Agreement § 1.01; Interim DIP Order ¶ 30.
Commitment Bankruptcy Rule 4001(c)(1)(B)	Commitments. • Tranche A Loans. As of the Closing Date, the Aggregate Tranche A Commitments are $245,000,000. • Tranche A-1 Loans. As of the Closing Date, the Tranche A-1 Commitments are in the aggregate amount of $60,000,000. *See* DIP ABL Agreement §§ 1.01
Conditions of Borrowing Bankruptcy Rule 4001(c)(1)(B)	Conditions of Initial Credit Extension. The obligation of the L/C Issuer and each Lender to make its initial Credit Extension hereunder is subject to satisfaction (or waiver) of the usual and customary conditions for financings of this type, including, among other things: • The Agent's receipt of various documents including original counterparts of the agreement, a Note executed in the lenders favor (if requested), board resolutions approving entry into the Agreement, Organizational Documents, and all Loan Documents • The Tranche A Availability, calculated pursuant to the DIP ABL Credit Agreement shall be not less than $65,000,000. • Payment of fees and expense of the Agent and counsel to the Agent, as required by the DIP ABL Credit Agreement, on or before the closing date. • The Agent, Tranche A-1 Agent, and Lenders shall have received and be satisfied

Bankruptcy Code	Summary of Material Terms
	with the Approved Budget, and other requested information. • Entry by the Court of the Interim Order and the Cash Management Order. Conditions to all Credit Extensions. After the Closing Date, the obligation of each Lender to honor any Request for Credit Extension after the Closing Date and each L/C Issuer to issue each Letter of Credit is subject of the following usual and customary conditions, among others: • The representations and warranties of the Borrowers and each other Loan Party are true and correct in all material respects on and as of the date of such Credit Extension. • No Default or Event of Default exists or would result from such proposed Credit Extension. • The Agent and, if applicable, the L/C Issuer or the Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof. • The Interim Order and, if applicable, the Final Order are still fully in effect. • The Credit Extension is for the purposes and in amounts consistent with the Approved Budget. *See* DIP ABL Agreement §§ 4.01, 4.02.
Interest Rates Bankruptcy Rule 4001(c)(1)(B)	Rates and Payment of Interest. • Each Tranche A Loan: L+4.0% • Each Tranche A-1 Loan: L+ 8.50% • Swing Line Loan: Base Rate + 3.00% *See* DIP ABL Agreement §§ 2.08
Use of DIP Financing Facility and Cash Collateral Bankruptcy Rule 4001(b)(l)(B)(ii)	Use of Proceeds. The Loan Parties shall use the proceeds of the Credit Extensions to the extent permitted under applicable Law, the Approved Budget (subject to the Permitted Variance), and the Loan Documents, (a) on the Closing Date, for the payment of transaction expenses in connection with this Agreement, and (b) after the Closing Date, (i) to finance the payoff of the Pre-Petition Obligations in accordance with the DIP ABL Agreement, (ii) to finance general corporate purposes of the Loan Parties and to finance the acquisition of working capital assets of the Borrowers, including capital expenditures and the purchase of inventory and equipment, in each case in the ordinary course of business or as otherwise approved by the Lenders, (iii) to pay fees, expenses, and costs incurred in connection with the Canadian Case and the Chapter 11 Case, as well as the payment of any adequate protection payments approved in the Financing Orders, and (iv) to pay the Carve-Out up to the Carve-Out Reserve. The Loan Party will not use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to (a) purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund Indebtedness originally incurred for such purpose, or (b) make any payments to a Sanctioned Entity or a Sanctioned Person, to finance any investments in a Sanctioned Entity or a Sanctioned Person, to fund any operations of a Sanctioned Entity or a Sanctioned Person, or in any other manner that would result in a violation of Sanctions by any Person.

Bankruptcy Code	Summary of Material Terms
	See DIP ABL Agreement §§ 6.11, 7.11; Interim DIP Order Preamble.
Repayment Features Bankruptcy Rule 4001(b)(l)(B)(ii)	Mandatory Prepayments. If the Total Outstandings or aggregate Outstanding Amounts, adjusted by certain amount described in the DIP ABL Agreement, at any time exceed certain caps set forth therein, each as then in effect, the Borrowers shall immediately prepay in an aggregate amount necessary to eliminate such excess. Any cash received not in the ordinary course of business, including tax refunds, pension plan reversions, proceeds of insurance, condemnation awards, indemnity payments, and purchaser price adjustments, shall be prepaid pursuant to the terms of Section 2.05.. Repayment of Loans, Etc. The Borrowers shall repay to the Lenders on the Termination Date the aggregate principal amount of Committed Loans outstanding on such date. To the extent not previously paid, the Borrower shall repay the outstanding balance of the Swing Line Loans on the earlier of the Maturity Date and the applicable Termination Date *See* DIP ABL Agreement §§ 2.05, 2.07.
Fees Bankruptcy Rule 4001(c)(1)(B)	Commitment Fee. 0.375% Tranche A Arrangement Fee. 0.25% on $245 million of existing commitments Tranche A Closing Fee. 1.00% on $245 million of commitments Tranche A-1 Closing Fee. 1.25% on $55 million of existing commitments; 3.00% fee on $5 million incremental commitment Letter of Credit Fees. 4.00% for Standby LOC; 3.50% for Commercial LOC Fronting Fee. 0.125% Administrative Agent Fees. $150,000 *See* DIP ABL Agreement § 2.09.
Budget Bankruptcy Rule 4001 (c)(1)(B)	Approved Budget. The debtor-in-possession thirteen (13) week budget prepared by the Lead Borrower and furnished to the Agent and Tranche A-1 Agent on or before the Closing Date, as the same may or shall, as applicable, be updated, modified and/or supplemented thereafter from time to time as provided in Section 6.01(b), which budget shall include a weekly cash budget, including information on a line item basis as to (x) projected cash receipts, (y) projected disbursements (including ordinary course operating expenses, bankruptcy-related expenses (including professional fees and expenses budgeted for the Case Professionals on a monthly basis and a summary of accrued professional fees on a weekly basis), capital expenditures, asset sales and fees and expenses of the Agent and the Lenders (including counsel therefor) and any other fees and expenses relating to the Loan Documents), and (z) a calculation of the Borrowing Base, Availability and Tranche A Availability, which shall be in form and substance acceptable to the Agent and Tranche A-1 Agent. Permitted Variance. At all times following the Closing Date, strictly perform in accordance with the Approved Budget, including having made all scheduled payments to the "Lenders" (as defined in the Pre-Petition Credit Agreement) and Lenders, as applicable, as and when required, subject to the following (the "Permitted Variance"): (a) the Borrowers' cumulative "net cash flow" amounts (without giving effect to any proceeds of the DIP Term Loan Facility) as set forth in the Approved Budget for all weeks commencing after the Petition Date shall not be less than (i) the cumulative projected "net cash flow amounts" (without giving effect to any proceeds of the DIP Term Loan Facility) amounts set forth in the Approved Budget *minus* (ii) the Test Amount, which shall be tested as of Saturday of each week (commencing with the fourth (4th) week after the

Bankruptcy Code	Summary of Material Terms
	Petition Date), and (b) the Borrowers' "Total Eligible Inventory and In-Transit" as set forth in the Approved Budget as of Saturday of each week shall be at least 87.5% of the amount set forth in the Approved Budget for each week commencing on the fourth (4th) week after the Petition Date. Each of the foregoing covenants shall be tested pursuant to the Approved Budget Variance Report delivered by the Lead Borrower to the Agent and Tranche A-1 Agent in accordance with Section 6.01(b). Test Amount. Test Amount shall mean, (i) at all times from and after the Petition Date until the second amended Approved Budget has been approved, $25,000,000, (ii) from and after the date of the second amended Approved Budget has been approved until the third amended Approved Budget has been approved, $30,000,000, and (iii) at all times after the third amended Approved Budget has been approved, $35,000,000. *See* DIP ABL Agreement §§ 1.01, 6.23.
Variance Covenant Bankruptcy Rule 4001(c)(l)(B)	Approved Budget Variance Report. A weekly report provided by the Lead Borrower to the Agent and Tranche A-1 Agent in accordance with Section 6.01(b): (i) showing actual receipts and disbursements for each line item compared to the Approved Budget, as applicable, and Availability and Tranche A Availability as of Saturday of each week on a cumulative basis from the Petition Date until the fourth (4th) week after the Petition Date and then on a rolling four (4) week basis at all times thereafter, noting therein all variances, on a line-item basis, from amounts set forth for such period in the Approved Budget, and shall include or be accompanied by explanations for all material variances, (ii) showing the actual "Eligible Inventory" as of Saturday of each week and the variance to the Approved Budget for such week, and (iii) certified by a Responsible Officer of the Lead Borrower. *See* DIP ABL Agreement § 1.01.
Events of Default Bankruptcy Rule 4001(c)(l)(B)	Events of Default. Any of the following, among others set forth in Section 8.01, shall constitute an Event of Default: • Non-Payment. The Borrowers or any other Loan Party fails to make payments when due and as required by the DIP Documents. • Breach of Covenant. Any Obligor breaches or fails to perform certain specified covenants set forth in the DIP Documents. • Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Borrower or any other Loan Party herein, in any other Loan Document shall be incorrect or misleading in any material respect (or in the case of any representation or warranty qualified by materiality, in any respects) when made or deemed made. • Cross Default. Any event of Default under the Term Loan Facility. • Judgment. There is entered against any Loan Party or any Subsidiary thereof (i) one or more judgments or orders for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding $[5,000,000] (to the extent not covered by insurance (other than deductibles), has been notified of the potential claim and does not dispute coverage). • ERISA. The occurrence of certain specified ERISA Event, Pension Plan, or Multiemployer Plan defaults. • Invalidity of Loan Documents. Any material provision of any Loan Document at

Bankruptcy Code	Summary of Material Terms
	any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations and the Pre-Petition Obligations (other than unasserted contingent indemnification obligations or unasserted expense reimbursement obligations), ceases to be in full force and effect. • Change of Control. There occurs any Change of Control. • Cessation of Business. Except for as expressly permitted, any Loan Party or any Significant Subsidiary shall take any action to suspend the operation of all or a material portion of its business, in the ordinary course of business liquidate all or a material portion of its assets or Store locations, and employ an agent or other third party to conduct a program of closings, liquidations or "Going Out of Business Sales" or any material portion of its business, in each case, other than in connection with a Permitted Disposition. • Loss of Collateral. There occurs any uninsured loss to any of the Collateral, which loss could reasonably be expected to have a Material Adverse Effect. • Indictment. Any Obligor is criminally indicted, charged or convicted under any federal, state, municipal, and other criminal statute, rule, regulation, order, or other requirement having the force of law for a felony. • Chapter 11 Case. The occurrence of certain actions, filings, or case markers in the Chapter 11 Case. *See* DIP ABL Agreement § 8.01.
Indemnification Bankruptcy Rule 4001(c)(1)(B)(ix)	Indemnification of Agent. Without limiting the obligations of the Loan Parties hereunder, the Lenders hereby agree to indemnify the Agent, the L/C Issuer and any Related Party, as the case may be, ratably according to their Applicable Percentages, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against the Agent, the L/C Issuer and their Related Parties in any way relating to or arising out of this Agreement or any other Loan Document or any action taken or omitted to be taken by the Agent, the L/C Issuer and their Related Parties in connection therewith; provided, that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agent's, the L/C Issuer's and their Related Parties' gross negligence or willful misconduct as determined by a final and nonappealable judgment of a court of competent jurisdiction. Indemnification by the Loan Parties. Other than with respect to Indemnified Taxes and Other Taxes which are addressed in Section 3.01**Error! Reference source not found.**, the Loan Parties shall indemnify the Agent (and any sub-agent thereof), each other Credit Party, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless (on an after tax basis) from, any and all losses, claims, causes of action, damages, liabilities, settlement payments, costs, and related expenses (including the reasonable fees, charges and disbursements of one primary counsel, one local counsel in each reasonably necessary and relevant jurisdiction and one specialty counsel in each reasonably necessary and relevant jurisdiction, if applicable, for each reasonably necessary and relevant specialty and shall include reasonable and documented allocated costs of in-house counsel), incurred by any Indemnitee or asserted against any Indemnitee by any third party or by any Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution

Bankruptcy Code	Summary of Material Terms
	or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the Agent (and any sub-agents thereof) and their Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit, any bank advising or confirming a Letter of Credit or any other nominated person with respect to a Letter of Credit seeking to be reimbursed or indemnified or compensated, and any third party seeking to enforce the rights of a Borrower, beneficiary, nominated person, transferee, assignee of Letter of Credit proceeds, or holder of an instrument or document related to any Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Loan Party or any of its Restricted Subsidiaries, or any Environmental Liability related in any way to any Loan Party or any of its Restricted Subsidiaries, (iv) any claims of, or amounts paid by any Credit Party to, a Blocked Account Bank or other Person which has entered into a control agreement in connection with the requirements hereunder with any Credit Party hereunder, or (v) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Borrower or any other Loan Party or any of the Loan Parties' directors, shareholders or creditors, and regardless of whether any Indemnitee is a party thereto, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Indemnitee; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (v) are determined by a final and nonappealable judgment of a court of competent jurisdiction to have directly resulted from the gross negligence or willful misconduct of such Indemnitee or of any of its Affiliates or Subsidiaries or any of the officers, directors, managers, employees or controlling Persons of such Indemnitee or any of such Indemnitee's Affiliates or Subsidiaries, (w) result from a claim brought by a Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrowers or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction will give prior written notice of any settlements; (y) a material intentional breach of any obligations under any Loan Document by such Indemnitee or of any such Indemnitee's Related Parties, in each case as determined by a final, non-appealable judgment of a court of competent jurisdiction or (z) any dispute solely among Indemnitees other than any claims against an Indemnitee in its capacity or in fulfilling its role as an agent or arranger or any similar role under this Agreement or other Loan Documents and other than any claims arising out of any act or omission of the Borrowers or any of their Affiliates, in each case as determined by a final, non-appealable judgment of a court of competent jurisdiction; provided, however, the Agent shall, to the extent practical, endeavor to provide the Lead Borrower with prior notice of any settlements, but failure to provide such notice shall not negate the effectiveness of such settlement, or impose any liability or obligations on the Agent or any other Credit Party. *See* DIP ABL Agreement §§ 9.14, 10.04.

13. A summary of certain additional material terms common to both the DIP ABL Credit Facilities and the DIP Term Loan Facility is provided below.

II. Concise Statement Regarding the DIP Term Loan Facility

14. The below chart contains a summary of the material terms of the proposed DIP Term Loan Facility, together with references to the applicable sections of the relevant source documents, as required by Bankruptcy Rules 4001(b)(1)(B) and 4001(c)(1)(B).

Bankruptcy Code	Summary of Material Terms
Borrowers Bankruptcy Rule 4001(c)(1)(B)	WBG - PSS Holdings LLC, Payless Inc., Payless Finance, Inc., Payless ShoeSource, Inc., and Payless ShoeSource Distribution, Inc. *See* DIP Term Loan Agreement Preamble; Interim DIP Order Preamble.
Guarantors Bankruptcy Rule 4001(c)(1)(B)	The Borrowers certain existing and future direct and indirect U.S. subsidiaries, including PSS Canada, Inc. but excluding the Canadian Debtors and Payless ShoeSource of Puerto Rico, Inc. *See* DIP Term Loan Agreement Preamble; DIP Term Loan Agreement § 7.
DIP Financing Lenders Bankruptcy Rule 4001(c)(1)(B)	Cortland Products Corp., as Administrative Agent and as Collateral Agent, and certain prepetition lenders as Lenders. *See* DIP Term Loan Agreement Preamble; Interim DIP Order Preamble.
Term Bankruptcy Rule 4001(b)(l)(B)(iii), 4001(c)(1)(B)	The earliest of (i) 210 days after the Petition Date, (ii) the consummation of any sale of all or substantially all of the assets of the Debtors pursuant to section 363 of the Bankruptcy Code, (iii) if the Final Order has not been entered on or before the date that is thirty-five (35) calendar days after the Petition Date, (iv) the acceleration of the Term DIP Loans and the termination of the Term DIP Commitments upon the occurrence of an event referred to below under "Termination," and (v) the Effective Date. *See* DIP Term Loan Agreement § 1.1; Interim DIP Order ¶ 30.
Commitment Bankruptcy Rule 4001(c)(1)(B)	A non-amortizing facility comprised of a new money term loan facility in an aggregate principal amount not to exceed **$**80 million. The Term DIP Loans (the "Term DIP Loans") may be incurred as follows: • an initial draw of the Term DIP Facility (the "Initial Term DIP Loan") in an aggregate principal amount of **$**30 million upon entry by the Court of a final order authorizing and approving the Term DIP Facility; and • $50 million (subject to entry of the Final Order), following entry of a disclosure statement order through the Effective Date, including a final draw of remaining availability, if any, under the DIP Term Facility in an amount sufficient to provide the Debtors with no more than $25 million of liquidity upon emergence. • Once repaid, the Term DIP Loans incurred under the DIP Facility cannot be reborrowed.

Bankruptcy Code	Summary of Material Terms
	See DIP Term Loan Agreement § 2.1; Schedule I.
Conditions of Borrowing Bankruptcy Rule 4001(c)(1)(B)	Conditions Precedent to Closing: The Term DIP Credit Agreement will contain, among others, the following conditions precedent to closing, each of which shall be subject to waiver with the consent of the Debtors and the Term DIP Agent at the direction of the Requisite Lenders • The Term DIP Agent's receipt of various documents including original counterparts of the agreement, in form and substance satisfactory to the Term DIP Agent. • Payment of fees and expense of the Agent and counsel to the Agent and the Lenders, among others, as required by the Term DIP Credit Agreement, on or before the closing date. • Payment of fees and expense of (i) the Term DIP Agent and counsel to the Term DIP Agent, (ii) the Backstop Lenders and the fees of the Backstop Lenders' outside counsel, local counsel (if required), and financial advisor, and (iii) all other professional advisors retained by the Term DIP Agent of the Backstop lenders shall have been paid in full in cash. • The Term DIP Agent and the Term DIP Lenders shall have received a DIP Budget in form and substance reasonably satisfactory to the Term DIP Agent at the direction of the Requisite Lenders. • All first day motions, including those related to the Term DIP Facility, filed by the Debtors (if any) and related orders entered by the Court in the Chapter 11 Cases shall be in form and substance reasonably satisfactory to the Requisite Lenders. • The Interim Order shall have been entered and be in full force and effect. Conditions Precedent to Borrowing. The Term DIP Credit Agreement will contain only the following conditions precedent to borrowings: • Event of Default. No Default or Event of Default shall have occurred or be existing under the Term DIP Loan Documents. • Representations and Warranties. The representations and warranties of each Borrower and each Guarantor set forth in the Term DIP Credit Agreement shall be true and correct on the Closing Date and any draw date thereafter. • No Violation of Law. The making of such Term DIP Loans shall not violate any requirement of law and shall not be enjoined, temporarily, preliminarily or permanently. • Entry of the Final Orders. The Final Order shall have been entered and be in full force and effect. • Private Ratings. With respect to the borrowing of the Term DIP Loan, the Debtors shall have used commercially reasonably efforts to obtain private ratings for the DIP Facility from each of Standard & Poor's Ratings Services ("S&P") and Moody's Investors Service, Inc. ("Moody's"); provided that timely cooperation with the customary and reasonable requests of S&P and Moody's, in conferral with the DIP Lenders, shall be deemed to be commercially reasonable. *See* DIP Term Loan Agreement § 6.1, 6.2, 6.3.
Interest Rates	Interest on Loans.

Bankruptcy Code	Summary of Material Terms
Bankruptcy Rule 4001(c)(1)(B)	• L+9.00% (1.00% Libor floor). Default Interest. • Additional 2.00% per annum. *See* DIP Term Loan Agreement §§ 1.01, 2.9.
Use of DIP Financing Facility and Cash Collateral Bankruptcy Rule 4001(b)(l)(B)(ii)	Use of Proceeds. The Term DIP Loans shall be used to only for the following purposes in each case, in accordance with the DIP Budget and except as otherwise agreed by the Administrative Agent (acting at the direction of the Required Lenders): (i) for the payment of prepetition amounts acceptable to the Required Lenders as authorized by the Bankruptcy Court pursuant to orders approving the first day motions filed by the Loan Parties; (ii) in accordance with the terms of the Term DIP Facility and the Orders (a) for the payment of working capital and other general corporate needs of the Borrowers and the Guarantors in the ordinary course of business, (b) for the payment of Chapter 11 expenses, including Taxes, allowed professional fees, costs and expenses for advisors, consultants, counsel and other professionals retained by the Borrowers; and (iii) to pay fees and expenses related to the Term DIP Facility and (c) to repay amounts outstanding pursuant to the ABL DIP Credit Agreement. *See* DIP Term Loan Agreement §5.12; 6.3; 7.12; Interim DIP Order Preamble.
Repayment Features Bankruptcy Rule 4001(c)(1)(B)	Scheduled Payments. The Borrower promises to repay all Loans, together with all other amounts owed hereunder with respect thereto no later than the Maturity Date. Voluntary Prepayments; Commitment Reductions. Voluntary prepayments of the Term DIP Loans shall be permitted at any time, without premium or penalty. Mandatory Prepayments. The Term DIP Credit Agreement will contain customary mandatory prepayment events for financings of this type consistent with the Documentation Principles ("Mandatory Prepayments"), limited to prepayments from proceeds of (i) certain asset sales, (ii) insurance and condemnation proceeds, subject to reinvestment rights to be agreed upon by the Debtors and the Requisite Lenders, and (iii) debt issuances (other than debt under the Exit Financing), in each case, received by any of the Borrowers or any of the Guarantors and subject to exceptions to be agreed. *See* DIP Term Loan Agreement §§ 2.4, 4.1, 4.2.
Fees Bankruptcy Rule 4001(c)(1)(B)	Fees. The Borrower agrees to pay the following fees: Administrative Agency Fee. $35,000 Commitment Fee. 2.00%, payable on drawn amounts Backstop Fee. 3.00%, payable on drawn amounts Exit Fee: 2.50% on the commitments on the Effective Date *See* DIP Term Loan Agreement §§ 3.1.]
Budget Bankruptcy Rule 4001 (c)(1)(B) **Variance Covenant** Bankruptcy Rule 4001(c)(l)(B)	DIP Budget. A 13-week operating budget setting forth all forecasted receipts and disbursements on a weekly basis for such 13 week period beginning as of the week of the Petition Date, broken down by week, including the anticipated weekly uses of the proceeds of the Term DIP Facility for such period, which shall include, among other things, available cash, cash flow, trade payables and ordinary course expenses, total expenses and capital expenditures, fees and expenses relating to the Term DIP Facility, fees and expenses related to the Chapter 11 Cases, and working capital and other general corporate needs, which forecast shall be in form and substance reasonably satisfactory to

Bankruptcy Code	Summary of Material Terms
	the Term DIP Agent at the direction of the Requisite Lenders. Permitted Variances**.** shall mean, initially for the first four weeks after entry of the Interim Order and thereafter on a rolling four (4) week basis (each such period, a "Testing Period"): (a) the Borrowers' cumulative "net cash flow" amounts (without giving effect to any proceeds of the Term Loans) as set forth in the DIP Budget shall not be less than (i) the cumulative projected "net cash flow amounts" (without giving effect to any proceeds of the ABL DIP Loans) amounts set forth in the DIP Budget minus (ii) the Test Amount, which shall be tested as of Saturday of each week (commencing with the fourth (4th) week after the Petition Date), and (b) the Borrowers' changes in "Total Eligible Inventory and In-Transit" as set forth in the DIP Budget as of Saturday of each week shall be at least 87.5% of the amount set forth in the DIP Budget for each week commencing on the fourth (4th) week after the Petition Date. The Permitted Variance with respect to each Testing Period shall be determined and reported to the Administrative Agent and the Lenders not later than Friday immediately following each such Testing Period. Additional variances, if any, from the DIP Budget, and any proposed changes to the DIP Budget, shall be subject to the approval of the Administrative Agent at the direction of the Required Lenders *See* DIP Term Loan Agreement §§ 5.1(c); 6.1(g); 7.2(g); 8.16.
Events of Default Bankruptcy Rule 4001(c)(l)(B)	Events of Default. If any one or more of the following conditions or events, amongst other events set forth in the DIP Term Loan Agreement, shall occur: • Non-Payment. The Borrowers or any other Loan Party fails to make payments when due and as required by the DIP Documents. • Breach of Covenant. Any Obligor breaches or fails to perform certain specified covenants set forth in the DIP Documents. • Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Borrower or any other Loan Party herein, in any other Loan Document shall be incorrect or misleading in any material respect (or in the case of any representation or warranty qualified by materiality, in any respects) when made or deemed made. • Cross Default. Any event of default under the DIP ABL Credit Facility. • Uninsured Judgment. There is entered against any Loan Party or any Subsidiary thereof (i) one or more judgments or orders for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding $5,000,000 (to the extent not covered by insurance (other than deductibles), has been notified of the potential claim and does not dispute coverage). • Change of Control. There occurs any Change of Control. • Sale of Business. Any sale of all or substantially all assets of the Debtors pursuant to section 363 of the Bankruptcy Code, unless (i) the proceeds of such sale indefeasibly satisfy the DIP Obligations in full in cash and (ii) such sale is supported by the Term DIP Agent at the direction of the Requisite Term DIP Lenders. • Chapter 11 Case. The occurrence of any of a number of actions, filings, or case markers in the Chapter 11 Case; the termination of the RSA; or granting of relief from the automatic stay in the Chapter 11 Cases to permit foreclosure or enforcement on assets of any Borrower or any Guarantor, in each case, with a fair market value in excess of $5,000,000 • Term DIP Loan Documents. Any material provision of any of the Term DIP

Bankruptcy Code	Summary of Material Terms
	Loan Documents (including any guarantee contained therein) shall cease, for any reason, to be in full force and effect, other than pursuant to the terms hereof or thereof, or as a result of acts or omissions of the lenders thereto. *See* DIP Term Loan Agreement § 10.
Indemnification Bankruptcy Rule 4001(c)(1)(B)(ix)	To the extent the Administrative Agent (or any affiliate thereof) is not timely reimbursed and indemnified by the Borrowing Agent or any Loan Party, the Lenders will reimburse and indemnify the Administrative Agent (and any affiliate thereof), including without limitation in its capacity as Collateral Agent under the Loan Documents, in proportion to their respective "percentage" as used in determining the Required Lenders (determined as if there were no Defaulting Lenders) for and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, costs, expenses or disbursements of whatsoever kind or nature which may be imposed on, asserted against or incurred by the Administrative Agent (or any affiliate thereof) in performing its duties hereunder or under any other Loan Document or in any way relating to or arising out of this Agreement or any other Loan Document; provided that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's (or such affiliate's) gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision) To the extent that the Loan Parties fail to pay any amount required to be paid by them to the Administrative Agent or the Collateral Agent under Section 12.1, each Lender severally agrees to pay to the Administrative Agent or the Collateral Agent, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent or the Collateral Agent in its capacity as such. For purposes hereof, a Lender's "pro rata share" shall be determined based upon its outstanding Term Loans and unused Commitments at the time (in each case, determined as if no Lender were a Defaulting Lender). *See* DIP Term Loan Agreement § 11.6.

III. Concise Statement Regarding the Material Terms Common to Both DIP Facilities

15. The below chart contains a summary of the material terms common to both DIP Facilities, together with references to the applicable sections of the relevant source documents, as required by Bankruptcy Rules 4001(b)(1)(B) and 4001(c)(1)(B).

Bankruptcy Code	Summary of Material Terms
Entities with Interests in Cash Collateral Bankruptcy Rule 4001(b)(l)(B)(i)	Prepetition Revolver Parties under the Prepetition Revolver Documents and the Prepetition Term Loan Parties under the Prepetition Term Loan Documents *See* Interim DIP Order Preamble.
Liens and Priorities Bankruptcy Rule	Liens. In order to secure the DIP Obligations, effective immediately upon entry of the Interim Order, pursuant to sections 361, 362, 364(c)(2), 364(c)(3), and 364(d) of the

Bankruptcy Code	Summary of Material Terms
4001(c)(l)(B)(i)	Bankruptcy Code, the applicable DIP Agents, for the benefit of themselves and the DIP Lenders, are hereby granted, continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition security interests in and liens on (collectively, the "DIP Liens") all real and personal property, whether now existing or hereafter arising and wherever located, tangible and intangible, of each of the Debtors (excluding Payless Holdings LLC, Payless Intermediate Holdings LLC, Collective Brands Logistics, Limited, and Dynamic Assets Limited and, solely with respect to the DIP Term Loan Facility, also excluding Payless ShoeSource of Puerto Rico, Inc., Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc., and Payless ShoeSource Canada LP. Lien Priority. The DIP Liens securing the DIP ABL Obligations (the "DIP ABL Liens") are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP Collateral, except that the DIP ABL Liens shall be subject to the Carve Out and shall otherwise be junior only to: (i) as to the DIP ABL Primary Collateral, Permitted Prior Liens; and (ii) as to the DIP Term Loan Primary Collateral, (A) Permitted Prior Liens; (B) the DIP Term Loan Liens (as defined herein); (C) the Prepetition Term Loan Liens; and (D) the Prepetition Term Loan Adequate Protection Liens. The DIP Liens securing the DIP Term Loan Obligations (the "DIP Term Loan Liens") are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP Term Loan Collateral, except that the DIP Term Loan Liens shall be subject to the Carve Out and shall otherwise be junior only to: (i) as to the DIP Term Loan Primary Collateral, Permitted Prior Liens; and (ii) as to the DIP ABL Primary Collateral, (A) Permitted Prior Liens; (B) the DIP ABL Liens; (C) the Prepetition Revolver Liens; and (D) the Prepetition Revolver Adequate Protection Liens. *See* Interim DIP Order ¶¶ 5-6.
Reporting Information Bankruptcy Rule 4001(c)(l)(B)	The Debtors will, whether or not the DIP Obligations have been indefeasibly paid in full in cash, maintain books, records, and accounts to the extent and as required by the DIP Documents and reasonably cooperate with, consult with, and provide to the DIP Agents and the DIP Lenders all such information and documents that any or all of the Debtors are obligated (including upon reasonable request by any of the DIP Agents or the DIP Lenders) to provide under the DIP Documents or the provisions of the Interim Order. *See* Interim DIP Order ¶ 24(ii).
Carve Out Bankruptcy Rule 4001(c)(1)(B)	*See* Interim DIP Order ¶ 39.
506(c) Waiver Bankruptcy Rule 4001(c)(l)(B)(x)	Section 506(c) Claims. Subject to entry of a Final Order, no costs or expenses of administration which have been or may be incurred in the Cases at any time shall be charged against the DIP Agents, DIP Lenders, the Prepetition Revolver Parties or the Prepetition Term Loan Parties, or any of their respective claims, the applicable DIP Collateral, or the Prepetition Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code, or otherwise, without the prior written consent, as applicable, of the DIP Agents, DIP Lenders, Prepetition Revolver Parties or Prepetition Term Loan Parties, as applicable, and no such consent shall be implied from any other action, inaction, or acquiescence by any such agents or lenders. *See* Interim DIP Order ¶ 45.

Bankruptcy Code	Summary of Material Terms
Section 552(b) Bankruptcy Rule 4001(c)(l)(B)	Section 552(b). Subject to entry of a Final Order, the Prepetition Revolver Parties and Prepetition Term Loan Parties shall each be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Revolver Parties or Prepetition Term Loan Parties, with respect to proceeds, product, offspring or profits of any of the Prepetition Collateral. *See* Interim DIP Order ¶ 47.
Stipulations to Prepetition Liens and Claims Bankruptcy Rule 4001(c)(1)(B)(iii) **Waiver/Modification of Applicability of Nonbankruptcy Law Relating to Perfection or Enforceability of Liens** Bankruptcy Rule 4001(c)(1)(B)(vii)	Debtors' Stipulations. After consultation with their attorneys and financial advisors, and without prejudice to the rights of parties-in-interest, the Debtors, on their behalf and on behalf of their estates, admit, stipulate, acknowledge, and agree (a) immediately upon entry of the Interim Order, to certain stipulations regarding the validity and extent of the ABL Lenders' claims and liens and (b) only upon entry of a Final Order, to certain stipulations regarding the validity and extent of the Term Loan Lenders' claims and liens. *See* Interim DIP Order ¶ F.
Challenge Period Bankruptcy Rule 4001(c)(l)(B)	Effect of Stipulations on Third Parties. The admissions, stipulations, agreements, releases, and waivers set forth in the Interim Order (collectively, the "Prepetition Lien and Claim Matters") are and shall be binding on the Debtors, any subsequent trustee, responsible person, examiner with expanded powers, any other estate representative, and all creditors and parties in interest and all of their successors in interest and assigns, including, without limitation, any official committee that may be appointed in these cases, unless, and solely to the extent that, a party in interest with standing and requisite authority (other than the Debtors, as to which any Challenge (as defined below) is irrevocably waived and relinquished) (i) has timely filed the appropriate pleadings, and timely commenced the appropriate proceeding required under the Bankruptcy Code and Bankruptcy Rules, including, without limitation, as required pursuant to Part VII of the Bankruptcy Rules (in each case subject to the limitations set forth in paragraph of the Interim Order) challenging the Prepetition Lien and Claim Matters (each such proceeding or appropriate pleading commencing a proceeding or other contested matter, a "Challenge") by no later than 60 days from the date of entry of the appointment of the Creditors' Committee (the "Challenge Deadline"), as such applicable date may be extended in writing from time to time in the reasonable discretion of the Prepetition Revolver Agent (with respect to the Prepetition Revolver Documents) and the Prepetition Term Loan Agents (acting at the direction of the Required Lenders (as defined in the applicable Prepetition Term Loan Agreement) with respect to the Prepetition Term Loan Documents), or by this Court for good cause shown pursuant to an application filed by a party in interest prior to the expiration of the Challenge Deadline, and (ii) this Court enters judgment in favor of the plaintiff or movant in any such timely and properly commenced Challenge proceeding and any such judgment has become a final judgment that is not subject to any further review or appeal. *See* Interim DIP Order ¶ 42.
Adequate Protection	Adequate Protection Liens. Pursuant to Sections 361, 363(e) and 364(d) of the

Bankruptcy Code	Summary of Material Terms
Bankruptcy Rules 4001(b)(l)(B)(iv), 4001(c)(1)(B)(ii)	Bankruptcy Code, as adequate protection of the interests of the Prepetition Secured Parties in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, the applicable Debtors hereby grant to the Prepetition Secured Parties, continuing valid, binding, enforceable and perfected postpetition security interests in and liens on the applicable DIP Collateral. Adequate Protection Superpriority Claims. As further adequate protection of the interests of the Prepetition Secured Parties in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, the Prepetition Secured Parties, is hereby granted as and to the extent provided by section 507(b) of the Bankruptcy Code an allowed superpriority administrative expense claim in each of the applicable Cases and any Successor Cases. Adequate Protection Payments and Protections for Prepetition Secured Parties. As further adequate protection (the "Adequate Protection Payments"), the applicable Debtors are authorized and directed to provide adequate protection to the Prepetition Secured Parties in the form of payment in cash on the terms set forth in the Interim Order. *See* Interim DIP Order ¶¶ 11, 12, 13, 14, 15, 16, 17.
Waiver/Modification of the Automatic Stay Bankruptcy Rule 4001(c)(1)(B)(iv)	Modification of Automatic Stay. The automatic stay imposed under section 362(a) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms and provisions of the Interim Order, including, without limitation, to: (a) permit the applicable Debtors to grant the DIP Liens, Adequate Protection Liens, DIP Superpriority Claims, and Adequate Protection Superpriority Claims; (b) permit the applicable Debtors to perform such acts as the DIP Agents, DIP Lenders, or the Prepetition Agents each may reasonably request to assure the perfection and priority of the liens granted herein; (c) permit the applicable Debtors to incur all liabilities and obligations to the DIP Agents, Prepetition Revolver Parties and Prepetition Term Loan Parties under the DIP Documents, the DIP Facilities and the Interim Order; and (d) authorize the applicable Debtors to pay, and the DIP Agents, the DIP Lenders and the Prepetition Secured Parties to retain and apply, payments made in accordance with the terms of the Interim Order. *See* Interim DIP Order ¶ 21.
Milestones Bankruptcy Rule 4001(c)(1)(B)	Milestones. The Debtors shall satisfy the following chapter 11 milestones (the "Milestones").[7] • The Bankruptcy Court's entry of the Interim Order (as defined in the Term DIP Credit Agreement) on or before three (3) business days following the Petition Date. • No later than 21 calendar days after the Petition Date the Debtors shall have filed a prearranged Plan or Reorganization, in form and substance satisfactory to the Requisite Consenting Lenders, and consistent with this Term Sheet and the Plan Support Agreement. • No later than 21 calendar days after the Petition Date the Debtors shall have filed a disclosure statement motion and disclosure statement (the "Disclosure Statement") in form and substance satisfactory to the Requisite Consenting Lenders. • The Bankruptcy Court's entry of an order extending the time period of the

[7] Any Milestone that falls on a weekend or federal holiday shall be extended to the next business day. Certain additional Milestones

Bankruptcy Code	Summary of Material Terms
	Debtors to assume or reject unexpired leases of real property to a date that is 210 days from the Petition Date on or before 30 calendar days following the Petition Date. • No later than 44 calendar days after the Petition Date the Debtors shall have filed their schedules and Statement of Financial Affairs with the Bankruptcy Court. • The Bankruptcy Court's entry of the Final Order (as defined in the DIP ABL Credit Agreement) on or before 35 calendar days following the Petition Date. (DIP ABL Credit Agreement only) • The Bankruptcy Court's entry of the Final Order (as defined in the DIP Term Loan Credit Agreement) on or before 45 calendar days following the Petition Date. (DIP Term Loan Credit Agreement only) • No later than 60 calendar days after the Petition Date the Bankruptcy Court shall have entered an order setting the date (the "Bar Date") by which proofs of claim for general unsecured creditors must be filed. • The hearing on the Disclosure Statement shall have been heard by the Bankruptcy Court on or before 61 calendar days following the Petition Date. • The Bankruptcy Court's entry of an order, in form and substance reasonably satisfactory to the Requisite Consenting Lenders, approving the Disclosure Statement (the "Disclosure Statement Order") on or before 62 calendar days following the Petition Date. • The Bar Date shall have occurred on or before 65 calendar days following the Petition Date. • The Debtors shall have commenced solicitation on the Chapter 11 Plan on or before 65 calendar days following the Petition Date. • The Debtors shall have filed a motion or motions, in form and substance reasonably satisfactory to the Requisite Consenting Lenders, with the Bankruptcy Court seeking an entry of an order or orders authorizing (i) the Remaining Lease Rejections and (ii) GOB sales for each store subject to a rejected lease on or before 90 calendar days following the Petition Date. • The Debtors shall have renegotiated the terms of Joint Venture Agreements such that they are on market terms, as determined in the reasonable judgment of the Requisite Consenting Lenders, by the date that is 100 calendar days following the Petition Date. • The hearing on Plan confirmation shall have been heard by the Bankruptcy Court on or before 110 calendar days following the Petition Date. • The Bankruptcy Court shall have entered an order, in form and substance reasonably satisfactory to the Requisite Consenting Lenders, authorizing the Remaining Lease Rejections on or before 114 calendar days following the Petition Date. • The Bankruptcy Court's shall have entered an order, in form and substance reasonably satisfactory to the Requisite Consenting Lenders, confirming the Chapter 11 Plan (the "Plan Confirmation Order") on or before 114 calendar days following the Petition Date. • The Effective Date shall have occurred not later than 128 calendar days following the Petition Date.

Bankruptcy Code	Summary of Material Terms
	See Restructuring Support Agreement Term Sheet.

Background

I. The Debtors' Prepetition Capital Structure

16. The Debtors' prepetition capital structure includes approximately $838 million in outstanding debt as of the Petition Date, consisting of: (a) approximately $187 million in secured debt under their asset-backed revolving credit facility (the "ABL Credit Facility"); (b) approximately $506 million in secured debt under their first lien credit facility (the "First Lien Term Loan"); and (c) approximately $145 million in secured debt outstanding under their second lien credit facility (the "Second Lien Term Loan".

17. The chart below summarizes the Debtors' prepetition indebtedness, including approximate current outstanding amounts as of the Petition Date.

Debt Obligation	Debt Facility Size	Approximate Amount Outstanding as of the Petition Date	Maturity Date	Collateral
ABL Credit Facility	$300 million	$187 million	March 14, 2019	Substantially all tangible and intangible assets; first priority over ABL Priority Collateral
First Lien Term Loan	$520 million	$506 million	March 11, 2021	Substantially all tangible and intangible assets; first priority over Term Priority Collateral
Second Lien Term Loan	$145 million	$145 million	March 11, 2022	Substantially all tangible and intangible assets; second priority over Term Priority Collateral

II. Funded Secured Debt

A. The ABL Credit Facility

18. Payless, Inc., as the lead borrower, the other Debtors party thereto as borrowers and guarantors, and Wells Fargo Bank, National Association ("Wells Fargo"), as administrative agent, entered into a revolving credit facility documented by the Credit Agreement dated as of October 9, 2012. Under the ABL Credit Facility, which has two tranches bearing interest at different rates,[8] the Debtors may draw up to $300 million for general corporate purposes. The ABL Credit Facility is secured by a priority lien over substantially all tangible and intangible assets of the Debtors including, among other things and subject to certain limitations, thresholds and exclusions, accounts, cash, inventory, and real property (such collateral package, the "ABL Priority Collateral"). The ABL Credit Facility is also secured by a junior lien on the remaining assets of the Debtors including, among other things and subject to certain limitations, thresholds and exclusions, equipment, intellectual property, and stock pledges (such collateral package, the "Term Loan Priority Collateral"). As of the Petition Date, an aggregate balance of approximately $187 million remains outstanding under the ABL Credit Facility.

19. Pursuant to the Security Agreement dated October 9, 2012 (the "ABL Security Agreement"), the obligations under the Prepetition Revolver Agreement are secured by substantially all tangible and intangible assets of the Debtors (collectively, the "Collateral"), subject to certain limitations and exclusions.[9] As noted below, obligations outstanding under the

[8] Tranche A bears interest at either (a) LIBOR as defined in the amended agreement plus a variable margin of 1.50% to 2.00% per annum or (b) the Base Rate as defined in the amended agreement plus a variable margin of 0.50% to 1.00% per annum based upon average daily availability. Tranche A-1 bears interest at either (a) LIBOR as defined in the amended agreement plus 3.50% per annum or (b) the Base Rate as defined in the amended agreement plus 2.50% per annum. Commitment fees payable on the un-borrowed balance are 0.25%.

[9] The ABL Lenders and the First Lien and Second Lien Term Lenders hold security interests in the same collateral package—the Collateral—which includes substantially all the tangible and intangible assets of the

Prepetition Revolver Agreement are secured by liens on the Collateral with senior priority to the First Lien Term Loans and Second Lien Term Loans with respect to the ABL Priority Collateral (as defined below) and are junior in priority with respect to the Term Priority Collateral (as defined below).

B. The First Lien Term Loan

20. Payless, Inc., Payless Finance, Inc., Payless ShoeSource, Inc., and Payless ShoeSource Distribution, Inc., as borrowers, the other Debtors party thereto as guarantors, Morgan Stanley Senior Funding, Inc.,[10] as administrative and collateral agent, and the lenders party thereto are parties to that certain First Lien Term Loan and Guarantee Agreement, dated as of March 11, 2014[11] (as amended, restated, modified, and/or supplemented and in effect immediately prior to the Petition Date, the "First Lien Term Loan Agreement"). The First Lien Term Loan Agreement, which matures on March 11, 2021, provides a $520 million first lien term loan secured by a first priority lien in the Term Loan Priority Collateral and a second priority lien in the ABL Priority Collateral. An aggregate amount of $506 million was outstanding as of the Petition Date under the First Lien Term Loan.

21. Pursuant to the First Lien Security Agreement dated March 11, 2014, the obligations under the First Lien Term Loan Agreement are secured by the Collateral. As noted below, obligations outstanding under the First Lien Term Loan Agreement are secured by liens on the Collateral with senior priority to the Prepetition Revolver Agreement with respect to the

---

Debtors. However, the lenders hold priority in different portions of this collateral, as described more fully herein.

[10] Cortland Products Corporation has since replaced Morgan Stanley Senior Funding, Inc. as the administrative and security agent for the First Lien Term Loan.

[11] The First Lien Term Loan was originally dated October 9, 2012, but was refinanced in March 2014.

Term Priority Collateral (as defined below) and junior priority to the ABL Priority Collateral (as defined below).

C. The Second Lien Term Loan

22. Payless, Inc., Payless Finance, Inc., Payless ShoeSource, Inc., and Payless ShoeSource Distribution, Inc., as borrowers, the other Debtors party thereto as guarantors, Morgan Stanley Senior Funding, Inc., as administrative and collateral agent, and the lenders party thereto are parties to that certain Second Lien Term Loan and Guarantee Agreement, dated as of March 11, 2014[12] (as amended, restated, modified, and/or supplemented and in effect immediately prior to the Petition Date, the "Second Lien Term Loan Agreement" and together with the First Lien Term Loan Agreement, the "Term Loan Agreements"). The Second Lien Term Loan Agreement, which matures on March 11, 2022, provides a $145 million second lien term loan secured by a second priority lien in the Term Loan Priority Collateral and a third priority lien in the ABL Priority Collateral. An aggregate amount of $145 million was outstanding as of the Petition Date under the Second Lien Term Loan.

23. Pursuant to the Security Agreement dated March 11, 2014, the obligations under the Second Lien Term Loan Agreement are secured by the Collateral. As noted below, obligations outstanding under the Second Lien Term Loan Agreement are secured by liens with senior priority to the Prepetition Revolver Agreement with respect to the Term Priority Collateral (as defined below) and junior priority to the ABL Priority Collateral (as defined below).

D. Swap Transactions

24. Pursuant to the Term Loan Agreements, Payless is permitted to enter into interest rate swap transactions to mitigate certain risks, including in connection with hedging the variable

[12] The Second Lien Term Loan was originally dated October 9, 2012, but was refinanced in March 2014.

interest rates contemplated thereunder. Presently, Payless is party to three such transactions (the "Swap Transactions"), one with respect to the First Lien Term Loan Agreement and two with respect to the Second Lien Term Loan Agreement, each with Morgan Stanley Capital Services LLC as counterparty. The Swap Transactions are governed by an ISDA 2002 Master Agreement dated as of October 2, 2013.

E. Intercreditor Agreements

25. The Debtors' prepetition indebtedness is also subject to two different intercreditor agreements, generally referred to as the ABL/Term Loan Intercreditor Agreement[13] and the Term Loan Intercreditor Agreement.[14] The ABL/Term Loan Intercreditor Agreement governs the relative contractual rights of lenders under the ABL Credit Facility, the First Lien Term Loan, and the Second Lien Term Loan. The Term Loan Intercreditor Agreement, in turn, governs the relative contractual rights of lenders under the First Lien Term Loan, on the one hand, and the lenders under the Second Lien Term Loan, on the other hand.

III. The Need to Use Cash Collateral and For Access to Financing

26. The Debtors, in consultation with their proposed financial advisor, Guggenheim Securities, LLC ("Guggenheim Securities"), and their proposed restructuring advisor, Alvarez & Marsal North America, LLC, ("A&M") reviewed and analyzed the Debtors' projected cash needs and prepared a 13-week projection (as updated from time to time in accordance with the terms of the DIP Credit Agreement, the "Budget")[15] outlining the Debtors' postpetition cash

---

[13] The "ABL/Term Loan Intercreditor Agreement" means that certain Intercreditor Agreement dated as of March 11, 2014 (as amended, restated, modified, and/or supplemented from time to time) by and among Wells Fargo Bank, National Association, as administrative agent for the lenders under the ABL Credit Agreement, the First Lien Agent, and the Second Lien Agent, and acknowledged by the Debtors.

[14] The "Term Loan Intercreditor Agreement" means that certain Intercreditor Agreement dated as of March 11, 2014 (as amended, restated, modified, and/or supplemented from time to time) between the First Lien Term Agent, the Second Lien Term Agent and the Debtors.

[15] A copy of the Budget is attached to the Interim Order as **Exhibit 1**.

needs in the initial 13 weeks of these cases. The Debtors believe that the Budget and their projections provide an accurate reflection of their funding requirements over the identified period, will allow them to meet their obligations—including the administrative expenses of the chapter 11 cases,—and are reasonable and appropriate under the circumstances.

27. The Debtors' relied on these forecasts to determine the amount of postpetition financing required to administer these chapter 11 cases. Each of the DIP Facilities are critical to the Debtors' ability to smoothly operate postpetition, including by providing sufficient liquidity to fund the cost of these chapter 11 cases and, importantly, payments to the Debtors' vendors, and other participants in the Debtors' supply chain to ensure the free flow of inventory to the Debtors' stores.

28. With limited cash on hand, the Debtors require interim approval of the DIP ABL Facilities. Absent the immediate relief requested by this Motion, the Debtors face a material risk of substantial, irreparable, and ongoing harm. Access to Cash Collateral and the DIP Facilities will ensure the Debtors have sufficient funds to preserve and maximize the value of their estates, and responsibly administer these chapter 11 cases.

IV. Alternative Sources of Financing Are Not Readily Available

29. The marketing process used to determine the most viable postpetition financing facility for the Debtors included soliciting a wide array of potential lenders and was appropriate in light of the Debtors' condition, timing concerns, and the Debtors' existing capital structure. The Debtors, with the assistance of Guggenheim Securities, solicited indications of interest from twelve parties: (i) the prepetition ABL lenders, Wells Fargo Bank, N.A. and TPG Specialty Lending Inc. (collectively, the "Prepetition ABL Lenders"); (ii) members of an ad hoc group of first lien lenders (the "First Lien Steering Committee"); and (iii) ten potential third-party lenders. The Debtors, in consultation with Guggenheim Securities, identified these potential third-parties

based on a number of factors, including their ability to complete diligence in a timely manner, their experience providing debtor-in-possession financing—particularly in retail bankruptcy cases, and their familiarity with the Debtors' business operations.

30. Of the twelve parties contacted by the Debtors, ten signed confidentiality agreements or were already party to an existing confidentiality agreement with the Debtors, and each of the ten parties was provided customary due diligence. After conducting diligence, five parties provided preliminary proposals for debtor-in-possession financing: (i) the Prepetition ABL Lenders; (ii) the First Lien Steering Committee; and (iii) three other parties. Seven parties chose not to submit proposals due to one or more of the following reasons: such parties (i) had limited desire to participate in retail financings, generally; (ii) were uncomfortable with lending on the Debtors' collateral; (iii) believed that the existing lenders would provide the financing on more beneficial economic terms than they were willing to provide; and/or (iv) desired to provide financing in an amount or within a structure that would not work under the Debtors' existing capital structure.

31. The Debtors were unable to develop an alternative source of financing with terms better than those of the DIP Facilities, and, for all of the foregoing reasons, the Debtors believe that the DIP Facilities are reasonable, appropriate, and the best viable options presently available to the Debtors.

Basis for Relief

I. The Debtors Should Be Authorized to Obtain Postpetition Financing Through the DIP Documents

A. Entry into the DIP Documents Is an Exercise of the Debtors' Sound Business Judgment

32. The Court should authorize the Debtors, as an exercise of their sound business judgment, to enter into the DIP Documents, obtain access to the DIP Facilities, and continue

using the Cash Collateral. Section 364 of the Bankruptcy Code authorizes a debtor to obtain secured or superpriority financing under certain circumstances discussed in detail below. Courts grant a debtor-in-possession considerable deference in acting in accordance with its business judgment in obtaining postpetition secured credit, so long as the agreement to obtain such credit does not run afoul of the provisions of, and policies underlying, the Bankruptcy Code. *See, e.g.*, *In re Farmland Indus., Inc.*, 294 B.R. 855, 886 (Bankr. W.D. Mo. 2003) ("Business judgments should be left to the board room and not to this Court"); *In re Trans World Airlines, Inc.*, 163 B.R. 964, 974 (Bankr. D. Del. 1994) (approving a postpetition loan and receivables facility because such facility "reflect[ed] sound and prudent business judgment"); *In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) ("[C]ases consistently reflect that the court's discretion under section 364 is to be utilized on grounds that permit reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest."). "More exacting scrutiny 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).

33. Courts emphasize that the business judgment rule is not an onerous standard and may be satisfied "'as long as the proposed action *appears* to enhance the debtor's estate.'" *Crystalin, LLC v. Selma Props. Inc. (In re Crystalin, LLC)*, 293 B.R. 455, 463–64 (B.A.P. 8th Cir. 2003) (citation omitted) (emphasis in original, text modifications removed); *see also In re AbitibiBowater*, 418 B.R. 815, 831 (Bankr. D. Del. 2009) (the business judgment standard is "not a difficult standard to satisfy").

34. Specifically, to determine whether the business judgment standard is met, a court need only "examine whether a reasonable business person would make a similar decision under similar circumstances." *In re Exide Techs.*, 340 B.R. 222, 239 (Bankr. D. Del. 2006); *see also In re Curlew Valley Assocs.*, 14 B.R. 506, 513–14 (Bankr. D. Utah 1981) (noting that courts should not second guess a debtor's business decision when that decision involves "a business judgment made in good faith, upon a reasonable basis, and within the scope of [the debtor's] authority under the [Bankruptcy] Code"). Accordingly, management of a corporation's affairs is placed in the hands of its board of directors and officers, and the Court should interfere with their decisions only if it is made clear that those decisions are, *inter alia*, clearly erroneous, made arbitrarily, are in breach of the officers' and directors' fiduciary duty to the corporation, are made on the basis of inadequate information or study, are made in bad faith, or are in violation of the Bankruptcy Code." *In re Farmland Indus., Inc.*, 294 B.R. at 881 (Bankr. W.D. Mo. 2003) (citing *In re United Artists Theatre Co.*, 315 F.3d 217, 233 (3d Cir. 2003), *Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303 (5th Cir. 1985), and *In re Defender Drug Stores, Inc.*, 145 B.R. 312, 317 (B.A.P. 9th Cir. 1992)); *see also In re Food Barn Stores, Inc.*, 107 F.3d 558, 567 n. 16 (8th Cir. 1997) (when the "request is not manifestly unreasonable or made in bad faith, the court should normally grant approval as long as the proposed action appears to enhance the debtor's estate").

35. Furthermore, in considering whether the terms of postpetition financing are fair and reasonable, courts consider the terms in light of the relative circumstances of both the debtor and the potential lender. *In re Farmland Indus., Inc.*, 294 B.R. at 886 (Bankr. W.D. Mo. 2003); *see also Unsecured Creditors' Comm. Mobil Oil Corp. v. First Nat'l Bank & Trust Co. (In re Elingsen McLean Oil Co., Inc.*), 65 B.R. 358, 365 n.7 (W.D. Mich. 1986) (recognizing a debtor

may have to enter into "hard bargains" to acquire funds for its reorganization). The Court may also appropriately take into consideration non-economic benefits to the Debtors offered by a proposed postpetition facility. For example, in *In re ION Media Networks. Inc.*, the bankruptcy court for the Southern District of New York held that:

> Although all parties, including the Debtors and the Committee, are naturally motivated to obtain financing on the best possible terms, a business decision to obtain credit from a particular lender is almost never based purely on economic terms. *Relevant features of the financing must be evaluated, including non-economic elements such as the timing and certainty of closing, the impact on creditor constituencies and the likelihood of a successful reorganization.* This is particularly true in a bankruptcy setting where cooperation and establishing alliances with creditor groups can be a vital part of building support for a restructuring that ultimately may lead to a confirmable reorganization plan. That which helps foster consensus may be preferable to a notionally better transaction that carries the risk of promoting unwanted conflict.

36. No. 09-13125, 2009 WL 2902568, at *4 (Bankr. S.D.N.Y. July 6, 2009) (emphasis added).

37. The Debtors' determination to move forward with the DIP Facilities is an exercise of their sound business judgment following an arm's-length process and careful evaluation of alternatives. Specifically, the Debtors and their advisors determined that postpetition financing will create certainty with respect to cash flows necessary for the administration of these chapter 11 cases through confirmation. The Debtors negotiated the DIP Agreements and other DIP Documents with the DIP Lenders in good faith, at arm's length, and with the assistance of their respective advisors, and the Debtors believe that they have obtained the best financing available. Accordingly, the Court should authorize the Debtors' entry into the DIP Documents, as it is a reasonable exercise of the Debtors' business judgment.

B. The Debtors Should Be Authorized to Grant Liens and Superpriority Claims

38. The Debtors propose to obtain financing under the DIP Facilities by providing security interests and liens as set forth in the DIP Documents pursuant to section 364(c) of the Bankruptcy Code. Specifically, the Debtors propose to provide to the DIP Lenders continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition security interests in and liens on the applicable DIP Collateral (as defined in the Interim Order). The DIP Lenders will have similar "criss cross" first and second priority liens on the applicable DIP Collateral as the Prepetition Lenders have on the Prepetition Collateral (as defined in the Interim Order):

- The DIP Liens securing the DIP ABL Obligations (the "DIP ABL Liens") are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP ABL Collateral, except that the DIP ABL Liens shall be subject to the Carve Out and shall otherwise be junior only to:
    - as to the DIP ABL Primary Collateral, Permitted Prior Liens; and
    - as to the DIP Term Loan Primary Collateral, (A) Permitted Prior Liens; (B) the DIP Term Loan Liens (as defined herein); (C) the Prepetition Term Loan Liens; and (D) the Prepetition Term Loan Adequate Protection Liens
- The DIP Liens securing the DIP Term Loan Obligations (the "DIP Term Loan Liens") are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP Term Collateral, except that the DIP Term Loan Liens shall be subject to the Carve Out and shall otherwise be junior only to:
    - as to the DIP Term Loan Primary Collateral, Permitted Prior Liens; and
    - as to the DIP ABL Primary Collateral, (A) Permitted Prior Liens; (B) the DIP ABL Liens; (C) the Prepetition Revolver Liens; and (D) the Prepetition Revolver Adequate Protection Liens.

39. 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). *See In re*

Crouse Grp., Inc., 71 B.R. 544, 549 (Bankr. E.D. Pa. 1987) (secured credit under section 364(c) of the Bankruptcy Code is authorized, after notice and hearing, upon showing that unsecured credit cannot be obtained). 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:

- the debtor is unable to obtain unsecured credit under section 364(b) of the Bankruptcy Code, *i.e.*, by allowing a lender only an administrative claim;
- the credit transaction is necessary to preserve the assets of the estate; and
- the terms of the transaction are fair, reasonable, and adequate, given the circumstances of the debtor-borrower and proposed lenders.

See, e.g. In re Los Angeles Dodgers LLC, 457 B.R. 308, 312 (Bankr. D. Del. 2011); *In re Ames Dep't Stores*, 115 B.R. 34, 37–40 (Bankr. S.D.N.Y. 1990); *see also In re St. Mary Hosp.*, 86 B.R. 393, 401-02 (Bankr. E.D. Pa. 1988); *Crouse Grp.*, 71 B.R. at 549.

40. As described above and as set forth in the Suckow Declaration, due to the Debtors' high level of existing secured debt obligations, third-party lenders were unwilling to provide postpetition financing on an unsecured basis. The Debtors, in consultation with their advisors, concluded that any workable financing likely would require the support of, or be provided by, the Debtors' existing lenders. Absent the DIP Facilities, which will provide certainty that the Debtors will have sufficient liquidity to administer these chapter 11 cases, the value of the Debtors' estates would be significantly impaired to the detriment of all stakeholders. Given the Debtors' circumstances, the Debtors believe that the terms of the DIP Facilities, as set forth in the DIP Agreements, are fair, reasonable, and adequate, all as more fully set forth below. For all these reasons, the Debtors submit that they have met the standard for obtaining postpetition financing.

41. In the event that a debtor is unable to obtain unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code, section 364(c) provides that a court "may authorize the obtaining of credit or the incurring of debt (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of [the Bankruptcy Code]; (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or (3) secured by a junior lien on property of the estate that is subject to a lien." As described in the Suckow Declaration, each of the other proposals received by the Debtors was not viable for one or more of following reasons: (i) the proposal could not be executed within the Debtors' timeline; (ii) the proposal did not provide the Debtors with sufficient liquidity; and/or (iii) the proposal could not be implemented without obtaining significant consents or ensuring meaningful participation from the lenders in the Debtors' existing capital structure. Therefore, approving a superpriority claims in favor of the DIP Lenders is reasonable and appropriate.

42. Further, section 364(d) provides that a debtor may obtain credit secured by a senior or equal lien on property of the estate 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."). Accordingly, the Debtors may incur "priming" liens under the DIP Facilities if either (a) the Prepetition Lenders have consented or (b) Prepetition Lenders' interests in collateral are adequately protected.

43. Here, the Prepetition Lenders have consented to the DIP Facilities. Therefore, the relief requested pursuant to section 364(d)(1) of the Bankruptcy Code is appropriate.

C. No Comparable Alternative to the DIP Facilities Are Reasonably Available

44. A debtor need only demonstrate "by a good faith effort that credit was not available without" the protections afforded to potential lenders by sections 364(c) of the Bankruptcy Code. *In re Snowshoe Co., Inc.*, 789 F.2d 1085, 1088 (4th Cir. 1986); *see also In re Plabell Rubber Prods., Inc.*, 137 B.R. 897, 900 (Bankr. N.D. Ohio 1992). Moreover, in circumstances where only a few lenders likely can or will extend the necessary credit to a debtor, "it would be unrealistic and unnecessary to require [the debtor] to conduct such an exhaustive search for financing." *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), *aff'd sub nom. Anchor Sav. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 120 n.4 (N.D. Ga. 1989); *see also In re Snowshoe Co.*, 789 F.2d 1085, 1088 (4th Cir. 1986) (demonstrating that credit was unavailable absent the senior lien by establishment of unsuccessful contact with other financial institutions in the geographic area); *In re Stanley Hotel, Inc.*, 15 B.R. 660, 663 (D. Colo. 1981) (bankruptcy court's finding that two national banks refused to grant unsecured loans was sufficient to support conclusion that section 364 requirement was met); *In re Ames Dep't Stores*, 115 B.R. at 37–39 (debtor must show that it made reasonable efforts to seek other sources of financing under section 364(a) and (b)).

45. As noted above, the Debtors do not believe that alternative sources of financing are reasonably available given the realities imposed by the Debtors' existing capital structure and the Debtors' unsuccessful solicitation of alternative financing proposals. Thus, the Debtors have determined that the DIP Facilities provide the best opportunity available to the Debtors under the circumstances to fund these chapter 11 cases. *See* Suckow Declaration. Therefore, in addition to evidence to be introduced at the hearing on the Interim Order if necessary, the Debtors submit

that the requirement of section 364 of the Bankruptcy Code that alternative credit on more favorable terms be unavailable to the Debtors is satisfied.

II. The Debtors Should Be Authorized to Use the Cash Collateral

46. Section 363 of the Bankruptcy Code generally governs the use of estate property. Section 363(c)(2)(A) permits a debtor in possession to use cash collateral with the consent of the secured party. Here, the Prepetition Lenders consent to the Debtors' use of the Cash Collateral (as well as the Prepetition Collateral), subject to the terms and limitations set forth in the Interim Order.

47. Section 363(e) provides for adequate protection of interests in property when a debtor uses cash collateral. Further, section 362(d)(1) of the Bankruptcy Code provides for adequate protection of interests in property due to the imposition of the automatic stay. *See In re Cont'l Airlines*, 91 F.3d 553, 556 (3d Cir. 1996) (en banc). While section 361 of the Bankruptcy Code provides examples of forms of adequate protection, such as granting replacement liens and administrative claims, courts decide what constitutes sufficient adequate protection on a case-by-case basis. *In re Martin*, 761 F.2d 472, 474 (8th Cir. 1985) ("[S]uch matters 'are [to be] left to case-by-case interpretation and development.'"); *In re Swedeland Dev. Grp., Inc.*, 16 F.3d 552, 564 (3d Cir. 1994); *In re Satcon Tech. Corp.*, No. 12-12869 (KG), 2012 WL 6091160, at *6 (Bankr. D. Del. Dec. 7, 2012); *In re N.J. Affordable Homes Corp.*, No. 05-60442 (DHS), 2006 WL 2128624, at *14 (Bankr. D.N.J. June 29, 2006); *In re Columbia Gas Sys., Inc.*, Nos. 91-803, 91-804, 1992 WL 79323, at *2 (Bankr. D. Del. Feb. 18, 1992); *see also In re Dynaco Corp.*, 162 B.R. 389, 394 (Bankr. D.N.H. 1993) (citing 2 Collier on Bankruptcy ¶ 361.01[1] at 361–66 (15th ed. 1993) (explaining that adequate protection can take many forms and "must be determined based upon equitable considerations arising from the particular facts of each proceeding")).

48. As described more fully above, and as set forth in the Interim Order, the Debtors propose to provide the Prepetition Lenders with a variety of adequate protection to protect against the postpetition diminution in value of the Cash Collateral (as well as the Prepetition Collateral) resulting from the use of the Cash Collateral by the Debtors and the imposition of the automatic stay (collectively, the "Adequate Protection Obligations"):

- continuing valid, binding, enforceable, and perfected postpetition security interests in and liens on the DIP ABL Collateral and the DIP Term Collateral;
- superpriority administrative claims under section 507(b) of the Bankruptcy Code;
- the reasonable fees, expenses, and disbursements of the Prepetition Revolver Agent and Prepetition TL First Lien Agent, the Prepetition First Lien TL Ad Hoc Group, each of the foregoing's respective counsel, counsel retained by any Initial Consenting Lender (as defined in the Restructuring Support Agreement) prior to the Petition Date but subject to the terms and conditions of the Restructuring Support Agreement, and other third-party consultants and vendors, including financial advisors, both prior to and following the Petition Date; and
- with respect to the Prepetition Revolver Parties only, payment of interest, fees, and principal due under the Prepetition Revolver Documents.

49. Therefore, the Debtors submit that the proposed Adequate Protection Obligations are sufficient to protect the Prepetition Lenders from any diminution in value to the Cash Collateral and Prepetition Collateral. In light of the foregoing, the Debtors further submit, and the Prepetition Lenders agree, that the proposed Adequate Protection Obligations to be provided for the benefit of the Prepetition Lenders are appropriate.[16] Thus, the Debtors' provision of the Adequate Protection Obligations is not only necessary to protect against any diminution in value but is fair and appropriate under the circumstances of these chapter 11 cases to ensure the Debtors are able to continue using the Cash Collateral, subject to the terms and limitations set forth in the Interim Order, for the benefit of all parties in interest and their estates.

[16] Pursuant to the DIP Orders, the Prepetition Lenders are permitted to seek additional adequate protection in accordance with the terms thereof.

III. The Debtors Should Be Authorized to Pay the Fees Required by the DIP Agents and the DIP Lenders Under the DIP Documents

50. As described above, the Debtors have agreed, subject to Court approval, to pay certain fees to the DIP Lenders in exchange for their providing the DIP Financing. Under the DIP Loan Documents, the Debtors have agreed, subject to Court approval, to pay certain fees to the DIP Agents and the DIP Lenders. In particular, as noted above, the Debtors have agreed to pay:

	ABL DIP Facility	Term DIP Facility
Closing Fees	Tranche A: 1.00% Tranche A-1: 1.25%	-
Arrangement Fee	Tranche A: 0.25%	-
Commitment Fee	-	2.00%
Unused Commitment Fee	0.375%	-
Backstop Fee	-	3.00%
Exit Fee	-	2.50%
Administration Fee	$150,000	$35,000

51. It is understood and agreed by all parties, including the Debtors that these fees are an integral component of the overall terms of the DIP Facilities, and were required by the applicable DIP Agents and the DIP Lenders as consideration for the extension of postpetition financing. The fees the Debtors have agreed to pay to the DIP Lenders, together with the other provisions of the DIP Documents, represent the most favorable terms to the Debtors on which the DIP Lenders would agree to make the DIP Financing available. The Debtors considered the fees described above when determining, in their sound business judgment, that the DIP

Documents constituted the best terms on which the Debtors could obtain the postpetition financing necessary to continue their operations and prosecute their chapter 11 cases, and that paying these fees in order to obtain the DIP Financing is in the best interests of the Debtors' estates, creditors, and other parties in interest. Accordingly, the Court should authorize the Debtors to pay the fees provided under the DIP Documents in connection with entering into those agreements.

IV. The Debtors' Proposed Repayment of Prepetition Indebtedness Should Be Approved

52. As set forth above, the ABL Lenders—as part of the DIP ABL Facilities—have agreed to continue lending on terms similar to those of the Prepetition Revolver Agreement on a postpetition basis. As a condition to this borrowing, the ABL Lenders' required that their prepetition claims are paid (a) pursuant to the Interim Order, with the net proceeds of the DIP ABL Facilities and (b) pursuant to the Final Order, in full. The ABL Lenders made it clear that they were unwilling to continue to lend postpetition without the repayment of their prepetition claims. Further, the Debtors were unable to obtain an offer for debtor-in-possession financing on similar terms that did not provide for such repayment of the Prepetition APL Facility. Thus, after careful consideration of all available alternatives, the Debtors determined that such repayments were necessary to obtain access to the proposed DIP Financing and would benefit their stakeholders. And after accounting for these repayments, the DIP Financing provides the Debtors with $40 million in incremental net liquidity on an interim basis. The Debtors believe that this provision should be approved.

53. Importantly, the Interim Order provides that the Court may unwind, after notice and hearing, any pay down of Prepetition Secured Obligations in the event that there is a timely and successful challenge to the validity, enforceability, extent, perfection, or priority of the

applicable Prepetition Secured Party's claims or liens, or a determination that the applicable Prepetition Secured Obligations are under-secured as of the Petition Date, and the pay down of such Prepetition Secured Obligations unduly advantaged the applicable Prepetition Secured Party

54. Recognizing exigent circumstances like those described above, courts in this district, as well as elsewhere, have approved repayments funded by debtor-in-possession financing proceeds in recent chapter 11 cases on an interim basis. *See, e.g.*, *In re Arch Coal, Inc.*, No. 16-40120-705 (Bankr. E.D. Mo. Jan. 15, 2016); *In re Bakers Footwear Group, Inc.*, No. 12-49658 (Bankr. E.D. Mo. Oct. 5, 2012); *In re Avaya Inc.*, No. 17-10089 (SMB) (Bankr. S.D.N.Y. Jan. 23, 2017) (approving interim roll-up of $50 million); *In re Aéropostale, Inc.*, No. 16-11275 (Bankr. S.D.N.Y. May 6, 2016) (approving interim roll up of $78 million); *In re Chassix Holdings, Inc.*, No. 15-10578 (MEW) (Bankr. S.D.N.Y. Mar. 13, 2015) (approving interim roll up of $135 million).[17] Consistent with this authority, the Debtors respectfully submit that the Court should approve the Debtors' decision to enter into the DIP Facilities, including the required repayment of the ABL Facility loans pursuant to the interim order.

V. The DIP Lenders Should Be Deemed Good-Faith Lenders Under Section 364(e)

55. Section 364(e) of the Bankruptcy Code protects a good-faith lender's right to collect on loans extended to a debtor, and its right in any lien securing those loans, even if the authority of the debtor to obtain such loans or grant such liens is later reversed or modified on appeal. Section 364(e) of the Bankruptcy Code provides that:

> The reversal or modification on appeal of an authorization under this section [364 of the Bankruptcy Code] to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith,

[17] Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Motion. Copies of these orders are available upon request of the Debtors' proposed counsel.

> whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

56. As explained herein, and in the Suckow Declaration, the DIP Documents are the result of: (a) the Debtors' reasonable and informed determination that the DIP Lenders offered the most favorable terms on which to obtain vital postpetition financing, and (b) arms'-length, good-faith negotiations between the Debtors and the DIP Agents and DIP Lenders. The Debtors submit that the terms and conditions of the DIP Documents are reasonable and appropriate under the circumstances, and the proceeds of the DIP Facilities will be used only for purposes that are permissible under the Bankruptcy Code. Further, no consideration is being provided to any party to the DIP Documents other than as described herein. Accordingly, the Court should find that the DIP Lenders are "good faith" lenders within the meaning of section 364(e) of the Bankruptcy Code and are entitled to all of the protections afforded by that section.

VI. The Automatic Stay Should Be Modified on a Limited Basis

57. The proposed Interim Order provides that the automatic stay provisions of section 362 of the Bankruptcy Code will be modified to allow the DIP Lenders to file any financing statements, security agreements, notices of liens, and other similar instruments and documents in order to validate and perfect the liens and security interests granted to them under the Interim Order. The proposed Interim Order further provides that the automatic stay is modified as necessary to permit the Debtors to grant the DIP Liens to the DIP Lenders and to incur all liabilities and obligations set forth in the Interim Order. Finally, the proposed Interim Order provides that, following the occurrence of an Event of Default, the automatic stay shall be vacated and modified to the extent necessary to permit the DIP Agents to exercise all rights and remedies in accordance with the DIP Documents, or applicable law.

58. Stay modifications of this kind are ordinary and standard features of debtor-in-possession financing arrangements, and, in the Debtors' business judgment, are reasonable and fair under the circumstances of these chapter 11 cases. *See, e.g.*, *In re Magnum Hunter Res. Corp.*, No. 15-12533 (KG) (Bankr. D. Del. Dec. 15, 2015) (terminating automatic stay after event of default); *In re Peak Broad., LLC*, No. 12-10183 (PJW) (Bankr. D. Del. Feb. 2, 2012) (same); *In re Autoseis, Inc.*, No. 14-20130 (RSS) (Bankr. S.D. Tex. Mar. 27, 2014) (modifying automatic stay as necessary to effectuate the terms of the order); *In re TMP Directional Mktg., LLC*, No. 11-13835 (MFW) (Bankr. D. Del. Jan. 17, 2012) (same); *In re Broadway 401 LLC*, No. 10-10070 (KJC) (Bankr. D. Del. Feb. 16, 2010) (same).

VII. Failure to Obtain Immediate Interim Access to the DIP Facilities and Cash Collateral Would Cause Immediate and Irreparable Harm

59. Bankruptcy Rules 4001(b) and 4001(c) provide that a final hearing on a motion to obtain credit pursuant to section 364 of the Bankruptcy Code or to use cash collateral pursuant to section 363 of the Bankruptcy Code may not be commenced earlier than 14 days after the service of such motion. Upon request, however, the Court may conduct a preliminary, expedited hearing on the motion and authorize the obtaining of credit and use of cash collateral to the extent necessary to avoid immediate and irreparable harm to a debtor's estate.

60. For the reasons noted above, the Debtors have an immediate postpetition need to use Cash Collateral, including making draws under the DIP ABL Facilities. The Debtors cannot maintain the value of their estates during the pendency of these chapter 11 cases without access to cash. The Debtors will use cash to, among other things, fund the administration of these chapter 11 cases, pay prepetition amounts owed under the ABL Facility, and fund the operation of their business. The Debtors believe that substantially all of their available cash constitutes the Prepetition Lenders' Cash Collateral. The Debtors will therefore be unable to operate their

business or otherwise fund these chapter 11 cases without access to Cash Collateral, and will suffer immediate and irreparable harm to the detriment of all creditors and other parties in interest. In short, the Debtors' ability to administer these chapter 11 cases through the use of Cash Collateral is vital to preserve and maximize the value of the Debtors' estates.

61. The Debtors request that the Court hold and conduct a hearing to consider entry of the Interim Order authorizing the Debtors, from and after entry of the Interim Order until the Final Hearing, to receive initial funding under the DIP Facilities and access to Cash Collateral. The Debtors' believe that this relief will enable the Debtors to preserve and maximize value and, therefore, avoid immediate and irreparable harm and prejudice to their estates and all parties in interest, pending the Final Hearing. *See* Suckow Declaration.

Request for Final Hearing

62. Pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2), the Debtors request that the Court set a date for the Final Hearing that is as soon as practicable, and in no event after 35 days after the Petition Date, and fix the time and date prior to the Final Hearing for parties to file objections to this Motion.

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

63. To implement the foregoing successfully, the Debtors request that the Court enter an order providing 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 14-day stay period under Bankruptcy Rule 6004(h).

Notice

64. The Debtors will provide notice of this Motion to: (a) the Office of the United States Trustee for the Eastern District of Missouri; (b) the holders of the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel to the Prepetition ABL Agent;

(d) counsel to certain Prepetition ABL Lenders; (e) counsel to the Prepetition First Lien Term Loan Agent and the DIP Term Loan Agent; (f) counsel to the Prepetition First Lien Term Loan Steering Committee; (g) counsel to the Prepetition Second Lien Term Loan Agent; (h) the DIP ABL Agent; (i) co-counsel to the DIP ABL Agent, Choate, Hall & Stewart LLP (Attn: Kevin J. Simard, Esq. and Douglas R. Gooding, Esq.) and Thompson Coburn LLP (Attn. Mark V. Bossi, Esq.); (j) the Tranche A-1 Agent; (k) counsel to the Tranche A-1 Agent, Schulte, Roth & Zabel, LLP (Attn: Adam C. Harris, Esq.); (l) the United States Attorney's Office for the Eastern District of Missouri; (m) the Internal Revenue Service; (n) the United States Securities and Exchange Commission; (o) the state attorneys general for all states in which the Debtors conduct business; and (p) any party that has requested notice pursuant to Bankruptcy Rule 2002 (the "Notice Parties"). The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

65. No prior request for the relief sought in this Motion has been made to this or any other court.

[*Remainder of page intentionally left blank*]

WHEREFORE, the Debtors respectfully request that the Court enter the DIP Orders, granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: April 5, 2017
St. Louis, Missouri

/s/ *Steven N. Cousins*

Steven N. Cousins MO 30788
Erin M. Edelman MO 67374
Armstrong Teasdale LLP
7700 Forsyth Boulevard, Suite 1800
St. Louis, MO 63105
Telephone: (314) 621-5070
Facsimile: (314) 612-2239
Email: scousins@armstrongteasdale.com
Email: eedelman@armstrongteasdale.com

Nicole L. Greenblatt, P.C. (*pro hac vice* pending)
Cristine F. Pirro (*pro hac vice* pending)
Jessica Kuppersmith (*pro hac vice* pending)
Kirkland & Ellis LLP
Kirkland & Ellis International LLP
601 Lexington Avenue
New York, NY 10021
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
Email: nicole.greenblatt@kirkland.com
Email: cristine.pirro@kirkland.com
Email: jessica.kuppersmith@kirkland.com

James H.M. Sprayregen, P.C.
William A. Guerrieri (*pro hac vice* pending)
Kirkland & Ellis LLP
Kirkland & Ellis International LLP
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
Email: will.guerrieri@kirkland.com

Proposed Counsel for Debtors
and Debtors in Possession

EXHIBIT A

DIP ABL Agreement

EXECUTION VERSION

DEBTOR-IN-POSSESSION CREDIT AGREEMENT

Dated as of April 5, 2017

among

PAYLESS INC.
as the Lead Borrower

in each case, for

The Borrowers Named Herein

The Guarantors Named Herein

WELLS FARGO BANK, NATIONAL ASSOCIATION
AS COLLATERAL AGENT, ADMINISTRATIVE AGENT AND SWING LINE LENDER,

TPG SPECIALTY LENDING, INC.
AS TRANCHE A-1 AGENT

and

The Other Lenders Party Hereto

BANK OF AMERICA, N.A.,

as Syndication Agent

WELLS FARGO BANK, NATIONAL ASSOCIATION,
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
as

Joint Lead Arrangers and Joint Bookrunners

Table of Contents

SCHEDULES

EXHIBITS

Form of

CREDIT AGREEMENT

This DEBTOR-IN-POSSESSION CREDIT AGREEMENT ("Agreement") is entered into as of April 5, 2017 among

PAYLESS INC. a Delaware corporation, as a debtor and a debtor-in-possession (the "Lead Borrower");

the Persons named on Schedule 1.01 hereto from time to time, each as a debtor and a debtor-in-possession (collectively, with the Lead Borrower, the "Borrowers"),

WBG – PSS HOLDINGS LLC, a Delaware limited liability company (the "Parent"),

the Persons named on Schedule 1.02 hereto from time to time, each as a debtor and a debtor-in-possession (collectively, with the Parent, the "Guarantors)",

each lender from time to time party hereto (collectively, the "Lenders" and individually, a "Lender"),

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Collateral Agent, Administrative Agent and Swing Line Lender;

BANK OF AMERICA, NA., as Syndication Agent; and

WELLS FARGO BANK, NATIONAL ASSOCIATION, and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED as Joint Lead Arrangers and Joint Bookrunners.

On April 4, 2017 (the "Petition Date"), the Lead Borrower and the other U.S. Loan Parties (defined below), among others, commenced cases under Chapter 11 of the Bankruptcy Code, 11 U.S.C. 101 et seq. (the "Bankruptcy Code"), case numbers 17-42257 and _____ (collectively, the "Chapter 11 Case") by filing voluntary petitions for relief under Chapter 11 with the United States Bankruptcy Court for the Eastern District of Missouri (the "Bankruptcy Court"). The Lead Borrower and other Loan Parties continue to operate their businesses and manage their properties as debtors and debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

The Borrowers have requested, and the Agent and the Lenders have agreed, upon the terms and conditions set forth in this Agreement, to make available to the Borrowers a senior secured credit facility in an aggregate principal amount not to exceed $305,000,000 in order to (a) repay the Pre-Petition Obligations as provided herein, (b) fund the Chapter 11 Case (including, without limitation, (x) payment of transaction expenses and fees, expenses and costs incurred in connection therewith and (y) payment of adequate protection payments approved in the Financing Orders) in accordance with the Approved Budget and as provided herein (subject to the Permitted Variance), (c) make certain other payments on the Closing Date as more fully provided in this Agreement, and (d) provide working capital for the Borrowers and the other Loan Parties during the pendency of the Chapter 11 Case in accordance with the Approved Budget and as provided herein (subject to the Permitted Variance).

It is intended that the Canadian Loan Parties will not restructure their operations or seek to compromise any of their liabilities. However, the Canadian Loan Parties will be debtors in the Chapter 11 Case, and recognition of the Chapter 11 Case will be sought pursuant to an Order of the Ontario Superior Court of Justice (the "Canadian Bankruptcy Court") under Part IV of the CCAA.

The Borrowers and the other Loan Parties desire to secure the Obligations under the Loan Documents by granting to the Agent, on behalf of itself and the other Credit Parties, a security interest in and liens upon substantially all of their assets, whether now existing or hereafter acquired, in each instance as more fully set forth in the Loan Documents and in the Interim Financing Order (or the Final Financing Order when applicable).

All Obligations of the Loan Parties to the Agent and the Lenders hereunder and under the other Loan Documents shall be full recourse to each of the Loan Parties, secured by the Agent's security interest in and liens on all or substantially all of the assets of the Loan Parties included in the Collateral and entitled to super-priority administrative claim status under the Bankruptcy Code as provided herein and in the Financing Orders. In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND ACCOUNTING TERMS

1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

"ABL Priority Collateral" means 'ABL Priority Collateral' as defined in the Intercreditor Agreement, as in effect on the Closing Date.

"Acceptable Document of Title" means, with respect to any Inventory, a tangible, negotiable bill of lading or other Document (as defined in the UCC or a "document of title" as defined in the PPSA, as applicable) that (a) is issued by a common carrier which is not an Affiliate of the Approved Foreign Vendor or any Loan Party which is in actual possession of such Inventory, (b) is issued to the order of a Loan Party or, if so requested by the Agent, to the order of the Agent, (c) names the Agent as a notify party and bears a conspicuous notation on its face of the Agent's security interest therein, (d) is not subject to any Lien (other than in favor of the Agent), and (e) is on terms otherwise reasonably acceptable to the Agent.

"ACH" means automated clearing house transfers.

"Accommodation Payment" as defined in Section 10.22(d).

"Account" means "accounts" as defined in the UCC and in the PPSA (or, to the extent governed by the *Civil Code of Québec*, defined as "claims" for the purposes of the *Civil Code of Québec*), and also means a right to payment of a monetary obligation, whether or not earned by performance, (a) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (b) for services rendered or to be rendered, (c) for a policy of insurance issued or to be issued, (d) for a secondary obligation incurred or to be incurred, (e) for energy provided or to be provided, (f) for the use or hire of a vessel under a charter or other contract, (g) arising out of the use of a credit or charge card or information contained on or for use with the card, or (h) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term "Account" includes health-care-insurance receivables.

"Acquisition" means, with respect to any Person (a) an investment in, or a purchase of, a Controlling interest in the Equity Interests of any other Person, (b) a purchase or other acquisition of all or substantially all of the assets or properties of, another Person or of any business unit of another Person, (c) any merger, amalgamation or consolidation of such Person with any other Person or other transaction or series of transactions resulting in the acquisition of all or substantially all of the assets, or a Controlling

interest in the Equity Interests, of any Person, or (d) any acquisition of any Store locations of any Person other than leases for Store locations in the ordinary course of business in each case in any transaction or group of transactions which are part of a common plan.

"Act" shall have the meaning provided in Section 10.17.

"Adjusted LIBO Rate" means:

(a) for any Interest Period with respect to any LIBO Borrowing, an interest rate per annum (rounded upwards, if necessary, to the next 1/16 of one percent) equal to (i) the LIBO Rate for such Interest Period multiplied by (ii) the Statutory Reserve Rate; and

(b) for any interest rate calculation with respect to any Base Rate Loan, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of one percent) equal to (i) the LIBO Rate for an Interest Period commencing on the date of such calculation and ending on the date that is thirty (30) days thereafter multiplied by (ii) the Statutory Reserve Rate.

The Adjusted LIBO Rate will be adjusted automatically as of the effective date of any change in the Statutory Reserve Rate.

"Administration Charge" means the charge granted by the Canadian Bankruptcy Court on the Collateral of the Canadian Loan Parties in a maximum amount of $500,000 to secure the professional fees and disbursements of the "Information Officer" in the Canadian Case and its counsel and Canadian Counsel to the Canadian Loan Parties, in each case incurred in respect of the Canadian Case, both before and after the making of the Canadian Recognition Order, which charge shall rank ahead of the Liens granted to the Lenders hereunder and in the Canadian Recognition Order.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by the Agent.

"Advisory Agreement" means that certain Advisory Agreement dated as of October 9, 2012 among WBG - PSS HOLDINGS LLC, Payless Inc. (f/k/a Collective Brands, Inc.), Payless Finance, Inc. (f/k/a Collective Brands Finance, Inc.), Payless ShoeSource, Inc., Payless ShoeSource Worldwide, Inc., GGC Administration, LLC and certain other parties, as amended, restated, supplemented or otherwise modified from time to time in accordance with Section 7.12.

"Advisory Fees" means any management, consulting, monitoring, advisory, transaction and other fees, payable to the Sponsors pursuant to the Advisory Agreement.

"Affiliate" means, with respect to any Person, (i) another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified, (ii) any director, officer, managing member, partner, trustee, or beneficiary of that Person, (iii) any other Person directly or indirectly holding 10% or more of any class of the Equity Interests of that Person, and (iv) any other Person 10% or more of any class of whose Equity Interests is held directly or indirectly by that Person.

"Affiliate Lender Assignment Agreement" means an assignment and assumption entered into by any Restricted Affiliate Lender (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by the Agent, in substantially the form of Exhibit D-2.

"Agency Agreement" means that certain agreement on terms satisfactory to the Agent and Tranche A-1 Agent among the Borrowers and the Approved Liquidator relating to the Initial Store Closing Sale, as in effect on the Closing Date and as may be amended with the consent of the Agent and Tranche A-1 Agent.

"Agent" means Wells Fargo in its capacity as administrative agent and collateral agent under any of the Loan Documents, or any successor thereto permitted pursuant to Section 9.06.

"Agent Parties" shall have the meaning specified in Section 10.02(c).

"Agent's Office" means the Agent's address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as the Agent may from time to time notify in writing the Lead Borrower and the Lenders.

"Aggregate Commitments" means the sum of the Aggregate Tranche A Commitments and the Aggregate Tranche A-1 Commitments. As of the Closing Date the Aggregate Commitments were $305,000,000.

"Aggregate Tranche A Commitments" means the Tranche A Commitments of all the Tranche A Lenders. As of the Closing Date, the Aggregate Tranche A Commitments are in the sum of $245,000,000.

"Aggregate Tranche A-1 Commitments" means the Tranche A-1 Commitments of all the Tranche A-1 Lenders on or after the Tranche A-1 Funding Date. As of the Closing Date, the Aggregate Tranche A-1 Commitments were in the sum of $60,000,000.

"Agreement" means this Credit Agreement.

"Allocable Amount" has the meaning specified in Section 10.22(d).

"Applicable Commitment Fee Percentage" means an amount equal to 0.375% per annum.

"Applicable Lenders" means the Required Lenders, all affected Lenders, or all Lenders, as the context may require.

"Applicable Margin" means:

LIBOR Margin	**Base Rate Margin**	**Standby Letter of Credit Fee**	**Commercial Letter of Credit Fee**
4.00%	3.00%	4.00%	3.50%

"Applicable Percentage" means, in each case as the context requires, (a) with respect to each Credit Extension under the Tranche A Commitments, the Tranche A Applicable Percentage, (b) with respect to each Credit Extension under the Tranche A-1 Commitments, the Tranche A-1 Applicable Percentage and (c) with respect to all Lenders at any time, the percentage of the sum of the Aggregate Commitments represented by the sum of such Lender's Commitment at such time. If the Tranche A Commitments or the Tranche A-1 Commitments have been terminated pursuant to Section 2.06 or

Section 8.02 or if the Aggregate Commitments have expired, then the Applicable Percentage of each Lender shall be determined based on the Applicable Percentage of such Lender most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

"Appraisal Percentage" means 84.3%.

"Appraised Value" means (a) with respect to Eligible Inventory, the appraised orderly liquidation value, net of costs and expenses to be incurred in connection with any such liquidation, which value is expressed as a percentage of Cost of Eligible Inventory as set forth in the inventory stock ledger of the Loan Parties, which value shall be determined from time to time by the most recent appraisal undertaken by an independent appraiser engaged by the Agent, (b) with respect to Eligible In-Transit Inventory, the appraised orderly liquidation value, net of costs and expenses to be incurred in connection with any such liquidation, which value is expressed as a percentage of Cost of Eligible In-Transit Inventory as set forth in the inventory stock ledger of the Loan Parties, which value shall be determined from time to time by the most recent appraisal undertaken by an independent appraiser engaged by the Agent, or (c) with respect to Eligible Real Estate, the fair market value of Eligible Real Estate as set forth in the most recent appraisal of Eligible Real Estate as determined from time to time by an independent appraiser engaged by the Agent, which appraisal shall assume, among other things, a marketing time of not greater than twelve (12) months or less than three (3) months; provided that the Appraised Value of Eligible Real Estate shall in no event exceed the maximum amount of the Obligations at any time specified to be secured by a Mortgage thereon.

"Approved Budget" shall mean the debtor-in-possession thirteen (13) week budget prepared by the Lead Borrower and furnished to the Agent and Tranche A-1 Agent on or before the Closing Date, as the same may or shall, as applicable, be updated, modified and/or supplemented thereafter from time to time as provided in Section 6.01(b), which budget shall include a weekly cash budget, including information on a line item basis as to (x) projected cash receipts, (y) projected disbursements (including ordinary course operating expenses, bankruptcy-related expenses (including professional fees and expenses budgeted for the Case Professionals on a monthly basis and a summary of accrued professional fees for Case Professionals on a weekly basis), capital expenditures, asset sales and fees and expenses of the Agent and the Lenders (including counsel therefor) and any other fees and expenses relating to the Loan Documents), and (z) a calculation of each Borrowing Base, Availability and Tranche A Availability, which shall be in form and substance acceptable to the Agent and Tranche A-1 Agent.

"Approved Budget Variance Report" shall mean a weekly report provided by the Lead Borrower to the Agent and Tranche A-1 Agent in accordance with Section 6.01(b): (i) showing actual receipts and disbursements for each line item compared to the Approved Budget, as applicable, and Availability and Tranche A Availability as of Saturday of each week on a cumulative basis from the Petition Date until the fourth (4th) week after the Petition Date and then on a rolling four (4) week basis at all times thereafter, noting therein all variances, on a line-item basis, from amounts set forth for such period in the Approved Budget, and shall include or be accompanied by explanations for all material variances, (ii) showing the actual "Eligible Inventory" as of Saturday of each week and the variance to the Approved Budget for such week, and (iii) certified by a Responsible Officer of the Lead Borrower.

"Approved Foreign Vendor" means a Foreign Vendor which (a) is located in any country acceptable to the Agent in its Permitted Discretion (it being understood that any country listed on Schedule 1.06 shall, as of the Closing Date, be deemed to be acceptable to the Agent), (b) has received timely payment or performance of all obligations owed to it by the Loan Parties, (c) has not asserted and has no right to assert any reclamation, repossession, diversion, stoppage in transit, Lien or title retention

rights in respect of such Inventory, and (d), if so requested by the Agent, has entered into and is in full compliance with the terms of a Foreign Vendor Agreement.

"Approved Fund" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender, (c) an entity or an Affiliate of an entity that administers or manages a Lender or (d) the same investment advisor or an advisor under common control with such Lender, Affiliate or advisor, as applicable.

"Approved Liquidator" shall mean a nationally recognized professional liquidator, broker or other advisor acceptable to the Agent and Tranche A-1 Agent.

"Arranger" means Wells Fargo Bank, National Association, in its capacity as joint lead arranger and joint book manager.

"Assignee Group" means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by the Agent, in substantially the form of Exhibit D-1 or any other form approved by the Agent.

"Attributable Indebtedness" means, on any date, (a) in respect of any Capital Lease Obligation of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease or similar payments under the relevant lease or other applicable agreement or instrument that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease, agreement or instrument were accounted for as a Capital Lease Obligation.

"Auto-Extension Letter of Credit" shall have the meaning specified in Section 2.03(b)(iii)

"Availability" means, as of any date of determination thereof by the Agent, the result, if a positive number, of:

(a) the Loan Cap

Minus

(b) the Total Outstandings

Minus

(c) the Pre-Petition Total Outstandings.

"Availability Period" means the period from and including the Closing Date to the earliest of (a) the Maturity Date, (b) the date of termination of the Aggregate Commitments pursuant to Section 2.06, and (c) the date of termination of the commitment of each Lender to make Loans and of the obligation of the L/C Issuer to make L/C Credit Extensions pursuant to Section 8.02.

"Availability Reserves" means, without duplication of any other Reserves or items to the extent such items are otherwise addressed or excluded through eligibility criteria, or have been deducted in the calculation of Eligible Inventory, Eligible In-Transit Inventory, Eligible Credit Card Receivables or Eligible Real Estate, as applicable, and without duplication of any of the factors taken into account in determining "Appraised Value", such reserves as the Agent from time to time determines in its Permitted Discretion as being appropriate (a) to reflect the impediments to the Agent's ability to realize upon the Collateral of the type included in the Borrowing Base, (b) to reflect claims and liabilities that the Agent determines in its Permitted Discretion will need to be satisfied in connection with the realization upon the Collateral (including rent and royalty reserves), including, without limitation, amounts entitled to priority under Section 503(b) of the Bankruptcy Code, as reasonably determined by the Agent, (c) to reflect criteria, events, conditions, contingencies or risks which adversely affect any component of the Borrowing Base, or the assets, business, financial performance or financial condition of any Loan Party, or (d) to reflect that a Default or an Event of Default then exists. Without limiting the generality of the foregoing, Availability Reserves may include, in the Agent's Permitted Discretion (i) Bank Product Reserves, (ii) Cash Management Reserves, (iii) Realty Reserves, (iv) Canadian Priority Payable Reserves, and (v) the Wage Earner Protection Act Reserve, without duplication of any amounts already addressed in the Canadian Priority Payable Reserve.

"Bank Products" means any services of facilities provided to any Loan Party by the Agent, a Lender or any of their respective Affiliates or branches (but excluding Cash Management Services) including, without limitation, on account of (a) Swap Contracts, (b) leasing, (c) Factored Receivables, and (d) supply chain finance services including, without limitation, trade payable services and supplier accounts receivable purchases (but, in each case, only to the extent that the applicable Lender, other than Wells Fargo, furnishing such services or facilities notify the Agent and the Lead Borrower in writing that such services or facilities are to be deemed Bank Products hereunder).

"Bank Product Reserves" means such reserves as the Agent from time to time determines in its Permitted Discretion as being appropriate to reflect the liabilities and obligations of the Loan Parties with respect to Bank Products then provided or outstanding.

"Bankruptcy Code" has the meaning specified in the Recitals hereto.

"Bankruptcy Court" has the meaning specified in the Recitals hereto.

"Base Rate" means, for any day, a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate, as in effect from time to time, plus one-half of one percent (0.50%), (b) the Adjusted LIBO Rate plus one percent (1.00%), or (c) the rate of interest in effect for such day as publicly announced from time to time by Wells Fargo as its "prime rate." The "prime rate" is a rate set by Wells Fargo based upon various factors including Wells Fargo's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such rate announced by Wells Fargo shall take effect at the opening of business on the day specified in the public announcement of such change.

"Base Rate Loan" means a Loan that bears interest based on the Base Rate.

"Blocked Account" means each deposit account covered by a Blocked Account Agreement with each Blocked Account Bank.

"Blocked Account Agreement" means with respect to an account established by a Loan Party, an agreement, in form and substance reasonably satisfactory to the Agent, establishing control (as defined in the UCC or PPSA, as applicable) of such account by the Agent and whereby the bank maintaining such

account agrees to comply only with the instructions originated by the Agent without the further consent of any Loan Party.

"Blocked Account Bank" means each bank with whom deposit accounts are maintained in which any funds of any of the Loan Parties from one or more DDAs are concentrated and with whom a Blocked Account Agreement has been, or is required to be, executed in accordance with the terms hereof.

"Bidding Procedures Motion" has the meaning specified in Section 6.24(c).

"Bidding Procedures Order" has the meaning specified in Section 6.24(c).

"Borrower Materials" has the meaning specified in Section 6.02.

"Borrowers" has the meaning specified in the introductory paragraph hereto.

"Borrowing" means a Committed Borrowing or a Swing Line Borrowing, as the context may require.

"Borrowing Base" means the Tranche A Borrowing Base or the Tranche A-1 Borrowing Base, as applicable.

"Borrowing Base Certificate" means a certificate substantially in the form of Exhibit E hereto (with such changes therein as may be required by the Agent to reflect the components of and reserves against the Borrowing Base as provided for hereunder from time to time), executed and certified as accurate and complete in all material respects by a Responsible Officer of the Lead Borrower which shall include appropriate exhibits, schedules, supporting documentation, and additional reports as reasonably requested by the Agent and/or Tranche A-1 Agent.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the states of California, Kansas, Massachusetts or New York and, if such day relates to any LIBO Rate Loan, means any such day on which dealings in Dollar deposits are conducted by and between banks in the London interbank market.

"Canadian Anti-Money Laundering & Anti-Terrorism Legislation" means Part II.1 of the *Criminal Code*, R.S.C. 1985, c. C-46, *The Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, S.C. 2000, c. 17 and the United Nations Act, R.S.C. 1985, c.U-2 or any similar Canadian legislation, together with all rules, regulations and interpretations thereunder or related thereto including, without limitation, the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism and the United Nations Al-Qaida and Taliban Regulations promulgated under the United Nations Act

"Canadian Benefit Plan" means any plan, fund, program, or policy, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, providing employee benefits, including medical, hospital care, dental, sickness, accident, disability, life insurance, pension, supplemental pension, bonus, profit sharing, severance, deferred compensation, stock compensation, retirement or savings benefits, under which any Loan Party or any Subsidiary of any Loan Party has any liability with respect to any Canadian employee or former Canadian employee, but excluding any Canadian Pension Plans.

"Canadian Blocked Person" means any Person that is a "designated person", "politically exposed foreign person" or "terrorist group" as described in any Canadian Economic Sanctions and Export Control Laws.

"Canadian Economic Sanctions and Export Control Laws" means any Canadian laws, regulations or orders governing transactions in controlled goods or technologies or dealings with countries, entities, organizations, or individuals subject to economic sanctions and similar measures, including the *Special Economic Measures Act* (Canada), the *United Nations Act*, (Canada), the *Freezing Assets of Corrupt Foreign Officials Act* (Canada), Part II.1 of the *Criminal Code* (Canada) and the *Export and Import Permits Act* (Canada), and any related regulations.

"Canadian Guarantee" means that certain Canadian Guarantee dated as of the date hereof, among each of the Canadian Loan Parties from time to time party thereto and the Agent, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"Canadian Hypothec" means, individually and collectively as the context may require, any deed of hypothec entered into by any Loan Party pursuant to the terms of this Agreement, or any other Loan Document.

"Canadian Loan Party" or "Canadian Loan Parties" means each Loan Party organized, formed or incorporated under the laws of Canada or any province or territory thereof.

"Canadian Pension Plans" means each pension plan required to be registered under Canadian federal, provincial or territorial law that is maintained or contributed to by a Loan Party or any Subsidiary of any Loan Party for its employees or former employees, but does not include the Canada Pension Plan or the Quebec Pension Plan as maintained by the Government of Canada or the Province of Quebec, respectively.

"Canadian Priority Payable Reserve" means reserves for amounts secured by any Liens, choate or inchoate, which rank or are capable of ranking in priority to the Agent's or any other Credit Parties' Liens and/or for amounts which may represent costs relating to the enforcement of the Agent's Liens including, without limitation, in the Permitted Discretion of the Agent, any such amounts due and not paid for amounts due and not paid under any legislation relating to employment insurance, all amounts deducted or withheld and not paid and remitted when due under the *Income Tax Act* (Canada), amounts currently or past due and not paid for realty, municipal or similar taxes (to the extent impacting personal or movable property), and all amounts currently or past due and not contributed, remitted or paid to or under any Canadian Pension Plans or under the Canada Pension Plan, the *Pension Benefits Act* (Ontario) or any similar legislation (other than amounts included in the Wage Earner Protection Act Reserve), or any similar statutory or other claims that would have or would reasonably be expected to have priority over or rank *pari passu* with any Liens granted to the Agent now or in the future.

"Canadian Recognition Order" shall have the meaning given to that term in the clause (l) of the definition of "Eligible Credit Card Receivables".

"Canadian Security Agreement" means that certain Canadian Security Agreement (including any and all supplements thereto), dated as of the date hereof, among the Canadian Loan Parties from time to time party thereto and the Agent for the benefit of the Agent and the other Credit Parties, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"Capital Lease Obligations" means, with respect to any Person for any period, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as liabilities on a balance sheet of such Person under GAAP and the amount of which obligations shall be the capitalized amount thereof determined in accordance with GAAP.

"Carve-Out" has the meaning specified therefor in the Financing Orders.

"Carve-Out Reserve" means a Reserve established by the Agent, which is the sum of the following: (i) the Administration Charge, plus (ii) the "Chapter 7 Trustee Carve-Out" (as such term is defined in the applicable Financing Order), plus (iii) the greater of (x) the estimated fees and expenses for each Case Professional set forth in the Approved Budget for each week since the Petition Date or (y) the fees and expenses of each Case Professional set forth in a "Weekly Statement" (as such term is defined in the applicable Financing Order) delivered as and when required under the applicable Financing Order for the applicable week, plus (iv) the "Post-Carve Out Trigger Notice Cap" (as such terms is defined in the applicable Financing Order).

"Case Professionals" means the Loan Parties' and any Statutory Committee's professionals, retained by either of them by final order of the Bankruptcy Court (which order has not been reversed, vacated or stayed unless such stay is no longer effective) under Sections 327 or 1103(a) of the Bankruptcy Code, including the Canadian Loan Parties' Canadian legal counsel and the Information Officer appointed under the Canadian Recognition Order and its professionals.

"Cases" has the meaning set forth in the recitals hereto.

"Cash Collateral Account" means a non-interest bearing account established by one or more of the Loan Parties with Wells Fargo, and in the name of, the Agent (or as the Agent shall otherwise direct) and under the sole and exclusive dominion and control of the Agent, in which deposits are required to be made in accordance with Section 2.03(g) or 8.02(a)(iii).

"Cash Collateralize" has the meaning specified in Section 2.03(g). Derivatives of such term have corresponding meanings.

"Cash Management Accounts" has the meaning specified in Section 6.13(a).

"Cash Management Agreements" means those certain cash management agreements, in form and substance reasonably satisfactory to Agent, each of which is among the applicable Loan Party, the Agent, and one of the Cash Management Banks.

"Cash Management Bank" has the meaning specified in Section 6.13(a).

"Cash Management Letter" means that certain letter agreement between the Agent and Lead Borrower dated as of March 14, 2017, with respect to the cash management of the Loan Parties, as amended and in effect from time to time.

"Cash Management Reserves" means such reserves as the Agent, from time to time, determines in its Permitted Discretion as being appropriate to reflect the reasonably anticipated liabilities and obligations of the Loan Parties with respect to Cash Management Services then provided or outstanding.

"Cash Management Services" means any cash management services or facilities provided to any Loan Party by the Agent, a Lender or any of their respective Affiliates or branches (but excluding Bank Product Services), including, without limitation: (a) ACH transactions, (b) controlled disbursement services, treasury, depository, overdraft, and electronic funds transfer services, (c) credit or debit cards, (d) credit card processing services, and (e) purchase cards.

"Cash Management Order" means the order of the Bankruptcy Court entered in the Chapter 11 Case, together with all extensions, modifications and amendments that are in form and substance

acceptable to the Agent, which, among other matters, authorizes the Loan Parties to use their cash management system, substantially in the form of Exhibit H or another form satisfactory to the Agent.

"CCAA" means the *Companies' Creditors Arrangement Act* of Canada, R.S.C. 1985, C-36, as amended.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq. as amended.

"CERCLIS" means the Comprehensive Environmental Response, Compensation, and Liability Information System maintained by the United States Environmental Protection Agency.

"CFC" means a Person that is a controlled foreign corporation under Section 957 of the Code.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided, however, for the purposes of this Agreement: (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, 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, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Change of Control" means an event or series of events by which:

(a) at any time prior to the creation of a Public Market, the Permitted Holders shall cease to own and control legally and beneficially, either directly or indirectly, Equity Interests in Parent representing more than 50% of the combined voting power of all of Equity Interests entitled to vote for members of the board of directors or equivalent governing body of the Parent on a fully-diluted basis (and taking into account all such securities that the Permitted Holders have the right to acquire pursuant to any option right (as defined in clause (b) below));

(b) at any time after the creation of a Public Market, any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have "beneficial ownership" of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an "option right")), directly or indirectly, of (x) 35% or more of the Equity Interests of the Parent entitled to vote for members of the board of directors or equivalent governing body of the Parent 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); or (y) a percentage that is greater than the percentage of the Equity Interests of the Parent entitled to vote for members of the board of directors or equivalent governing body of the Parent that is then beneficially owned by the Permitted Holders;

(c) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of the Parent cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; or

(d) the Parent fails at any time to own, directly or indirectly, 100% of the Equity Interests of each other Loan Party free and clear of all Liens (other than the Liens in favor of the Agent, the Pre-Petition Agent, the agent under the DIP Term Loan Facility, the Pre-Petition First Lien Term Agent, and the Pre-Petition Second Lien Term Agent), except where such failure is permitted or is the result of a transaction permitted by the Loan Documents.

"Chapter 11 Case" has the meaning specified in the Recitals hereto.

"Chapter 11 Plan" means a Chapter 11 plan of reorganization proposed by the Loan Parties in the Chapter 11 Case that is in form and substance acceptable to the Agent, Tranche A-1 Agent, Required Tranche A Lenders, and Required Tranche A-1 Lenders, in all cases, in their reasonable discretion, together with all modifications and amendments that are in form and substance acceptable to the Agent, Tranche A-1 Agent, Required Tranche A Lenders, and Required Tranche A-1 Lenders, in all cases, and which, among other matters, provides for the payment in full in cash of the Obligations and the Pre-Petition Obligations, unless otherwise consented to by each of the Credit Parties in their sole discretion.

"Closing Date" means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01.

"Code" means the Internal Revenue Code of 1986, and the regulations promulgated thereunder, as amended and in effect.

"Collateral" means any and all "Collateral" or "Mortgaged Property" as defined in any applicable Security Document and all other property that is or is intended under the terms of the Security Documents to be subject to Liens in favor of the Agent.

"Collateral Access Agreement" means an agreement reasonably satisfactory in form and substance to the Agent executed by (a) a bailee or other Person in possession of Collateral, or (b) a landlord of Real Estate leased by any Loan Party, pursuant to which such Person (i) acknowledges the Agent's Lien on the Collateral, (ii) releases, disclaims or subordinates such Person's Liens on the Collateral held by such Person or located on such Real Estate, (iii) provides the Agent with access to the Collateral held by such bailee or other Person or located in or on such Real Estate, (iv) as to any landlord, provides the Agent with a reasonable time to move (or with respect to Store locations only, sell, dispose of, and/or move) the Collateral from such Real Estate, and (v) makes such other agreements with the Agent as the Agent may reasonably require in its Permitted Discretion.

"Collections" means *all* cash, checks, notes, instruments, and other items of payment relating to the Collateral.

"Combined Borrowing Base" means the sum of the Tranche A Borrowing Base plus the Tranche A-1 Borrowing Base.

"Commercial Letter of Credit" means any Letter of Credit issued for the purpose of providing the primary payment mechanism in connection with the purchase of any materials, goods or services by a Loan Party in the ordinary course of business of such Loan Party.

"Commercial Letter of Credit Agreement" means the Commercial Letter of Credit Agreement relating to the issuance of a Commercial Letter of Credit in the form from time to time in use by the L/C Issuer.

"Commitment" means, as to each Lender, its obligation to (a) make Committed Loans to the Borrowers pursuant to Section 2.01, (b) purchase participations in L/C Obligations, and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

"Committed Borrowing" means a borrowing consisting of simultaneous Committed Loans of the same Type and, in the case of LIBO Rate Loans, having the same Interest Period made by each of the Lenders pursuant to Section 2.01.

"Committed Loan" means individually, a Tranche A Loan and a Tranche A-1 Loan, and collectively, all Tranche A Loans and all Tranche A-1 Loans.

"Compliance Certificate" means a certificate substantially in the form of Exhibit C.

"Concentration Account" has the meaning provided in Section 6.13.

"Consolidated" means, when used to modify a financial term, test, statement, or report of a Person, the application or preparation of such term, test, statement or report (as applicable) based upon the consolidation, in accordance with GAAP, of the financial condition or operating results of such Person and its Subsidiaries.

"Consolidated Store Deposit Accounts" has the meaning specified in Section 6.13(a).

"Consultants" means the Independent Consultant or the Financial Advisor, individually or, as the context may require, collectively.

"Contractual Obligation" means, as to any Person, any provision of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Controlled Investment Affiliate" means, as to any Person, any other Person that (a) directly or indirectly, is in control of, is controlled by, or is under common control with, such Person and (b) is organized by such Person primarily for the purpose of making equity or debt investments in one or more companies. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Cost" means the lower of cost or market value of Inventory, based upon the Loan Parties' accounting practices, known to the Agent, which practices are in effect on the Closing Date as such calculated cost is determined from invoices received by the Loan Parties, the Borrowers' purchase journals or the Loan Parties' stock ledger. "Cost" does not include inventory capitalization costs or other non-purchase price charges (such as freight) used in the Loan Parties' calculation of cost of goods sold.

"Credit Card Issuer" shall mean any person (other than a Borrower or other Loan Party) who issues or whose members issue credit cards, including, without limitation, MasterCard or VISA bank credit or debit cards or other bank credit or debit cards issued through MasterCard International, Inc., Visa, U.S.A., Inc. or Visa International and American Express, Discover, Diners Club, Carte Blanche, Japan Credit Bureau, Ahorro A Toda Hora Banco Popular "ATH" card, EBT Cards and other non-bank credit or debit cards, including, without limitation, credit or debit cards issued by or through American Express Travel Related Services Company, Inc., and Novus Services, Inc. and other issuers approved by the Agent in its Permitted Discretion.

"Credit Card Processor" means any Person (including any Credit Card Issuer or any other issuer of a credit card) that acts as a credit card clearinghouse or remits payments due to any Loan Party with respect to credit card charges accepted by such Loan Party.

"Credit Card Notifications" has the meaning provided in Section 6.13.

"Credit Card Receivables" means each "payment intangible" (as defined in the UCC) or "account" (as defined in the PPSA) together with all income, payments and proceeds thereof, owed by a Credit Card Issuer or Credit Card Processor to a Loan Party resulting from charges by a customer of a Loan Party on credit or debit cards issued by such issuer in connection with the sale of goods by a Loan Party, or services performed by a Loan Party, in each case in the ordinary course of its business.

"Credit Extensions" mean each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

"Credit Party" or "Credit Parties" means (a) individually, (i) each Lender and its Affiliates, (ii) the Agent, (iii) each L/C Issuer, (iv) the Arranger, (v) the Tranche A-1 Agent, (vi) each beneficiary of each indemnification obligation undertaken by any Loan Party under any Loan Document, (vii) any other Person to whom Obligations under this Agreement and other Loan Documents are owing, and (viii) the successors and assigns of each of the foregoing, and (b) collectively, all of the foregoing.

"Credit Party Expenses" means, without limitation, (a) all reasonable and documented out-of-pocket expenses incurred by the Agent and Tranche A-1 Agent and their respective Affiliates, in connection with this Agreement and the other Loan Documents, including without limitation (i) the reasonable and documented fees, charges and disbursements of (A) separate counsel for the Agent and Tranche A-1 Agent (which, for each of the Agent and Tranche A-1 Agent, shall be limited to one primary counsel, one local counsel in each reasonably necessary and relevant jurisdiction and one specialty counsel for each reasonably necessary and relevant specialty in each applicable jurisdiction and which shall include reasonable and documented allocated costs of in-house counsel), (B) outside consultants for the Agent solely in accordance with expenses required to be reimbursed or paid for by the Borrowers pursuant to Section 6.10(d), (C) appraisers solely in accordance with expenses required to be reimbursed or paid for by the Borrowers pursuant to Section 6.10(c), (D) commercial finance examinations solely in accordance with expenses required to be reimbursed or paid for by the Borrowers pursuant to Section 6.10(b), and (E) all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Obligations, (ii) in connection with (A) the syndication of the credit facilities provided for herein, (B) the preparation, negotiation, administration, management, execution and

delivery of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (C) the enforcement or protection of their rights in connection with this Agreement or the Loan Documents or efforts to preserve, protect, collect, or enforce the Collateral, or (D) any workout, restructuring or similar negotiations in respect of any Obligations, and (b) with respect to the L/C Issuer, and its Affiliates, all reasonable and documented out-of-pocket expenses incurred in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder; and (c) all customary and reasonable fees and charges (as adjusted from time to time) of Agent with respect to the disbursement of funds (or the receipt of funds) to or for the account of Loan Parties (whether by wire transfer or otherwise), together with any reasonable out-of-pocket costs and expenses incurred in connection therewith; and (d) all reasonable and documented out-of-pocket expenses incurred by the Credit Parties who are not the Agent, the L/C Issuer or any Affiliate of any of them, after the occurrence and during the continuance of an Event of Default, provided that such Credit Parties shall be entitled to reimbursement for no more than one counsel and one financial advisor representing all such Credit Parties (absent a conflict of interest in which case the Credit Parties may engage and be reimbursed for additional counsel to the extent necessary to avoid such conflict of interest).

"Customs Broker/Carrier Agreement" means an agreement in form and substance reasonably satisfactory to the Agent among a Loan Party, a customs broker, freight forwarder, consolidator or carrier, and the Agent, in which the customs broker, freight forwarder, consolidator or carrier acknowledges that it has control over and holds the documents evidencing ownership of the subject Inventory for the benefit of the Agent and agrees, upon written notice from the Agent, to hold and dispose of the subject Inventory solely as directed by the Agent.

"DDA" means each checking, savings or other demand deposit account maintained by any of the Loan Parties. All funds in each DDA shall be conclusively presumed to be Collateral and proceeds of Collateral and the Agent and the Lenders shall have no duty to inquire as to the source of the amounts on deposit in any DDA.

"Debtor Relief Laws" means the Bankruptcy Code of the United States, and *Bankruptcy and Insolvency Act* (Canada) ("BIA"), the *Companies' Creditors Arrangement Act* (Canada) ("CCAA"), the *Winding-up and Restructuring Act* (Canada) and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States, Canada or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

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

"Default Rate" means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (i) the Base Rate plus (ii) the Applicable Margin, if any, applicable to Base Rate Loans, plus (iii) 2% per annum; provided, however, that with respect to a LIBO Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Margin) otherwise applicable to such Loan plus 2% per annum; and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Margin for Standby Letters of Credit or Commercial Letters of Credit, as applicable, plus 2% per annum.

"Defaulting Lender" means any Lender that (a) has failed to fund any portion of the Committed Loans, participations in L/C Obligations or participations in Swing Line Loans required to be funded by it hereunder within one Business Day of the date required to be funded by it hereunder, (b) has otherwise failed to pay over to the Agent or any other Lender any other amount required to be paid by it hereunder

within one Business Day of the date when due, (c) has failed or refused to abide by any of its obligations under this Agreement and the other Loan Documents, (d) has, or has a direct or indirect parent entity that has, (i) been deemed insolvent, (ii) become the subject of a bankruptcy or insolvency proceeding or proposal or any other proceeding under any Debtor Relief Law, or (iii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of an Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority, (e) has notified any Loan Party, the Agent, any L/C Issuer or Swing Line Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect or (f) has failed, within one Business Day after written request by the Agent, to confirm in writing to the Agent that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (f) upon receipt of such written confirmation by the Agent). Any determination by the Agent that a Lender is a Defaulting Lender under clauses (a) through (f) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender upon delivery of written notice of such determination to the Lead Borrower and such Lender deemed to be a Defaulting Lender.

"Designated Account" means the DDA of each Loan Party identified as such on Schedule 5.21(a).

"DIP Term Loan Facility" shall mean that certain Superpriority Debtor-In-Possession Term Loan and Guarantee Agreement entered into on or about the Petition Date, by and among certain of the Loan Parties and Cortland Products Corp., as administrative agent and collateral agent, as such documents may be amended, restated supplemented or otherwise modified from time to time in accordance with Section 7.12. For the avoidance of doubt, none of the Loan Parties organized under the laws of Puerto Rico or Canada shall be a party to the DIP Term Loan Facility.

"DIP Term Loan Obligations" shall mean the "DIP Term Loan Obligations" as defined in the Financing Orders.

"Disclosure Statement" means the disclosure statement with respect to the Chapter 11 Plan filed by the Loan Parties in the Chapter 11 Case, which shall be in form and substance acceptable to the Agent, Tranche A-1 Agent, Required Tranche A Lenders, and Required Tranche A-1 Lenders in their reasonable discretion, together with all modifications and amendments that are in form and substance acceptable to the Agent, Tranche A-1 Agent, Required Tranche A Lenders, and Required Tranche A-1 Lenders in their reasonable discretion.

"Disposition" or "Dispose" means the sale, transfer, license, lease or other disposition (whether in one transaction or in a series of transactions, and including any sale and leaseback transaction and any sale, transfer, license or other disposition) of any property (including, without limitation, any Equity Interests) by any Person (or the granting of any option or other right to do any of the foregoing), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith. For the avoidance of doubt, the terms Disposition and Dispose do not refer to the issuance, sale or transfer of Equity Interests by the Parent.

"Disqualified Stock" means any Equity Interest that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder thereof), or upon the happening of any event, matures or is mandatorily redeemable (other than solely for Equity Interests that are not Disqualified Stock), pursuant to a sinking fund obligation or otherwise, or

redeemable at the option of the holder thereof (other than solely for Equity Interests that are not Disqualified Stock), in whole or in part, on or prior to the date that is ninety-one (91) days after the date on which the Loans mature; provided, however, that (i) only the portion of such Equity Interests which so matures or is mandatorily redeemable (other than solely for Equity Interests that are not Disqualified Stock), is so convertible or exchangeable or is so redeemable (other than solely for Equity Interests that are not Disqualified Stock) at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock and (ii) with respect to any Equity Interests issued to any employee or to any plan for the benefit of employees of the Parent or its Subsidiaries or by any such plan to such employees, such Equity Interest shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Parent 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 and if any class of Equity Interest of such Person that by its terms authorizes such Person to satisfy its obligations thereunder by delivery of an Equity Interest that is not Disqualified Stock, such Equity Interests shall not be deemed to be Disqualified Stock. Notwithstanding the preceding sentence, any Equity Interest that would constitute Disqualified Stock solely because the holders thereof (or the holders of any security into, or for, which such Equity Interest is convertible, exchangeable or exercisable) have the right to require a Loan Party to repurchase such Equity Interest upon the occurrence of a change of control or an asset sale shall not constitute Disqualified Stock. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of this Agreement will be the maximum amount that the Parent and its Subsidiaries may become obligated to pay upon maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock or portion thereof, plus accrued dividends.

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

"Domestic Subsidiary" means any Subsidiary that is organized under the laws of the United States of America, any State thereof or the District of Columbia (excluding, for the avoidance of doubt, any Subsidiary organized under the laws of Puerto Rico or any other territory or possession); provided, that, for the purposes of this Agreement and the other Loan Documents, any Subsidiary of a Foreign Subsidiary shall be deemed not to be a 'Domestic Subsidiary' for any purpose hereunder. As of the Closing Date, the Domestic Subsidiaries are listed on Schedule 1.05 hereto.

"EBT Cards" means those cards subject to an electronic benefit transfer system that allows the user to authorize the transfer of the user's government benefits from a Federal account to a retailer account in order to pay for products received.

"Eligible Assignee" means (a) a Lender or any of its Affiliates; (b) a bank, insurance company, or company engaged in the business of making commercial loans, which Person, together with its Affiliates, has a combined capital and surplus in excess of $250,000,000; (c) an Approved Fund; (d) any Person to whom a Lender assigns its rights and obligations under this Agreement as part of an assignment and transfer of such Lender's rights in and to a material portion of such Lender's portfolio of asset based credit facilities, and (e) any other Person (other than a natural person) approved by (i) the Agent, the L/C Issuer and the Swing Line Lender, and (ii) unless an Event of Default has occurred and is continuing, the Lead Borrower (each such approval not to be unreasonably withheld or delayed); provided that notwithstanding the foregoing, "Eligible Assignee" shall not include (x) a Loan Party or any of the Loan Parties' Affiliates or Subsidiaries (except in the case of Tranche A-1 Loans and Tranche A-1 Commitments, in which case it shall include a Restricted Affiliate Lender), or (y) with respect to the assignment of any Tranche A Commitments and Tranche A Loan, a Sponsor or any of the Sponsor's Affiliates or Subsidiaries.

"Eligible Credit Card Receivables" means at the time of any determination thereof, each Credit Card Receivable that satisfies the following criteria at the time of creation and continues to meet the same

at the time of such determination: such Credit Card Receivable (i) has been earned by performance and represents the bona fide amounts due to a Loan Party from a Credit Card Issuer or Credit Card Processor, and such Account indicates no Person other than a Loan Party as payee or remittance party, and in each case, originated in the ordinary course of business of such Loan Party or in connection with sales to consumers as part of the Initial Store Closing Sale, provided that, eligible Credit Card Receivables related to EBT Cards shall not exceed, in the aggregate, $250,000; and (ii) in each case is not ineligible for inclusion in the calculation of the Borrowing Base pursuant to any of clauses (a) through (l) below. In determining the amount to be so included, the face amount of an Account shall be reduced by, without duplication, to the extent not reflected in such face amount, (i) the amount of all accrued and actual discounts, claims, credits or credits pending, promotional program allowances, price adjustments, finance charges or other allowances (including any amount that a Loan Party may be obligated to rebate to a customer, a Credit Card Issuer or Credit Card Processor pursuant to the terms of any agreement or understanding (written or oral)) and (ii) the aggregate amount of all cash received in respect of such Account but not yet applied by the Loan Parties to reduce the amount of such Credit Card Receivable. Any Credit Card Receivable meeting the foregoing criteria shall be deemed Eligible Credit Card Receivables, but only as long as such Credit Card Receivables are not included within any of the following categories as determined by Agent in its Permitted Discretion, in which case such Credit Card Receivables shall not constitute Eligible Credit Card Receivables:

(a) Credit Card Receivables which do not constitute a "payment intangible" (as defined in the UCC) or an "account" (as defined in the PPSA);

(b) Credit Card Receivables that have been outstanding for more than five (5) Business Days from the date of sale (or for such longer period(s) as may be approved by the Agent in its Permitted Discretion);

(c) Credit Card Receivables with respect to which a Loan Party does not have good, valid and marketable title thereto, free and clear of any Lien (other than (i) Liens described in clause (i) of the definition of Permitted Encumbrances, (ii) the Pre-Petition Liens, (iii) other Permitted Encumbrances which have priority over the Lien of the Agent by operation of Law, (iv) Liens described in clause (q) of the definition of Permitted Encumbrances, subject to the Intercreditor Agreement, and (v) Liens with respect to which any Agent has established Reserves in its Permitted Discretion);

(d) Credit Card Receivables that are not subject to a first priority security interest and Lien (other than as permitted in clause (c) above) in favor of the Agent, pursuant to the Security Documents (it being the intent that chargebacks in the ordinary course by such processors shall not be deemed violative of this clause);

(e) Credit Card Receivables which are disputed, are with recourse, or with respect to which a claim, counterclaim, offset or chargeback (other than chargebacks in the ordinary course by Credit Card Issuer or Credit Card Processor) has been asserted (but only to the extent of such claim, counterclaim, offset or chargeback);

(f) Credit Card Receivables as to which the Credit Card Issuer or Credit Card Processor has the right under certain circumstances to require a Loan Party to repurchase the Accounts from such Credit Card Issuer or Credit Card Processor;

(g) Credit Card Receivables due from Credit Card Issuer or Credit Card Processor of the applicable credit card which is the subject of any bankruptcy or insolvency proceedings;

(h) Credit Card Receivables which are not a valid, legally enforceable obligation of the applicable Credit Card Issuer or Credit Card Processor with respect thereto;

(i) Credit Card Receivables which do not conform in all material respects to all representations, warranties or other provisions in the Loan Documents relating to Credit Card Receivables;

(j) Credit Card Receivables which are evidenced by "chattel paper" or an "instrument" of any kind unless such "chattel paper" or "instrument" is in the possession of the Agent, and to the extent necessary or appropriate, endorsed to the Agent;

(k) Credit Card Receivables which the Agent determines in its Permitted Discretion to be uncertain of collection; or

(l) Credit Card Receivables of the Canadian Loan Parties until such time as the Ontario Superior Court of Justice (Commercial List) shall have granted an Order (the "Canadian Recognition Order") in a form satisfactory to the Agent and Tranche A-1 Agent, (i) determining that the center of main interest of the debtors in the Chapter 11 Case, including the Canadian Loan Parties, is in the United States, (ii) recognizing the Chapter 11 Case under Part IV of the CCAA, (iii) granting a stay of proceedings, (iv) recognizing and enforcing certain 'First Day Orders' granted by the US Bankruptcy Court in the Chapter 11 Case, as agreed amongst the Agent and Tranch A-1 Agent and Borrowers , and (v) appointing Alvarez & Marsal Canada Inc. as the Information Officer (and includes appointment of the Financial Advisor), all in substantially the form of the model recognition orders adopted by the Commercial List Court in Ontario (the foregoing proceeding hereinafter referred to as, the "Canadian Case").

"Eligible In-Transit Inventory" means, as of any date of determination thereof, without duplication of other Eligible Inventory, In-Transit Inventory which the Agent in its Permitted Discretion meets the following criteria:

(a) In-Transit Inventory which has been shipped from a foreign location for receipt by a Loan Party at a destination permitted pursuant to clause (c) of the definition of "Eligible Inventory", but which has not yet been delivered to such Loan Party, which In-Transit Inventory has been in transit for sixty (60) days or less from the date of shipment of such Inventory;

(b) In-Transit Inventory for which the purchase order is in the name of a Loan Party and title and risk of loss has passed to such Loan Party;

(c) In-Transit Inventory for which an Acceptable Document of Title has been issued, and in each case as to which the Agent has control (as defined in the UCC or the PPSA, as applicable) over the documents of title which evidence ownership of the subject Inventory (such as, if requested by the Agent, by the delivery of a Customs Broker/Carrier Agreement);

(d) In-Transit Inventory which is insured to the reasonable satisfaction of the Agent in its Permitted Discretion;

(e) The Foreign Vendor with respect to such In-Transit Inventory is an Approved Foreign Vendor; and

(f) In-Transit Inventory which otherwise would constitute Eligible Inventory;

provided that the Agent may, in its Permitted Discretion, exclude any particular Inventory from the definition of "Eligible In-Transit Inventory" in the event the Agent reasonably determines that such Inventory is subject to any Person's right of reclamation, repudiation, stoppage in transit or any event has occurred or is reasonably anticipated by the Agent to arise which may otherwise adversely impact the ability of the Agent to realize upon such Inventory.

"Eligible Inventory" means, as of the date of determination thereof, without duplication, (i) Eligible In-Transit Inventory, and (ii) items of Inventory of a Loan Party that are finished goods, merchantable and readily saleable to the public in the ordinary course of the Loan Parties' business, in each case that, except as otherwise agreed by the Agent, (A) complies with each of the representations and warranties respecting Inventory made by the Loan Parties in the Loan Documents, and (B) is not excluded as ineligible by virtue of one or more of the criteria set forth below as determined by the Agent in its Permitted Discretion (which criteria may be revised from time to time by the Agent in its Permitted Discretion to address any changes in applicable Law or the results of any audit or appraisal received after the Closing Date). Inventory of a Loan Party which shall have been deemed to be Eligible Inventory in the most recent Borrowing Base Certificate delivered by the Loan Parties pursuant to Section 6.02(c) shall continue to be Eligible Inventory, provided that such Inventory otherwise meets the eligibility criteria set forth in this Agreement, unless the Agent has notified the Lead Borrower in writing otherwise in accordance with the terms of Section 2.01(c). Except as otherwise agreed by the Agent, in its Permitted Discretion, the following items of Inventory shall not be included in Eligible Inventory:

(a) Inventory that is not owned by the Loan Parties, or Inventory that is owned by the Loan Parties, but that the Loan Parties do not have good and valid title thereto;

(b) Inventory that is leased by or is on consignment to a Loan Party or which is consigned by a Loan Party to a Person which is not a Loan Party;

(c) Inventory (other than Eligible In-Transit Inventory) that is not located in the United States of America territories or possessions of the United States, Puerto Rico or Canada; provided, however, that the ability to include any Inventory located in any territories or possessions of the United States, Puerto Rico, or Canada, or, with respect to Inventory owned by any Loan Parties that are not Domestic Subsidiaries, any Inventory located in the United States shall, in all cases, be subject to the applicable Loan Party having furnished the Agent with such customary security agreements, UCC, PPSA, or other applicable financing statements, or other documents that the Agent may determine to be necessary in its Permitted Discretion to ensure it shall have a first priority perfected security interest (subject to Permitted Encumbrances having priority by operation of Law) in such Inventory at such location;

(d) Inventory that is not located at a location that is owned or leased by a Loan Party (except to the extent covered by clause (e) below), except: (i) Inventory in transit between such owned or leased locations or locations which meet the criteria set forth in the following clause (ii), *or* (ii) to the extent that the Loan Parties have furnished the Agent with (A) any UCC or PPSA financing statements or other documents that the Agent may determine to be necessary to perfect its security interest in such Inventory at such location, and (B) a Collateral Access Agreement executed by the Person owning any such location on terms reasonably acceptable to the Agent, *or* (iii) Inventory located at the Loan Parties' "pooling" locations; provided however, the Agent shall retain the ability to implement Reserves with respect to such "pooling" locations;

(e) Inventory that is located in a warehouse or distribution center leased by a Loan Party unless the applicable lessor has (i) delivered to the Agent a Collateral Access Agreement, or

(ii) the Agent has implemented Reserves for such location (which the Agent agrees to do if clause (i) is not satisfied);

(f) Without duplication of any factors taken into account in determining the Appraised Value at such time (but only if and to the extent such factors are expressly set forth in the most recent appraisal used by the Agent to determine such value, and the fact that any type or item of Inventory is not treated as ineligible in such appraisal will not preclude the Agent from determining in its Permitted Discretion that such Inventory shall not be included in Eligible Inventory), Inventory that is comprised of goods which (i) are damaged, defective, "seconds," or otherwise unmerchantable, or (ii) are to be returned to the vendor, or (iii) it consists of goods that are obsolete or slow moving (i.e. more than three (3) seasons old (it being understood that the Loan Parties have only two seasons in each calendar year)), restrictive or custom items, work-in-process, mismatches, goods on display, return to vendor goods, raw materials, or goods that constitute spare parts, packaging and shipping materials, supplies used or consumed in any Loan Party's business, bill and hold goods, or Inventory acquired on consignment, or (iv) are not in material compliance with all standards imposed by any Governmental Authority having regulatory authority over such Inventory, its use or sale, or (v) are bill and hold goods, or (vi) consist of goods returned or rejected by any Loan Party's customers, unless such goods are repackaged and ready for sale in the ordinary course of such Loan Party's business;

(g) Inventory that is not subject to a perfected first priority security interest in favor of the Agent pursuant to the Security Documents (other than (i) Liens described in clauses (a) of the definition of Permitted Encumbrances; (ii) the Pre-Petition Liens, (iii) other Permitted Encumbrances that have priority by operation of Law, and (iv) Liens with respect to which the Agent has established Reserves in its Permitted Discretion);

(h) Inventory that is not insured in compliance with the provisions of Section 5.10 hereof;

(i) Inventory as to which a Loan Party has accepted a deposit (but only to the extent of the amount of the deposit actually received by such Loan Party);

(j) Inventory that is subject to any licensing, patent, royalty, trademark, trade name or copyright agreement with any third party from which any Loan Party or any of its Restricted Subsidiaries has received written notice of a dispute in respect of any such agreement and which dispute purports to prohibit or materially limit the Loan Parties from using such license, patent, royalty, trademark, trade name or copyright or from selling such Inventory, or Inventory that is subject to any agreements with any third parties which would require any consent of a third party for the sale or distribution of such Inventory (which consent has not been obtained);

(k) Inventory of a Person joined as a Loan Party pursuant to Section 6.12 which is not of the type usually sold in the ordinary course of the Loan Parties' business, unless and until the Agent has completed or received (A) an appraisal of such Inventory from appraisers satisfactory to the Agent and establishes an Appraised Value and Inventory Reserves (if applicable) therefor, and otherwise agrees in its Permitted Discretion that such Inventory shall be deemed Eligible Inventory, and (B) such other due diligence as the Agent may require in its Permitted Discretion, all of the results of the foregoing to be reasonably satisfactory to the Agent; or

(l) Inventory of the Canadian Loan Parties until such time as the Canadian Recognition Order shall have been entered in the Canadian Case.

"Eligible Real Estate" means: (i) with respect to the Real Estate listed on Schedule 1.04, Real Estate which satisfies the following conditions, and (ii) with respect to any other Real Estate, Real Estate deemed by the Agent in its Permitted Discretion to be eligible for inclusion in the calculation of the Borrowing Base and which, except as otherwise agreed by the Agent, in its Permitted Discretion, satisfies all of the following conditions:

(a) A U.S. Loan Party owns such Real Estate in fee simple absolute;

(b) The Agent shall have received evidence that all actions that the Agent may reasonably deem necessary or appropriate in order to create valid first and subsisting Liens (subject only to Permitted Encumbrances (other than Encumbrances securing Indebtedness) which have priority over the Lien of the Agent by operation of Law) on the property described in the Mortgages has been taken.

(c) The Agent shall have received an appraisal (based upon Appraised Value) of such Real Estate complying with the requirements of FIRREA by a third party appraiser acceptable to the Agent in its Permitted Discretion and otherwise in form and substance satisfactory to the Agent in its Permitted Discretion; and

(d) The Real Estate Eligibility Requirements have been satisfied.

"Environmental Agreement" means that certain agreement entered into by and between certain of the Loan Parties and the Agent, dated as of the Closing Date, as same now exists or may hereafter be amended, modified, supplemented from time to time.

"Eligible Store Closing Inventory" means Eligible Inventory located at any Stores subject to the Agency Agreement.

"Environmental Compliance Reserve" means, with respect to Eligible Real Estate, any reserve which the Agent, from time to time in its Permitted Discretion establishes for estimable amounts that are reasonably likely to be expended by any of the Loan Parties in order for such Loan Party and its operations and property (a) to comply with any notice from a Governmental Authority asserting material non-compliance with Environmental Laws, or (b) to correct any such material non-compliance with Environmental Laws or to provide for any Environmental Liability.

"Environmental Laws" means any and all Federal, state, provincial, territorial, municipal, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses or governmental restrictions relating to pollution and the protection of the environment or the release of any Hazardous Materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

"Environmental Liability" means any liability, obligation, damage, loss, claim, action, suit, judgment, order, fine, penalty, fee, expense, or cost, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of any Borrower, any other Loan Party or any of their respective Restricted Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal or presence of any Hazardous Materials, (c) exposure of any Person or any Person's property to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any written contract, agreement or other consensual arrangement pursuant to which liability is assumed by or imposed on any Borrower, any other Loan Party or any of their respective Restricted Subsidiaries with respect to any of the foregoing.

"Equipment" has the meaning set forth in the UCC or in the PPSA, as applicable.

"Equity Interests" means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

"Equivalent Amount" means, on any date, the amount of Dollars into which an amount of Canadian Dollars may be converted or the amount of Canadian Dollars into which an amount of U.S. Dollars may be converted, in either case, at the Agent's Spot Rate on such date.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Lead Borrower within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Sections 412 and 4971 of the Code).

"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by the Lead Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Lead Borrower or any ERISA Affiliate from a Multiemployer Plan or notification to the Lead Borrower or any ERISA Affiliate that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate a Pension Plan, the treatment of a Pension Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Lead Borrower or any ERISA Affiliate; (g) the failure by the Lead Borrower or any ERISA Affiliate to make required contributions to a Plan or Multiemployer Plan; (h) an application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code with respect to any Plan; (i) the receipt of any determination that a Multiemployer Plan is, or is expected to be, in "endangered status" or "critical status" (within the meaning of Section 432 of the Code or Section 305 of ERISA); or (j) a determination that a Pension Plan is, or is expected to be, in "at risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA).

"Event of Default" has the meaning specified in Section 8.01.

"Events and Circumstances" has the meaning assigned to such term in the definition of "Material Adverse Effect".

"Excluded Accounts" means deposit accounts and securities accounts solely for the purpose of paying payroll, employee benefits, workers compensation, trust and tax withholding which are funded by the Loan Parties (i) in the ordinary course of business or (ii) as, and to the extent, required by applicable Law.

"Excluded Taxes" means, with respect to the Agent, any Lender, the L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of the Loan Parties hereunder, (a) taxes imposed on or measured by its overall net income (however denominated), franchise Taxes imposed on it and any similar Taxes imposed on it in lieu of overall net income, or franchise Taxes, including Taxes imposed on its overall gross income, by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located or as a result of a present or former connection with a jurisdiction or Governmental Authority (other than any connections arising from such recipient having executed, delivered, enforced, become a party to, performed its obligations or received payments under, received or perfected a security interest under, or engaged in any other transaction pursuant to any Loan Document) , (b) any branch profits Taxes imposed by the United States or any similar Tax imposed by any other jurisdiction in which any Loan Party is located, (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Lead Borrower under Section 10.13), any withholding Tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new Lending Office) or is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with Section 3.01(e), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Loan Parties with respect to such withholding tax pursuant to Section 3.01(a), (d) any U.S. federal, state or local backup withholding tax, and (e) any U.S. federal withholding tax imposed under FATCA.

"Executive Order" has the meaning set forth in Section 10.18.

"Existing Letters of Credit" means those letters of credit identified on Schedule 1.03 hereto.

"Extraordinary Receipt" means any cash received by or paid to or for the account of any Person not in the ordinary course of business, including tax refunds, pension plan reversions, proceeds of insurance (other than proceeds of business interruption insurance to the extent such proceeds constitute compensation for lost earnings), condemnation awards (and payments in lieu thereof), indemnity payments and any purchase price adjustments.

"Facility Guaranty" means each Guarantee made by the Guarantors in favor of the Agent and the other Credit Parties (including, without limitation, the Canadian Guarantee), in form reasonably satisfactory to the Agent, as the same now exists or may hereafter be amended, modified, supplemented, renewed, restated or replaced.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended version or successor provision that is substantively similar), in each case, any regulations promulgated thereunder and any interpretation and other guidance issued in connection therewith, any agreement entered into pursuant to Section 1471(b)(1) of the Code and any applicable intergovernmental agreements with respect thereto (together with any law, regulation or other official guidance implementing such agreements).

"Factored Receivables" means any Accounts originally owed or owing by a Loan Party to another Person which have been purchased by or factored with Wells Fargo or any of its Affiliates pursuant to a factoring arrangement or otherwise with the Person that sold the goods or rendered the services to the Loan Party which gave rise to such Account.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the

Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Wells Fargo on such day on such transactions as determined by the Agent.

"Fee Letter" means the letter agreement, dated as of the Closing Date, among the Lead Borrower, the Agent and the Tranche A-1 Agent, as amended and in effect from time to time.

"Final Financing Order" means, the order of the Bankruptcy Court entered in the Chapter 11 Case after a final hearing under Bankruptcy Rule 4001(c)(2) or such other procedures as approved by the Bankruptcy Court, which order shall be satisfactory in form and substance to the Agent and Tranche A-1 Agent and from which no appeal or motion to reconsider has been filed, together with all extensions, modifications and amendments thereto, in form and substance reasonably satisfactory to the Agent and Tranche A-1 Agent, which, among other matters but not by way of limitation, authorizes the Borrowers and applicable Guarantors to obtain credit, incur the Obligations, grant Liens, and otherwise perform their obligations under this Agreement and the other Loan Documents, as the case may be, and provides for the super-priority of the claims of the Agent and Lenders.

"Final Order Entry Date" means the date on which the Bankruptcy Court enters the Final Financing Order.

"Financial Advisor" means Alvarez & Marsal North America, LLC and any of its affiliates in Canada (or another independent advisor reasonably acceptable to the Agent).

"Financing Orders" means the Interim Financing Order and Final Financing Order, as applicable.

"FIRREA" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended from time to time.

"Fiscal Month" means any fiscal month of any Fiscal Year.

"Fiscal Quarter" means any fiscal quarter of any Fiscal Year, which quarters shall generally end the Saturday closest to the last day of each April, July, October and January of such Fiscal Year in accordance with the fiscal accounting calendar of the Lead Borrower.

"Fiscal Year" means any period of twelve (12) consecutive months ending on the Saturday closest to January 31st of any calendar year.

"Foreign Asset Control Regulations" has the meaning set forth in Section 10.18.

"Foreign Lender" means any Lender that is organized under the laws of a jurisdiction other than that in which the Lead Borrower is resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"Foreign Subsidiary" means each Subsidiary other than a Domestic Subsidiary.

"Foreign Vendor" means a Person that sells In-Transit Inventory to a Borrower.

"Foreign Vendor Agreement" means an agreement between a Foreign Vendor and the Agent in form and substance reasonably satisfactory to the Agent in its Permitted Discretion and pursuant to which, among other things, the parties shall agree upon their relative rights with respect to In-Transit Inventory of a Loan Party purchased from such Foreign Vendor.

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

"Fronting Fee" has the meaning assigned to such term in Section 2.03(j).

"Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied (or, for Foreign Subsidiaries that are Restricted Subsidiaries, in conformity with generally accepted accounting principles that are applicable in their respective jurisdiction of organization).

"Governmental Authority" means the government of the United States, Canada or any other nation, or of any political subdivision thereof, whether state, provincial, territorial, municipal, local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Group Concentration Account" means the Deposit Account over which Agent has control pursuant to a deposit account control agreement that acts as the repository for the disbursement and funding of a Subsidiary or group of Subsidiaries.

"Guarantee" means, as to any Person, without duplication, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); provided that the term "Guarantee" shall not include (w) endorsements for collection or deposit in the ordinary course of business, (x) customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets or Equity Interests permitted under this Agreement, (y) product warranties given in the ordinary course of business or (z) ordinary course

performance guarantees by Parent or any of its Subsidiaries of the obligations (other than for the payment of Indebtedness) of Parent or any of its Subsidiaries. The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith; provided that, in the case of any Guarantee of the type set forth in clause (b) above, if recourse to such Person for such Indebtedness is limited to the assets subject to such Lien, then such Guarantee shall be a Guarantee hereunder solely to the extent of the lesser of (A) the amount of the Indebtedness secured by such Lien and (B) the value of the assets subject to such Lien. The term "Guarantee" as a verb has a corresponding meaning.

"Guarantor" has the meaning specified in the introductory paragraph hereto and each other Subsidiary of the Parent that shall be required to execute and deliver a Joinder to the Facility Guaranty pursuant to Section 6.12.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law due to their dangerous or deleterious properties or characteristics.

"Home Office Account" has the meaning specified in Section 6.13(a).

"Honor Date" has the meaning specified in Section 2.03(c)(i).

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) the maximum amount of all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments;

(c) net obligations of such Person on a mark-to-market basis under any Swap Contract;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade or other similar accounts payable in the ordinary course of business and, in each case, not past due for more than 60 days after the date on which such trade account payable was created, (ii) for the avoidance of doubt (A) royalty payments made in the ordinary course of business in respect of exclusive and non-exclusive licenses and (B) earnouts that would not be required under GAAP to be referenced on the balance sheet of the Lead Borrower as a liability, without giving effect to references in the footnotes to the Lead Borrower's financial statements, (iii) any accruals for (A) payroll and (B) other non-interest bearing liabilities accrued in the ordinary course of business consistent with past practice, (iv) any obligations in respect of operating leases that are not Synthetic Lease Obligations, (v) any deferred rent obligations and (vi) pension and other employee commitments);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements); provided that if such indebtedness shall not have been assumed by such Person and is otherwise non-recourse to such Person, the amount of such obligation treated as Indebtedness shall not exceed the lower of (y) the fair market value of such property securing such obligations and (z) the amount of Indebtedness secured by such Lien;

(f) all Attributable Indebtedness of such Person (for the avoidance of doubt, lease payments under any operating leases shall not constitute Indebtedness);

(g) all obligations of such Person in respect of Disqualified Stock; and

(h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is non-recourse to such Person. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. Notwithstanding the foregoing, in no event shall the following constitute Indebtedness: (i) obligations under operating leases, (ii) customary obligations under employment agreements and deferred compensation, and (iii) deferred tax liabilities (other than such deferred tax liabilities resulting from the Loan Parties' decision not to pay such Taxes at such time they are due and payable).

"Indemnified Taxes" means (a) Taxes other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Credit Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes..

"Indemnitees" has the meaning specified in Section 10.04(b).

"Independent Consultant" means Guggenheim Partners, LLC (or another independent third party consultant acceptable to the Agent and Tranche A-1 Agent).

"Individual Store Accounts" has the meaning specified in Section 6.13(a).

"Information" has the meaning specified in Section 10.07.

"Initial Store Closing Motion" has the meaning specified in Section 6.22.

"Initial Store Closing Sale" means the closure of, and liquidation of inventory and equipment located at, (i) up to (x) three hundred eighty-nine (389) stores; plus (y) an additional six hundred (600) Stores to the extent contemplated by the Approved Budget, and (ii) such additional Stores with the consent of the Agent and Tranche A-1 Agent of the Borrowers pursuant to the Agency Agreement; for the avoidance of doubt, no such closures shall be required with respect to Stores of the Canadian Loan Parties.

"Intellectual Property" means all present and future: trade secrets, know-how and other proprietary information; trademarks, trademark applications, internet domain names, service marks, trade dress, trade names, business names, designs, logos, slogans (and all translations, adaptations, derivations and combinations of the foregoing) indicia and other source and/or business identifiers, and all registrations or applications for registrations which have heretofore been or may hereafter be issued

thereon throughout the world; copyrights and copyright applications; (including copyrights for computer programs) and all tangible and intangible property embodying the copyrights, unpatented inventions (whether or not patentable); patents and patent applications; industrial design applications and registered industrial designs; license agreements related to any of the foregoing and income therefrom; books, records, writings, computer tapes or disks, flow diagrams, specification sheets, computer software, source codes, object codes, executable code, data, databases and other physical manifestations, embodiments or incorporations of any of the foregoing; all other intellectual property; and all common law and other rights throughout the world in and to all of the foregoing.

"Intercompany Note" shall mean a subordinated promissory note substantially in the form of Exhibit G or any other form approved by the Agent in its Permitted Discretion.

"Intercreditor Agreement" means that certain Intercreditor Agreement dated as of March 11, 2014, by and among the Agent, Pre-Petition First Lien Term Agent, and Pre-Petition Second Lien Term Loan Agent and acknowledged by the Loan Parties as amended, restated, supplemented or modified from time to time in accordance with the terms thereof and in effect from time to time.

"Interest Payment Date" means, (a) as to any LIBO Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date; provided, however, that if any Interest Period for a LIBO Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan (including a Swing Line Loan), the first day after the end of each month and the Maturity Date.

"Interest Period" means, as to each LIBO Rate Loan, the period commencing on the date such LIBO Rate Loan is disbursed or converted to or continued as a LIBO Rate Loan and ending on the date one month thereafter, as selected by the Lead Borrower in its Committed Loan Notice; provided that:

(i) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(ii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period;

(iii) no Interest Period shall extend beyond the Maturity Date; and

(iv) notwithstanding the provisions of clause (iii), no Interest Period shall have a duration of less than one (1) month, and if any Interest Period applicable to a LIBO Borrowing would be for a shorter period, such Interest Period shall not be available hereunder.

For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"Interim Financing Order" means, the order of the Bankruptcy Court entered in the Chapter 11 Case after an interim hearing, substantially in the form attached hereto as Exhibit I and/or otherwise in form and substance satisfactory to the Agent and Tranche A-1 Agent, together with all extension, modifications, and amendments thereto approved by the Agent and Tranche A-1 Agent, which, among other matters but not by way of limitation, authorizes, on an interim basis, the Borrowers to obtain credit and the Borrowers and Guarantors to incur the Obligations, grant Liens, and otherwise perform their

obligations under this Agreement and the other Loan Documents, as the case may be, and provides for the super-priority of the claims of the Agent and Lenders.

"In-Transit Inventory" means Inventory of a Loan Party which is in the possession of a common carrier and is in transit from a Foreign Vendor of a Loan Party from a location outside of the United States or Canada to a location of a Loan Party that is within the United States, territories or possessions of the United States, Puerto Rico or Canada.

"Inventory" has the meaning given that term in the UCC or the PPSA, as applicable, and shall also include, without limitation, all: (a) goods which (i) are leased by a Person as lessor, (ii) are held by a Person for sale or lease or to be furnished under a contract of service, (iii) are furnished by a Person under a contract of service, or (iv) consist of raw materials, work in process, or materials used or consumed in a business; (b) goods of said description in transit; (c) goods of said description which are returned, repossessed or rejected; and (d) packaging, advertising, and shipping materials related to any of the foregoing.

"Inventory Reserves" means without duplication of any other Reserves or items that are otherwise addressed or excluded through eligibility criteria, and without duplication of any of the factors taken into account in determining "Appraised Value", such reserves as may be established from time to time by the Agent in its Permitted Discretion with respect to the determination of the saleability, at retail, of the Eligible Inventory included in the Borrowing Base, which reflect such other factors as negatively affect the market value of the Eligible Inventory included in the Borrowing Base.

"Investment" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or Equity Interest in, another Person, or (c) any Acquisition. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested net of actual cash dividends, Distributions, or payments received by such Person on account of such Investment but without adjustment for subsequent increases or decreases in the value of such Investment.

"IRS" means the United States Internal Revenue Service.

"ISP" means, with respect to any Letter of Credit, the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance).

"Issuer Documents" means with respect to any Letter of Credit, the Letter Credit Application, the Standby Letter of Credit Agreement or Commercial Letter of Credit Agreement, as applicable, and any other document, agreement and instrument entered into by the L/C Issuer and the Borrower (or any Subsidiary) or in favor of the L/C Issuer and relating to any such Letter of Credit.

"Joinder" means an agreement, in form reasonably satisfactory to the Agent, pursuant to which, among other things, a Person becomes a party to, and bound by the terms of, this Agreement and/or the other Loan Documents in the same capacity and to the same extent as either a Borrower or a Guarantor, as the Agent may determine in its Permitted Discretion after consultation with the Lead Borrower.

"Kansas Headquarters" shall mean the real property located at 3231 SE Sixth Avenue, Topeka, Kansas.

"Laws" means each international, foreign, federal, state, provincial, territorial, municipal and local statute, treaty, rule, guideline, regulation, ordinance, code and administrative or judicial precedent or authority, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and each applicable administrative order, directed duty, request, license, authorization and permit of, and agreement with, any Governmental Authority, in each case whether or not having the force of law.

"L/C Credit Extension" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

"L/C Issuer" means (a) Wells Fargo in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder (which successor may only be a Lender selected by the Agent in its Permitted Discretion), and (b) solely with respect to the Existing Letters of Credit and until such Existing Letters of Credit expire or are return undrawn, Wells Fargo. The L/C Issuer may, in its Permitted Discretion, arrange for one or more Letters of Credit to be issued by Affiliates or branches of the L/C Issuer and/or for such Affiliate or branch to act as an advising, transferring, confirming and/or nominated bank in connection with the issuance or administration of any such Letter of Credit, in which case the term "L/C Issuer" shall include any such Affiliate or branch with respect to Letters of Credit issued by such Affiliate or branch.

"L/C Obligations" means, as at any date of determination, the aggregate undrawn amount available to be drawn under all outstanding Letters of Credit. For purposes of computing the amounts available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of any "rule" under the ISP or any article of UCP 600, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn.

"Lead Borrower" has the meaning assigned to such term in the preamble of this Agreement.

"Lease" means any agreement, whether written or oral, no matter how styled or structured, pursuant to which a Loan Party is entitled to the use or occupancy of any space in a structure, land, improvements or premises for any period of time.

"Lease Extension Order" has the meaning assigned to such term in Section 6.23.

"Lender" means each Tranche A Lender and each Tranche A-1 Lender and, as the context requires, includes the Swing Line Lender, and each Person who becomes a Lender from time to time by execution of an Assignment and Assumption.

"Lender Group Consultant" has the meaning assigned to such term in Section 6.22(c).

"Lending Office" means, as to any Lender, the office or offices of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify in writing the Borrower and the Agent.

"Letter of Credit" means each Standby Letter of Credit and each Commercial Letter of Credit issued hereunder and shall include the Existing Letters of Credit.

"Letter of Credit Application" means an application for the issuance or amendment of a Letter of Credit in the form from time to time in use by the L/C Issuer.

"Letter of Credit Expiration Date" means the day that is seven days prior to the Maturity Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

"Letter of Credit Fee" has the meaning specified in Section 2.03(i).

"Letter of Credit Sublimit" means an amount equal to $50,000,000. The Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Commitments. A permanent reduction of the Aggregate Tranche A Commitments shall not require a corresponding pro rata reduction in the Letter of Credit Sublimit; provided, however, that if the Aggregate Tranche A Commitments are reduced to an amount less than the Letter of Credit Sublimit, then the Letter of Credit Sublimit shall be reduced to an amount equal to (or, at Lead Borrower's option, less than) the Aggregate Tranche A Commitments.

"LIBO Borrowing" means a Committed Borrowing comprised of LIBO Rate Loans.

"LIBO Rate" means for any Interest Period with respect to a LIBO Rate Loan, the rate per annum equal to the British Bankers Association LIBOR Rate ("BBA LIBOR"), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as designated by the Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period. If such rate is not available at such time for any reason, then the "LIBO Rate" for such Interest Period shall be the rate per annum determined by the Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the LIBO Rate Loan being made, continued or converted by Wells Fargo and with a term equivalent to such Interest Period would be offered to Wells Fargo by major banks in the London interbank Eurodollar market in which Wells Fargo participates at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period; provided, that solely with respect to the Tranche A-1 Loans, the LIBO Rate shall be deemed to be not less than 1.00% per annum. With respect to the Tranche A Loans, if the LIBO Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

"LIBO Rate Loan" means a Committed Loan that bears interest at a rate based on the Adjusted LIBO Rate.

"Lien" means (a) any mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale, Capital Lease Obligation, Synthetic Lease Obligation, or other title retention agreement, any easement, right of way or other encumbrance on title to real property) and (b) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities; provided that in no event shall an operating lease be deemed to be a Lien.

"Liquidation" means the exercise by the Agent of those rights and remedies accorded to the Agent under the Loan Documents and applicable Law as a creditor of the Loan Parties with respect to the realization on the Collateral, including (after the occurrence and during the continuation of an Event of Default) the conduct by the Loan Parties acting with the consent of the Agent, of any public, private or "going out of business", "store closing", or other similarly themed sale or other disposition of the Collateral for the purpose of liquidating the Collateral. Derivations of the word "Liquidation" (such as "Liquidate") are used with like meaning in this Agreement.

"Loan" means an extension of credit by a Lender to the Borrowers under Article II in the form of a Committed Loan or a Swing Line Loan.

"Loan Account" has the meaning assigned to such term in Section 2.11(a).

"Loan Cap" means, at any time of determination, the lesser of (a) the sum of (i) the Aggregate Tranche A Commitments and (ii) at all times prior to entry of the Final Financing Order, the "Aggregate Tranche A-1 Commitments" under the Pre-Petition Credit Agreement, and, at all times following entry of the Final Financing Order, the Aggregate Tranche A-1 Commitments, or (b) the Combined Borrowing Base.

"Loan Documents" means this Agreement, each Note, each Issuer Document, the Fee Letter, all Borrowing Base Certificates, the Intercompany Note, the Blocked Account Agreements, the Credit Card Notifications, the Security Documents, the Intercreditor Agreement, the Facility Guaranty, the Financing Orders, the Canadian Recognition Order, the Cash Management Letter, the Environmental Agreement, and any other instrument or agreement now or hereafter executed and delivered in connection herewith, or in connection with any transaction arising out of any Cash Management Services and Bank Products provided by the Agent or any of its Affiliates or branches, each as amended and in effect from time to time.

"Loan Parties" means, collectively, the Borrowers and each Guarantor.

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent), or financial condition of the Parent and its Subsidiaries taken as a whole; (b) a material impairment of the ability of the Loan Parties, taken as a whole, to perform its obligations under any Loan Document to which they are a party; or (c) a material impairment of the rights and remedies of the Agent or any Lender under any Loan Document or a material adverse effect upon the legality, validity, binding effect or enforceability against the Loan Parties, taken as a whole, of any Loan Document to which they are a party. In determining whether any individual event would result in a Material Adverse Effect, notwithstanding that such event in and of itself does not have such effect, a Material Adverse Effect shall be deemed to have occurred if the cumulative effect of such event and all other than existing events would result in a Material Adverse Effect. Notwithstanding the foregoing, (i) the filing of the Chapter 11 Case and any reorganization proceedings in the Canadian Bankruptcy Court (and any defaults under pre-petition agreements, so long as the exercise of remedies as a result of such defaults are stayed under the Bankruptcy Code or Canadian Bankruptcy Court or such agreements are voided or invalidated by the Bankruptcy Court or Canadian Bankruptcy Court), (ii) events specifically described in the declaration of Michael Schwindle in support of Chapter 11 Case, dated on or about the date hereof and (iii) the incurrence of any claim or liability that is Pre-Petition, unsecured and junior in priority to the Obligations (each of the foregoing clauses (i), (ii) and (iii), collectively, the "Events and Circumstances"), will, individually and collectively, each not be deemed to have a Material Adverse Effect.

"Material Contract" means, with respect to any Person, each contract to which such Person is a party, the breach or termination of which could reasonably be expected to result in a Material Adverse Effect.

"Material Environmental Liability" means any Environmental Liability exceeding $500,000 in the aggregate.

"Material Indebtedness" means Indebtedness (other than the Obligations) of the Loan Parties in an aggregate principal amount exceeding $10,000,000. For purposes of determining the amount of Material Indebtedness at any time, (a) the amount of the obligations in respect of any Swap Contract at such time shall be calculated at the Swap Termination Value thereof, (b) undrawn committed or available

amounts shall be included, and (c) all amounts owing to all creditors under any combined or syndicated credit arrangement shall be included.

"Maturity Date" means the earliest of: (a) November 1, 2017; (b) if the Final Financing Order is not entered within thirty five (35) calendar days after the Petition Date, immediately thereafter; (c) upon entry of an order confirming any plan of reorganization under Section 1129 of the Bankruptcy Code; and (d) the closing of a sale of all or substantially all of the working capital assets of the U.S. Loan Parties pursuant to Section 363 of the Bankruptcy Code.

"Maximum Rate" has the meaning provided therefor in Section 10.09.

"Mortgages" means each and every fee and leasehold mortgage or deed of trust, security agreement and assignment by and between the Loan Party owning or holding the leasehold interest in the Real Estate encumbered thereby in favor of the Agent, including, without limitation, any "Mortgages" entered into in connection with the Pre-Petition Credit Agreement.

"Mortgage Policy" has the meaning specified in the definition of Real Estate Eligibility Requirements.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Lead Borrower or any ERISA Affiliate makes or is obligated to make contributions, or to which the Lead Borrower or any ERISA Affiliate has any liability.

"Non-Consenting Lender" has the meaning provided therefor in Section 10.01.

"Non-Extension Notice Date" has the meaning specified in Section 2.03(b)(iii).

"Note" means (a) a Tranche A Note, (b) a Tranche A-1 Note, and (c) the Swing Line Note, as each may be amended, restated, supplemented or modified from time to time.

"NPL" means the National Priorities List under CERCLA.

"Obligations" means (a) all advances to, and debts (including principal, interest, fees, costs, and expenses), liabilities, obligations, covenants, indemnities, and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit (including payments in respect of reimbursement of disbursements, interest thereon and obligations to provide cash collateral therefor), whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees, costs, expenses and indemnities that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees, costs, expenses and indemnities are allowed claims in such proceeding, and (b) any Other Liabilities. For the avoidance of doubt, as of the Closing Date, all Existing Letters of Credit existing under the Pre-Petition Credit Agreement and the "Loan Documents" (as defined in the Pre-Petition Credit Agreement) shall be deemed issued and part of the "Obligations" under this Agreement.

"Organization Documents" means, (a) with respect to any corporation, the certificate and/or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (c) with respect to any partnership, joint venture,

trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity, (d) with respect to any unlimited liability company, the memorandum of association and articles of association, and (e) in each case, all shareholder or other equity holder agreements, voting trusts and similar arrangements to which such Person is a party or which is applicable to its Equity Interests and all other arrangements relating to the Control or management of such Person.

"Other Liabilities" means any obligation on account of (a) any Cash Management Services furnished to any of the Loan Parties or any of their Subsidiaries and/or (b) any transaction with the Agent, any Lender or any of their respective Affiliates or branches that arises out of any Bank Product entered into with any Loan Party or any of their Subsidiaries, as each may be amended from time to time.

"Other Taxes" means all present or future stamp or documentary Taxes or any other excise or property Taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

"Outstanding Amount" means (i) with respect to Committed Loans and Swing Line Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Committed Loans and Swing Line Loans, as the case may be, occurring on such date; and (ii) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date.

"Overadvance" means a Credit Extension to the extent that, immediately after its having been made, Availability is less than zero.

"Parent" has the meaning specified in the introductory paragraph hereto.

"Participant" has the meaning specified in Section 10.06(d).

"Participation Register" has the meaning provided therefor in Section 10.06(d).

"PBGC" means the Pension Benefit Guaranty Corporation.

"PCAOB" means the Public Company Accounting Oversight Board.

"Pension Plan" means any "employee pension benefit plan" (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by the Lead Borrower or any ERISA Affiliate or to which the Lead Borrower or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the immediately preceding five plan years.

"Permitted Discretion" means a determination made by the Agent (or Tranche A-1 Agent, as applicable) in the exercise of its commercially reasonable business judgment, exercised in good faith in accordance with customary business practices for comparable asset-based lending transactions in the retail industry.

"Permitted Disposition" means any of the following:

(a) Dispositions of inventory (i) in the ordinary course of business and (ii) in accordance with the Initial Store Closing Sale as approved by the Bankruptcy Court;

(b) reserved;

(c) (i) exclusive licenses of Intellectual Property of a Loan Party or any of its Subsidiaries in the ordinary course of business entered into prior to the Petition Date, and (ii) non-exclusive licenses of Intellectual Property of a Loan Party or any of its Subsidiaries in the ordinary course of business;

(d) licenses for the conduct of licensed departments within the Loan Parties' Stores in the ordinary course of business; provided that, if requested by the Agent, the Agent shall have entered into an intercreditor agreement with the Person operating such licensed department on terms and conditions reasonably satisfactory to the Agent;

(e) Dispositions of any property or assets (other than ABL Priority Collateral of the Loan Parties) (i) in the ordinary course of business that is substantially worn, damaged, obsolete, surplus, uneconomical or, in the judgment of a Loan Party, no longer useful or necessary in its business or that of any Restricted Subsidiary or (ii) in accordance with the Initial Store Closing Sale as approved by the Bankruptcy Court;

(f) sales, transfers and Dispositions (i) among the Loan Parties, (ii) by any Subsidiary of Parent that is not a Loan Party to a Loan Party or a Subsidiary and/or joint venture that is not a Loan Party;

(g) disposition of other assets pursuant to the Permitted Sales, or as otherwise may be approved by the Bankruptcy Court;

(h) to the extent constituting a Disposition, (i) the making of Permitted Investments, (ii) Permitted Encumbrances and (iii) transactions permitted by Section 7.04 and Section 7.06;

(i) Disposition of Real Estate to a Governmental Authority as a result of a condemnation or an eminent domain of such Real Estate or transfer in lieu thereof or (ii) a Disposition consisting of or subsequent to a total loss or constructive total loss of property; and

(j) Disposition of property with respect to an insurance claim from damage to such property where the insurance company provides a Loan Party or its Restricted Subsidiary the value of such property (minus any deductibles and fees) in cash or with replacement property in exchange for such property.

"Permitted Encumbrances" means:

(a) Liens imposed by law for Taxes that are (i) for amounts that are past due in an aggregate amount not to exceed $1,000,000 at any time outstanding, (ii) not overdue by more than thirty (30) days or (iii) being contested in compliance with Section 6.04;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's, suppliers' construction contractor's and sub-contractor's and other like Liens imposed by applicable Law,

arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 6.04;

(c) pledges and deposits made in the ordinary course of business (i) in compliance with workers' compensation, unemployment insurance and other social security laws or regulations, other than any Lien imposed by ERISA or in connection with any Canadian Pension Plan for amounts not due and unpaid or (ii) securing liability for reimbursement or indemnification obligations of insurance carriers providing property, casualty or liability insurance to Parent or any of its Subsidiaries;

(d) deposits to secure or relating to the performance of bids, trade contracts, government contracts and leases (other than Indebtedness for borrowed money), utilities, statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(e) the Pre-Petition Liens;

(f) easements, covenants, conditions, restrictions, building code and land use laws, zoning restrictions, encroachments, protrusions, title exceptions, survey exceptions, rights-of-way and similar encumbrances on real property imposed by Law or arising in the ordinary course of business that do not secure any monetary obligations (other than any monetary obligations resulting from customary covenants, conditions, and restrictions) and do not materially detract from the value of the affected property or materially interfere with the ordinary conduct of business of a Loan Party and their Restricted Subsidiaries and such other minor title defects or survey matters that are disclosed by current surveys that, in each case, do not materially and adversely interfere with the current use of the real property;

(g) Liens existing on the Closing Date and listed on Schedule 7.01;

(h) Liens on the Collateral securing the DIP Term Loan Obligations to the extent such Indebtedness is permitted pursuant to clause (f) of the definition of "Permitted Indebtedness" and having the priorities set forth in the Intercreditor Agreement and Financing Orders;

(i) Liens in favor of the Agent and other Liens granted to the Agent, Lenders or Credit Parties pursuant to the Loan Documents;

(j) Liens of landlords, lessors and mortgagees (i) arising by statute (including any statutory Liens on fixtures and movable tangible property located on the real property leased or subleased from such landlord), and (ii) for other amounts not overdue by more than thirty (30) days (except for Pre-Petition claims, which may be overdue by more than thirty (30) days), or that are being contested in good faith by appropriate proceedings diligently conducted for which adequate reserves or other appropriate provisions are maintained on the books of such Person in accordance with GAAP;

(k) Liens granted by the Canadian Bankruptcy Court on Collateral of the Canadian Loan Parties to secure professional fees and expenses of the Case Professionals;

(l) Liens arising solely by virtue of any statutory or common law provisions relating to banker's liens, liens in favor of securities intermediaries, rights of setoff or similar rights and

remedies as to deposit accounts or securities accounts or other funds maintained with depository institutions or securities intermediaries;

(m) Liens filed against a Loan Party or any Subsidiary arising from precautionary UCC filings regarding "true" operating leases or, to the extent permitted under the Loan Documents, the consignment of goods to such Loan Party or other Subsidiary;

(n) adequate protection Liens granted under the Financing Orders;

(o) Liens in favor of customs and revenues authorities imposed by applicable Law arising in the ordinary course of business in connection with the importation of goods and securing obligations (A) that are being contested in good faith by appropriate proceedings, (B) the applicable Loan Party or Restricted Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (C) such contest effectively suspends collection of the contested obligation and enforcement of any Lien securing such obligation;

(p) In the case of any Real Estate subject to any Mortgage, encumbrances referred to in Schedule B of the Mortgage Policy insuring such Mortgage;

(q) Liens on the Collateral securing the Pre-Petition First Lien Term Loan Obligations and the Pre-Petition Second Lien Term Loan Obligations to the extent such Indebtedness is permitted pursuant to clause (i) of the definition of "Permitted Indebtedness" (in each case, including, without limitation, any cash management and hedge obligations) and having the priorities set forth in the Intercreditor Agreement;

(r) to the extent constituting a Lien, exclusive or non-exclusive licenses of Intellectual Property of a Loan Party or any of its Subsidiaries to Affiliates, other Persons or otherwise in the ordinary course of business entered into prior to the Petition Date;

(s) Licenses or sublicenses, in each case, in the ordinary course of business and which do not materially interfere with the business of the Parent and its Restricted Subsidiaries, taken as a whole;

(t) any interest or title of a lessor or sublessor under leases or subleases or Liens secured by a lessor's or sublessor's interests in the underlying property subject to such leases or subleases (other than Capital Leases);

(u) Liens on Collateral of the Canadian Loan Parties which rank subordinate to the Lien granted to the Agent by the Bankruptcy Court in the Chapter 11 Case and recognized by the Canadian Recognition Order;

(v) (i) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods (including under Article 2 of the UCC) and Liens that are contractual rights of setoff relating to purchase orders and other similar agreements entered into by the Parent or any of its Subsidiaries in the ordinary course of business; and (ii) rights of setoff against credit balances of Parent or any of its Subsidiaries with credit card issuers or credit card processors to Parent or any of its Subsidiaries in the ordinary course of business;

(w) Liens solely on insurance policies, deposit accounts and securities accounts and the contents thereof (solely to the extent such accounts are segregated and contain amounts not to exceed those required by the insurance provider of such policies), and the proceeds thereto, in

each case, to secure the financing of insurance premiums with respect thereto incurred in the ordinary course of business;

(x) Liens incurred in connection with the purchase or shipping of goods or assets, solely to the extent such Liens are on the related goods thereof in favor of the seller or shipper of such goods or assets or pursuant to customary reservations or retentions of title arising in the ordinary course of business;

(y) Liens arising by operation of law under Article 4 of the UCC in connection with collection of items provided for therein;

(z) Liens on assets of Foreign Subsidiaries that are not Loan Parties; provided that (A) such Liens do not extend to, or encumber, assets that constitute Collateral, and (B) such Liens extending to the assets of any such Foreign Subsidiary secure only Permitted Indebtedness incurred by such Foreign Subsidiary;

(aa) Liens consisting of an agreement to dispose, sale or transfer any property in a Permitted Disposition, solely to the extent such Disposition would have been permitted on the date of the creation of such Lien;

(bb) the Administration Charge;

(cc) Liens on fixed or capital assets acquired by any Loan Party which are securing Indebtedness permitted under clause (c) of the definition of Permitted Indebtedness so long as (A) such Liens and the Indebtedness secured thereby are incurred prior to or within ninety (90) days after such acquisition, (B) the Indebtedness secured thereby does not exceed the cost (including, without limitation, the purchase price) of acquisition of such fixed or capital assets and (C) such Liens shall not extend to any other property or assets of the Loan Parties;

(dd) other Liens on assets other than on ABL Priority Collateral of the Loan Parties securing obligations permitted hereunder outstanding in the aggregate principal amount not to exceed $1,000,000 at any time outstanding.

"Permitted Holder" means a Sponsor (other than any portfolio company thereof).

"Permitted Indebtedness" means each of the following:

(a) Indebtedness outstanding on the Closing Date and listed on Schedule 7.03;

(b) Indebtedness of (A) any Loan Party to any other Loan Party, (B) any Subsidiary and/or joint venture that is not a Loan Party to any other Subsidiary and/or joint venture that is not a Loan Party, (C) any Loan Party to any Subsidiary and/or joint venture that is not a Loan Party so long as such Indebtedness is Pre-Petition Indebtedness and is subordinated to the Obligations on terms and conditions acceptable to Agent in its Permitted Discretion (which subordination shall be evidenced by the Intercompany Note (it being agreed that the subordination terms of the Intercompany Note are acceptable to Agent)) and (D) Indebtedness of the Parent to another Loan Party for the purposes of making the payments set forth in Sections 7.06 and 7.09, subject to the conditions set forth therein;

(c) purchase money Indebtedness of any Loan Party to finance the acquisition of any personal property consisting solely of fixed or capital assets, including Capital Lease Obligations

and Synthetic Lease Obligations, and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof; provided, however, that the aggregate principal amount of Indebtedness permitted by this clause (c) shall not exceed $2,500,000 at any time outstanding; provided further that, if reasonably requested by the Agent in light of the nature of the property purchased pursuant to this basket, the Loan Parties shall use commercially reasonable efforts to cause the holders of such Indebtedness to enter into a Collateral Access Agreement on terms reasonably satisfactory to the Agent;

(d) Pre-Petition obligations (contingent or otherwise) of any Loan Party or any Subsidiary thereof existing or arising under any Swap Contract, provided that such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with fluctuations in interest rates or foreign exchange rates, and not for purposes of speculation or taking a "market view";

(e) Pre-Petition Indebtedness in respect of performance bonds, bid bonds, custom and appeal bonds, surety bonds, performance and completion guarantees or similar obligations related thereto in each case provided in the ordinary course of business or with the construction or improvement of Stores;

(f) Indebtedness under the DIP Term Loan Facility;

(g) Indebtedness under the Pre-Petition Credit Agreement;

(h) Reserved;

(i) Indebtedness under the Term Loan Facilities as of the Petition Date (in each case, including, without limitation, Guarantees of the Loan Parties in respect of such Indebtedness and cash management and swap obligations);

(j) Indebtedness incurred by any Loan Party or any Subsidiary thereof in the ordinary course of business in connection with the financing of insurance premiums, and 'take or pay' obligations contained in supply arrangements;

(k) Guarantees (i) by any Loan Party and its Subsidiaries of any Indebtedness of any other Loan Party or any Subsidiary of a Loan Party permitted hereunder, and (ii) as long as no Default or Event of Default has occurred and is continuing or would arise therefrom, by any Loan Party and its Subsidiaries of any Indebtedness otherwise permitted hereunder of any Subsidiary and/or joint venture that is not a Loan Party to the extent such Guarantees are permitted pursuant to Section 7.02;

(l) to the extent constituting Indebtedness, Indebtedness due to a Sponsor on account of the accrual of Advisory Fees and/or other fees and amounts under the Advisory Agreement not permitted to be paid pursuant to Section 7.09;

(m) the Obligations;

(n) Indebtedness consisting of obligations of Parent or any of its Subsidiaries under deferred compensation incurred by such Person in the ordinary course of business or in connection with any Permitted Investment;

(o) cash management obligations and other Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs and other cash management and similar arrangements in the ordinary course of business and any Guarantees of any such obligations and Indebtedness, and, in all cases, in accordance with the Cash Management Order;

(p) to the extent constituting Indebtedness, Pre-Petition judgments, decrees, attachments or awards not constituting an Event of Default under Section 8.01(h);

(q) Indebtedness of any Foreign Subsidiary that is not a Loan Party and any Guarantees thereof by any other Foreign Subsidiary that is not a Loan Party;

(r) Guarantees by any Loan Party or any of its Subsidiaries of Indebtedness or other obligations arising in the ordinary course of business of any other Loan Party or Subsidiary to the extent such Indebtedness or other obligations are permitted hereunder;

(s) Indebtedness representing Taxes that are (i) not overdue by more than thirty (30) days or (ii) being contested in compliance with Section 6.04;

(t) Reserved;

(u) Indebtedness in respect of Investments permitted under clause (g) of the definition of "Permitted Investments" so long as such Investment is evidenced by the Intercompany Note;

(v) Pre-Petition Indebtedness in respect of Parent and its Subsidiaries' automobile leasing benefit program for certain employees in the ordinary course of business;

(w) Indebtedness owed to any Person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance or similar obligations, pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business;

(x) Guarantees by Parent and its Subsidiaries in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of Loan Parties;

(y) Reserved;

(z) Reserved;

(aa) Indebtedness in an aggregate principal amount not to exceed $1,000,000 at any time outstanding;

(bb) Pre-Petition Indebtedness representing the present value of the total obligations of the Loan Parties or their Restricted Subsidiaries in respect of any industrial revenue bond financing issued for benefit of any Loan Party or any of its Restricted Subsidiaries with respect to the Kansas Headquarters or Guarantees thereof, which Indebtedness or Guarantees shall be subordinated to the Obligations in a manner reasonably satisfactory to the Agent.

"Permitted Investments" means each of the following:

(a) cash and cash equivalents;

(b) Reserved;

(c) Reserved;

(d) Reserved;

(e) Reserved;

(f) Investments existing on the Closing Date, and set forth on Schedule 7.02, but not any increase in the amount thereof or any other modification of the terms thereof;

(g) (i) Investments by any Loan Party and its Subsidiaries in their respective Subsidiaries and/or joint ventures outstanding on the Closing Date, (ii) additional Investments by any Loan Party and its Subsidiaries in Loan Parties (other than the Parent), (iii) additional Investments by Subsidiaries of the Loan Parties that are not Loan Parties in other Subsidiaries and/or joint ventures that are not Loan Parties, and (iv) additional Investments by Subsidiaries of Parent that are non-Loan Parties in Loan Parties to the extent that any Indebtedness of any Loan Party in respect of such Investment (if any) is subordinated to the Obligations on terms and conditions acceptable to Agent in its Permitted Discretion (which subordination shall be evidenced by the Intercompany Note (it being agreed that the subordination terms of the Intercompany Note are acceptable to Agent));

(h) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(i) Guarantees constituting Permitted Indebtedness;

(j) Reserved;

(k) Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;

(l) (i) advances of payroll payments to employees consistent with past practices and in the ordinary course of business, or (ii) notes from officers, directors and employees in exchange for Equity Interest of the Parent purchased by such officers, directors or employees outstanding as of the Petition Date;

(m) Reserved;

(n) to the extent constituting an Investment, acquisitions of Inventory in the ordinary course of business;

(o) capital contributions made by any Loan Party to another Loan Party;

(p) Investments of any Person existing at the time such Person becomes a Subsidiary of any Loan Party or consolidates or merges with the Parent or any of its Subsidiaries so long as

such Investments were not made in contemplation of such Person becoming a Subsidiary or of such consolidation or merger;

(q) promissory notes and other non-cash consideration received in connection with Dispositions permitted by Section 7.05 hereof or of the Pre-Petition Credit Agreement;

(r) utility and other similar deposits in the ordinary course of business in accordance with any orders entered by the Bankruptcy Court;

(s) Investments in the form of loans or advances to any Restricted Subsidiary or joint venture of a Loan Party to the extent such loan or advance does not exceed cash returned to the Loan Parties (through repatriation or otherwise) at the time such loan or advance is made so long as any promissory note received by a non-Loan Party in connection therewith is subordinated on terms acceptable to the Agent in its Permitted Discretion (it being agreed that the subordination terms of the Intercompany Note are acceptable to the Agent;

(t) Investments consisting of the unwinding of any franchise arrangements or the conversion of any franchise arrangement into a joint venture;

(u) Investments by Loan Parties in non-Loan Party Subsidiaries to make payments to critical vendors in accordance with, and subject to, the Approved Budget and orders of the Bankruptcy Court;

(v) Guarantees of obligations of lessors or sublessors in connection with the abandonment or closure of any Store by a Loan Party or any of its Subsidiaries where such Loan Party or Subsidiary would otherwise remain liable under such lease or sublease but for such lessor or sublessor undertaking such obligations under such lease or sublease;

(w) Guarantees of Indebtedness or other obligations permitted to be incurred pursuant to clause (bb) of the definition of "Permitted Indebtedness"; and

(x) other Investments not exceeding $500,000 in the aggregate after the Closing Date.

"Permitted Overadvance" means an Overadvance made by the Agent, in its Permitted Discretion, which:

(a) Is made to maintain, protect or preserve the Collateral and/or the Credit Parties' rights under the Loan Documents or which is otherwise for the benefit of the Credit Parties; or

(b) Is made to enhance the likelihood of, or to maximize the amount of, repayment of any Obligation;

(c) Is made to pay any other amount chargeable to any Loan Party hereunder; and

(d) Together with all other Permitted Overadvances then outstanding, shall not (i) exceed ten percent (10%) of the Tranche A Borrowing Base (without giving effect to the Tranche A-1 Reserve) at any time, provided, however, that without the consent of the Required Tranche A-1 Lenders, the Permitted Overadvances shall not exceed five percent (5%) of the Tranche A Borrowing Base (without giving effect to the Tranche A-1 Reserve) or (ii) unless a Liquidation is

occurring, remain outstanding for more than forty-five (45) consecutive Business Days, unless in the case of clause (ii), the Required Lenders and Required Tranche A-1 Lenders otherwise agree.

provided however, that the foregoing shall not (i) modify or abrogate any of the provisions of Section 2.03 regarding the Tranche A Lenders' obligations with respect to Letters of Credit or Section 2.04 regarding the Lenders' obligations with respect to Swing Line Loans, or (ii) result in any claim or liability against the Agent (regardless of the amount of any Overadvance) for Unintentional Overadvances and such Unintentional Overadvances shall not reduce the amount of Permitted Overadvances allowed hereunder; provided further that in no event shall the Agent make an Overadvance, if after giving effect thereto, the principal amount of the Total Outstandings would exceed the Aggregate Commitments (as in effect prior to any termination of the Commitments pursuant to Section 2.06 hereof).

"Permitted Prior Liens" means, collectively, Liens permitted by the Pre-Petition Credit Agreement (to the extent any such permitted Liens were valid, binding, enforceable, properly perfected, non-avoidable and senior in priority to the Liens securing the obligations under the Pre-Petition Credit Agreement as of the Petition Date).

"Permitted Sale" means (i) the sale on terms and conditions acceptable to each of the Agent, the Tranche A-1 Agent, Required Tranche A Lenders, and Required Tranche A-1 Lenders of all or substantially all of the Loan Parties' business assets (other than those subject to the Initial Store Closing Sale) as a going concern as approved by the Bankruptcy Court and the Canadian Bankruptcy Court pursuant to the applicable provisions of the Bankruptcy Code and the CCAA; provided that any going concern sale shall either (x) be for cash consideration to be paid at the closing of such sale in an amount in excess of all outstanding Obligations and Pre-Petition Obligations and shall not be subject to any financing contingencies, or (y) be consented to in writing by each of the Agent, the Tranche A-1 Agent, Required Tranche A Lenders, and Required Tranche A-1 Lenders, or (ii) a transaction or transactions on terms and conditions acceptable to each of the Agent, the Tranche A-1 Agent, Required Tranche A Lenders, and Required Tranche A-1 Lenders combining the sale of all or substantially all of the U.S. Loan Parties' Equipment and Inventory and the permanent closing of all or a portion of the U.S. Loan Parties' Stores and the sale of all Collateral of the U.S. Loan Parties located therein through the retention by the U.S. Loan Parties of one or more Approved Liquidators, as approved by the Bankruptcy Court pursuant to the applicable provisions of the Bankruptcy Code, which transaction shall be (x) in the form of an "equity bid" including a payment at closing in an amount in excess of all outstanding Obligations and all Pre-Petition Obligations or (y) consented to in writing by the each of the Agent, the Tranche A-1 Agent, Required Tranche A Lenders, and Required Tranche A-1 Lenders. In the case of clauses (i) and (ii) above, all of the proceeds thereof (in an amount up to the outstanding balance of the Pre-Petition Obligations and the Obligations) shall be paid to the Agent for application in accordance with the terms and conditions of this Agreement and the Financing Orders.

"Permitted Variance" has the meaning provided in Section 6.23.

"Person" means any natural person, corporation, limited liability company, unlimited liability company, trust, joint venture, association, company, partnership, limited partnership, Governmental Authority or other entity.

"Petition Date" has the meaning specified in the Recitals to this Agreement.

"Plan" means any "employee benefit plan" (as such term is defined in Section 3(3) of ERISA) established by the Lead Borrower or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any ERISA Affiliate, but excluding any Canadian Pension Plan.

"Plan Sponsor" means the "Supporting Parties" (as defined in the Restructuring Support Agreement) party to the Restructuring Support Agreement as of the Closing Date or any other Person acceptable to the Agent and Tranche A-1 Agent in their reasonable discretion.

"Platform" has the meaning specified in Section 6.02.

"Portal" has the meaning specified in Section 2.02(b).

"Post-Petition Obligations" means Indebtedness of any Loan Party that was incurred or accrued after the commencement of the Chapter 11 Case.

"PPSA" means the *Personal Property Security Act* (Ontario) and the regulations thereunder, as from time to time in effect: (or any successor statute) or similar legislation of any other Canadian jurisdiction, including, without limitation, the *Civil Code of Québec*, the laws of which are required by such legislation to be applied in connection with the issue, perfection, enforcement, opposability, priority, validity or effect of security interests or other applicable Liens.

"Pre-Petition" means the period prior to the commencement of the Chapter 11 Case.

"Pre-Petition Agent" means the "Agent" as defined in the Pre-Petition Credit Agreement.

"Pre-Petition Credit Agreement" means that certain Credit Agreement dated as of October 9, 2012, by, among others, certain of the Borrowers and certain of the Guarantors, Wells Fargo Bank, National Association, as administrative agent, collateral agent and swing line lender, and the lenders from time to time party thereto, as amended or otherwise modified prior to and in effect on the Petition Date.

"Pre-Petition First Lien Term Agent" means either or both the "Administrative Agent" and/or the "Collateral Agent" (as such terms are defined in the Pre-Petition First Lien Term Loan Agreement), as the context may require.

"Pre-Petition First Lien Term Lenders" means the "Lenders" as defined in the Pre-Petition First Lien Term Loan Agreement.

"Pre-Petition First Lien Term Loan Agreement" means that certain Pre-Petition First Lien Term Loan and Guarantee Agreement dated as of March 11, 2014 by and among the Borrowers, certain of the other Loan Parties, the Pre-Petition First Lien Term Agent and the Pre-Petition First Lien Term Lenders, as amended, restated, supplemented or otherwise modified in accordance with Section 7.12.

"Pre-Petition First Lien Term Loan Documents" means the "Loan Documents" as defined in the Pre-Petition First Lien Term Loan Agreement, as such documents may be amended, restated supplemented or otherwise modified from time to time in accordance with Section 7.12.

"Pre-Petition First Lien Term Loan Facility" means the credit facility contemplated by the Pre-Petition First Lien Term Loan and Guarantee Agreement dated as of March 11, 2014 by and between the Term Agent, the Term Lenders and certain of the Loan Parties and the other Term Loan Documents, in each case, as amended, amended and restated, restated, supplemented, extended, or otherwise modified pursuant to Section 7.12 and in effect from time to time.

"Pre-Petition First Lien Term Loan Obligations" means the 'First Lien Term Obligations' as defined in the Intercreditor Agreement.

"Pre-Petition Indebtedness" means Indebtedness of any Loan Party that was incurred or accrued prior to the commencement of the Chapter 11 Case.

"Pre-Petition Liens" means Liens in favor of Wells Fargo as collateral agent for its benefit and the benefit of the lenders and other credit parties under the Pre-Petition Credit Agreement.

"Pre-Petition Obligations" means all "Obligations" as such term is defined in the Pre-Petition Credit Agreement.

"Pre-Petition Second Lien Term Agent" means either or both the "Administrative Agent" and/or the "Collateral Agent" (as such terms are defined in the Pre-Petition Second Lien Term Loan Agreement), as the context may require.

"Pre-Petition Second Lien Term Lenders" means the "Lenders" as defined in the Pre-Petition Second Lien Term Loan Agreement.

"Pre-Petition Second Lien Term Loan Agreement" means that certain Pre-Petition Second Lien Term Loan and Guarantee Agreement dated as of March 11, 2014 by and among the Borrowers, certain of the other Loan Parties, the Pre-Petition Second Lien Term Agent and the Pre-Petition Second Lien Term Lenders, as amended, restated, supplemented or otherwise modified in accordance with Section 7.12.

"Pre-Petition Second Lien Term Loan Documents" means the "Loan Documents" as defined in the Pre-Petition Second Lien Term Loan Agreement, as such documents may be amended, restated supplemented or otherwise modified from time to time in accordance with Section 7.12.

"Pre-Petition Second Lien Term Loan Facility" means the credit facility contemplated by the Pre-Petition Second Lien Term Loan and Guarantee Agreement dated as of March 11, 2014 by and between the Pre-Petition Second Lien Term Agent, the Pre-Petition Second Lien Term Lenders and certain of the Loan Parties and the other Pre-Petition Second Lien Term Loan Documents, in each case, as amended, amended and restated, restated, supplemented, extended, or otherwise modified pursuant to Section 7.12 and in effect from time to time.

"Pre-Petition Second Lien Term Loan Obligations" means the 'Second Lien Term Obligations' as defined in the Intercreditor Agreement.

"Pre-Petition Total Outstandings" means, as of any date of determination thereof, the then outstanding principal amount of all "Total Outstandings" as such term is defined in the Pre-Petition Credit Agreement (for the avoidance of doubt, excluding any make-whole payable to the Tranche A-1 Lender pursuant to the "Loan Documents" as defined in the Pre-Petition Credit Agreement).

"Public Lender" has the meaning specified in Section 6.02.

"Public Market" shall exist if (a) a Public Offering has been consummated and (b) any Equity Interests of the Parent have been distributed by means of an effective registration statement under the Securities Act of 1933.

"Public Offering" means a public offering of the Equity Interests of the Parent pursuant to an effective registration statement under the Securities Act of 1933.

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

"Real Estate" means all land, together with the buildings, structures, parking areas, and other improvements thereon, now or hereafter owned or leased by any Loan Party, including all easements, rights-of-way, and similar rights appurtenant thereto.

"Real Estate Advance Rate" means 52.5%.

"Real Estate Eligibility Requirements" means collectively, each of the following:

(a) The applicable U.S. Loan Party has executed and delivered to the Agent a Mortgage with respect to any Real Estate intended, by such Loan Party, to be included in Eligible Real Estate;

(b) As to any particular property, such Loan Party is in compliance in all material respects with the representations, warranties and covenants set forth in the Mortgage relating to such Real Estate;

(c) The Agent shall have received fully paid American Land Title Association Lender's Extended Coverage title insurance policies or marked-up title insurance commitments having the effect of a policy of title insurance) (the "Mortgage Policies") in form and substance reasonably acceptable to the Agent in its Permitted Discretion, with the endorsements reasonably required by the Agent in its Permitted Discretion (to the extent available at commercially reasonable rates) and in amounts reasonably acceptable to the Agent in its Permitted Discretion, insuring the Mortgages to be valid first priority Liens on the property described therein (subject in priority only to Permitted Encumbrances and existing leases having priority under applicable Law and Liens permitted to have priority under the Mortgage Policies), free and clear of all defects (including, but not limited to, mechanics' and materialmen's Liens) and encumbrances, excepting only Permitted Encumbrances arising by operation of Law or otherwise reasonably acceptable to the Agent;

(d) With respect to any Real Estate owned by a Borrower or any other U.S. Loan Party (excluding interests as lessee under a Lease) which is intended by such Borrower or such other Loan Party to be included in Eligible Real Estate, the Agent shall have received American Land Title Association/American Congress on Surveying and Mapping form surveys (or such other form of survey as is customarily delivered to secured lenders in the jurisdiction in which such Real Estate is located), for which all necessary fees (where applicable) have been paid, certified to the Agent and the issuer of the Mortgage Policies in a manner reasonably satisfactory to the Agent in its Permitted Discretion by a land surveyor duly registered and licensed in the states in which the property described in such surveys is located and reasonably acceptable to the Agent in its Permitted Discretion, showing all buildings and other improvements, the location of any easements, parking spaces, rights of way, building set-back lines and other dimensional regulations and the absence of encroachments, either by such improvements or on to such property, and other defects, other than encroachments and other defects which are reasonably acceptable to the Agent in its Permitted Discretion; provided, that, the Agent agrees, with respect to the Real Estate listed on Schedule 1.04 as of the Closing Date, that the items reflected on the Mortgage Policies are acceptable to the Agent;

(e) With respect to any Real Estate intended by any Borrower or other U.S. Loan Party to be included in Eligible Real Estate, the Agent shall have received a Phase I

Environmental Site Assessment in accordance with ASTM Standard E1527-05, in form and substance reasonably satisfactory to the Agent, from an environmental consulting firm reasonably acceptable to the Agent, which report shall identify recognized environmental conditions and shall, to the extent such consultant customarily addresses such matters, quantify any related costs and liabilities, associated with such conditions and the Agent shall be reasonably satisfied with the nature and, if applicable, amount of any such matters. The Agent may, upon the receipt of a Phase I Environmental Site Assessment require the delivery of further environmental assessments or reports to the extent such further assessments or reports are recommended in the Phase I Environmental Site Assessment; provided, however, for avoidance of doubt, Agent agrees that, as of the Closing Date, ENVIRON International Corporation is an environmental consulting firm reasonably acceptable to Agent;

(f) The applicable Loan Party shall have delivered to the Agent either (i) flood certificates certifying that such Real Estate is not in a flood zone; or (ii) evidence of flood insurance naming the Agent as mortgagee as required by the National Flood Insurance Program as set forth in the Flood Disaster Protection Act of 1973, as amended and in effect, which shall be reasonably satisfactory in form and substance to the Agent; and

(g) The applicable Loan Party shall have delivered such other information and documents as may be reasonably requested by the Agent in its Permitted Discretion, including, without limitation, such as may be necessary to comply with FIRREA.

"Realty Reserves" means such reserves as the Agent from time to time determines in its Permitted Discretion as being appropriate to reflect the impediments to the Agent's ability to realize upon any Eligible Real Estate or to reflect claims and liabilities that the Agent determines will need to be satisfied in connection with the realization upon any Eligible Real Estate. Without limiting the generality of the foregoing, Realty Reserves may include (but are not limited to) (i) Environmental Compliance Reserves, (ii) reserves for (A) municipal Taxes and assessments, (B) reasonably necessary repairs and (C) remediation of title defects, and (iii) reserves for Indebtedness secured by Liens on Eligible Real Estate having priority over the Lien of the Agent.

"Register" has the meaning specified in Section 10.06(c).

"Registered Public Accounting Firm" has the meaning specified by the Securities Laws and shall be independent of the Parent and its Subsidiaries as prescribed by the Securities Laws.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person's Affiliates.

"Released Parties" has the meaning provided in Section 2.15.

"Releasing Parties" has the meaning provided in Section 2.15.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

"Reported Fee Accruals" means all accrued and unpaid fees, disbursements, costs and expenses, allowed by the Bankruptcy Court and incurred by the Case Professionals.

"Reports" has the meaning provided in Section 9.12(b).

"Request for Credit Extension" means (a) with respect to a Borrowing, conversion or continuation of Committed Revolving Loans, an electronic notice via the Portal, (b) with respect to an L/C Credit Extension, a Letter of Credit Application and, if required by the L/C Issuer, a Standby Letter of Credit Agreement or Commercial Letter of Credit Agreement, as applicable, and (c) with respect to a Swing Line Loan, a Swing Line Loan Notice.

"Required Lenders" means, as of any date of determination, at least two Lenders holding more than 50% of the Aggregate Commitments or, if the commitment of each Lender to make Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.02, at least two Lenders holding in the aggregate more than 50% of the Total Outstandings (with the aggregate amount of each Lender's risk participation and funded participation in L/C Obligations and Swing Line Loans being deemed "held" by such Lender for purposes of this definition); provided that the Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender and any Restricted Affiliate Lender shall be excluded for purposes of making a determination of Required Lenders; and, provided, further that if there is only one Lender, then Required Lenders shall mean such Lender.

"Required Tranche A Lenders" means, as of any date of determination, at least two Tranche A Lenders holding more than 50% of the Aggregate Tranche A Commitments; provided that the Commitment of any Defaulting Lender shall be excluded for purposes of making a determination of Required Tranche A Lenders; and, provided, further that if there is only one Tranche A Lender, then Required Tranche A Lenders shall mean such Tranche A Lender.

"Required Tranche A-1 Lenders" means, as of any date of determination, Tranche A-1 Lenders holding more than 50% of the Aggregate Tranche A-1 Commitments; provided that the Commitment of any Defaulting Lender and any Restricted Affiliate Lender shall be excluded for purposes of making a determination of Required Tranche A-1 Lenders.

"Reserves" means all Inventory Reserves, Availability Reserves, Realty Reserves, Bank Product Reserves, Cash Management Reserves, and the Carve-Out Reserve.

"Responsible Officer" means the chief restructuring office, chief executive officer, president, chief financial officer, any vice president, controller, treasurer or assistant treasurer, secretary or assistant secretary of a Loan Party or any of the other individuals designated in writing to the Agent by an existing Responsible Officer of a Loan Party as an authorized signatory of any certificate or other document to be delivered hereunder. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, limited liability company, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

"Restricted Affiliate Lender" means (i) any Sponsor and (ii) each Affiliate of the Sponsor that is primarily engaged in the making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course that is a Lender at the applicable time of reference, provided that in no event may the Parent or any of its Subsidiaries be a Restricted Affiliate Lender.

"Restricted Affiliate Lender Amendment" has the meaning set forth in Section 10.01.

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of any Person or any of its Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation

or termination of any such capital stock or other Equity Interest, or on account of any return of capital to such Person's stockholders, partners or members (or the equivalent of any thereof), or any option, warrant or other right to acquire any such dividend or other distribution or payment. Without limiting the foregoing, "Restricted Payments" with respect to any Person shall also include all payments made by such Person with any proceeds of a dissolution or liquidation of such Person.

"Restricted Subsidiary" means any and all Subsidiaries of the Lead Borrower.

"Restructuring Support Agreement" means that certain Restructuring Support Agreement to be entered into by, among others, certain of the Loan Parties and certain "Consenting Lenders" (to be defined therein), which is upon terms and conditions acceptable to the Agent, Tranche A-1 Agent, and Required Lenders in their sole discretion, together with all modifications and amendments that are in form and substance acceptable to the Agent, Tranche A-1 Agent, and Required Lenders in their sole discretion.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. and any successor thereto.

"Sale Order" has the meaning set forth in Section 6.24(b)(ix).

"Sale Order Motion" has the meaning set forth in Section 6.24(b)(ii).

"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, or (d) a Person resident in or determined to be resident in a country, in each case of clauses (a) through (d) that is a target of Sanctions, including a target of any country sanctions program administered and enforced by OFAC or the government of Canada.

"Sanctioned Person" means, at any time, (a) any a Person named on the list of Specially Designated Nationals and Blocked Persons maintained by OFAC, or any other Sanctions-related list maintained by any relevant Sanctions authority, (b) a Person or legal entity that is a target of Sanctions, (c) any Person operating, organized or resident in a Sanctioned Entity, or (d) a Canadian Blocked Person, (e) any Person directly or indirectly owned or controlled (individually or in the aggregate) by or acting on behalf of any such Person or Persons described in clauses (a) through (d) above.

"Sanctions" means individually and collectively, respectively, any and all economic, trade, financial or other sanctions laws, regulations or embargoes imposed, administered or enforced from time to time by: (a) the United States of America, including, without limitation, those administered by the Office of Foreign Assets Control (OFAC) of the U.S. Department of Treasury, the U.S. Department of State, (b) the United Nations Security Council, (c) the European Union or any European Union member state, (d) Her Majesty's Treasury of the United Kingdom, € the government of Canada, or (f) any other governmental authority in any jurisdiction in which any Loan Party or any of its Subsidiaries is located or doing business.

"Sarbanes-Oxley" means the Sarbanes-Oxley Act of 2002, as amended and in effect from time to time.

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Securities Laws" means, collectively (i) the Securities Act of 1933, the Securities Exchange Act of 1934, Sarbanes-Oxley, and the applicable accounting and auditing principles, rules, standards and

practices promulgated, approved or incorporated by the SEC or the PCAOB and (ii) all applicable securities laws in each province and territory of Canada and the respective regulations, rules regulations, blanket orders and blanket rulings under such laws together with applicable published policy statements and notices of the securities regulator of each such province and territory.

"Security Agreement" means individually and collectively, as the context may require, (i) each Security Agreement dated as of the Closing Date among the Loan Parties and the Agent, as the same now exists or may hereafter be amended, modified, supplemented, renewed, restated or replaced, and (ii) the Canadian Security Agreement.

"Security Documents" means the Security Agreements, the Blocked Account Agreements, the Mortgages, the DDA Notifications, the Credit Card Notifications, Custom Broker Agreements, any Canadian Hypothec and each other security agreement, deed or other instrument or document executed and delivered to the Agent pursuant to this Agreement or any other Loan Document granting a Lien to secure any of the Obligations.

"Settlement Date" has the meaning provided in Section 2.14(a).

"Shareholders' Equity" means, as of any date of determination, consolidated shareholders' equity of the Lead Borrower and its Subsidiaries as of that date determined in accordance with GAAP.

"Significant Subsidiary" shall mean any Restricted Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act of 1933, except for Payless Shoes Pty Ltd, an Australian proprietary company. For the avoidance of doubt, all Loan Parties shall constitute "Significant Subsidiaries".

"Sponsor(s)" means Golden Gate Private Equity, Inc. and Blum Capital Partners, L.P. and their respective Controlled Investment Affiliates, or any of them.

"Spot Rate" for a currency means the rate reasonably determined by the Agent to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date of such determination; provided that the Agent may obtain such spot rate from another financial institution designated by the Agent if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency.

"Standby Letter of Credit" means any Letter of Credit that is not a Commercial Letter of Credit and that (a) is used in lieu or in support of performance guaranties or performance, surety or similar bonds (excluding appeal bonds) arising in the ordinary course of business, (b) is used in lieu or in support of stay or appeal bonds, (c) supports the payment of insurance premiums for reasonably necessary casualty insurance carried by any of the Loan Parties, or (d) supports payment or performance for identified purchases or exchanges of products or services in the ordinary course of business.

"Standby Letter of Credit Agreement" means the Standby Letter of Credit Agreement relating to the issuance of a Standby Letter of Credit in the form from time to time in use by the L/C Issuer.

"Stated Amount" means at any time the maximum amount for which a Letter of Credit may be honored.

"Statutory Committee" means any official committee of unsecured creditors in the Chapter 11 Case pursuant to Section 1102 of the Bankruptcy Code.

"Statutory Reserve Rate" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the FRB to which the Agent is subject with respect to the Adjusted LIBO Rate, for Eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. LIBO Rate Loans shall be deemed to constitute Eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"Store" means any retail store (which may include any real property, fixtures, equipment, inventory and other property related thereto) operated, or to be operated, by any Loan Party.

"Store Closing Tranche A Advance Rate" means (i) for the first four (4) weeks of the applicable Initial Store Closing Sale, the Appraisal Percentage, and (ii) at all times thereafter, the Appraisal Percentage multiplied by the inverse of the projected prevailing discount for the following week applied to such Eligible Inventory, as determined by the Agent in its Permitted Discretion.

"Store Closing Tranche A-1 Advance Rate" means (i) for the first four (4) weeks of the applicable Initial Store Closing Sale, the Tranche A-1 Appraisal Percentage, and (ii) at all times thereafter, the Tranche A-1 Appraisal Percentage multiplied by the inverse of the projected prevailing discount for the following week applied to such Eligible Inventory, as determined by the Agent in its Permitted Discretion.

"Subordinated Indebtedness" means Indebtedness which is expressly subordinated in right of payment to the prior payment in full of the Obligations and which is in form and on terms acceptable to Agent in its Permitted Discretion, but excluding the Term Loan Obligations.

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the Equity Interests having ordinary voting power for the election of directors or other governing body are at the time beneficially owned, or the management of which is otherwise Controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of a Loan Party. As of the Closing Date, the Parent's Subsidiaries are listed on Schedule 1.05 hereto.

"Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Swap Termination Value" means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate or branch of a Lender).

"Swing Line Borrowing" means a borrowing of a Swing Line Loan pursuant to Section 2.04.

"Swing Line Lender" means Wells Fargo, in its capacity as provider of Swing Line Loans, or any successor swing line lender hereunder.

"Swing Line Loan" has the meaning specified in Section 2.04(a).

"Swing Line Loan Notice" means a notice of a Swing Line Borrowing pursuant to Section 2.04(b), which, if in writing, shall be substantially in the form of Exhibit A.

"Swing Line Note" means the promissory note of the Borrowers substantially in the form of Exhibit B-3, payable to the order of the Swing Line Lender, evidencing the Swing Line Loans made by the Swing Line Lender.

"Swing Line Sublimit" means an amount equal to the lesser of (a) $25,000,000 and (b) the Aggregate Tranche A Commitments. The Swing Line Sublimit is part of, and not in addition to, the Aggregate Commitments.

"Synthetic Lease Obligation" means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property (including sale and leaseback transactions), in each case, creating obligations that do not appear on the balance sheet of such Person but which, upon the application of any Debtor Relief Laws to such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

"Tax Distributions" means Restricted Payments made to a direct or indirect member or shareholder of a Loan Party in respect of any taxable period in an aggregate amount necessary to discharge the consolidated income tax liability of the Loan Parties, provided that Tax Distributions may be made not more frequently than quarterly with respect to each period for which an installment of estimated tax would be required to be paid by the direct or indirect members or shareholders of the Loan Parties, except that an additional final Tax Distribution may be made after the final taxable income of the Loan Parties has been determined.

"Tax Sharing Agreement" means that certain tax sharing agreement dated as of October 9, 2012 between the Lead Borrower and Wolverine World Wide, Inc..

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Agent" means each of the Pre-Petition First Lien Term Agent and the Pre-Petition Second Lien Term Agent, as the context may require, or collectively, the "Term Loan Agents."

"Term Lenders" means the Pre-Petition First Lien Term Lenders and the Pre-Petition Second Lien Term Lenders.

"Term Loan Agreement" means each of the Pre-Petition First Lien Term Loan Agreement and Pre-Petition Second Lien Term Loan Agreement, as the context may require, or collectively, the "Term Loan Agreements."

"Term Loan Documents" means the Pre-Petition First Lien Term Loan Documents and the Pre-Petition Second Lien Term Loan Documents."

"Term Loan Facility" means each of the Pre-Petition First Lien Term Loan Facility and Pre-Petition Second Lien Term Loan Facility, as the context may require, or collectively, the "Term Loan Facilities."

"Term Loan Obligations" means the Pre-Petition First Lien Term Loan Obligations and the Pre-Petition Second Lien Term Loan Obligations.

"Termination Date" means the earliest to occur of (i) the Maturity Date, (ii) the date on which the maturity of the Obligations is accelerated (or deemed accelerated) and the Commitments are irrevocably terminated (or deemed terminated) in accordance with Article VIII, or (iii) the termination of the Commitments in accordance with the provisions of Section 2.06(a) hereof.

"Test Amount" shall mean, (i) at all times from and after the Petition Date until the second amended Approved Budget has been approved, $25,000,000, (ii) from and after the date of the second amended Approved Budget has been approved until the third amended Approved Budget has been approved, $30,000,000, and (iii) at all times after the third amended Approved Budget has been approved, $35,000,000.

"Total Outstandings" means the aggregate Outstanding Amount of all Loans and all L/C Obligations (for the avoidance of doubt, excluding any make-whole payable to the Tranche A-1 Lenders pursuant to the "Loan Documents" as defined in the Pre-Petition Credit Agreement).

"Trading with the Enemy Act" has the meaning set forth in Section 10.18.

"Tranche A Applicable Percentage" means with respect to any Tranche A Lender at any time, the percentage (carried out to the fourth decimal place) of the Aggregate Tranche A Commitments represented by such Tranche A Lender's Tranche A Commitment at such time. If the commitment of each Tranche A Lender to make Tranche A Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 2.06 or Article VIII or if the Aggregate Tranche A Commitments have expired, then the Tranche A Applicable Percentage of each Lender shall be determined based on the Tranche A Applicable Percentage of such Tranche A Lender most recently in effect, giving effect to any subsequent assignments. The initial Tranche A Applicable Percentage of each Tranche A Lender is set forth opposite the name of such Tranche A Lender on Schedule 2.01 or in the Assignment and Acceptance pursuant to which such Tranche A Lender becomes a party hereto, as applicable.

"Tranche A Availability" means, as of any date of determination thereof by the Agent, the result, if a positive number, of:

(a) the Tranche A Loan Cap

minus

(b) the aggregate unpaid balance of Tranche A Credit Extensions to, or for the account of, the Borrowers.

"Tranche A Borrowing Base" means, at any time of calculation, an amount equal to:

(a) the face amount of Eligible Credit Card Receivables multiplied by 80.5%;

plus

(b) the Cost of Eligible Inventory (other than Eligible Store Closing Inventory), net of Inventory Reserves, multiplied by the Appraisal Percentage multiplied by the Appraised Value of Eligible Inventory (provided that in no event shall Eligible In-Transit Inventory included in Eligible Inventory exceed the lesser of (i) 20% of the Tranche A Borrowing Base; or (ii) $50,000,000);

plus

(c) the Cost of Eligible Store Closing Inventory, net of Inventory Reserves, multiplied by the Store Closing Tranche A Advance Rate, multiplied by the Appraised Value of Eligible Inventory;

plus

(d) the lesser of (i) $10,000,000; or (ii) the Appraised Value of Eligible Real Estate multiplied by the Real Estate Advance Rate;

minus

(d) the then amount of all Availability Reserves;

minus

(e) the Tranche A-1 Reserve, if any,

Minus

(f) the Carve-Out Reserve.

"Tranche A Commitment" means, with respect to each Tranche A Lender, the commitment of such Lender hereunder set forth as its Tranche A Commitment opposite its name on Schedule 2.01 hereto or as may subsequently be set forth in the Register from time to time, as the same may be adjusted from time to time pursuant to the terms of this Agreement. As of the Closing Date the Aggregate Tranche A Commitments were in the amount of $245,000,000.

"Tranche A Credit Extensions" shall mean all Credit Extensions consisting of Tranche A Loans, Swing Line Loans, and L/C Obligations.

"Tranche A Lender" means each Lender having a Tranche A Commitment as set forth on Schedule 2.01 hereto or in the Assignment and Acceptance by which it becomes a Tranche A Lender.

"Tranche A Loan Cap" means, at any time of determination, the lesser of (a) the Aggregate Tranche A Commitments or (b) the Tranche A Borrowing Base, in each case, minus the Tranche A Pre-Petition Reserve.

"Tranche A Loans" has the meaning set forth in Section 2.01.

"Tranche A Note" means a promissory note made by the Borrowers in favor of a Tranche A Lender evidencing the Tranche A Loans made by such Tranche A Lender, substantially in the form of Exhibit B-1.

"Tranche A Pre-Petition Reserve" means, at any date of determination, an amount equal to the aggregate outstanding amount of "Tranche A Credit Extensions" as such term is defined in the Pre-Petition Credit Agreement (other than obligations arising in connection with Letters of Credit, all of which shall be deemed to be issued under this Agreement as of the Closing Date).

"Tranche A-1 Agent" means (i) TPG Specialty Lending, Inc. so long as it and its Affiliates hold at least 51% of the Tranche A-1 Commitments, and (ii) thereafter, no one. In the event that clause (ii) of the foregoing sentence becomes applicable, any references to the "Tranche A-1 Agent" herein shall be deemed to be deleted.

"Tranche A-1 Applicable Percentage" means with respect to any Tranche A-1 Lender at any time, the percentage (carried out to the fourth decimal place) of the Aggregate Tranche A-1 Commitments represented by such Tranche A-1 Lender's Tranche A-1 Commitment at such time. If the commitment of each Tranche A-1 Lender to make Tranche A-1 Loans has been terminated pursuant to Section 2.06 or Article VIII or if the Aggregate Tranche A-1 Commitments have expired, then the Tranche A-1 Applicable Percentage of each Lender shall be determined based on the Tranche A-1 Applicable Percentage of such Tranche A-1 Lender most recently in effect, giving effect to any subsequent assignments. The initial Tranche A-1 Applicable Percentage of each Tranche A-1 Lender is set forth opposite the name of such Tranche A-1 Lender on Schedule 2.01 or in the Assignment and Acceptance pursuant to which such Tranche A-1 Lender becomes a party hereto, as applicable.

"Tranche A-1 Appraisal Percentage" means 18.2%, and, following entry of the Final Financing Order, 20.7%.

"Tranche A-1 Borrowing Base" means at any time of calculation, an amount equal to:

(a) the face amount of Eligible Credit Card Receivables multiplied by 17.0%, and, following entry of the Final Financing Order, 19.5%;

plus

(b) the Cost of Eligible Inventory (excluding Eligible In-Transit Inventory and Eligible Store Closing Inventory), net of Inventory Reserves, multiplied by the Tranche A-1 Appraisal Percentage, multiplied by the Appraised Value of Eligible Inventory;

plus

(c) the Cost of Eligible In-Transit Inventory, net of Inventory Reserves, multiplied by 8.2%, and, following entry of the Final Financing Order, 10.7%, multiplied by the Appraised Value of Eligible In-Transit Inventory (provided that in no event shall Eligible In-Transit Inventory included in Eligible Inventory exceed the lesser of (i) 20% of the Tranche A Borrowing Base; or (ii) $50,000,000);

plus

(d) the Cost of Eligible Store Closing Inventory, net of Inventory Reserves, multiplied by the Store Closing Tranche A-1 Advance Rate, multiplied by the Appraised Value of such Eligible Store Closing Inventory;

minus

(e) if, at any time the sum of Availability minus Availability required to be maintained by Section 7.15 is less than five percent (5%) of the Combined Borrowing Base, then the amount of the "Tranche A-1 Yield Maintenance Premium" (as such term is defined in the Fee Letter).

"Tranche A-1 Commitment" shall mean, with respect to each Tranche A-1 Lender, the commitment of such Tranche A-1 Lender to make the Tranche A-1 Loans on the Tranche A-1 Funding Date hereunder set forth as its Tranche A-1 Commitment opposite its name on Schedule 2.01 hereto or as may subsequently be set forth in the Register from time to time, as the same may be adjusted from time to time pursuant to this Agreement. As of the Closing Date the Tranche A-1 Commitments are in the aggregate amount of $60,000,000.

"Tranche A-1 Event of Default" means (i) an Event of Default under Section 8.01(a) with respect to the Tranche A-1 Loan, (ii) an Event of Default under Section 8.01(a) with respect to the Obligations (other than with respect to the Tranche A-1 Loans) as a result of failure of the Borrowers to pay all obligations then due and owing due on the Maturity Date or the Termination Date and (iii) an Event of Default under Section 8.01(b), but only to the extent such Event of Default arises from the Loan Parties' failure to comply with the provisions of Sections 6.02(c), 7.14 or 7.15.

"Tranche A-1 Funding Date" means the date that is one Business Day following the entry of the Final Financing Order and satisfaction of the conditions precedent set forth in Sections 4.01 and 4.02 hereof.

"Tranche A-1 Interest Rate" means the Adjusted LIBO Rate plus 8.50%.

"Tranche A-1 Lender" means each Lender having a Tranche A-1 Commitment as set forth on Schedule 2.01 hereto or in the Assignment and Acceptance by which it becomes a Tranche A-1 Lender.

"Tranche A-1 Loan Cap" means the lesser of (i) the Aggregate Tranche A-1 Commitments, or (ii) the Tranche A-1 Borrowing Base, minus, in each case, the Tranche A-1 Outstandings.

"Tranche A-1 Loans" has the meaning set forth in Section 2.01.

"Tranche A-1 Note" means a promissory note made by the Borrowers in favor of a Tranche A-1 Lender evidencing the Tranche A-1 Loans made by such Tranche A-1 Lender, substantially in the form of Exhibit B-2.

"Tranche A-1 Reserve" means, as of any date of determination, (i) on or before the Tranche A-1 Funding Date, the amount, if any, by which the then outstanding amount of the Tranche A-1 Loans under the Pre-Petition Credit Agreement (for the avoidance of doubt, excluding any make-whole payable to the Tranche A-1 Lender) exceeds the Tranche A-1 Borrowing Base, or (ii) on any date after the Tranche A-1 Funding Date, the amount, if any, by which the Outstanding Amount of the Tranche A-1 Loans (for the avoidance of doubt, excluding any make-whole payable to the Tranche A-1 Lender) exceeds the Tranche A-1 Borrowing Base.

"Tranche A-1 Standstill Period" means with respect to a Tranche A-1 Event of Default, the period commencing on the date of the Agent's and the Lead Borrower's receipt of written notice from the Required Tranche A-1 Lenders that a Tranche A-1 Event of Default has occurred and is continuing and that the Required Tranche A-1 Lenders are requesting the Agent to commence the enforcement of remedies, and ending on the date which is forty-five (45) days after receipt of such notice with respect to such Tranche A-1 Event of Default.

"Type" means, with respect to a Committed Loan, its character as a Base Rate Loan or a LIBO Rate Loan.

"UCC" or "Uniform Commercial Code" means the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, that if a term is defined in Article 9 of the Uniform Commercial Code differently than in another Article thereof, the term shall have the meaning set forth in Article 9 (unless expressly stated otherwise); provided further that, if by reason of mandatory provisions of law, perfection, or the effect of perfection or non-perfection, of a security interest in any Collateral or the availability of any remedy hereunder is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, "Uniform Commercial Code" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection or availability of such remedy, as the case may be.

"UCP 600" means the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce and in effect as of July 1, 2007 (or such later version thereof as may be in effect at the time of issuance).

"UFCA" has the meaning specified in Section 10.22(d).

"UFTA" has the meaning specified in Section 10.22(d).

"Unfunded Pension Liability" means the excess of a Pension Plan's benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan's assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

"Unintentional Overadvance" means an Overadvance which, to the Agent's knowledge, did not constitute an Overadvance when made but which has become an Overadvance resulting from changed circumstances beyond the control of the Credit Parties, including, without limitation, a reduction in the Appraised Value of property or assets included in the Borrowing Base or misrepresentation by the Loan Parties.

"United States" and "U.S." mean the United States of America.

"U.S. Foreign HoldCo" means any Domestic Subsidiary, all of the assets of which consists of Equity Interests of Foreign Subsidiaries.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"Wage Earner Protection Act Reserve" means, on any date of determination, a reserve established from time to time by the Agent in such amount as the Agent determines reflects the amounts that may become due under the *Wage Earner Protection Program Act* (Canada) with respect to the employees of

any Loan Party employed in Canada which would give rise to a Lien with priority under applicable law over the Lien of the Agent.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness, as the case may be, at any date, the quotient obtained by dividing (a) the sum of the product of the number of years from the date of determination to the date of each successive scheduled principal payment of such Indebtedness multiplied by the amount of such payment, by (b) the sum of all such payments.

"Wells Fargo" means Wells Fargo Bank, National Association and its successors.

1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, amended and restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, amendment and restatements, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns permitted under the Loan Documents, (iii) the words "herein", "hereof" and "hereunder", and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law (including Laws) shall include all statutory and regulatory provisions consolidating, amending replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as consolidated, amended, modified, replaced or supplemented from time to time, and (vi) 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, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, unless expressly stated otherwise, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(c) Article and section headings used herein and in the other Loan Documents are included for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting this Agreement or any other Loan Document.

(d) Any reference herein or in any other Loan Document to the satisfaction, repayment, or payment in full of the Obligations shall mean the repayment in Dollars in full in cash or immediately available funds (or, in the case of outstanding obligations with respect to: (1) Letters of Credit, (2) Swap Contracts, (3) any other contingent Obligations (other than Cash Management Services and Bank Products not addressed in clause (2) above), and (4) to the extent the Lead Borrower has provided the Agent with less than thirty (30) days' prior written notice of such repayment, all other contingent Obligations with respect to Cash Management Services and Bank Products not addressed in

clause (2) above, in each case, providing Cash Collateralization or other collateral as may be accepted by the Agent and to the extent related to Letters of Credit, the L/C Issuer of all of the 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 Swap Contracts), and any Cash Collateral required with respect to Cash Management Services and Bank Products (other than Swap Contracts) shall be held until the earlier of thirty (30) days after the Agent shall have received such repayment notice from a Loan Party and the date which the Agent and, to the extent related to Letters of Credit, the L/C Issuer reasonably determines that there is no longer any risk associated with such Cash Management Services or Bank Products (or such longer time as the Lead Borrower, Agent, and, if applicable, L/I Issuer may agree), in each case: other than (i) unasserted contingent indemnification Obligations and unasserted expense reimbursement Obligations, (ii) any Obligations relating to Bank Products (other than Swap Contracts) that, at such time, are allowed by the applicable Bank Product provider to remain outstanding without being required to be repaid or Cash Collateralized or otherwise collateralized as may be accepted by the Agent, and (iii) any Obligations relating to Swap Contracts that, at such time, are allowed by the applicable provider of such Swap Contracts to remain outstanding without being required to be repaid.

(e) Any other undefined term contained in any of the Loan Documents shall, unless the context indicates otherwise, have the meaning provided for such term in the Uniform Commercial Code to the extent the same are used or defined therein; provided that to the extent that the Uniform Commercial Code is used to define any term herein and such term is defined differently in different Articles of the Uniform Commercial Code, unless expressly stated otherwise, the definition of such term contained in Article 9 of the Uniform Commercial Code shall govern.

1.03 Accounting Terms Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used by the Lead Borrower as of the Closing Date, except as otherwise specifically prescribed herein.

Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Lead Borrower or the Required Lenders shall so request, the Agent, the Lenders and the Lead Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Lead Borrower shall provide to the Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. In addition, the financial ratios and related definitions set forth in the Loan Documents shall be computed to exclude the application of FAS 133, FAS 150 or FAS 123r (to the extent that the pronouncements in FAS 123r result in recording an equity award as a liability on the consolidated balance sheet of Parent and its Subsidiaries in the circumstance where, but for the application of the pronouncements, such award would have been classified as equity). For the avoidance of doubt, notwithstanding any changes in GAAP after the Closing Date that would require lease obligations that would be treated as operating leases as of the Closing Date to be classified and accounted for as Capital Lease Obligations or otherwise reflected on the Lead Borrower's consolidated balance sheet, such obligations shall continue to be excluded from the definition of Indebtedness.

1.04 Rounding. Any financial ratios required to be maintained by the Borrowers pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component,

carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

1.05 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

1.06 Letter of Credit Amounts. Unless otherwise specified, all references herein to the amount of a Letter of Credit at any time shall be deemed to be the Stated Amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms of any Issuer Documents related thereto, provides for one or more automatic increases in the Stated Amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum Stated Amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum Stated Amount is in effect at such time.

1.07 Deliveries. Notwithstanding anything herein or any other Loan Document to the contrary, whenever any document, agreement or other item is required by any Loan Document to be delivered on a day that is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day, for the avoidance of doubt, including the milestones set forth in Section 6.24 and any other deadlines herein with respect to filings, orders, motions and other deliverables with respect to the Chapter 11 Cases.

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

1.09 Currency Matters**.** Principal, interest, reimbursement obligations, fees, and all other amounts payable under this Agreement and the other Loan Documents to the Agent and the Credit Parties shall be payable in Dollars. Unless stated otherwise, all calculations, comparisons, measurements or determinations under this Agreement shall be made in Dollars. For the purpose of such calculations, comparisons, measurements or determinations, amounts or proceeds denominated in other currencies shall be converted to the Equivalent Amount of Dollars on the date of calculation, comparison, measurement or determination. Unless expressly provided otherwise, where a reference is made to a Dollar amount, the amount is to be considered as the amount in Dollars and, therefore, each other currency shall be converted into the Equivalent Amount thereof in Dollars.

1.10 Quebec Matters**.** For purposes of any Collateral located in the Province of Quebec or charged by any Canadian Hypothec (or any other Loan Document) and for all other purposes pursuant to which the interpretation or construction of a Loan Document may be subject to the laws of the Province of Quebec or a court or tribunal exercising jurisdiction in the Province of Quebec, (a) "personal property" shall be deemed to include "movable property", (b) "real property" shall be deemed to include "immovable property", (c) "tangible property" shall be deemed to include "corporeal property", (d) "intangible property" shall be deemed to include "incorporeal property", (e) "security interest", "mortgage" and "lien" shall be deemed to include a "hypothec", "prior claim" and a "resolutory clause", (f) all references to filing, registering or recording under the UCC or the PPSA shall be deemed to include publication under the *Civil Code of Quebec*, (g) all references to "perfection" of or "perfected" Liens shall be deemed to include a reference to an "opposable" or "set up" Liens as against third parties, (h) any "right of offset", "right of setoff" or similar expression shall be deemed to include a "right of compensation", (i) "goods" shall be deemed to include "corporeal movable property" other than chattel paper, documents of title, instruments, money and securities, (j) an "agent" shall be deemed to include a "mandatory", (k) "construction liens" shall be deemed to include "legal hypothecs", (l) "joint and several"

shall be deemed to include "solidary", (m) "gross negligence or willful misconduct" shall be deemed to be "intentional or gross fault", (n) "beneficial ownership" shall be deemed to include "ownership on behalf of another as mandatory", (o) "easement" shall be deemed to include "servitude", (p) "priority" shall be deemed to include "prior claim", (q) "survey" shall be deemed to include "certificate of location and plan", (r) a "land surveyor" shall be deemed to include an "arpenteur-géomètre"; and (r) "fee simple title" shall be deemed to include "absolute ownership". The parties hereto confirm that it is their wish that this Agreement and any other document executed in connection with the transactions contemplated herein be drawn up in the English language only and that all other documents contemplated thereunder or relating thereto, including notices, may also be drawn up in the English language only. *Les parties aux présentes confirment que c'est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisagés par cette convention et les autres documents peuvent être rédigés en la langue anglaise seulement.*

ARTICLE II
THE COMMITMENTS AND CREDIT EXTENSIONS

2.01 Committed Loans; Reserves.

(a) Subject to the terms and conditions set forth herein, (i) each Tranche A Lender severally agrees to make loans (each such loan, a "Tranche A Loan") to the Borrowers from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the lesser of (x) the amount of such Lender's Tranche A Commitment, or (y) such Lender's Tranche A Applicable Percentage of the Tranche A Borrowing Base, in each case, after giving effect to the Tranche A Pre-Petition Reserve, and (ii) each Tranche A-1 Lender severally agrees to make loans (each such loan, a "Tranche A-1 Loan") to the Borrowers from time to time, on any Business Day during the Availability Period beginning on the Tranche A-1 Funding Date, in an aggregate amount not to exceed the amount of such Lender's Tranche A-1 Commitment, subject in each case to the following limitations:

(i) after giving effect to any Committed Borrowing, the Total Outstandings shall not exceed the sum of the Tranche A Loan Cap and, from and after the Tranche A-1 Funding Date, the Aggregate Tranche A-1 Commitments,

(ii) after giving effect to any Borrowing of Tranche A Loans, the aggregate Outstanding Amount of the Tranche A Loans of any Tranche A Lender, plus such Tranche A Lender's Tranche A Applicable Percentage of the Outstanding Amount of all L/C Obligations, plus such Tranche A Lender's Tranche A Applicable Percentage of the Outstanding Amount of all Swing Line Loans made to the Borrowers shall not exceed the lesser of (x) such Tranche A Lender's Tranche A Commitment and (y) such Tranche A Lender's Tranche A Applicable Percentage of the Tranche A Borrowing Base minus, in each case, the Tranche A Pre-Petition Reserve;

(iii) the aggregate outstanding principal amount of Tranche A Loans, Swing Line Loans, and L/C Obligations shall not at any time exceed the Aggregate Tranche A Commitments minus the Tranche A Pre-Petition Reserve;

(iv) Reserved;

(v) the aggregate outstanding principal amount of the Tranche A-1 Loans shall not exceed the Aggregate Tranche A-1 Commitments; and

(vi) the Outstanding Amount of all L/C Obligations shall not at any time exceed the Letter of Credit Sublimit:

Within the limits of each Lender's Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01, prepay under Section 2.05, and reborrow under this Section 2.01. As set forth in Section 2.02(a) below, all Tranche A Loans shall be Base Rate Loans.

(b) The Carve-Out Reserve, Inventory Reserves and Availability Reserves as of the Closing Date are set forth in the Borrowing Base Certificate delivered pursuant to Section 4.01(c) hereof.

(c) Subject to Section 9.19, the Agent shall have the right, at any time and from time to time after the Closing Date in its Permitted Discretion to establish, modify or eliminate Reserves or establish, modify or eliminate any existing eligibility criteria. The amount of any Reserve established by the Agent shall have a reasonable relationship to the event, condition or other matter which is the basis for such reserve as determined by Agent in its Permitted Discretion. To the extent that an event, condition or matter as to any Eligible Real Estate, Eligible Credit Card Receivables, Eligible Inventory or Eligible In-Transit Inventory is fully addressed pursuant to the treatment thereof within the applicable definition of such terms, the Agent shall not establish a duplicative Reserve to address the same event, condition or matter; provided however, to the extent that any such event, condition or matter is only partially addressed pursuant to the treatment thereof within the applicable definition, the Agent shall be permitted to establish additional Reserves for any such other amounts in accordance with this Agreement.

2.02 Borrowings, Conversions and Continuations of Committed Loans.

(a) Committed Loans (other than Swing Line Loans and Tranche A-1 Loans) shall be either Base Rate Loans or LIBO Rate Loans as the Lead Borrower may request subject to and in accordance with this Section 2.02. All Tranche A-1 Loans shall be only LIBO Rate Loans. All Swing Line Loans shall be only Base Rate Loans. Subject to the other provisions of this Section 2.02, Committed Borrowings of more than one Type may be incurred at the same time.

(b) Each request for a Committed Borrowing consisting of a Base Rate Loan shall be made by electronic request of the Lead Borrower through Administrative Agent's Commercial Electronic Office Portal or through such other electronic portal provided by Administrative Agent (the "Portal"), which must be received by the Agent not later than 2:00 p.m. on the requested date of any Borrowing of Base Rate Loans. The Borrowers hereby acknowledge and agree that any request made through the Portal shall be deemed made by a Responsible Officer of the Borrowers. Each request for a Committed Borrowing consisting of a LIBO Rate Loan shall be made pursuant to the Lead Borrower's submission of a LIBO Rate Loan Notice, which must be received by the Agent not later than 11:00 a.m. three (3) Business Days prior to the requested date of any Borrowing or continuation of LIBO Rate Loans. Each LIBO Rate Loan Notice shall specify (i) the requested date of the Borrowing or continuation, as the case may be (which shall be a Business Day), (ii) the principal amount of LIBO Rate Loans to be borrowed or continued (which shall be in a principal amount of $1,000,000 or a whole multiple of $1,000,000 in excess thereof), and (iii) the duration of the Interest Period with respect thereto. If the Lead Borrower fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. On the requested date of any LIBO Rate Loan, (i) in the event that Base Rate Loans are outstanding in an amount equal to or greater than the requested LIBO Rate Loan, all or a portion of such Base Rate Loans shall be automatically converted to a LIBO Rate Loan in the amount requested by the Lead Borrower, and (ii) if Base Rate Loans are not outstanding in an amount at least equal to the requested LIBO Rate Loan, the Lead Borrower shall make an electronic request via the Portal for additional Base Rate Loans in an such amount, when taken with the outstanding Base Rate Loans (which shall be converted automatically at such time), as is necessary to satisfy the requested LIBO Rate Loan. If the Lead Borrower fails to

make such additional request via the Portal as required pursuant to clause (ii) of the foregoing sentence, then the Borrowers shall be responsible for all amounts due pursuant to Section 3.05 hereof arising on account of such failure. If the Lead Borrower fails to give a timely notice with respect to any continuation of a LIBO Rate Loan, then the applicable Committed Loans shall be converted to Base Rate Loans, effective as of the last day of the Interest Period then in effect with respect to the applicable LIBO Rate Loans.

(c) Notwithstanding anything to the contrary contained in this Agreement, from and after the Tranche A-1 Funding Date, the Borrowers shall not request, and the Tranche A Lenders shall be under no obligation to fund, any Tranche A Loan unless the Borrowers have borrowed the full amount available under the Aggregate Tranche A-1 Commitments. If any Tranche A-1 Loan is prepaid in whole or part pursuant to Section 2.05, any Committed Loans to the Borrowers thereafter requested shall automatically be Tranche A-1 Loans until the maximum principal amount of Tranche A-1 Loans outstanding equals the Aggregate Tranche A-1 Commitments and thereafter shall be Tranche A Loans.

(d) The Agent shall promptly notify each Lender of the amount of its Applicable Percentage of the applicable Committed Loans, and if no timely notice of a conversion or continuation is provided by the Lead Borrower, the Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in Section 2.02(b). In the case of a Committed Borrowing, each Lender shall make the amount of its Committed Loan available to the Agent in immediately available funds at the Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable notice; provided that, in the case of a Base Rate Loan, Agent gives each Lender notice of the making of such Loan no later than 11:00 a.m. of such Business Day. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Agent shall use reasonable efforts to make all funds so received available to the Borrowers in like funds by no later than 4:00 p.m. on the day of receipt by the Agent either by (i) crediting the account of the Lead Borrower on the books of Wells Fargo with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Agent by the Lead Borrower.

(e) Each Borrowing of Tranche A Loans (other than Swing Line Loans) shall be made by the Tranche A Lenders pro rata in accordance with their respective Tranche A Applicable Percentage and each Borrowing of Tranche A-1 Loans shall be made by the Tranche A-1 Lenders pro rata in accordance with their respective Tranche A-1 Applicable Percentage. The failure of any Lender to make any Loan shall neither relieve any other Lender of its obligation to fund its Loan in accordance with the provisions of this Agreement nor increase the obligation of any such other Lender.

(f) The Agent, without the request of the Lead Borrower, may advance any interest, fee, service charge (including direct wire fees), Credit Party Expenses, or other payment to which any Credit Party is entitled from the Loan Parties pursuant hereto or any other Loan Document and may charge the same to the Loan Account notwithstanding that an Overadvance may result thereby (provided, that after giving effect to such Overadvance, the aggregate outstanding principal amount of Tranche A Loans, Swing Line Loans, and L/C Obligations shall not exceed the Aggregate Tranche A Commitments minus the Tranche A Pre-Petition Reserve). The Agent shall advise in writing the Lead Borrower of any such advance or charge promptly after the making thereof. Such action on the part of the Agent shall not constitute a waiver of the Agent's rights and the Borrowers' obligations under Section 2.05(c). Any amount which is added to the principal balance of the Loan Account as provided in this Section 2.02(f) shall bear interest at the interest rate then and thereafter applicable to Base Rate Loans.

(g) Except as otherwise provided herein, a LIBO Rate Loan may be continued or converted only on the last day of an Interest Period for such LIBO Rate Loan. During the existence of a

Default or an Event of Default, no Loans may be requested as, converted to or continued as LIBO Rate Loans without the consent of the Required Lenders.

(h) The Agent shall promptly notify in writing the Lead Borrower and the Lenders of the interest rate applicable to any Interest Period for LIBO Rate Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Agent shall notify in writing the Lead Borrower and the Lenders of any change in Wells Fargo's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(i) After giving effect to all Committed Borrowings, all conversions of Committed Loans from one Type to the other, and all continuations of Committed Loans as the same Type, there shall not be more than ten (10) Interest Periods in effect with respect to LIBO Rate Loans.

(j) The Agent, the Lenders, the Swing Line Lender and the L/C Issuer shall have no obligation to make any Loan or to provide any Letter of Credit if an Overadvance would result. The Agent may, in its discretion, make Permitted Overadvances without the consent of the Borrowers, the Lenders, the Swing Line Lender and the L/C Issuer and the Borrowers and each Lender and L/C Issuer shall be bound thereby. Any Permitted Overadvance may constitute a Swing Line Loan. A Permitted Overadvance is for the account of the Borrowers and shall constitute a Base Rate Loan and an Obligation and shall be repaid by the Borrowers in accordance with the provisions of Section 2.05(c). The making of any such Permitted Overadvance on any one occasion shall not obligate the Agent or any Lender to make or permit any Permitted Overadvance on any other occasion or to permit such Permitted Overadvances to remain outstanding. The making by the Agent of a Permitted Overadvance shall not modify or abrogate any of the provisions of Section 2.03 regarding the Tranche A Lenders' obligations to purchase participations with respect to Letter of Credits or of Section 2.04 regarding the Tranche A Lenders' obligations to purchase participations with respect to Swing Line Loans. The Agent shall have no liability for, and no Loan Party or Credit Party shall have the right to, or shall, bring any claim of any kind whatsoever against the Agent with respect to Unintentional Overadvances regardless of the amount of any such Overadvance(s).

2.03 Letters of Credit.

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) the L/C Issuer agrees, in reliance upon the agreements of the Tranche A Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit for the account of the Borrowers, and to amend or extend Letters of Credit previously issued by it, in accordance with Section 2.03(b) below, and (2) to honor drawings under the Letters of Credit; and (B) the Tranche A Lenders severally agree to participate in Letters of Credit issued for the account of the Borrowers and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Outstandings shall not exceed the sum of the Tranche A Loan Cap plus, from and after the Tranche A-1 Funding Date, the Aggregate Tranche A-1 Commitments, (y) the aggregate Outstanding Amount of the Tranche A Loans of any Tranche A Lender, plus such Lender's Tranche A Applicable Percentage of the Outstanding Amount of all L/C Obligations, plus such Tranche A Lender's Tranche A Applicable Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Tranche A Lender's Commitment minus the Tranche A Pre-Petition Reserve, and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by the Lead Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a

representation by the Borrowers that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrowers' ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrowers may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed or Cash Collateralized. Any L/C Issuer (other than Wells Fargo or any of its Affiliates) shall notify the Agent in writing on each Business Day of all Letters of Credit issued on the prior Business Day by such L/C Issuer, provided that until the Agent advises any such L/C Issuer that the provisions of Section 4.02 are not satisfied, such L/C Issuer shall be required to so notify the Agent in writing only once each week of the Letters of Credit issued by such L/C Issuer during the immediately preceding week as well as the daily amounts outstanding for the prior week, such notice to be furnished on such day of the week as the Agent and such L/C Issuer may agree. All Existing Letters of Credit shall be deemed to have been issued pursuant hereto, and from and after the Closing Date shall be subject to and governed by the terms and conditions hereof.

(ii) No Letter of Credit shall be issued if:

(A) subject to Section 2.03(b)(iii), the expiry date of such requested Standby Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Required Lenders have approved such expiry date; or

(B) subject to Section 2.03(b)(iii), the expiry date of such requested Commercial Letter of Credit would occur more than 150 days after the date of issuance or last extension, unless the Required Lenders have approved such expiry date; or

(C) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless either such Letter of Credit is Cash Collateralized on or prior to the date of issuance of such Letter of Credit (or such later date as to which the Agent may agree) or all the Lenders have approved such expiry date.

(iii) No Letter of Credit shall be issued without the prior consent of the Agent if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the L/C Issuer from issuing such Letter of Credit, or any Law applicable to the L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the L/C Issuer in good faith deems material to it;

(B) the issuance of such Letter of Credit would violate one or more policies of the L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Agent and the L/C Issuer, such Letter of Credit is in an initial Stated Amount less than $100,000;

(D) such Letter of Credit is to be denominated in a currency other than Dollars; provided that if the L/C Issuer, in its discretion, issues a Letter of Credit denominated in a currency other than Dollars, all reimbursements by the Borrowers of the honoring of any drawing under such Letter of Credit shall be paid in Dollars based on the Spot Rate; provided that the aggregate Stated Amount of all Letters of Credit denominated in any currency other than Dollars shall not exceed $15,000,000 at any one time;

(E) such Letter of Credit contains any provisions for automatic reinstatement of the Stated Amount after any drawing thereunder; or

(F) a default of any Tranche A Lender's obligations to fund under Section 2.03(c) exists or any Tranche A Lender is at such time a Defaulting Lender hereunder, unless the Agent or L/C Issuer has entered into satisfactory arrangements with the Borrowers or such Tranche A Lender to eliminate the L/C Issuer's risk with respect to such Tranche A Lender.

(iv) The L/C Issuer shall not amend any Letter of Credit if (A) the L/C Issuer would not be permitted at such time to issue such Letter of Credit in its amended form under the terms hereof or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(v) The L/C Issuer shall act on behalf of the Tranche A Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the L/C Issuer shall have all of the benefits and immunities (A) provided to the Agent in Article IX with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Agent" as used in Article IX. included the L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to the L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Lead Borrower delivered to the L/C Issuer (with a copy to the Agent (unless the Agent is the same Person as, or an Affiliate of, the L/C Issuer)) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Lead Borrower. Such Letter of Credit Application must be received by the L/C Issuer and the Agent not later than 11:00 a.m. at least two Business Days (or such other date and time as the Agent and the L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the Agent and the L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; and (G) such other matters as the Agent or L/C Issuer may reasonably require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the Agent and the L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as the Agent or the L/C Issuer may reasonably require. Additionally, the Lead Borrower shall furnish to the L/C Issuer and the

Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, and any Issuer Documents (including, if requested by the L/C Issuer, a Standby Letter of Credit Agreement or Commercial Letter of Credit Agreement, as applicable), as the L/C Issuer or the Agent may reasonably require.

(ii) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with the Agent (by telephone or in writing) that the Agent has received a copy of such Letter of Credit Application from the Lead Borrower and, if not, the L/C Issuer will provide the Agent with a copy thereof. Unless the L/C Issuer has received written notice from any Tranche A Lender, the Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied or unless the L/C Issuer would not be permitted, or would have no obligation, at such time to issue such Letter of Credit under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.03(a) or otherwise), then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the applicable Loan Party or enter into the applicable amendment, as the case may be, in each case in accordance with the L/C Issuer's usual and customary business practices. Immediately upon the issuance or amendment of each Letter of Credit, each Lender shall be deemed to (without any further action), and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer, without recourse or warranty, a risk participation in such Letter of Credit in an amount equal to the product of such Tranche A Lender's Tranche A Applicable Percentage times the Stated Amount of such Letter of Credit. Upon any change in the Tranche A Commitments under this Agreement, it is hereby agreed that with respect to all L/C Obligations, there shall be an automatic adjustment to the participations hereby created to reflect the new Tranche A Applicable Percentages of the assigning and assignee Tranche A Lenders.

(iii) If the Lead Borrower so requests in any applicable Letter of Credit Application, the L/C Issuer may, in its sole and absolute discretion, agree to issue a Standby Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit the L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Standby Letter of Credit) by giving prior written notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Standby Letter of Credit is issued. Unless otherwise directed by the Agent or the L/C Issuer, the Lead Borrower shall not be required to make a specific request to the Agent or the L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Tranche A Lenders shall be deemed to have authorized (but may not require) the L/C Issuer to permit the extension of such Standby Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that the Agent shall instruct the L/C Issuer not to permit any such extension if (A) the L/C Issuer has determined that it would not be permitted, or would have no obligation, at such time to issue such Standby Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.03(a) or otherwise), or (B) the L/C Issuer has received notice (which may be by telephone or in writing) on or before the day that is five Business Days before the Non-Extension Notice Date (1) from the Agent that the Required Lenders have elected not to permit such extension or (2) from the Agent, any Lender or the Lead Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each such case directing the L/C Issuer not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the L/C Issuer will also deliver to the Lead Borrower and the Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the L/C Issuer shall notify the Lead Borrower and the Agent thereof not less than two (2) Business Days prior to the Honor Date (as defined below); provided, however, that any failure to give or delay in giving such notice shall not relieve the Borrowers of their obligation to reimburse the L/C Issuer and the Tranche A Lenders with respect to any such payment. On the date of any payment by the L/C Issuer under a Letter of Credit (each such date, an "Honor Date"), the Borrowers shall be deemed to have requested a Borrowing of Tranche A Loans constituting Base Rate Loans to be disbursed on the Honor Date in an amount equal to the amount of such payment, without regard to the minimum and multiples specified in Section 2.02(b) for the principal amount of Base Rate Loans, and without regard to whether the conditions set forth in Section 4.02 have been met. Any notice given by the L/C Issuer or the Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Tranche A Lender's obligation to make Committed Loans to reimburse the L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03, shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Tranche A Lender may have against the L/C Issuer, any Loan Party or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default or Event of Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing, and without regard to whether the conditions set forth in Section 4.02 have been met; provided, however, the Tranche A Lenders shall be under no obligation to make Committed Loans to reimburse the L/C Issuer for amounts drawn under Letters of Credit unless the Borrowers have borrowed the full amount available under the Aggregate Tranche A-1 Commitments.

(d) Repayment of Participations. If any payment received by the L/C Issuer pursuant to Section 2.03(c) is required to be returned under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the L/C Issuer in its discretion), each Tranche A Lender shall pay to the Agent for the account of the L/C Issuer its Tranche A Applicable Percentage thereof on demand of the Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Tranche A Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Tranche A Lenders under this clause (d) shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Borrowers to reimburse the L/C Issuer for each drawing under each Letter of Credit shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrowers or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;

(v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrowers or any of their Subsidiaries (other than any defense of prior reimbursement of any such drawing under such Letter of Credit); or

(vi) the fact that any Default or Event of Default shall have occurred and be continuing.

The Lead Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Lead Borrower's instructions or other irregularity, the Lead Borrower will immediately notify the Agent and the L/C Issuer. The Borrowers shall be conclusively deemed to have waived any such claim against the L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) Role of L/C Issuer. Each Tranche A Lender and the Borrowers agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuer, the Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable to any Tranche A Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; (iii) any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit or any error in interpretation of technical terms; or (iv) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrowers hereby assume all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit other than acts determined by a court of competent jurisdiction by final and nonappealable judgment to have directly resulted from the gross negligence or willful misconduct of such L/C Issuer or its Related Parties; provided, however, that this assumption is not intended to, and shall not,

preclude the Borrowers' pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuer, the Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.03(e) or for any action, neglect or omission under or in connection with any Letter of Credit or Issuer Documents, including, without limitation, the issuance or any amendment of any Letter of Credit, the failure to issue or amend any Letter of Credit, or the honoring or dishonoring of any demand under any Letter of Credit, and such action or neglect or omission will bind the Borrowers; provided, however, that anything in such clauses to the contrary notwithstanding, the Borrowers may have a claim against the L/C Issuer, and the L/C Issuer may be liable to the Borrowers, to the extent, but only to the extent, of any direct, as opposed to consequential, exemplary or punitive damages suffered by the Borrowers which the Borrowers prove were caused by the L/C Issuer's or its Related Parties' willful misconduct or gross negligence or the L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit; provided further, however, that any claim against the L/C Issuer by the Borrowers for any loss suffered or incurred by the Borrowers shall be reduced by an amount equal to the sum of (i) the amount (if any) saved by the Borrowers as a result of the breach or other wrongful conduct that allegedly caused such loss, and (ii) the amount (if any) of the loss that would have been avoided had the Borrowers taken all reasonable steps to mitigate such loss, including, without limitation, by enforcing their rights against any beneficiary and, in case of a claim of wrongful dishonor, by specifically and timely authorizing the L/C Issuer to cure such dishonor. In furtherance and not in limitation of the foregoing, the L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary (or the L/C Issuer may refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit and may disregard any requirement in a Letter of Credit that notice of dishonor be given in a particular manner and any requirement that presentation be made at a particular place or by a particular time of day), and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. The L/C Issuer shall not be responsible for the wording of any Letter of Credit (including, without limitation, any drawing conditions or any terms or conditions that are ineffective, ambiguous, inconsistent, unduly complicated or reasonably impossible to satisfy), notwithstanding any assistance the L/C Issuer may provide to the Borrowers with drafting or recommending text for any Letter of Credit Application or with the structuring of any transaction related to any Letter of Credit, and the Borrowers hereby acknowledge and agree that any such assistance will not constitute legal or other advice by the L/C Issuer or any representation or warranty by the L/C Issuer that any such wording or such Letter of Credit will be effective. Without limiting the foregoing, the L/C Issuer may, as it deems appropriate, modify or alter and use in any Letter of Credit the terminology contained on the Letter of Credit Application for such Letter of Credit.

(g) Cash Collateral. Upon the request of the Agent, (i) if the L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Obligation that remains outstanding, or (ii) if, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrowers shall, in each case, immediately Cash Collateralize the then Outstanding Amount of all L/C Obligations. Sections 2.05(c) and 8.02(a)(iii) set forth certain additional requirements to deliver Cash Collateral hereunder. For purposes of this Section 2.03, Section 2.05(c) and Section 8.02(a)(iii), "Cash Collateralize" means to pledge and deposit with or deliver to the Agent, for the benefit of the L/C Issuer and the Lenders, as collateral for the L/C Obligations, cash or deposit account balances in an amount equal to 103% of the Outstanding Amount of all L/C Obligations (other than L/C Obligations with respect to Letters of Credit denominated in a

currency other than Dollars, which L/C Obligations shall be Cash Collateralized in an amount equal to 113% of the Outstanding Amount of such L/C Obligations), pursuant to documentation in form and substance reasonably satisfactory to the Agent and the L/C Issuer (which documents need not be consented to by any of the Lenders). The Borrowers hereby grant to the Agent a security interest in the Cash Collateral Account and all proceeds of the foregoing (until such time that any Cash Collateral is released by Agent or the L/C Issuer to any Loan Party). Cash Collateral shall be maintained in a Cash Collateral Account, interest or profits, if any, on such investments shall accumulate in such account. If at any time the Agent determines, in its Permitted Discretion, that any funds held as Cash Collateral are subject to any right or claim of any Person other than the Agent or that the total amount of such funds is less than the aggregate Outstanding Amount of all L/C Obligations, the Borrowers will, forthwith upon written demand by the Agent, pay to the Agent, as additional funds to be deposited as Cash Collateral, an amount equal to the excess of (x) such aggregate Outstanding Amount over (y) the total amount of funds, if any, then held as Cash Collateral that the Agent reasonably determines to be free and clear of any such right and claim. Upon the drawing of any Letter of Credit for which funds are on deposit as Cash Collateral, such funds shall be applied, to the extent permitted under applicable Laws, to reimburse the L/C Issuer and, to the extent not so applied, shall thereafter be applied to satisfy other Obligations in accordance herewith.

(h) Applicability of ISP and UCP 600. Unless otherwise expressly agreed by the L/C Issuer and the Lead Borrower when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit), (i) the rules of the ISP and the UCP 600 shall apply to each Standby Letter of Credit, and (ii) the rules of the UCP 600 shall apply to each Commercial Letter of Credit.

(i) Letter of Credit Fees. The Borrowers shall pay to the Agent for the account of each Tranche A Lender in accordance with its Tranche A Applicable Percentage a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit equal to the Applicable Margin times the daily Stated Amount under each such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit). For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of the Letter of Credit shall be determined in accordance with Section 1.06. Letter of Credit Fees shall be (i) due and payable on the first day (unless such Letter of Credit Fee is not charged to the Loan Account, in which case, such Letter of Credit Fee shall be payable on the first Business Day) after the end of each Fiscal Quarter commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand, and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Margin during any quarter, the daily amount available to be drawn under of each Letter of Credit shall be computed and multiplied by the Applicable Margin separately for each period during such quarter that such Applicable Margin was in effect. Notwithstanding anything to the contrary contained herein, while any Event of Default exists, at the election of Agent or the Required Lenders after delivering written notice of such election to the Lead Borrower, all Letter of Credit Fees shall accrue at the Default Rate as provided in Section 2.08(c) hereof.

(j) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The Borrowers shall pay directly to the L/C Issuer, for its own account, a fronting fee (the "Fronting Fee") (i) with respect to each Commercial Letter of Credit, at a rate equal to 0.125% per annum, computed on the amount of such Letter of Credit, and payable upon the issuance or amendment thereof, and (ii) with respect to each Standby Letter of Credit, at a rate equal to 0.125% per annum, computed on the daily amount available to be drawn under such Letter of Credit and on a quarterly basis in arrears. Such Fronting Fees shall be due and payable on the first day (unless such Fronting Fee is not charged to the Loan Account, in which case, such Fronting Fee shall be payable on the first Business Day) after the end of each Fiscal Quarter, commencing with the first such date to occur after the issuance of such Letter

of Credit, on the Letter of Credit Expiration Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of the Letter of Credit shall be determined in accordance with Section 1.06. In addition, the Borrowers shall pay directly to the L/C Issuer, for its own account, the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(k) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

2.04 Swing Line Loans.

(a) The Swing Line. Subject to the terms and conditions set forth herein, the Swing Line Lender may, in reliance upon the agreements of the Tranche A Lenders set forth in this Section 2.04, make loans (each such loan, a "Swing Line Loan") to the Borrowers from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit, notwithstanding the fact that such Swing Line Loans, when aggregated with the Tranche A Applicable Percentage of the Outstanding Amount of Tranche A Loans and L/C Obligations of the Tranche A Lender acting as Swing Line Lender, may exceed the amount of such Tranche A Lender's Tranche A Commitment minus the Tranche A Pre-Petition Reserve; provided, however, that after giving effect to any Swing Line Loan, (i) the Total Outstandings shall not exceed the sum of the Tranche A Loan Cap plus, from and after the Tranche A-1 Funding Date, the Aggregate Tranche A-1 Commitments, and (ii) the aggregate Outstanding Amount of the Tranche A Loans of any Tranche A Lender at such time, plus such Tranche A Lender's Tranche A Applicable Percentage of the Outstanding Amount of all L/C Obligations at such time, plus such Tranche A Lender's Tranche A Applicable Percentage of the Outstanding Amount of all Swing Line Loans at such time shall not exceed such Tranche A Lender's Tranche A Commitment minus the Tranche A Pre-Petition Reserve, and provided, further, that the Borrowers shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan, and provided further that the Swing Line Lender shall not be obligated to make any Swing Line Loan at any time when any Lender is at such time a Defaulting Lender hereunder, unless the Swing Line Lender has entered into reasonably satisfactory arrangements with the Borrower or such Lender to eliminate the Swing Line Lender's risk with respect to such Lender. Within the foregoing limits, and subject to the other terms and conditions hereof, the Borrowers may borrow under this Section 2.04, prepay under Section 2.05(c), and reborrow under this Section 2.04. Each Swing Line Loan shall bear interest only at the rate applicable to Base Rate Loans. Immediately upon the making of a Swing Line Loan, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Lender's Applicable Percentage times the amount of such Swing Line Loan. The Swing Line Lender shall have all of the benefits and immunities (A) provided to the Agent in Article IX with respect to any acts taken or omissions suffered by the Swing Line Lender in connection with Swing Line Loans made by it or proposed to be made by it as if the term "Agent" as used in Article IX included the Swing Line Lender with respect to such acts or omissions, and (B) as additionally provided herein with respect to the Swing Line Lender.

(b) Borrowing Procedures. Each Swing Line Borrowing shall be made upon the Lead Borrower's irrevocable notice to the Swing Line Lender and the Agent, which may be given by telephone. Each such notice must be received by the Swing Line Lender and the Agent not later than 1:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of $100,000, and (ii) the requested borrowing date, which shall be a Business Day. Each such telephonic notice must be confirmed promptly by delivery to the Swing Line Lender and the Agent of a

written Swing Line Loan Notice, appropriately completed and signed by a Responsible Officer of the Lead Borrower. Promptly after receipt by the Swing Line Lender of any telephonic Swing Line Loan Notice, the Swing Line Lender will confirm with the Agent (by telephone or in writing) that the Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Agent (by telephone or in writing) of the contents thereof. Unless the Swing Line Lender has received notice (by telephone or in writing) from the Agent at the request of the Required Lenders prior to 2:00 p.m. on the date of the proposed Swing Line Borrowing (A) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the proviso to the first sentence of Section 2.04(a), or (B) that one or more of the applicable conditions specified in Article IV is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender may, not later than 3:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Borrowers at its office by crediting the account of the Lead Borrower on the books of the Swing Line Lender in immediately available funds.

(c) Refinancing of Swing Line Loans.

(i) The Swing Line Lender at any time in its sole and absolute discretion may request, on behalf of the Borrowers (which hereby irrevocably authorize the Swing Line Lender to so request on their behalf), that each Tranche A Lender make a Base Rate Loan in an amount equal to such Tranche A Lender's Tranche A Applicable Percentage of the amount of Swing Line Loans then outstanding. Such request shall be made in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Tranche A Loan Cap and the conditions set forth in Section 4.02. Each Tranche A Lender shall make an amount equal to its Tranche A Applicable Percentage of the amount of such outstanding Swing Line Loan available to the Agent in immediately available funds for the account of the Swing Line Lender at the Agent's Office not later than 1:00 p.m. on the date specified by the Swing Line Lender, whereupon, subject to clause (c)(ii) below, each Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrowers in such amount; provided that, the Agent gives each Lender notice of the making of such Base Rate Loan no later than 11:00 a.m. of such Business Day; provided further that, from and after the Tranche A-1 Funding Date, the Tranche A Lenders shall be under no obligation to make such Committed Loans unless the Borrowers have borrowed the full amount available under the Aggregate Tranche A-1 Commitments. The Agent shall remit the funds so received to the Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Committed Borrowing in accordance with Section 2.04(c)(i), the request for Base Rate Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Tranche A Lenders fund its risk participation in the relevant Swing Line Loan and each Tranche A Lender's payment to the Agent for the account of the Swing Line Lender pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Tranche A Lender fails to make available to the Agent for the account of the Swing Line Lender any amount required to be paid by such Tranche A Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the Swing Line Lender shall be entitled to recover from such Tranche A Lender (acting through the Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the Swing Line Lender in accordance with banking industry rules

on interbank compensation plus any administrative, processing or similar fees customarily charged by the Swing Line Lender in connection with the foregoing. If such Tranche A Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Tranche A Lender's Committed Loan included in the relevant Committed Borrowing or funded participation in the relevant Swing Line Loan, as the case may be. A certificate of the Swing Line Lender submitted to any Tranche A Lender (through the Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Tranche A Lender's obligation to make Committed Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Tranche A Lender may have against the Swing Line Lender, the Loan Parties or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default or an Event of Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Tranche A Lender's obligation to make Committed Loans pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02. No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrowers to repay outstanding Swing Line Loans, together with interest as provided herein.

(d) Repayment of Participations.

(i) At any time after any Tranche A Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Tranche A Lender its Applicable Percentage of such payment (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Tranche A Lender's risk participation was funded) in the same funds as those received by the Swing Line Lender.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Tranche A Lender shall pay to the Swing Line Lender its Applicable Percentage thereof on demand of the Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate. The Agent will make such demand upon the request of the Swing Line Lender. The obligations of the Tranche A Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Borrowers for interest on the Swing Line Loans. Until each Tranche A Lender funds its Base Rate Loan or risk participation pursuant to this Section 2.04 to refinance such Tranche A Lender's Tranche A Applicable Percentage of any Swing Line Loan, interest in respect of such Applicable Percentage shall be solely for the account of the Swing Line Lender.

(f) Payments Directly to Swing Line Lender. Notwithstanding anything to the contrary, the Borrowers shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

2.05 Prepayments.

(a) Except with respect to any fees, premiums or other amounts payable under Section 2.09(b), the Borrowers may, upon irrevocable notice from the Lead Borrower to the Agent, at any time or from time to time voluntarily prepay Committed Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Agent not later than 11:00 a.m. (A) three Business Days prior to any date of prepayment of LIBO Rate Loans and (B) on the date of prepayment of Base Rate Loans; (ii) any prepayment of LIBO Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $1,000,000 in excess thereof; and (iii) any prepayment of Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. All payments shall be first applied to Tranche A Loans, and upon payment of Tranche A Loans in full, to Tranche A-1 Loans. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and, if LIBO Rate Loans, the Interest Period(s) of such Loans. The Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. If such notice is given by the Lead Borrower and is not later revoked, the Borrowers shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a LIBO Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Each such prepayment shall be applied to the Committed Loans of the Lenders in accordance with their respective Applicable Percentages.

(b) The Borrowers may, upon irrevocable notice from the Lead Borrower to the Swing Line Lender (with a copy to the Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Swing Line Lender and the Agent not later than 1:00 p.m. on the date of the prepayment, and (ii) any such prepayment shall be in a minimum principal amount of $100,000. Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Lead Borrower, the Borrowers shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(c) If for any reason the Total Outstandings at any time exceed the sum of the Tranche A Loan Cap plus, from and after the Tranche A-1 Funding Date, the Aggregate Tranche A-1 Commitments, each as then in effect, the Borrowers shall immediately prepay in an aggregate amount necessary to eliminate such excess: (i) first, the "Tranche A Loans" outstanding under the Pre-Petition Credit Agreement, (ii) second, the Tranche A Loans, (iii) third, to Cash Collateralize the L/C Obligations, (iv) fourth, the "Tranche A-1 Loans" under the Pre-Petition Credit Agreement, and (v) fifth, the Tranche A-1 Loans.

(d) If for any reason the sum of the aggregate Outstanding Amount of the Tranche A Loans, plus Swing Line Loans plus the Stated Amount of Letters of Credit at any time exceed the Tranche A Loan Cap as then in effect, the Borrowers shall immediately prepay the (i) the "Tranche A Loans" outstanding under the Pre-Petition Credit Agreement, (ii) the Tranche A Loans and/or (iii) Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess; provided, however, that the Borrowers shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.05(d) unless after the prepayment in full of the Tranche A Loans, such Outstanding amounts exceed the Tranche A Loan Cap as then in effect.

(e) If at any time after the Outstanding Amount of the Tranche A Loans, plus Swing Line Loans plus the Stated Amount of Letters of Credit have been paid in full, if for any reason the aggregate Outstanding Amount of the Tranche A-1 Loans of the Tranche A-1 Lenders at any time

exceeds the Tranche A-1 Loan Cap as then in effect, the Borrowers shall, after making any payments required pursuant to Section 2.05(d), immediately prepay the "Tranche A Loans" outstanding under the Pre-Petition Credit Agreement and the Tranche A-1 Loans in an aggregate amount equal to such excess (it being understood that there shall be no requirement to repay the Tranche A-1 Loans under this clause (e) unless the Outstanding Amount of the Tranche A Loans, plus Swing Line Loans plus the Stated Amount of Letters of Credit have been paid in full).

(f) (i) The Borrowers shall prepay the Pre-Petition Obligations and Obligations in accordance with Section 6.13 hereof; (ii) the Borrowers shall prepay the "Tranche A Loans" outstanding under the Pre-Petition Credit Agreement and the Tranche A-1 Loans and Cash Collateralize the L/C Obligations in an amount equal to any Extraordinary Receipts received by a Loan Party, and (iii) after the occurrence of and during the continuance of an Event of Default, the Borrowers shall Cash Collateralize the L/C Obligations in accordance with the provisions of Section 8.02 hereof.

(g) Prepayments made pursuant to Section 2.05(c), above, first, shall be applied to the "Tranche A Loans" outstanding under the Pre-Petition Credit Agreement, second, shall be applied to the Swing Line Loans, third, shall be applied ratably to the outstanding Tranche A Loans, fourth, shall be used to Cash Collateralize the remaining L/C Obligations, fifth, shall be applied to the outstanding "Tranche A-1 Loans" under the Pre-Petition Credit Agreement; sixth, shall be applied to the outstanding Tranche A-1 Loans; and, seventh, the amount remaining, if any, after the prepayment in full of all Pre-Petition Obligations, Swing Line Loans and Committed Loans outstanding at such time and the Cash Collateralization of the remaining L/C Obligations in full may be retained by the Borrowers for use in the ordinary course of its business. Upon the drawing of any Letter of Credit that has been Cash Collateralized, the funds held as Cash Collateral shall be applied (without any further action by or notice to or from the Borrowers or any other Loan Party) to reimburse the L/C Issuer or the Tranche A Lenders, as applicable.

(h) No later than one (1) Business Day after the Final Order Entry Date, the Borrowers shall pay in full with the proceeds of Loans hereunder, the total outstanding amount of the Pre-Petition Obligations, together with additional amounts due under Section 2.09 of the Pre-Petition Credit Agreement.

2.06 Termination or Reduction of Commitments.

(a) The Borrowers may, upon irrevocable notice (provided that, in the case of an election to permanently reduce or terminate the Commitments, the Letter of Credit Sublimit and the Swing Line Sublimit, to the extent that such notice states that it is conditioned upon the consummation of any other transaction or the occurrence of any event (including an acquisition or a Change of Control), such notice may be revoked by the Lead Borrower (by written notice to Agent on or prior to the specified effective date) if such condition is not satisfied) from the Lead Borrower to the Agent, terminate the Tranche A Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit or from time to time permanently reduce the Tranche A Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit; provided that (i) any such notice shall be received by the Agent not later than 11:00 a.m. five Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of $1,000,000 or any whole multiple of $500,000 in excess thereof, (iii) the Borrowers shall not terminate or reduce (A) the Tranche A Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, the aggregate Outstanding Amount of the "Tranche A Loans" under the Pre-Petition Credit Agreement, plus Tranche A Loans, plus the Outstanding Amount of all L/C Obligations, plus the Outstanding Amount of all Swing Line Loans would exceed the Aggregate Tranche A Commitments, (B) the Letter of Credit Sublimit if, after giving effect thereto, the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder would exceed the Letter of Credit

Sublimit, and (C) the Swing Line Sublimit if, after giving effect thereto, and to any concurrent payments hereunder, the Outstanding Amount of Swing Line Loans hereunder would exceed the Swing Line Sublimit, (iv) with respect to the Tranche A Commitments, any such termination or reduction shall apply proportionately and permanently to reduce the Tranche A Commitments of each of the Lenders (provided that (x) after giving effect to any such reduction and to the repayment of any Committed Loans made on such date, the aggregate Outstanding Amount of the Committed Loans of any such Lender, plus such Lender's Applicable Percentage of the Outstanding Amount of all L/C Obligations, plus such Revolving Lender's Applicable Percentage of the Outstanding Amount of all Swing Line Loans does not exceed the lesser of such Lender's Commitment or such Lender's Applicable Percentage of the Borrowing Base, minus, in each case, the Tranche A-Pre Petition Reserve, and (y) for the avoidance of doubt, any such repayment of Committed Loans contemplated by the preceding clause shall be made in compliance with the requirements of Section 2.12 with respect to the ratable allocation of payments hereunder, with such allocation being determined prior to any reduction being made to the Revolving Commitment of any other Lender).

(b) If, after giving effect to any reduction of the Aggregate Tranche A Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the amount of the Aggregate Tranche A Commitments, such Letter of Credit Sublimit or Swing Line Sublimit shall be automatically reduced by the amount of such excess.

(c) In the event that the Tranche A Commitments are terminated or are reduced to zero, the Tranche A-1 Commitments shall be automatically terminated.

(d) The Agent will promptly notify the Lenders of any termination or reduction of the Letter of Credit Sublimit, Swing Line Sublimit, or the Aggregate Tranche A Commitments under this Section 2.06. Upon any reduction of the Aggregate Tranche A Commitments, the Tranche A Commitment of each Tranche A Lender shall be reduced by such Tranche A Lender's Applicable Percentage of such reduction amount. All fees (including, without limitation, commitment fees, Letter of Credit Fees and fees payable under Section 2.09(b)) and interest in respect of the Aggregate Tranche A Commitments or Aggregate Tranche A-1 Commitments, as applicable, accrued until the effective date of any termination of the such Commitments shall be paid on the effective date of such termination

2.07 Repayment of Loans.

(a) The Borrowers shall repay to the Lenders on the Termination Date the aggregate principal amount of Committed Loans outstanding on such date.

(b) To the extent not previously paid, the Borrower shall repay the outstanding balance of the Swing Line Loans on the earlier of the Maturity Date and the applicable Termination Date.

2.08 Interest.

(a) Subject to the provisions of Section 2.08(c) below, (i) each Tranche A Loan consisting of a Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Margin; and (ii) each Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Margin.

(b) Subject to the provisions of Section 2.08(c) below, each Tranche A-1 Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at the Tranche A-1 Interest Rate.

(c) (1) If any amount payable under any Loan Document is not paid when due (after giving effect to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then the Agent may and upon the request of the Required Lenders, shall notify in writing the Lead Borrower that such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(i) If any other Event of Default has occurred and is continuing, then (A) the Agent may, and upon the request of the Required Tranche A Lenders shall, notify in writing the Lead Borrower that all outstanding Obligations (other than with respect to the Tranche A-1 Loans) shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws and such Obligations shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate until no Event of Default is continuing, and (B) the Agent shall, upon the request of the Required Tranche A-1 Lenders, notify in writing the Lead Borrower that all outstanding Obligations with respect to the Tranche A-1 Loan shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws and thereafter such Obligations shall bear interest at the Default Rate until no Event of Default is continuing.

(ii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(d) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment.

2.09 Fees. In addition to certain fees described in Sections 2.03(i) and 2.03(j):

(a) Commitment Fee.

(i) The Borrowers shall pay to the Agent for the account of each Tranche A Lender in accordance with its Tranche A Applicable Percentage, a commitment fee calculated on a per annum basis equal to the Applicable Commitment Fee Percentage multiplied by the actual daily amount by which the Aggregate Tranche A Commitments exceed the sum of (i) the aggregate Outstanding Amount of the Tranche A Loans and "Tranche A Loans" under the Pre-Petition Credit Agreement, plus (ii) the Outstanding Amount of all L/C Obligations. The commitment fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the first day after the end of each calendar quarter, commencing with the first such date to occur after the Closing Date, and on the last day of the Availability Period.

(ii) The Borrowers shall pay to the Agent for the account of each Tranche A-1 Lender in accordance with its Tranche A-1 Applicable Percentage, a commitment fee equal to the Applicable Commitment Fee Percentage *multiplied* by the actual daily amount by which the Aggregate Tranche A-1 Commitments exceed the aggregate Outstanding Amount of the Tranche A-1 Loans and "Tranche A-1 Loans" under the Pre-Petition Credit Agreement. The commitment fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be calculated and due and payable quarterly in arrears on the first day after the end of each calendar Quarter, commencing with the first such date to occur after the Closing Date, and on the last day of the Availability Period.

(b) The Lead Borrower shall pay to the Arranger, the Agent and the Tranche A-1 Agent for their own respective accounts fees in the amounts and at the times specified in the Fee Letter, as applicable. Unless expressly stated otherwise in the Fee Letter, such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

2.10 Computation of Interest and Fees. All computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. For purposes of disclosure pursuant to the *Interest Act* (Canada), the annual rates of interest or fees to which the rates of interest or fees provided in this Agreement and the other Loan Documents (and stated herein or therein, as applicable, to be computed on the basis of 360 days or any other period of time less than a calendar year) are equivalent are the rates so determined multiplied by the actual number of days in the applicable calendar year and divided by 360 or such other period of time, respectively. Each determination by the Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

2.11 Evidence of Debt.

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by the Agent (the "Loan Account") in the ordinary course of business and subject to commercially reasonable and customary practices. In addition, each Lender may record in such Lender's internal records, an appropriate notation evidencing the date and amount of each Loan from such Lender, each payment and prepayment of principal of any such Loan, and each payment of interest, fees and other amounts due in connection with the Obligations due to such Lender. The accounts or records maintained by the Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Agent in respect of such matters, the accounts and records of the Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Agent, the Borrowers shall execute and deliver to such Lender (through the Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Note, if issued, shall only be issued as means to evidence the right, title and interest of a Lender or a registered assignee in and to the related Loan, as set forth in the Register, and in no event shall any Note be considered a bearer instrument or obligation Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto. Upon receipt of an affidavit of a Lender as to the loss, theft, destruction or mutilation of such Lender's Note and upon cancellation of such Note, the Borrowers will issue, in lieu thereof, a replacement Note in favor of such Lender, in the same principal amount thereof and otherwise of like tenor.

(b) In addition to the accounts and records referred to in Section 2.11(a), each Tranche A Lender and the Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Tranche A Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the accounts and records maintained by the Agent and the accounts and records of any Tranche A Lender in respect of such matters, the accounts and records of the Agent shall control in the absence of manifest error.

(c) Agent shall render monthly statements regarding the Loan Account to the Lead Borrower including principal, interest, fees, and including an itemization of all charges and expenses

constituting Credit Party Expenses owing, and such statements, absent manifest error, shall be conclusively presumed to be correct and accurate and constitute an account stated between Borrowers and the Credit Parties unless, within 30 days after receipt thereof by the Lead Borrower, the Lead Borrower shall deliver to Agent written objection thereto describing the error or errors contained in any such statements.

2.12 Payments Generally; Agent's Clawback.

(a) General. All payments to be made by the Loan Parties shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein or in the other Loan Documents, all payments by the Borrowers hereunder shall be made to the Agent, for the account of the respective Lenders to which such payment is owed, at the Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. The Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Agent after 2:00 p.m., at the option of the Agent, shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue in accordance with the terms of this Agreement. If any payment to be made by the Borrowers shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (2) Funding by Lenders; Presumption by Agent. Unless the Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of LIBO Rate Loans (or in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Agent such Lender's share of such Borrowing, the Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02(f) (or in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02(f)) and may, in reliance upon such assumption, make available to the Borrowers a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Committed Borrowing available to the Agent, then the applicable Lender and the Borrowers severally agree to pay to the Agent forthwith on written demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrowers to but excluding the date of payment to the Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation plus any administrative processing or similar fees customarily charged by the Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrowers, the interest rate applicable to Base Rate Loans. If the Borrowers and such Lender shall pay such interest to the Agent for the same or an overlapping period, the Agent shall promptly remit to the Borrowers the amount of such interest paid by the Borrowers for such period. If such Lender pays its share of the applicable Committed Borrowing to the Agent, then the amount so paid shall constitute such Lender's Committed Loan included in such Committed Borrowing. Any payment by the Borrowers shall be without prejudice to any claim the Borrowers may have against a Lender that shall have failed to make such payment to the Agent.

(i) Payments by Borrowers; Presumptions by Agent. Unless the Agent shall have received notice from the Lead Borrower prior to the time at which any payment is due to the Agent for the account of the Lenders or the L/C Issuer hereunder that the Borrowers will not make such payment, the Agent may assume that the Borrowers have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the L/C Issuer, as the case may be, the amount due. In such event, if the Borrowers have not in

fact made such payment, then each of the Lenders or the L/C Issuer, as the case may be, severally agrees to repay to the Agent forthwith on demand the amount so distributed to such Lender or the L/C Issuer, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Agent, at the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation.

A written notice of the Agent to any Lender or the Lead Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrowers by the Agent because the conditions to the applicable Credit Extension set forth in Section 4.02 (or, if such Credit Extension is made on the Closing Date, Section 4.01) are not satisfied or waived in accordance with the terms hereof (subject to the provisions of the last paragraph of Section 4.02 hereof), the Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Committed Loans, and in the case of the Tranche A Lenders to fund participations in Letters of Credit and Swing Line Loans and to make payments hereunder are several and not joint. The failure of any Lender to make any Committed Loan, to fund any such participation or to make any payment hereunder on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Committed Loan, to purchase its participation or to make its payment hereunder.

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner; provided that, notwithstanding the foregoing, each Lender agrees that it shall not obtain the funds for any Loan or other Credit Extension from any Person that would violate any Foreign Asset Control Regulation, the Executive Order or the Act or from any Person currently subject to U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department.

2.13 Sharing of Payments by Lenders. If any Credit Party shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of, interest on, or other amounts with respect to, any of the Obligations resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Obligations greater than its pro rata share thereof as provided herein (including as in contravention of the priorities of payment set forth in Section 8.03), then the Credit Party receiving such greater proportion shall (a) notify the Agent of such fact, and (b) purchase (for cash at face value) participations in the Obligations of the other Credit Parties, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Credit Parties ratably and in the priorities set forth in Section 8.03, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (x) any payment made by the Loan Parties or any of their Subsidiaries pursuant to and in accordance with

the express terms of this Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Committed Loans or subparticipations in L/C Obligations or Swing Line Loans to any assignee or participant, other than to the Borrowers or any Subsidiary thereof (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim in accordance with this Agreement (including, without limitation, Sections 10.05 and 10.08) with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

2.14 Settlement Amongst Lenders.

(a) The amount of each Lender's Applicable Percentage of outstanding Loans (including outstanding Swing Line Loans, shall be computed weekly (or more frequently in the Agent's discretion) and shall be adjusted upward or downward based on all Loans (including Swing Line Loans) and repayments of Loans (including Swing Line Loans) received by the Agent as of 3:00 p.m. on the first Business Day (such date, the "Settlement Date") following the end of the period specified by the Agent.

(b) The Agent shall deliver to each of the Lenders promptly after a Settlement Date a summary statement of the amount of outstanding Committed Loans and Swing Line Loans for the period and the amount of repayments received for the period. As reflected on the summary statement, (i) the Agent shall transfer to each Tranche A Lender its Tranche A Applicable Percentage of repayments of Tranche A Loans and shall transfer to each Tranche A-1 Lender its Tranche A-1 Applicable Percentage of repayments of Tranche A-1 Loans, and (ii) each Lender shall transfer to the Agent (as provided below) or the Agent shall transfer to each Lender, such amounts as are necessary to insure that, after giving effect to all such transfers, the amount of Tranche A Loans and Tranche A-1 Loans, made by each Lender shall be equal to such Lender's Applicable Percentage of all Tranche A Loans and Tranche A-1 Loans, as applicable, outstanding as of such Settlement Date. If the summary statement requires transfers to be made to the Agent by the Lenders and is received prior to 1:00 p.m. on a Business Day, such transfers shall be made in immediately available funds no later than 3:00 p.m. that day; and, if received after 1:00 p.m., then no later than 3:00 p.m. on the next Business Day. The obligation of each Lender to transfer such funds is irrevocable, unconditional and without recourse to or warranty by the Agent. If and to the extent any Lender shall not have so made its transfer to the Agent, such Lender agrees to pay to the Agent, forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Agent, equal to the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation plus any administrative, processing, or similar fees customarily charged by the Agent in connection with the foregoing.

2.15 Release. Subject to the terms of the Interim Financing Order, the Final Financing Order, or the Canadian Recognition Order, as applicable, each Loan Party hereby acknowledges that no Loan Party has any defense, counterclaim, offset, recoupment, cross-complaint, claim or demand of any kind or nature whatsoever that can be asserted to reduce or eliminate all of any part of the Loan Parties' liability to repay the Credit Parties as provided in this Agreement and the Pre-Petition Credit Agreement or to seek affirmative relief or damages of any kind or nature from any Credit Party or any "Credit Party" (as defined in the Pre-Petition Credit Agreement). Subject to the terms of the Interim Financing Order, the Final Financing Order, or the Canadian Recognition Order, as applicable, each Loan Party, on behalf of itself and its bankruptcy estate, and on behalf of all its successors, assigns, Subsidiaries and any Affiliates and any Person acting for and on behalf of, or claiming through them (collectively, the "Releasing Parties"), hereby fully, finally and forever releases and discharges each

Credit Party and their respective Affiliates, and each of their respective past and present officers, directors, servants, agents, attorneys, assigns, heirs, parents, subsidiaries, participants, and each Person acting for or on behalf of any of them (collectively, the "Released Parties") of and from any and all past, present and future actions, causes of action, demands, suits, claims, liabilities, Liens, lawsuits, adverse consequences, amounts paid in settlement, costs, damages, debts, deficiencies, diminution in value, disbursements, expenses, losses and other obligations of any kind or nature whatsoever, whether in law, equity or otherwise (including, without limitation, those arising under Sections 541 through 550 of the Bankruptcy Code and interest or other carrying costs, penalties, legal, accounting and other professional fees and expenses, and incidental, consequential and punitive damages payable to third parties), whether known or unknown, fixed or contingent, direct, indirect, or derivative, asserted or unasserted, foreseen or unforeseen, suspected or unsuspected, now existing, heretofore existing or which may heretofore accrue against any of the Released Parties, whether held in a personal or representative capacity, and which are based on any act, fact, event or omission or other matter, cause or thing occurring at or from any time prior to and including the date hereof in any way, directly or indirectly arising out of, connected with or relating to the Pre-Petition Credit Agreement and the transactions contemplated thereby, and all other agreements, certificates, instruments and other documents and statements (whether written or oral) related to any of the foregoing, in each case other than the obligations of the Released Parties arising under this Agreement and the other Loan Documents.

2.16 Waiver of any Priming Rights**.** Upon the Closing Date, and on behalf of itself and its estate, and for so long as any Obligations or Pre-Petition Obligations shall be outstanding, each Loan Party hereby irrevocably waives any right, pursuant to Sections 364(c) or 364(d) of the Bankruptcy Code or under any other Debtor Relief Laws or otherwise, to grant any Lien of equal or greater priority than the Liens securing the Obligations or Pre-Petition Obligations, or to approve a claim of equal or greater priority than the Obligations or Pre-Petition Obligations, other than as set forth in a Financing Order or the Canadian Recognition Order.

ARTICLE III
TAXES, YIELD PROTECTION AND ILLEGALITY; APPOINTMENT OF LEAD BORROWER

3.01 Taxes. For purposes of this Section 3.01, the term "Lender" shall include any L/C Issuer and the term "applicable law" includes FATCA.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Loan Parties hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes, provided that if a Loan Party shall be required by applicable law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Agent, Lender or L/C Issuer, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Loan Party shall make such deductions and (iii) the Loan Party shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) Payment of Other Taxes by the Borrowers. Without limiting the provisions of subsection (a) above, the Loan Parties shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Indemnification by the Loan Parties. The Loan Parties shall indemnify the Agent, each Lender and the L/C Issuer, within 10 days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Agent, such Lender or the L/C Issuer, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Lead Borrower by a Lender or the L/C Issuer (with a copy to the Agent), or by the Agent on its own behalf or on behalf of the Agent, a Lender or the L/C Issuer, shall be conclusive absent manifest error.

(d) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by a Loan Party to a Governmental Authority, the Lead Borrower shall deliver to the Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Agent.

(e) Status of Lenders. Any Foreign Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments hereunder or under any other Loan Document shall deliver to the Lead Borrower (with a copy to the Agent), at the time or times prescribed by applicable law or reasonably requested by the Lead Borrower or the Agent, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if requested by the Lead Borrower or the Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Lead Borrower or the Agent as will enable the Lead Borrower or the Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

Without limiting the generality of the foregoing, in the event that any Borrower is resident for Tax purposes in the United States, (A) any Lender that is a U.S. Person shall deliver to the Lead Borrower and the Agent on or prior to the date on which such Lender becomes a Lender under this Agreement, executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax and (B) any Foreign Lender shall deliver to the Lead Borrower and the Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Lead Borrower or the Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

(i) duly completed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E claiming eligibility for benefits of an income tax treaty to which the United States is a party,

(ii) duly completed copies of Internal Revenue Service Form W-8ECI,

(iii) duly completed copies of Internal Revenue Service Form W-8IMY (including any required attachments thereto),

(iv) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate to the effect that such Foreign Lender is not (A) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrowers within the meaning of section 881(c)(3)(B) of the

Code, or (C) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code and (y) duly completed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E, or

(v) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States Federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Lead Borrower to determine the withholding or deduction required to be made (including with respect to FATCA).

(vi) Each Lender shall promptly notify the lead Borrower and the Agent of any change in circumstances that would modify or render invalid any claimed exemption or reduction.

(f) For purposes of determining withholding Taxes imposed under FATCA, from and after the effective date of the Third Amendment, the Borrowers and the Agent shall treat (and the Lenders hereby authorize the Agent to treat) the Credit Agreement (together with any loans or other extensions of credit pursuant thereto) as not qualifying as a "grandfathered obligation" within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

(g) Treatment of Certain Refunds. If any Credit Party determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this Section, it shall pay to the applicable Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the applicable Credit Party, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the applicable Loan Party, upon the request of the Agent, such Lender or the L/C Issuer, agree to repay the amount paid over to the applicable Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the applicable Credit Party in the event any Credit Party is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require the Credit Party to make available its Tax returns (or any other information relating to its taxes that it deems confidential) to the Loan Parties or any other Person.

(h) Sale or Transfer. If a Lender or Participant claims exemption from, or reduction of, withholding tax and such Lender or Participant sells, assigns, grants a participation in, or otherwise transfers all or part of the Obligations of Loan Parties to such Lender or Participant, such Lender or Participant agrees to notify Agent (or, in the case of a sale of a participation interest, the Lender granting the participation) of the percentage amount in which it is no longer the beneficial owner of Obligations of Loan Parties to such Lender. To the extent of such percentage amount, Agent will treat such Lender's or such Participant's documentation provided pursuant to subsections (d) or (e) of this Section 3.01 as no longer valid. With respect to such percentage amount, such Participant or Assignee shall provide new documentation, pursuant to subsections (d) or (e) of this Section 3.01, as applicable.

3.02 Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund LIBO Rate Loans, or to determine or charge interest rates based upon the LIBO Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on written notice thereof by such Lender to the Lead Borrower through the Agent, any obligation of such Lender to make or continue LIBO Rate Loans or to convert Base Rate Loans to LIBO Rate Loans shall be suspended until

such Lender notifies the Agent and the Lead Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such written notice, the Borrowers shall, upon written demand from such Lender (with a copy to the Agent), prepay or, if applicable, convert all LIBO Rate Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such LIBO Rate Loans to such day, or promptly (or immediately, if possible) upon written demand, if such Lender may not lawfully continue to maintain such LIBO Rate Loans, in each case, without any cost, expense or penalty (including no cost, expense or penalty of the type described in Section 3.05) to the Borrowers. Upon any such prepayment or conversion, the Borrowers shall also pay accrued interest on the amount so prepaid or converted.

3.03 Inability to Determine Rates. If the Required Lenders determine in good faith that for any reason in connection with any request for a LIBO Rate Loan or a conversion to or continuation thereof that (a) Dollar deposits are not being offered to banks in the London interbank market for the applicable amount and Interest Period of such LIBO Rate Loan, (b) adequate and reasonable means do not exist for determining the LIBO Rate for any requested Interest Period with respect to a proposed LIBO Rate Loan, or (c) the LIBO Rate for any requested Interest Period with respect to a proposed LIBO Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Agent will promptly so notify in writing the Lead Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain LIBO Rate Loans shall be suspended until the Agent (upon the instruction of the Required Lenders) revokes such notice, which such revocation of notice shall be provided at the earliest time that the circumstances in clauses (a), (b) and (c) in the immediately preceding sentence no longer exist. Upon receipt of such written notice, the Lead Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of LIBO Rate Loans or, failing that, will be deemed to have converted such request into a request for a Committed Borrowing of Base Rate Loans in the amount specified therein, without any cost, expense or penalty (including no cost, expense or penalty of the type described in Section 3.05) to the Borrowers.

3.04 Increased Costs; Reserves on LIBO Rate Loans.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in the LIBO Rate) or the L/C Issuer;

(ii) subject any Lender or the L/C Issuer to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any LIBO Rate Loan made by it, or change the basis of taxation of payments to such Lender or the L/C Issuer in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 3.01 and the imposition of, or any change in the rate of, any Excluded Tax payable by such Lender or the L/C Issuer); or

(iii) impose on any Lender or the L/C Issuer or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or LIBO Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any LIBO Rate Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or the L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount

of any sum received or receivable by such Lender or the L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon written request of such Lender or the L/C Issuer, the Borrowers will pay to such Lender or the L/C Issuer and upon delivery of the certificate contemplated by Section 3.04(c), as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or the L/C Issuer determines in good faith that any Change in Law affecting such Lender or the L/C Issuer or any Lending Office of such Lender or such Lender's or the L/C Issuer's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or the L/C Issuer's capital or on the capital of such Lender's or the L/C Issuer's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by the L/C Issuer, to a level below that which such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the L/C Issuer's policies and the policies of such Lender's or the L/C Issuer's holding company with respect to capital adequacy), then from time to time and upon delivery of the certificate contemplated by Section 3.04(c), the Borrowers will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or the L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or the L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Lead Borrower shall be conclusive absent manifest error. The Borrowers shall pay such Lender or the L/C Issuer, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or the L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or the L/C Issuer's right to demand in writing such compensation, provided that the Borrowers shall not be required to compensate a Lender or the L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than two hundred seventy (270) days prior to the date that such Lender or the L/C Issuer, as the case may be, notifies in writing the Lead Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the two hundred seventy (270) day period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Reserves on LIBO Rate Loans. The Borrowers shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each LIBO Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as reasonably determined by such Lender in good faith, which determination shall be conclusive absent manifest error), which shall be due and payable on each date on which interest is payable on such Loan, provided the Lead Borrower shall have received at least 10 days' prior written notice (with a copy to the Agent) of such additional interest from such Lender. If a Lender fails to give written notice 10 days prior to the relevant Interest Payment Date, such additional interest shall be due and payable 10 days from receipt of such written notice.

3.05 Compensation for Losses. Upon written demand of any Lender upon the Agent (who shall forward a copy thereof to the Lead Borrower) from time to time, except as expressly set forth in Sections 3.02 and 3.03, the Borrowers shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it (other than by reason of such Lender being a Defaulting Lender) as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrowers (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Lead Borrower; or

(c) any assignment of a LIBO Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Lead Borrower pursuant to Section 10.13;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrowers shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each LIBO Rate Loan made by it at the LIBO Rate for such Loan by a matching deposit or other borrowing in the London interbank market for a comparable amount and for a comparable period, whether or not such LIBO Rate Loan was in fact so funded. For the avoidance of doubt, the Borrowers shall have no liability for any breakage costs set forth in this Section 3.05 that may arise by virtue of any Base Rate Loan accruing interest at the Adjusted LIBO Rate pursuant to clause (b) of the definition of "Base Rate".

3.06 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender or L/C Issuer requests compensation under Section 3.04, or the Borrowers are required to pay any additional amount to any Lender or L/C Issuer or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender or L/C Issuer gives a notice pursuant to Section 3.02, then such Lender or L/C Issuer shall use reasonable efforts to (y) file any certificate or document reasonably requested in writing by the Lead Borrower or (z) assign its rights and delegate, designate and transfer its obligations hereunder to a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such filing, assignment, delegation, designation or transfer (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or L/C Issuer to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or L/C Issuer. The Borrowers hereby agree to pay all reasonable out-of-pocket and documented costs and expenses incurred by any Lender or L/C Issuer in connection with any such filing, assignment, delegation, designation or transfer.

(b) Replacement of Lenders. If any Lender or L/C Issuer requests compensation under Section 3.04, or if the Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 or any Lender or L/C

Issuer delivers a notice described in Section 3.02, the Borrowers may replace such Lender or L/C Issuer in accordance with Section 10.13.

3.07 Survival. All of the Borrowers' obligations under this Article III shall survive termination of the Aggregate Commitments and repayment of all Obligations hereunder.

3.08 Designation of Lead Borrower as Borrowers' Agent.

(a) Each Borrower hereby irrevocably designates and appoints the Lead Borrower as such Borrower's agent to obtain Credit Extensions, the proceeds of which shall be available to each Borrower for such uses as are permitted under this Agreement. As the disclosed principal for its agent, each Borrower shall be obligated to each Credit Party on account of Credit Extensions so made as if made directly by the applicable Credit Party to such Borrower, notwithstanding the manner by which such Credit Extensions are recorded on the books and records of the Lead Borrower and of any other Borrower. In addition, each Loan Party other than the Borrowers hereby irrevocably designates and appoints the Lead Borrower as such Loan Party's agent to represent such Loan Party in all respects under this Agreement and the other Loan Documents.

(b) Each Borrower recognizes that credit available to it hereunder is in excess of and on better terms than it otherwise could obtain on and for its own account and that one of the reasons therefor is its joining in the credit facility contemplated herein with all other Borrowers. Consequently, each Borrower hereby assumes and agrees to discharge all Obligations of each of the other Borrowers.

(c) The Lead Borrower shall act as a conduit for each Borrower (including itself, as a "Borrower") on whose behalf the Lead Borrower has requested a Credit Extension. Neither the Agent nor any other Credit Party shall have any obligation to see to the application of such proceeds therefrom.

ARTICLE IV
CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

4.01 Conditions of Initial Credit Extension. The obligation of the L/C Issuer and each Lender to make its initial Credit Extension hereunder is subject to satisfaction (or waiver) of the following conditions precedent:

(a) The Agent's receipt of the following, each of which shall be originals, telecopies or other electronic image scan transmission (e.g., "pdf" or "tif" or via e-mail) (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party or the Lenders, as applicable, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to the Agent in its Permitted Discretion (it being understood and agreed that certificates of governmental officials certified within 30 days prior to the Closing Date is recent)):

(i) executed original counterparts of this Agreement sufficient in number for distribution to the Agent, each Lender, and the Lead Borrower;

(ii) a Note executed by the Borrowers in favor of each Lender requesting a Note;

(iii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Agent may reasonably require evidencing (A) the authority of each Loan Party to enter into this Agreement and the other

Loan Documents to which such Loan Party is a party or is to become a party and (B) the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to become a party;

(iv) copies of each Loan Party's Organization Documents and such other documents and certifications as the Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing, in good standing and qualified to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to so qualify in such jurisdiction could not reasonably be expected to have a Material Adverse Effect;

(v) Reserved;

(vi) a certificate signed by a Responsible Officer of the Lead Borrower certifying (A) that the conditions specified in Sections 4.02(a) and (b) have been satisfied, (B) that except with respect to the filing of the Chapter 11 Case and the Canadian Case and any Material Adverse Effect resulting, directly or indirectly, from the Events and Circumstances, there has been no event or circumstance since the date of the Audited Financial Statements that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect, and (C) either that (1) no consents, licenses or approvals are required in connection with the execution, delivery and performance by such Loan Party and the validity against such Loan Party of the Loan Documents to which it is a party, or (2) subject to the entry by the Bankruptcy Court of the Interim Financing Order (as the same may be amended, supplemented or otherwise modified by the Final Financing Order and the Canadian Recognition Order), that all such consents, licenses and approvals have been obtained and are in full force and effect;

(vii) Reserved;

(viii) The Intercreditor Agreement shall be in full force and effect;

(ix) the Security Agreements executed by the Loan Parties, together with: (1) delivery to the Term Agent of "certificated securities" (as defined in Article 8 of the UCC or the PPSA, as applicable) for the Domestic Subsidiaries of the Parent being pledged under the Security Agreements and Term Loan Documents whose Equity Interests constitute "securities" under Article 8 of the UCC or the PPSA, as applicable, and (2) delivery to the Term Agent of corresponding, undated stock powers executed in blank, each duly executed by the applicable Domestic Subsidiaries of the Parent;

(x) all other Loan Documents, each duly executed by the applicable Loan Parties;

(xi) results of searches or other evidence reasonably satisfactory to the Agent (in each case dated as of a date reasonably satisfactory to the Agent) indicating the absence of Liens on the assets of the Loan Parties, except for Permitted Encumbrances and Liens for which termination statements and releases, satisfactions and discharges of any mortgages, and releases or subordination agreements satisfactory to the Agent are being tendered concurrently with such extension of credit or other arrangements satisfactory to the Agent for the delivery of such termination statements and releases, satisfactions and discharges have been made; and

(xii) all documents and instruments, including Uniform Commercial Code and PPSA financing statements, required by law or reasonably requested by the Agent to be filed, registered or recorded to create or perfect the first priority Liens intended to be created under the Loan Documents and the Financing Orders and all such Uniform Commercial Code and PPSA financing statements shall have been so filed, registered or recorded to the satisfaction of the Agent.

(b) After giving effect to (i) the first funding under the Loans, (ii) any charges to the Loan Account made in connection with the establishment of the credit facility contemplated hereby and (iii) all Letters of Credit to be issued at, or immediately subsequent to, such establishment (including all Existing Letters of Credit), Tranche A Availability shall be not less than $65,000,000.

(c) The Agent and Tranche A-1 Agent shall have received a Borrowing Base Certificate dated the Closing Date, relating to the most recent Saturday, and executed by a Responsible Officer of the Lead Borrower.

(d) The Intercompany Note shall be in full force and effect.

(e) All fees and expenses required to be paid to the Agent, Tranche A-1 Agent, and the Arranger on or before the Closing Date shall have been paid in full, and all fees and expenses required to be paid to the Lenders on or before the Closing Date shall have been paid in full.

(f) The Borrowers shall have paid all fees, charges and disbursements of counsel to the Agent and counsel to Tranche A-1 Agent to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the Closing Date (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrowers on the one hand, and the Agent or Tranche A-1 Agent, on the other hand).

(g) Not less than five (5) Business Days prior to the Closing Date the Agent and the Lenders shall have received all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the USA PATRIOT Act, Canadian Anti-Money Laundering & Anti-Terrorism Legislation and other applicable laws, in each case to the extent requested by the Agent at least 15 Business Days prior to the Closing Date.

(h) The Agent, Tranche A-1 Agent and Lenders shall have received and be satisfied with (i) the initial Approved Budget, and (ii) such other information (financial or otherwise) as may be reasonably requested by the Agent and the Tranche A-1 Agent.

(i) The Agent, Tranche A-1 Agent and the Lenders shall have received (i) duly executed copies of the engagement letters for the Consultants, which shall be on terms and conditions reasonably acceptable to the Agent and the Tranche A-1 Agent, (ii) evidence that the Loan Parties filed a motion on the Petition Date seeking to retain the Consultants on terms reasonably satisfactory to the Agent and the Tranche A-1 Agent;

(j) (i) The Bankruptcy Court shall have entered the Interim Financing Order and the Cash Management Order, and (ii) neither of such orders shall have been (A) stayed, vacated or reversed (in whole or in part) or (B) amended or modified other than with the consent of the Agent and Tranche A-1 Agent.

(k) Reserved.

(l) Reserved.

(m) The Agent and Tranche A-1 Agent shall have received evidence that the Lead Borrower and an Approved Liquidator have entered into the Agency Agreement on terms satisfactory to the Agent and Tranche A-1 Agent and such Agency Agreement shall be in full force and effect subject only to the entry by the Bankruptcy Court of an order approving the Initial Store Closing Sale.

(n) The Real Estate Eligibility Requirements shall be satisfied for all Real Estate scheduled on Schedule 1.04, including, without limitation, (i) at the request of the Agent, delivery to the Agent of Mortgages (or amendments to any existing Mortgages delivered in connection with the Pre-Petition Credit Agreement) and Mortgage Policies with respect to same, (ii) standard flood hazard determination forms and, and (iii) if any property is located in a special flood hazard area, (x) notices to (and confirmations of receipt by) the Lead Borrower as to the existence of a special flood hazard and, if applicable, the unavailability of flood hazard insurance under the National Flood Insurance Program and (y) evidence of applicable flood insurance, if available, in each case in such form, on such terms and in such amounts as required by The National Flood Insurance Reform Act of 1994 or as otherwise required by the Agent.

(o) The Agent and Tranche A-1 Agent shall have received duly executed copies of all documents evidencing the DIP Term Loan Facility, which shall be in form and substance acceptable to the Agent and Tranche A-1 Agent.

(p) The Agent and Tranche A-1 Agent shall have received a duly executed term sheet with respect to the Restructuring Support Agreement, which shall be in form and substance acceptable to the Agent and Tranche A-1 Agent.

(q) The Bankruptcy Court shall have entered the Interim Financing Order within three (3) Business Days of the Petition Date.

Without limiting the generality of the provisions of Section 9.04, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto. The making and/or issuing of the initial Credit Extensions by the Lenders and L/C Issuer shall be deemed to be the satisfaction or waiver of all of the conditions precedent in Section 4.01 on the Closing Date.

4.02 Conditions to all Credit Extensions. After the Closing Date, the obligation of each Lender to honor any Request for Credit Extension after the Closing Date and each L/C Issuer to issue each Letter of Credit is subject to the following conditions precedent:

(a) The representations and warranties of the Borrowers and each other Loan Party contained in Article V or any other Loan Document, shall be true and correct in all material respects (or, in the case of any representation and warranty qualified by materiality, in all respects) on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (or, in the case of any representation and warranty qualified by materiality, true and correct in all respects) as of such earlier date;

(b) No Default or Event of Default shall exist, or would result from such proposed Credit Extension;

(c) The Agent and, if applicable, the L/C Issuer or the Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof;

(d) No Overadvance shall result from such Credit Extension;

(e) Neither the Interim Financing Order nor the Final Financing Order, as applicable, shall have been (i) stayed, vacated or reversed (in whole or in part), or (ii) amended or modified other than with the consent of the Agent and Tranche A-1 Agent; and

(f) Each Credit Extension shall be for purposes and in amounts consistent with the Approved Budget (subject to the Permitted Variance).

Each Request for Credit Extension submitted by the Borrower shall be deemed to be a representation and warranty by the Borrowers that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension. The conditions set forth in this Section 4.02 are for the sole benefit of the Credit Parties but until the Required Lenders otherwise direct the Agent in writing to cease making Loans and issuing Letters of Credit, the Lenders will fund their Applicable Percentage of all Loans and participate in all Swing Line Loans and Letters of Credit whenever made or issued, which are requested by the Lead Borrower and which, notwithstanding the failure of the Loan Parties to comply with the provisions of this Article IV, agreed to by the Agent, provided, however, the making of any such Loans or the issuance of any Letters of Credit shall not be deemed a modification or waiver by any Credit Party of the provisions of this Section 4.02 on any future occasion or a waiver of any rights or the Credit Parties as a result of any such failure to comply.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

To induce the Credit Parties to enter into this Agreement and to make Loans and to issue Letters of Credit hereunder, each Loan Party represents and warrants to the Agent and the other Credit Parties that: To induce the Agent and the Lenders to enter into this Agreement, the Borrowers make to the Agents and the Lenders at and as of the date of the making of each Credit Extension, each of the following representations and warranties, each of which 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), at and as of the date of the making of such Credit Extension, as though made on and as of the date of such Credit Extension (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 are already qualified or modified by materiality in the text thereof) as of such earlier date:

5.01 Existence, Qualification and Power. Each Loan Party and each Restricted Subsidiary thereof is a corporation, limited liability company, unlimited liability company, partnership or limited partnership, duly incorporated, organized or formed, validly existing and, where applicable, in good standing under the Laws of the jurisdiction of its incorporation, organization, or formation, except, solely in the case of any Restricted Subsidiary of a Loan Party that is not a Loan Party, where the failure to be duly incorporated, organized, formed, validly existing or in good standing could not reasonably be expected to have a Material Adverse Effect, subject to any entry of any required orders of the Bankruptcy Court including, without limitation, the entry of the Interim Financing Order, the Final Financing Order

or the Canadian Recognition Order, as applicable, has all requisite power and authority and all requisite governmental licenses, permits, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, and (iii) is duly qualified and is licensed and, where applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (b)(i) or (c) above, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect. Schedule 5.01 annexed hereto sets forth, as of the Closing Date, each Loan Party's name as it appears in official filings in its state (or country, province or territory) of incorporation or organization and the state (or country, province or territory) of the location of its chief executive office, organization type, organization number, if any, issued by its state of incorporation or organization, and its federal employer identification number or similar number(s).

5.02 Authorization; No Contravention. Subject to the entry of the Interim Financing Order, the Final Financing Order, and the Canadian Recognition Order, as applicable, the execution, delivery and performance by each Loan Party of each Loan Document to which such Person is or is to be a party, has been duly authorized by all necessary corporate or other organizational action, and does not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach, termination, or contravention of, or constitute a default under, or require any payment to be made under (i) any Material Contract or any Material Indebtedness to which such Person is a party or affecting such Person or the properties of such Person or any of its Restricted Subsidiaries or (ii) unless it could not reasonably be expected to result in a Material Adverse Effect, any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; (c) result in or require the creation of any Lien upon any asset of any Loan Party (other than Liens in favor of the Agent under the Security Documents); or (d) violate any Law, except to the extent any such violation could not reasonably be expected to have a Material Adverse Effect.

5.03 Governmental Authorization; Other Consents. Subject to the entry of the Interim Financing Order, the Final Financing Order, and the Canadian Recognition Order, as applicable, no approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, except for (a) such as have been obtained or made and are in full force and effect, or (b) that the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect.

5.04 Binding Effect. This Agreement has been, and each other Loan Document, when delivered, will have been, duly executed and delivered by each Loan Party that is party thereto. Subject to the entry of the Interim Financing Order, the Final Financing Order, and the Canadian Recognition Order, as applicable, this Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

5.05 Financial Statements; No Material Adverse Effect.

(a) All financial statements that have been delivered to the Agent pursuant to this Agreement (i) were prepared in accordance with GAAP (except (A) in the case of unaudited financial statement, for the lack of footnotes and being subject to year–end or quarter-end audit adjustments, as

applicable, and (B) in respect of any monthly financial statements) consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present, in all material respects, the financial condition of the Lead Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all Material Indebtedness and other material liabilities, direct or contingent, of the Lead Borrower and its Subsidiaries as of the date thereof, including material liabilities for taxes, material commitments and Indebtedness.

(b) Reserved.

(c) Reserved.

(d) The initial Approved Budget prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair in light of the conditions existing at the time of delivery of such forecasts, and represented, at the time of such delivery, the Loan Parties' good faith estimate of its future financial performance.

5.06 Litigation. Except as specifically disclosed on Schedule 5.06, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Loan Parties after due and diligent investigation, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against any Loan Party or any of its Restricted Subsidiaries or against any of its properties or revenues that (a) purport to affect or pertain to the validity or enforceability of the Obligations or the Liens granted to the Agent pursuant to the Loan Documents, or (b) either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

5.07 No Default. No Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

5.08 Ownership of Property; Liens.

(a) Each of the Loan Parties and each Restricted Subsidiary thereof has good record and marketable title in fee simple to or valid leasehold interests in, all Real Estate necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each of the Loan Parties and each Restricted Subsidiary has good and marketable title to, valid leasehold interests in, or valid licenses or other rights to use all personal property and assets material to the ordinary conduct of its business, except where failure to have such title, interest, license or other right could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Schedule 5.08(b)(1) sets forth the address (including street address, county and state, province or territory) of all Real Estate that is owned by the Loan Parties, together with a list of the holders of any mortgage thereon as of the Closing Date. Each Loan Party and each of its Restricted Subsidiaries has good, marketable and insurable fee simple title to the Real Estate owned by such Loan Party or such Restricted Subsidiary, free and clear of all Liens, other than Permitted Encumbrances. Schedule 5.08(b)(2) sets forth the address (including street address, county and state, province or territory) of all Leases of the Loan Parties, together with a list of the lessor and its contact information with respect to each such Lease as of the Closing Date. Each of such Leases is in full force and effect and the Loan Parties are not in default of the terms thereof, except where such failure could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(c) Schedule 7.01 sets forth a complete and accurate list as of the Closing Date of all Liens on the property or assets of each Loan Party and each of its Restricted Subsidiaries, showing as of the Closing Date the lienholder thereof and a general description of the property or assets of such Loan Party or such Subsidiary subject thereto, in each case, other than Permitted Encumbrances (other than Liens permitted by clause (g) of the definition of "Permitted Encumbrances"). The Collateral of each Loan Party and each of its Restricted Subsidiaries is subject to no Liens, other than Permitted Encumbrances.

(d) Schedule 7.02 sets forth a complete and accurate list as of the Closing Date of all Investments held by any Loan Party or any Restricted Subsidiary of a Loan Party on the Closing Date, in each case, other than Permitted Investments (other than Investments permitted by clause (f) of the definition of "Permitted Investments").

(e) Schedule 7.03 sets forth a complete and accurate list of all Indebtedness as of the Closing Date of each Loan Party or any Restricted Subsidiary of a Loan Party that is to remain outstanding after the Closing Date, showing as of the Closing Date the approximate outstanding principal amount, obligor or issuer and maturity thereof, in each case, other than Permitted Indebtedness (other than Indebtedness permitted by clause (a) of the definition of "Permitted Indebtedness").

5.09 Environmental Compliance.

(a) No Loan Party or any Restricted Subsidiary thereof (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received written notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability, except, in each case of (i)-(iv), as could not reasonably be expected to have a Material Adverse Effect.

(b) To the knowledge of the Loan Parties, except as could not reasonably be expected to have a Material Adverse Effect, (i) none of the properties currently or formerly owned or operated by any Loan Party or any Restricted Subsidiary thereof is listed on the NPL or on the CERCLIS or any analogous foreign, state or local list or is adjacent to any such property; (ii) there are no and never have been any underground or above-ground storage tanks or any surface impoundments, septic tanks, pits, sumps or lagoons in which Hazardous Materials are being or have been treated, stored or disposed on any property currently owned or operated by any Loan Party or any Restricted Subsidiary thereof; (iii) there is no asbestos or asbestos-containing material on any property currently owned or operated by any Loan Party or Restricted Subsidiary thereof; and (iv) Hazardous Materials have not been released, discharged or disposed of on any property currently or formerly owned or operated by any Loan Party or any Restricted Subsidiary thereof.

(c) Except as could not reasonably be expected to have a Material Adverse Effect, no Loan Party or any Restricted Subsidiary thereof is undertaking, and no Loan Party or any Restricted Subsidiary thereof has completed, either individually or together with other potentially responsible parties, any investigation or assessment or remedial or response action relating to any actual or threatened release, discharge or disposal of Hazardous Materials at any site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law; and all Hazardous Materials generated, used, treated, handled or stored at, or transported to or from, any property currently or formerly owned or operated by any Loan Party or any Restricted Subsidiary thereof have been disposed of in a manner not reasonably expected to result in material liability to any Loan Party or any Restricted Subsidiary thereof.

5.10 Insurance. The properties of the Loan Parties and their Restricted Subsidiaries are insured with financially sound and reputable insurance companies which are not Affiliates of the Loan Parties (except to the extent of any self-insurance permitted pursuant to Section 6.07), in such amounts (after giving effect to any permitted self-insurance), with such deductibles and covering such risks (including, without limitation, workmen's compensation, public liability, business interruption and property damage insurance) as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Loan Parties or the applicable Restricted Subsidiary operates. Schedule 5.10 sets forth a description of all insurance maintained by or on behalf of the Loan Parties and their Restricted Subsidiaries as of the Closing Date. Each insurance policy listed on Schedule 5.10 is in full force and effect and all premiums in respect thereof that are due and payable have been paid. As to all improved real property constituting collateral security for the Obligations, (i) all flood hazard insurance policies required hereunder have been obtained and remain in full force and effect, and the premiums thereon have been paid in full, and (ii) except as the Lead Borrower has previously given written notice thereof to the Agent, there has been no redesignation of any property into or out of special flood hazard area.

5.11 Taxes. The Loan Parties and their Restricted Subsidiaries have filed all federal, state, provincial, municipal, local, foreign and other material Tax returns and reports required to be filed, and have paid all federal, state, provincial, municipal, local, foreign and other material Taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are not required to be paid by the Bankruptcy Court and which are being contested in good faith by appropriate proceedings being diligently conducted, for which adequate reserves have been provided in accordance with GAAP, as to which Taxes no Lien has been filed, registered or recorded and which contest effectively suspends the collection of the contested obligation and the enforcement of any Lien securing such obligation. There is no proposed Tax assessment against any Loan Party or any Restricted Subsidiary that would, if made, have a Material Adverse Effect. No Loan Party or any Restricted Subsidiary thereof is a party to any Tax sharing agreement other than the Tax Sharing Agreement.

5.12 ERISA Compliance; Pension Plans.

(a) Except as would not reasonably be expected to have a Material Adverse Effect, each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state Laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a letter is currently being processed by the IRS with respect thereto and, to the knowledge of the Lead Borrower, nothing has occurred which would prevent, or cause the loss of, such qualification. The Loan Parties and each ERISA Affiliate have made all required contributions to each Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan. No Lien imposed under the Code or ERISA exists or is reasonably expected to arise on account of any Plan.

(b) There are no pending or, to the knowledge of the Lead Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) (i) No ERISA Event has occurred, and to the knowledge of the Lead Borrower, there is no fact, event or circumstance that could reasonably be expected to constitute or result in an

ERISA Event which could have a Material Adverse Effect; (ii) no Pension Plan has any Unfunded Pension Liability; (iii) neither any Loan Party nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) neither any Loan Party nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (v) neither any Loan Party nor any ERISA Affiliate has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA.

(d) None of the Loan Parties currently maintains, contributes to or sponsors, or has in the past five years maintained, contributed to or sponsored, any Canadian Pension Plan nor has any liability, contingent or otherwise, with respect to a Canadian Pension Plan.

(e) Each Canadian Loan Party and its subsidiaries are in compliance with all federal or provincial laws with respect to each Canadian Benefit Plan except where the failure to so comply would not reasonably be expected to have a Material Adverse Effect. No fact or situation that may reasonably be expected to result in a Material Adverse Effect exists in connection with any Canadian Benefit Plan. No Lien has arisen, choate or inchoate, in respect of a Canadian Loan Party or its Subsidiaries or its or their property in connection with any Canadian Benefit Plan.

5.13 Restricted Subsidiaries; Equity Interests. The Loan Parties have no Subsidiaries other than those specifically disclosed in Part (a) of Schedule 5.13, which Schedule sets forth the legal name, jurisdiction of incorporation or formation and authorized Equity Interests of each such Subsidiary. All of the outstanding Equity Interests in such Subsidiaries have been validly issued, duly authorized, are fully paid and non-assessable and are owned by a Loan Party (or a Subsidiary of a Loan Party) in the amounts specified on Part (a) of Schedule 5.13 free and clear of all Liens except for those created under the Security Documents and those expressly granted under the Financing Orders. Except as set forth in Schedule 5.13, there are no outstanding rights to purchase any Equity Interests in any Subsidiary. The Loan Parties have no equity investments in any other corporation or entity other than those specifically disclosed in Part (b) of Schedule 5.13. All of the outstanding Equity Interests in the Loan Parties have been validly issued, and are fully paid and non-assessable and are owned in the amounts specified on Part (c) of Schedule 5.13 free and clear of all Liens except for those created under the Security Documents and those expressly granted under the Financing Orders. The copies of the Organization Documents of each Loan Party and each amendment thereto provided pursuant to Section 4.01 are true and correct copies of each such document, each of which is valid and in full force and effect.

5.14 Margin Regulations; Investment Company Act.

(a) No Loan Party is engaged or will be engaged, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock in violation of Regulation U or X of the FRB. None of the proceeds of the Credit Extensions shall be used directly or indirectly for the purpose of purchasing or carrying any margin stock, for the purpose of reducing or retiring any Indebtedness that was originally incurred to purchase or carry any margin stock or for any other purpose that might cause any of the Credit Extensions to be considered a "purpose credit" within the meaning of Regulations T, U, or X issued by the FRB in violation of Regulation U or X of the FRB.

(b) None of the Loan Parties, any Person Controlling any Loan Party, or any Restricted Subsidiary is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

5.15 Disclosure. Each Loan Party has disclosed to the Agent and the Lenders all agreements, instruments and corporate or other restrictions to which it or any of its Restricted Subsidiaries is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. No report, financial statement, certificate or other information furnished (whether in writing or orally) by or on behalf of any Loan Party to the Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case, as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information and the Approved Budget, the Loan Parties represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time (it being understood that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any projections may differ from the projected results and no assurance can be given that the projections will be realized).

5.16 Compliance with Laws. Except to the extent non-performance thereof is permitted by the Bankruptcy Code and the CCAA, each of the Loan Parties and each Restricted Subsidiary is in compliance (i) in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect; and (ii) with Sections 10.17 and 10.18 hereof.

5.17 Intellectual Property; Licenses, Etc**.** The Loan Parties and their Restricted Subsidiaries own, or possess the right to use, all of the Intellectual Property, that is reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person. To the knowledge of the Lead Borrower, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by any Loan Party or any Restricted Subsidiary infringes upon any rights held by any other Person. No claim or litigation regarding any of the foregoing is pending or, to the knowledge of the Loan Parties, threatened, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

5.18 Reserved.

5.19 Security Documents.

(a) Each Security Agreement, when taken together with the Financing Orders and the Canadian Recognition Order, creates in favor of the Agent, for the benefit of the Credit Parties referred to therein, a legal, valid, continuing and enforceable security interest in the Collateral (as defined in the Security Agreement). Upon entry of the Interim Financing Order (and the subsequent entry of the Final Financing Order) and the Canadian Recognition Order, the Agent will have a perfected Lien on, and security interest in, to and under all right, title and interest of the grantors thereunder in all Collateral that may be perfected by filing, recording or registering a financing statement or analogous document or by obtaining 'control' under the UCC or the PPSA, as applicable (including without limitation the proceeds of such Collateral subject to the limitations relating to such proceeds in the UCC or PPSA, as applicable)

prior and superior in right to any other Person. Assuming the entry of the Financing Orders and the Canadian Recognition Order, filings of UCC-1 and PPSA financing statements and/or the obtaining of "control" (as defined in the UCC and PPSA) of Collateral is not required to create or perfect a legal, valid, continuing and enforceable security interest in the Collateral.

(b) Subject to the entry of the Interim Financing Order, the Final Financing Order, and the Canadian Recognition Order as applicable, the Agent shall have a fully perfected Lien on, and security interest in, all right, title and interest of the applicable Loan Parties in the Intellectual Property (as defined in the Security Agreement) in which a security interest may be perfected by filing, recording or registering a security agreement, financing statement or analogous document in the United States Patent and Trademark Office or the United States Copyright Office or the Canadian Intellectual Proporty Office, as applicable, in each case prior to all Liens (other than Permitted Encumbrances having priority by operation of Law and Liens described in clause (q) of the definition of Permitted Encumbrances, subject to the Intercreditor Agreement).

(c) The Mortgages, when taken together with the Financing Orders, create in favor of the Agent, for the benefit of the Credit Parties referred to therein, a legal, valid, continuing and enforceable Lien in the Mortgaged Property (as defined in the Mortgages). The Agent has a perfected Lien on, and security interest in, to and under all right, title and interest of the grantors thereunder in all Mortgaged Property (including without limitation the proceeds of such Mortgaged Property), in each case prior to all Liens (except those Permitted Encumbrances having priority by operation of Law and Liens described in clause (q) of the definition of Permitted Encumbrances, subject to the Intercreditor Agreement) to any other Person.

5.20 Reserved**.**

5.21 Deposit Accounts; Credit Card Arrangements.

(a) Set forth on Schedule 5.21(a) are all of each Loan Party's DDAs, including, with respect to each bank (i) the name and address of such Person, and (ii) the account numbers of the DDAs maintained with such Person. Schedule 5.21(a) separately identifies each Concentration Account, Consolidated Store Deposit Account, Individual Store Account, the Home Office Account and the Designated Account.

(b) Schedule 5.21(b) sets forth each Loan Party's Credit Card Processors and all material arrangements to which any Loan Party is a party with respect to the payment to any Loan Party of the proceeds of credit card charges and debit card charges for sales by such Loan Party.

5.22 Casualty. Neither the businesses nor the properties of any Loan Party or any of its Restricted Subsidiaries are affected by any fire, explosion, accident, strike, lockout or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy or other casualty (whether or not covered by insurance) that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

5.23 OFAC; Sanctions. No Loan Party nor any of its Subsidiaries is in violation of any Sanctions. No Loan Party nor any of its Subsidiaries nor, to the knowledge of such Loan Party, any director, officer, employee, agent or Affiliate of such Loan Party or such Subsidiary (a) is a Sanctioned Person or a Sanctioned Entity, (b) has any assets located in Sanctioned Entities, or (c) derives revenues from investments in, or transactions with Sanctioned Persons or Sanctioned Entities. Each of the Loan Parties and its Subsidiaries has implemented and maintains in effect policies and procedures designed to ensure compliance by the Loan Parties and their Subsidiaries and their respective directors, officers,

employees, agents and Affiliates with the Anti-corruption Laws. Each of the Loan Parties and its Subsidiaries, and to the knowledge of each such Loan Party, each director, officer, employee, agent and Affiliate of each such Loan Party and each such Subsidiary, is in compliance with the Anti-corruption Laws in all material respects. No proceeds of any loan made or Letter of Credit issued 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, or otherwise used in any manner that would result in a violation of any applicable sanction by any Person (including any Credit Party or other individual or entity participating in any transaction).

5.24 Bankruptcy Matters.

(a) The Chapter 11 Case was commenced on the Petition Date in accordance with applicable Law and notice of (i) the motion seeking approval of the Loan Documents and the Interim Financing Order and the Final Financing Order, (ii) the hearing for the entry of the Interim Financing Order, and (iii) the hearing for the entry of the Final Financing Order in each case has been or will be given. The Borrowers shall give, on a timely basis as specified in the Interim Financing Order or the Final Financing Order, as applicable, all notices required to be given to all parties specified in the Interim Financing Order or Final Financing Order, as applicable.

(b) Within five (5) Business Days of the granting of the Initial Financing Order, the Canadian Bankruptcy Court shall have granted the Canadian Recognition Order that, among other things, recognize the Interim Financial Order and the Final Financing Order when effective, and enforce each such Order in Canada, including the provisions of the Interim Financing Order and the Interim Financing Order authorizing the granting by the Canadian Loan Parties of Guarantees to the Agent, and the granting of Liens by the Canadian Loan Parties to secure the Obligations under such Guarantees.

(c) After the entry of the Interim Financing Order, and pursuant to and to the extent permitted in the Interim Financing Order and the Final Financing Order, the Obligations will constitute allowed administrative expense claims in the Chapter 11 Case having priority over all administrative expense claims (other than (x) the Carve-Out up to, at any date of determination, the amount of the Carve-Out Reserve, (y) Liens granted by the Canadian Bankruptcy Court on Collateral of the Canadian Loan Parties to secure professional fees and expenses of the Case Professionals and (z) Permitted Prior Liens) and unsecured claims against the Loan Parties now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expense claims of the kind specified in Sections 105, 326, 328, 330, 331, 503(a), 503(b), 506(c) (after entry of the Final Financing Order), 507(a), 507(b), 546(c), 546(d), 726, 1114 or any other provision of the Bankruptcy Code or otherwise, as provided under Section 364(c)(l) of the Bankruptcy Code, subject to the priorities set forth in the Interim Financing Order or the Final Financing Order, as applicable.

(d) After the entry of the Interim Financing Order and, with respect to the Canadian Loan Parties, the Canadian Recognition Order, and pursuant to and to the extent provided in the Interim Financing Order and the Final Financing Order, and, with respect to the Canadian Loan Parties, the Canadian Recognition Order, the Obligations will be secured by a valid and perfected first priority Lien on all of the Collateral subject, as to priority only, to (x) the Carve-Out up to, at any date of determination, the amount of the Carve-Out Reserve, (y) the Administration Charge granted by the Canadian Bankruptcy Court on Collateral of the Canadian Loan Parties, and (z) the Permitted Prior Liens.

(e) The Interim Financing Order (with respect to the period on and after entry of the Interim Financing Order and prior to the Final Order Entry Date), the Final Financing Order (with respect to the period on and after the Final Order Entry Date), and, with respect to the Canadian Loan Parties, the Canadian Recognition Order, as the case may be, is in full force and effect and has not been reversed,

stayed (whether by statutory stay or otherwise), modified or amended without the consent of the Agent, Tranche A-1 Agent, Required Tranche A Lenders and Required Tranche A-1 Lenders.

(f) Notwithstanding the provisions of Section 362 of the Bankruptcy Code, and subject to the applicable provisions of the Interim Financing Order, Final Financing Order, and, with respect to the Canadian Loan Parties, the Canadian Recognition Order, as the case may be, upon the maturity (whether by acceleration or otherwise) of any of the Obligations, the Credit Parties shall be entitled to immediate payment of such Obligations and to enforce the remedies provided for hereunder, under the other Loan Documents or under applicable law, without further application to or order by the Bankruptcy Court (but subject to any prior notice or other requirements of the Canadian Bankruptcy Court in the case of the Canadian Loan Parties).

(g) A true and complete copy of the Approved Budget is attached as Schedule 1.07 hereto.

ARTICLE VI
AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied (other than contingent indemnification Obligations for which a claim has not then been asserted), or any Letter of Credit shall remain outstanding (except to the extent fully Cash Collateralized or supported by other collateral accepted by the L/C Issuer and the Agent), the Loan Parties shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, and 6.03) cause each Restricted Subsidiary to:

6.01 Financial Statements. Deliver to the Agent and Tranche A-1 Agent, in form and detail satisfactory to the Agent and Tranche A-1 Agent:

(a) as soon as available, (i) a Consolidated balance sheet of the Lead Borrower and its Subsidiaries as at the end of each Fiscal Year, and the related consolidated statements of income or operations, Shareholders' Equity and cash flows for such Fiscal Year, setting forth in each case (to the extent available, with respect to any Fiscal Year ending prior to, or a portion of which occurs prior to, the Closing Date) in comparative form the figures for the previous Fiscal Year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of a Registered Public Accounting Firm of nationally recognized standing reasonably acceptable to the Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards, (ii) but in any event within thirty (30) days after the end of each of the Fiscal Months of each Fiscal Year of the Lead Borrower, a Consolidated balance sheet of the Lead Borrower and its Subsidiaries as at the end of such Fiscal Month, and the related consolidated statements of income or operations (which shall be limited to operating profit (including interest but excluding taxes)), and, to the extent prepared, cash flows for such Fiscal Month, and for the portion of the Lead Borrower's Fiscal Year then ended, setting forth in each case (to the extent available, with respect to any Fiscal Month or Fiscal Year ending prior to, or a portion of which occurs prior to, the Closing Date) in comparative form the figures for the corresponding Fiscal Month of the previous Fiscal Year and (C) the corresponding portion of the previous Fiscal Year, all in reasonable detail, certified by a Responsible Officer of the Lead Borrower as fairly presenting, in all material respects, the financial condition, results of operations, and to the extent prepared, cash flows of the Lead Borrower and its Subsidiaries as of the end of such Fiscal Month, subject only to normal year-end audit adjustments and the absence of footnotes;

(b) (i) The Approved Budget may be updated, modified or supplemented (with the consent of the Agent, Tranche A-1 Agent and Required Lenders and/or at the reasonable request of

the Agent and/or the Tranche A-1 Agent) from time to time, and each such updated, modified or supplemented budget shall be approved by, and in form and substance satisfactory to, the Agent, Tranche A-1 Agent and Required Lenders and no such updated, modified or supplemented budget shall be effective until so approved and once so approved shall be deemed an Approved Budget; provided, that during the fourth (4th) week of the initial Approved Budget (and the fourth (4^{th}) week of each successive Approved Budget thereafter), the Lead Borrower shall submit a budget for the next successive thirteen week period to the Agent and Tranche A-1 Agent, which budget shall be in form and substance acceptable to the Agent, Tranche A-1 Agent, and Required Lenders and approved by the Agent, Tranche A-1 Agent, and Required Lenders; provided, further, that in the event that the Agent, Tranche A-1 Agent, Required Lenders and the Lead Borrower cannot, while acting in good faith, agree as to an updated, modified or supplemented budget, such disagreement shall give rise to an Event of Default hereunder once the period covered by the most recent Approved Budget has terminated. Each Approved Budget delivered to the Agent and Tranche A-1 Agent shall be accompanied by such supporting documentation as requested by the Agent or Tranche A-1 Agent. Each Approved Budget shall be prepared in good faith based upon assumptions which the Lead Borrower believes to be reasonable and are satisfactory to the Agent and Tranche A-1 Agent.

(ii) On or before Friday of each week following the Closing Date, the Lead Borrower shall deliver to the Agent and Tranche A-1 Agent an Approved Budget Variance Report.

6.02 Certificates; Other Information. Deliver to the Agent and Tranche A-1 Agent, in form and detail satisfactory to the Agent and Tranche A-1 Agent:

(a) concurrently with the delivery of the financial statements referred to in Section 6.01(a), a copy of management's discussions and analysis with respect to such financial statements;

(b) concurrently with the delivery of the financial statements referred to in Section 6.01(a), a duly completed Compliance Certificate signed by a Responsible Officer of the Lead Borrower, and in the event of any change in GAAP used in the preparation of such financial statements, the Lead Borrower shall also provide a statement of reconciliation conforming such financial statements to GAAP;

(c) on Wednesday of each week (or, if Wednesday is not a Business Day, on the next succeeding Business Day), as of the close of business on the immediately preceding Saturday, a Borrowing Base Certificate showing the Tranche A Borrowing Base and Tranche A-1 Borrowing Base (provided that the Appraised Value percentage applied to the Eligible Inventory set forth in each Borrowing Base Certificate shall be the percentage set forth in the most recent appraisal obtained by the Agent pursuant to Section 6.10 hereof for the applicable period, in which such Borrowing Base Certificate is delivered), each Borrowing Base Certificate to be certified as complete and correct by a Responsible Officer of the Lead Borrower and accompanied by the most-recent reports of Eligible Credit Card Receivables and Eligible Inventory prepared by the Borrowers (which reports shall be updated on a weekly basis);

(d) promptly upon receipt, copies of any detailed audit reports or management letters submitted to the board of directors (or the audit committee of the board of directors) of any Loan Party by its Registered Public Accounting Firm in connection with the accounts or books of the Loan Parties or any Subsidiary, or any audit of any of them;

(e) promptly after the same are available, copies of each annual report or proxy, if any, sent to the stockholders of the Loan Parties, and copies of all annual, regular, periodic and special reports and registration statements which any Loan Party may file or be required to file with the SEC

under Section 13 or 15(d) of the Securities Exchange Act of 1934 or with any national securities exchange, and in any case not otherwise required to be delivered to the Agent and Tranche A-1 Agent pursuant hereto;

(f) The financial and collateral reports described on Schedule 6.02 hereto, at the times set forth in such Schedule;

(g) promptly after the furnishing thereof, copies of any written notice of default or event of default under the Term Loan Documents or any other Material Indebtedness received by the Loan Parties;

(h) as soon as available upon the Agent's request, a report summarizing the insurance coverage (specifying type, amount and carrier) in effect for each Loan Party and its Restricted Subsidiaries and containing such additional information as the Agent, Tranche A-1 Agent, or any Lender, in each case, through the Agent, may reasonably specify;

(i) promptly after the Agent's or Tranche A-1 Agent's request therefor, copies of all Material Contracts and documents evidencing Material Indebtedness;

(j) upon the reasonable request of the Agent or the Tranche A-1 Agent, periodic estimated summaries of the then Reported Fee Accruals; and

(k) promptly, such additional information regarding the business affairs, financial condition or operations of any Loan Party or any Restricted Subsidiary, or compliance with the terms of the Loan Documents, as the Agent, Tranche A-1 Agent, or and Lender may from time to time reasonably request.

Documents required to be delivered pursuant to Sections 6.01 or Section 6.02 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Lead Borrower posts such documents, or provides a link thereto on the Lead Borrower's website on the Internet at the website address listed on Schedule 10.02; or (ii) on which such documents are posted on the Lead Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Agent have access (whether a commercial, third-party website or whether sponsored by the Agent); provided that: (i) upon request of the Agent, the Lead Borrower shall deliver paper copies of such documents to the Agent or any Lender that requests the Lead Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Agent or such Lender and (ii) the Lead Borrower shall notify the Agent and each Lender (by telecopier or electronic mail) of the posting of any such documents and provide to the Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, at the request of the Agent in its Permitted Discretion, the Lead Borrower shall be required to provide paper copies of the Compliance Certificates required by Section 6.02(b) to the Agent. The Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Loan Parties with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Loan Parties hereby acknowledge that (a) the Agent and/or the Arranger will make available to the Lenders and the L/C Issuer materials and/or information provided by or on behalf of the Loan Parties hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "Platform") and (b) 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 hereby agree that so long as

any Loan Party is the issuer of any outstanding debt or equity securities that are registered or issued pursuant to a private offering or is actively contemplating issuing any such securities they will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Loan Parties shall be deemed to have authorized the Agent, the Arranger, the L/C Issuer and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Loan Parties or their securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Investor"; and (z) the Agent and the Arranger shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Investor."

6.03 Notices. Promptly notify the Agent and Tranche A-1 Agent following any Responsible Officer of any Loan Party becoming aware:

(a) of the occurrence of any Default or Event of Default;

(b) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including as a result of (i) breach or non-performance of, or any default under, a Material Contract or with respect to Material Indebtedness of any Loan Party or any Restricted Subsidiary thereof; (ii) of any dispute, litigation, investigation, proceeding or suspension between any Loan Party or any Restricted Subsidiary thereof and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting any Loan Party or any Restricted Subsidiary thereof, including pursuant to any applicable Environmental Laws;

(c) of the occurrence of any ERISA Event;

(d) of any material change in accounting policies or financial reporting practices by any Loan Party;

(e) of any change in the Parent's or Lead Borrower's chief executive officer or chief financial officer;

(f) of the discharge by any Loan Party of its present Registered Public Accounting Firm or any withdrawal or resignation by such Registered Public Accounting Firm;

(g) Reserved;

(h) within one day after any Loan Party has knowledge of the filing or imposition of any Lien for unpaid Taxes in an amount in excess of $250,000 against any Loan Party;

(i) of any casualty or other insured damage to any material portion of the Collateral or the commencement of any action or proceeding for the taking of any interest in a material portion of the Collateral under power of eminent domain or by condemnation or similar proceeding or if any material portion of the Collateral is damaged or destroyed;

(j) of (i) any failure by any Loan Party to pay rent or any other amounts due at (A) any distribution centers or warehouses, or (B) any of such Loan Party's locations when such rent or such

other amounts first came due following the Petition Date, unless such non-payment was permitted under the Bankruptcy Code, the CCAA or pursuant to an order of the Bankruptcy Court or the Canadian Bankruptcy Court, and (ii) notice of termination of any Lease;

(k) the termination, discharge, or resignation of any of the Consultants; and

(l) the receipt or delivery of any material notice (including, without limitation, any notice of any breach or alleged breach) under the Agency Agreement or any agency agreement, asset purchase agreement or other contract relating to a Permitted Sale by any party thereto.

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer of the Lead Borrower setting forth details of the occurrence referred to therein and stating what action the Lead Borrower has taken and proposes to take with respect thereto, if any. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

6.04 Payment of Obligations.

(a) Subject to the provisions of the Bankruptcy Code and the CCAA and, in all cases, the Approved Budget, pay and discharge as the same shall become due and payable, all its obligations and liabilities incurred after the Petition Date, including (a) all income and all federal, state, provincial, territorial and other material tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, (b) all lawful claims (including, without limitation, claims of landlords, warehousemen, customs brokers, freight forwarders, consolidators and carriers) which, if unpaid, would by law become a Lien upon its property; and (c) all Indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness, except, in each such case, where (i) (A) the validity or amount thereof is being contested in good faith by appropriate proceedings, (B) such Loan Party has set aside on its books adequate reserves with respect thereto in accordance with GAAP, (C) such contest effectively suspends collection of the contested obligation and enforcement of any Lien securing such obligation, (D) no Lien has been filed or imposed with respect thereto or (ii) the failure to make such payment could not reasonably be expected to result in a Material Adverse Effect. Nothing contained herein shall be deemed to limit the rights of the Agent with respect to determining Reserves pursuant to this Agreement. For the avoidance of doubt, nothing herein requires payment of any obligation subject to the automatic stay of the Bankruptcy Code and the CCAA.

(b) Within one (1) Business Day after the Final Order Entry Date, pay in full all of the Pre-Petition Obligations in accordance with Section 2.05(h).

6.05 Preservation of Existence, Etc. (i) Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization or formation except (a) solely in the case of any Restricted Subsidiary of a Loan Party that is not a Loan Party, where the failure to preserve, renew or maintain such legal existence or good standing could not reasonably be expected to have a Material Adverse Effect, or (b) in a transaction permitted by Section 7.04 or 7.05, and (ii) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (iii) preserve or renew all of its Intellectual Property, except to the extent (a) such Intellectual Property is no longer used in the conduct of the business of the Loan Parties, (b) the Lead Borrower determines in its reasonable judgment that preserving or renewing such Intellectual Property is not advantageous of the Loan Parties, taken as a whole, or (c) otherwise permitted under this Agreement or the other Loan Documents (in each case, except to the

extent such non-preservation or non-renewal would materially adversely affect the net orderly liquidation value of the ABL Priority Collateral of the Loan Parties).

6.06 Maintenance of Properties. Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear and casualty or condemnation events excepted; and (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

6.07 Maintenance of Insurance.

(a) Maintain with financially sound and reputable insurance companies reasonably acceptable to the Agent not Affiliates of the Loan Parties, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business and operating in the same or similar locations or as is required by applicable Law, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons as are acceptable to the Agent in its Permitted Discretion (it being agreed by the Agent that the insurance policies, the amounts of coverage and the companies used by the Loan Parties and their Subsidiaries on the Closing Date are satisfactory to the Agent, that, solely to the extent and in the amounts and manner in place on the Closing Date in all material respects as set forth on Schedule 5.10, the Loan Parties and their Subsidiaries may continue to use such self-insurance to satisfy the requirements in this Section 6.07 and, as of the Closing Date, such self-insurance program complies with the requirements in this Section 6.07).

(b) Cause fire and extended coverage policies (but, for the avoidance of doubt, excluding any public property damage policy) maintained with respect to any Collateral to be endorsed or otherwise amended to include (i) a non-contributing mortgage clause (regarding improvements to Real Estate) and lenders' loss payable clause (regarding personal property), in form and substance satisfactory to the Agent, which endorsements or amendments shall provide that the insurer shall pay all proceeds otherwise payable to the Loan Parties under the policies directly to the Agent and/or the applicable Term Agent and (ii) such other provisions as the Agent in its Permitted Discretion may reasonably require from time to time to protect the interests of the Credit Parties.

(c) Cause commercial general liability policies (but, for the avoidance of doubt, excluding any public liability or any worker's compensation policies) to be endorsed to name the Agent as an additional insured.

(d) Cause business interruption policies (to the extent separate from the property policies) to name the Agent as a loss payee and to be endorsed or amended to include (i) a provision that, from and after the Closing Date, the insurer shall pay all proceeds otherwise payable to the Loan Parties under the policies directly to the Agent and/or the applicable Term Agent and (ii) such other provisions as the Agent may reasonably require from time to time to protect the interests of the Credit Parties.

(e) Cause each such policy referred to in this Section 6.07 to also provide that it shall not be canceled or not renewed (i) by reason of nonpayment of premium except upon not less than ten (10) days' prior written notice thereof by the insurer to the Agent (giving the Agent the right to cure defaults in the payment of premiums) or (ii) for any other reason except upon not less than thirty (30) days' prior written notice thereof by the insurer to the Agent.

(f) To the extent received from the applicable insurance company, upon written request by the Agent to the Lead Borrower, deliver to the Agent, after the cancellation or non-renewal of

any such policy of insurance, a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to the Agent, including an insurance binder) together with evidence satisfactory to the Agent in its Permitted Discretion of payment of the premium therefor.

(g) If at any time the area in which any improvements on Eligible Real Estate is located in or is designated (i) a "flood hazard area" in any Flood Insurance Rate Map published by the Federal Emergency Management Agency (or any successor agency), obtain flood insurance in such total amount to comply with the National Flood Insurance Program as set forth in the Flood Disaster Protection Act of 1973, as amended from time to time, or (ii) a "Zone 1" area, obtain earthquake insurance in such total amount as is reasonable and customary for companies engaged in the same primary business as the Loan Parties. Without limiting the foregoing, each Loan Party shall and shall cause each of its Subsidiaries to (i) maintain, if available, fully paid flood hazard insurance on all real property that is located in a special flood hazard area and that constitutes collateral security for the Obligations, on such terms and in such amounts as required by The National Flood Insurance Reform Act of 1994 or as otherwise required by the Agent, (ii) furnish to the Agent evidence of the renewal (and payment of renewal premiums therefor) of all such policies prior to the expiration or lapse thereof, and (iii) furnish to the Agent prompt written notice of any redesignation of any such improved real property into or out of a special flood hazard area.

(h) Maintain for themselves and their Restricted Subsidiaries, a Directors and Officers insurance policy, and a "Blanket Crime" policy including employee dishonesty, forgery or alteration, property, and computer fraud coverage with responsible companies in such amounts as are customarily carried by business entities engaged in similar businesses similarly situated, and will upon request by the Agent furnish the Agent certificates evidencing renewal of each such policy.

(i) Notwithstanding anything to the contrary, for the avoidance of doubt, the Loan Parties self-insurance program shall not be required to name any Credit Party as loss payee or additional insured in respect thereof.

(j) None of the Credit Parties, or their agents or employees shall be liable for any loss or damage insured by the insurance policies required to be maintained under this Section 6.07. Each Loan Party shall look solely to its insurance companies or any other parties other than the Credit Parties for the recovery of such loss or damage and such insurance companies shall have no rights of subrogation against any Credit Party or its agents or employees. If, however, the insurance policies do not provide waiver of subrogation rights against such parties, as required above, then the Loan Parties hereby agree, to the extent permitted by Law, to waive their right of recovery, if any, against the Credit Parties and their agents and employees. The designation of any form, type or amount of insurance coverage by any Credit Party under this Section 6.07 shall in no event be deemed a representation, warranty or advice by such Credit Party that such insurance is adequate for the purposes of the business of the Loan Parties or the protection of their properties.

6.08 Compliance with Laws. Except to the extent non-compliance is permitted under the Bankruptcy Code and the CCAA, comply in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (i) (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted and with respect to which adequate reserves have been set aside and maintained by the Loan Parties in accordance with GAAP; and (b) such contest effectively suspends enforcement of the contested Laws; or (ii) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect. Nothing contained herein shall be deemed to limit the rights of the Agent with respect to determining Reserves pursuant to this Agreement.

6.09 Books and Records; Accountants.

(a) Maintain, in all material respects, proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Loan Parties or such Restricted Subsidiary, as the case may be; and (ii) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over the Loan Parties or such Restricted Subsidiary, as the case may be.

(b) At all times retain a Registered Public Accounting Firm which is reasonably satisfactory to the Agent and shall instruct such Registered Public Accounting Firm to cooperate with, and be available to, the Agent or its representatives to discuss the Loan Parties' financial performance, financial condition, operating results, controls, and such other matters, within the scope of the retention of such Registered Public Accounting Firm, as may be raised by the Agent.

6.10 Inspection Rights.

(a) Permit representatives and independent contractors of the Agent and Tranche A-1 Agent to visit and inspect any of its properties, to examine its corporate, insurance-related, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and Registered Public Accounting Firm (subject to such Registered Public Accounting Firm's customary policies and procedures), and permit the Agent and Tranche A-1 Agent or professionals (including investment bankers, consultants, accountants, and lawyers) retained by the Agent and Tranche A-1 Agent to conduct evaluations of the Loan Parties' business plan, forecasts and cash flows, all at the expense of the Loan Parties and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Lead Borrower; provided, that notwithstanding the foregoing, (i) any such visit or inspection shall be coordinated through the Agent, (ii) in respect of any such discussions with any Registered Public Accounting Firm, the Loan Parties' shall have received a reasonable opportunity to participate therein and (iii) nothing in this Section 6.10 shall require Parent or any of its Subsidiaries, to take any action that would violate a confidentiality agreement or waive any attorney-client or similar privilege; provided further that when a Default or Event of Default exists the Agent or Tranche A-1 Agent (or any of their respective representatives or independent contractors) may do any of the foregoing at any time during normal business hours and without advance notice.

(b) Upon the request of the Agent after reasonable prior notice (provided that, upon the occurrence of a Default, no advance notice shall be required hereunder), permit the Agent or professionals (including investment bankers, consultants, accountants, and lawyers) retained by the Agent to conduct commercial finance examinations and other evaluations, including, without limitation, of (i) the Lead Borrower's practices in the computation of the Borrowing Base and (ii) the assets included in the Borrowing Base and related financial information such as, but not limited to, sales, gross margins, payables, accruals and reserves. The Loan Parties shall pay the reasonable and documented fees and expenses of the Agent and such professionals with respect to all such examinations and evaluations.

(c) Upon the request of the Agent after reasonable prior notice (provided that, upon the occurrence of a Default, no advance notice shall be required hereunder), permit the Agent or professionals (including appraisers) retained by the Agent to conduct appraisals of the Collateral, including, without limitation, the assets included in the Borrowing Base. The Loan Parties shall pay the fees and expenses of the Agent and such professionals with respect to all such inventory and real estate appraisals.

(d) Permit the Agent, as set forth herein, to engage a geohydrologist, an independent engineer or other qualified consultant or expert, reasonably acceptable to the Agent and the Loan Parties (which consent shall not be unreasonably withheld or delayed), at the expense of the Loan Parties, to undertake Phase I environmental site assessments during the term of this Agreement of the Eligible Real Estate, provided that such assessments may only be undertaken (i) after the occurrence and during the continuance of an Event of Default related to such Eligible Real Estate, or (ii) if a Loan Party receives any notice or obtains knowledge which gives rise to a reasonable suspicion of (A) any potential or known release of any Hazardous Materials at or from any Eligible Real Estate which could reasonably be expected to materially impact the value or operation of such Eligible Real Estate, notification of which must be given to any Governmental Authority under any Environmental Law, or notification of which has, in fact, been given to any Governmental Authority, or (B) any complaint, order, citation or written notice of violation or liability with regard to air emissions, water discharges, or any other environmental conditions in violation of any Environmental Laws affecting any Loan Party or any Eligible Real Estate from any Person (including, without limitation, the Environmental Protection Agency, in each case which could reasonably be expected to materially impact the value or operation of such Eligible Real Estate). Environmental assessments may include detailed visual inspections of the Eligible Real Estate, including, without limitation, any and all storage areas, storage tanks, drains, dry wells and leaching areas, and, as reasonably appropriate based on the subject matter of the release of Hazardous Materials or violation or liability, the taking of soil samples, surface water samples and ground water samples, as well as such other investigations or analyses as are reasonably necessary for a determination of the compliance of the Eligible Real Estate and the use and operation thereof with all applicable Environmental Laws. The Borrowers will, and will cause each of their Restricted Subsidiaries to, reasonably cooperate with the Agent and such third parties to enable such assessment and evaluation to be timely completed in a manner reasonably satisfactory to the Agent.

6.11 Use of Proceeds. Use the proceeds of the Credit Extensions to the extent permitted under applicable Law, the Approved Budget (subject to the Permitted Variance), and the Loan Documents, (a) on the Closing Date, for the payment of transaction expenses in connection with this Agreement, and (b) after the Closing Date, (i) to finance the payoff of the Pre-Petition Obligations in accordance with Section 2.05(h), (ii) to finance general corporate purposes of the Loan Parties and to finance the acquisition of working capital assets of the Borrowers, including capital expenditures and the purchase of inventory and equipment, in each case in the ordinary course of business or as otherwise approved by the Lenders, (iii) to pay fees, expenses, and costs incurred in connection with the Canadian Case and the Chapter 11 Case, as well as the payment of any adequate protection payments approved in the Financing Orders, and (iv) to pay the Carve-Out up to the Carve-Out Reserve.

6.12 Additional Loan Parties.

(a) Notify the Agent within five (5) Business Days after any Person becomes a Subsidiary, and in each case, promptly thereafter (and in any event within fifteen (15) days): cause any such Person that constitutes both a Domestic Subsidiary and Restricted Subsidiary: (1) which is not a CFC or U.S. Foreign HoldCo to (i) become a Loan Party by executing and delivering to the Agent a Joinder to this Agreement or a Joinder to the Facility Guaranty or such other documents as the Agent shall reasonably deem appropriate for such purpose, (ii) grant a Lien to the Agent on such Person's assets of the same type that constitute Collateral to secure the Obligations (which, for the avoidance of doubt, shall not include any Excluded Property, as such term is defined in the Security Agreement), and (iii) deliver to the Agent documents of the types referred to in clauses (iii) and (iv) of Section 4.01(a) and upon the request of the Agent customary opinions of counsel to such Person (which shall cover, among other things, the legality, validity, binding effect and enforceability of the documentation referred to in this clause (1)), and (2) if any Equity Interests or Indebtedness of such Person being joined as a Loan Party

hereunder are owned by or on behalf of any Loan Party, to pledge such Equity Interests and promissory notes evidencing such Indebtedness, in each case in form, content and scope reasonably satisfactory to the Agent. Notwithstanding the foregoing, the documentation referred to in this clause (a) shall not require the creation or perfection of, pledges of or security interests in, or the obtaining of title insurance or legal opinions with respect to, any assets located outside the United States (except with respect to Puerto Rico and Canada).

(b) Notify the Agent at the time that the Borrowers desire to join a U.S. Foreign HoldCo, Foreign Subsidiary or CFC as a Loan Party under this Agreement and the other Loan Documents, and, in each case, cause such U.S. Foreign HoldCo, Foreign Subsidiary, or CFC: (1) to (i) become a Loan Party by executing and delivering to the Agent a Joinder to this Agreement or a Joinder to the Facility Guaranty or such other documents as the Agent shall reasonably deem appropriate for such purpose, (ii) grant a Lien to the Agent on such Person's assets of the same type that constitute Collateral to secure the Obligations (which, for the avoidance of doubt, shall not include any Excluded Property, as such term is defined in the Security Agreement), and (iii) deliver to the Agent documents of the types referred to in clauses (iii) and (iv) of Section 4.01(a) and upon the request of the Agent customary opinions of counsel to such Person (which shall cover, among other things, the legality, validity, binding effect and enforceability of the documentation referred to in this clause (1)); (2) if any Equity Interests or Indebtedness of such Person are owned by or on behalf of any Loan Party, to pledge such Equity Interests and promissory notes evidencing such Indebtedness; and (3) enter into any such amendments, modifications, or other changes to this Agreement and any other Loan Document reasonably requested by Agent in its Permitted Discretion in order to address any matters in connection with, or related to, such Person being a U.S. Foreign Holdco, Foreign Subsidiary, or CFC, if applicable, and/or such Collateral being located outside the continental United States, in each case in form, content and scope reasonably satisfactory to the Agent. Each of the Lenders hereby authorize the Agent to enter into any such amendments, modifications, or other changes to this Agreement or any of the other Loan Documents in its sole discretion. For the avoidance of doubt, if any Subsidiary of a U.S. Foreign Holdco is a Loan Party, such U.S. Foreign Holdco must also be a Loan Party.

In no event shall compliance with this Section 6.12 waive or be deemed a waiver or consent to any transaction giving rise to the need to comply with this Section 6.12 if such transaction was not otherwise expressly permitted by this Agreement or constitute or be deemed to constitute, with respect to any Subsidiary, an approval of such Person as a Borrower or permit the inclusion of any acquired assets in the computation of the Borrowing Base. Prior to any such assets being included in the Borrowing Base, such assets must comply with all eligibility criteria contained in this Agreement, the Agent shall have received such other due diligence as they may require in their Permitted Discretion and implemented any Reserves with respect thereto, and, to the extent such assets are not of the type then included in the Borrowing Base, the Agent shall have received an appraisal of such assets, in form and substance reasonably satisfactory to the Agent.

6.13 Cash Management.

(a) Each Loan Party shall establish and maintain cash management services of a type and on terms satisfactory to Agent at one or more of the banks set forth on Schedule 5.21(a) (each, a "Cash Management Bank"), and, in connection therewith, establish and maintain at such Cash Management Banks pursuant to the terms hereof one or more accounts designated (either in Schedule 5.21(a) or pursuant to Section 6.13(h)) as concentration accounts (the "Concentration Accounts") and additional accounts designated (either in Schedule 5.21(a) or pursuant to Section 6.13(h)) as (i) consolidated store deposit accounts (the "Consolidated Store Deposit Accounts"), (ii) individual store deposit accounts (the "Individual Store Accounts") and (iii) the home office deposit account (the "Home

Office Account" and together with the Concentration Accounts, the Consolidated Store Deposit Accounts and the Individual Store Accounts, the "Cash Management Accounts").

(b) Except as otherwise specifically permitted in this Section 6.13, each Loan Party shall (1) request in writing and otherwise take such reasonable steps to ensure that all of its Account Debtors forward payment of the amounts owed by them directly to a Cash Management Bank for deposit into a Concentration Account, (2) deposit or cause to be deposited promptly, and in any event no later than the first Business Day after the date of receipt thereof (and subject to Section 6.13(g) with respect to payments from Credit Card Processors), all such available Collections from Account Debtors (including those sent directly to a Cash Management Bank) into a Concentration Account, and (3) deposit or cause to be deposited promptly, and in any event no later than the first Business Day after the date of receipt thereof, all other available Collections (including cash, checks, drafts and all other forms of daily store receipts or other similar items of payment) received by or otherwise under its control into a Cash Management Account. For purposes of clarification, funds that need not be swept to the extent specifically provided in this Section 6.13 (which includes any segregated disbursement account used by the Loan Parties in accordance with this Agreement (it being understood and agreed that any Loans funded to the Borrowers shall be made to a segregated disbursement account unless otherwise requested by the Borrowers)) and after funds are swept pursuant to any provision of this Section 6.13 to the Designated Account, may be used by the Loan Parties for their general corporate purposes.

(c) Each Loan Party further agrees to cause each of its stores which utilize a Consolidated Store Deposit Account to cause all Collections for such store to be deposited into a Consolidated Store Deposit Account, and each Loan Party agrees that with respect to each Consolidated Store Deposit Account, it shall, at all times require each applicable Cash Management Bank to forward, by automatic periodic transfers on a daily basis, if practicable, and otherwise, once every Business Day (absent extraordinary events that are out of the control of the Loan Parties), all available amounts in each such Consolidated Store Deposit Account into a Concentration Account; provided, immediately after giving effect to each such transfer from any Consolidated Store Deposit Account into a Concentration Account, each Loan Party may maintain an amount not to exceed (i) $100,000 of available funds in any such Consolidated Store Deposit Account and (ii) $5,000,000 in available funds in the aggregate in all such Consolidated Store Deposit Accounts. Further, the Loan Parties shall not permit the balance of the account referred to as the "corporate deposit" account on Schedule 6.13 to exceed $10,000 at any time.

(d) Each Loan Party further agrees that with respect to each store which utilizes an Individual Store Account, such store shall cause all Collections for such store to be deposited into such Individual Store Account and each Loan Party agrees that with respect to each Individual Store Account it shall, at all times require each applicable Cash Management Bank to forward, by automatic periodic transfers on a regular basis, but in no event less frequently than once in any ten (10) day period, all available amounts in each such Individual Store Account into a Concentration Account; provided, however, that (i) such automatic transfers of funds therein shall be required only at any time the available balance thereof should exceed $5,000, and (ii) immediately after giving effect to each such transfer from such Individual Store Account into a Concentration Account, the Loan Parties may maintain an available amount not to exceed $5,000 in such Individual Store Account.

(e) Each Loan Party further agrees that with respect to the Home Office Account, it shall, at all times require the applicable Cash Management Bank to forward, by automatic periodic transfers on a regular basis, but in no event less frequently than once in any ten (10) day period, all available amounts in the Home Office Account into (either directly or indirectly) a Concentration Account or another account under the control of Wells Fargo or any of its Affiliates; provided, however, that (x) such automatic transfers of funds therein shall be required only at any time the available balance thereof should exceed $100,000, and (y) immediately after giving effect to each such transfer from the

Home Office Account into a Concentration Account or such other account under the control of Wells Fargo or any of its Affiliates, the Loan Parties may maintain an available amount not to exceed $100,000 in such Home Office Account.

(f) Each Loan Party further agrees that with respect to the Group Concentration Account, it shall, at all times require the applicable Cash Management Bank to forward, by automatic periodic transfers on a daily basis, all available amounts in the Group Concentration Account into (either directly or indirectly) a Concentration Account.

(g) With respect to each Concentration Account, each Cash Management Bank shall establish (in the case of the Canadian Loan Parties, within thirty (30) days of the date of Canadian Recognition Order) and maintain Cash Management Agreements with Agent and the applicable Loan Party, in form and substance acceptable to Agent in its Permitted Discretion; provided; however, that, with respect to Consolidated Store Deposit Accounts, Individual Store Accounts and the Home Office Account, no Loan Party shall be obligated to establish a Cash Management Agreement as of the Closing Date. Each Cash Management Agreement shall provide, among other things, that (i) all items of payment deposited in such Concentration Account and proceeds thereof are subject to the control of Agent, (ii) the Cash Management Bank has no rights of setoff or recoupment or any other claim against the applicable Concentration Account other than for payment of its service fees and other charges directly related to the administration of such Concentration Account and for returned checks or other items of payment, and (iii) it will, in accordance with the applicable Control Agreement (as defined in the Security Agreement), (A) with regards to the U.S. Loan Parties, at all times, and (B), with respect to the Canadian Loan Parties, after an Event of Default has occurred and the Agent has provided notice to the Agent that it intends to enforce it rights in accordance with Section 8.02(a)(iv), forward by daily sweep all amounts in the applicable Concentration Account to the Agent's Account or as otherwise directed by Agent to prepay the Obligations in such order as set forth in Section 2.05; provided, that any such prepayments of the Loans pursuant to this Section 6.13(g) may be reborrowed subject to Section 4.02.

(h) At the request of the Agent, each Loan Party shall deliver a Credit Card Notification to Agent with respect to each Credit Card Processor. Each such Credit Card Notification shall provide, among other things, that each such Credit Card Processor shall transfer all proceeds of credit card charges for sales by each Loan Party received by it (or other amounts payable by such Credit Card Processor) into a designated Concentration Account on a daily basis or such other periodic basis as Agent may otherwise direct. No Loan Party shall change any direction or designation set forth in the Credit Card Notification regarding payment of charges without the prior written consent of Agent.

(i) Each Loan Party shall close any of its Concentration Accounts (and establish replacement cash management accounts in accordance with the foregoing sentence) promptly and in any event within forty-five (45) days of written notice from Agent (or such longer period as such Loan Party and Agent may agree) that the creditworthiness of any Cash Management Bank is no longer acceptable in Agent's reasonable judgment, or as promptly as practicable and in any event within sixty (60) days of written notice from Agent (or such longer period as such Loan Party and Agent may agree) that the operating performance, funds transfer, or availability procedures or performance of the Cash Management Bank with respect to Concentration Accounts or Agent's liability under any Cash Management Agreement with such Cash Management Bank is no longer acceptable in Agent's reasonable judgment.

(j) The Cash Management Accounts shall be cash collateral accounts, with all cash, checks and similar items of payment in such accounts securing payment of the Obligations, and in which each Loan Party hereby grants a Lien to Agent.

(k) The Loan Parties acknowledge and agree that the Cash Management Letter shall remain in full force and effect. Notwithstanding anything to the contrary contained in this Section 6.13 or otherwise contained in any of the Loan Documents, the Cash Management Letter shall continue to govern the cash management of the U.S. Loan Parties with respect to this Credit Agreement and the Obligations hereunder. In the event of a conflict between the terms and conditions of the Cash Management Letter and the other Loan Documents, the terms of the Cash Management Letter shall govern with respect to the U.S. Loan Parties.

6.14 Information Regarding the Collateral. Furnish to the Agent at least five (5) Business Days (or shorter time if agreed to by the Agent in its sole discretion) prior written notice of any change in: (i) any Loan Party's legal name; (ii) the location of any Loan Party's registered office, chief executive office, its principal place of business, any office in which it maintains books or records relating to Collateral owned by it or any office or facility at which Collateral owned by it is located (including the establishment of any such new office or facility); (iii) any Loan Party's organizational structure or jurisdiction of incorporation or formation; (iv) any Loan Party's Federal Taxpayer Identification Number or organizational identification number assigned to it by its state or jurisdiction of organization, or (v) the Canadian provinces or territories in which any Loan Party or its Subsidiaries maintains any assets or other property.

6.15 Physical Inventories.

(a) Cause not less than one (1) physical inventory to be undertaken, at the expense of the Loan Parties, in each Fiscal Year and periodic cycle counts, in each case consistent with past practices (it being understood that, as of the Closing Date, (i) the Loan Parties conduct physical inventories throughout the Fiscal Year on a rolling basis and (ii) such rolling physical inventories, collectively, shall constitute one (1) annual physical inventory), conducted by such inventory takers as are reasonably satisfactory to the Agent (it being understood that, as of the Closing Date, employees of the Loan Parties shall be deemed acceptable) and following such methodology as is consistent with the methodology used in the immediately preceding inventory or as otherwise may be satisfactory to the Agent. At the reasonable request of the Agent, the Lead Borrower shall provide the Agent with a reconciliation of the results of any physical inventory and cycle counts, and shall post such results to the Loan Parties' stock ledgers and general ledgers, as applicable.

(b) Permit the Agent to cause additional physical inventories to be taken as the Agent determines in its Permitted Discretion (each, at the expense of the Loan Parties).

6.16 Environmental Laws. Except, in each case, to the extent the failure to do so could not reasonably be expected to result in a Material Environmental Liability, (a) Conduct its operations and keep and maintain its Real Estate in material compliance with all Environmental Laws; (b) obtain and renew all material environmental permits necessary for its operations and the occupation of its properties, including but not limited to a Spill Prevention, Containment and Countermeasures Plan for the Loan Parties' data center located in Topeka, Kansas; and (c) implement any and all investigation, remediation, removal and response actions that are appropriate or necessary to maintain the value and marketability of the Real Estate or to otherwise comply with Environmental Laws pertaining to the presence, generation, treatment, storage, use, disposal, transportation or release of any Hazardous Materials on, at, in, under, above, to, from or about any of its Real Estate, provided, however, that neither a Loan Party nor any of its Subsidiaries shall be required to undertake any such cleanup, removal, remedial or other action to the extent that its obligation to do so is being contested in good faith and by proper proceedings and adequate reserves have been set aside and are being maintained by the Loan Parties with respect to such

circumstances in accordance with GAAP. Nothing contained herein shall be deemed to limit the rights of the Agent with respect to determining Reserves pursuant to this Agreement.

6.17 Further Assurances.

(a) Execute any and all further documents, financing statements, filings, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, amendments to financing statements or other documents), that may be required under any applicable Law, or which the Agent may reasonably request, to effectuate the transactions contemplated by the Loan Documents or to grant, preserve, protect or perfect the Liens created or intended to be created by the Security Documents or the validity or priority of any such Lien, all at the expense of the Loan Parties and to the extent required by, and subject to the limitations set forth in the Security Documents and this Agreement.

(b) If any material personal property assets are acquired by any Loan Party after the Closing Date (other than assets constituting Collateral under the Security Documents that become subject to the perfected first-priority Lien (subject only to Permitted Encumbrances having priority by operation of Law, Liens described in clause (q) of the definition of Permitted Encumbrances subject to the Intercreditor Agreement, and Liens described in clause (cc) of the definition of Permitted Encumbrances that secure Permitted Indebtedness) under the Security Documents upon acquisition thereof), notify the Agent thereof, and the Loan Parties will cause such assets that would constitute Collateral to be subjected to a Lien securing the Obligations and will take such actions as shall be reasonably necessary or shall be reasonably requested by the Agent to grant and perfect such Liens in each case to the extent required by, and subject to the limitations set forth in the Security Documents and this Agreement, including actions described in paragraph (a) of this Section 6.17, all at the expense of the Loan Parties. In no event shall compliance with this Section 6.17 waive or be deemed a waiver or consent to any transaction giving rise to the need to comply with this Section 6.17 if such transaction was not otherwise expressly permitted by this Agreement or constitute or be deemed to constitute consent to the inclusion of any acquired assets in the computation of the Borrowing Base.

(c) Upon the request of the Agent in its Permitted Discretion, use commercially reasonable efforts to cause each of the Loan Parties' customs brokers, freight forwarders, consolidators and/or carriers to deliver an agreement (including, without limitation, a Customs Broker/Carrier Agreement) to the Agent covering such matters and in such form as the Agent may reasonably require; provided that no such agreements or documents shall be required with respect to "pool points" locations.

(d) Furthermore, in the event that the Agent requests that any Loan Party pledge or grant a mortgage or other security interest to the Agent for the benefit of the Secured Parties that covers any real property acquired after the date hereof, the Agent shall provide each Secured Party with at least forty-five days' prior notice thereof, and any such pledge or grant of a mortgage or other security interest shall be subject to the completion of each Secured Party's flood insurance diligence and compliance, as applicable.

6.18 Compliance with Terms of Leaseholds. Except as otherwise expressly permitted hereunder or to the extent non-performance thereof is permitted by the Bankruptcy Code and the CCAA and other than the filing of the Chapter 11 Case and the Canadian Case and the effect thereof, (a) make all payments of Post-Petition Obligations and otherwise perform all obligations becoming due following the Petition Date in respect of all Leases to which any Loan Party or any of its Restricted Subsidiaries is a party, keep such Leases in full force and effect, (b) not allow such Leases (other than Leases subject to such Initial Store Closing Sale or Permitted Sale, as applicable, following the consummation thereof) to lapse or be terminated or any rights to renew such Leases to be forfeited or cancelled, (c) notify the Agent

of any default by any party with respect to such Leases and cooperate with the Agent in all respects to cure any such default, and (d) cause each of its Restricted Subsidiaries to do the foregoing, except, in each case, where the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

6.19 Material Contracts. Except to the extent non-performance thereof is permitted by the Bankruptcy Code and the CCAA, and other than the filing of the Chapter 11 Case and the Canadian Case, and the Events and Circumstances, perform and observe all the terms and provisions of each Material Contract to be performed or observed by it, maintain each such Material Contract in full force and effect in accordance with its terms, and enforce each such Material Contract in accordance with its terms, take all such action to such end as may be from time to time requested by the Agent and, upon request of the Agent, make to each other party to each such Material Contract such demands and requests for information and reports or for action as any Loan Party or any of its Restricted Subsidiaries is entitled to make under such Material Contract, and cause each of its Restricted Subsidiaries to do so, except, in each case, where the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

6.20 Reserved.

6.21 Reserved.

6.22 Retention of Consultants; Communication with Accountants and Other Financial Advisors.

(a) The Agent and Tranche A-1 Agent shall have received evidence by no later than the Petition Date, that the Loan Parties have filed motions seeking to retain the Independent Consultant and Financial Advisor. The terms and scope of the engagement of and responsibilities of such Consultants shall be acceptable to the Agent and Tranche A-1 Agent. Subject to Bankruptcy Court approval, to be obtained by no later than forty-five (45) days after the Petition Date, the Loan Parties shall continue to retain such Consultants, the scope and terms of each such engagement to be reasonably satisfactory to the Agent and Tranche A-1 Agent. There shall be no material modifications to the terms (excluding any decreases in compensation but including any other modification in compensation) of the engagement of such Consultants without the consent of the Agent and Tranche A-1 Agent. Until such time as all Pre-Petition Obligations and all Obligations have been repaid in full (or Cash Collateralized in accordance with the terms hereof) and all Commitments have been terminated, the Lead Borrower shall continue to retain such Consultants to assist the Loan Parties with the preparation of the Approved Budget and the other financial and Collateral reporting required to be delivered to the Agent and Tranche A-1 Agent pursuant to this Agreement, and approval of all requests for Borrowing and all disbursements by the Borrowers.

(b) The Lead Borrower authorizes the Agent, the Tranche A-1 Agent, and their respective representatives to communicate directly with the Loan Parties' independent certified public accountants, appraisers, financial advisors, investment bankers and consultants (including the Consultants), which have been engaged from time to time by the Loan Parties, and authorizes and shall instruct those accountants, appraisers, financial advisors, investment bankers and consultants to communicate to the Agent, the Tranche A-1 Agent and their respective representatives information relating to each Loan Party with respect to the business, results of operations, prospects and financial condition of such Loan Party. The Lead Borrower acknowledges and agrees that the Loan Parties and their representatives will reasonably cooperate with the Consultants and any Lender Group Consultant (as defined below). The Consultants shall, together with senior management of the Loan Parties, participate

in weekly telephonic calls with the Agent, the Tranche A-1 Agent, and Lenders (and/or their advisors and counsel) to discuss various matters, including, without limitation, the Approved Budget, budget variance, and bankruptcy milestones upon the reasonable request of the Agent.

(c) Each Loan Party acknowledges that the Agent shall be permitted to engage such outside consultants and advisors (each, a "Lender Group Consultant"), for the sole benefit of the Agent, L/C Issuer, and the Lenders, as the Agent may determine to be necessary or appropriate, in its sole discretion. Each Loan Party covenants and agrees that (i) such Loan Party shall provide its complete cooperation with any Lender Group Consultant (including, without limitation, providing unfettered access to such Loan Party's business, books and records and senior management); (ii) all costs and expenses of any such Lender Group Consultant shall be expenses required to be paid by the Loan Parties under Section 10.04 hereof; and (iii) all reports, determinations and other written and verbal information provided by any Lender Group Consultant shall be confidential and no Loan Party shall be entitled to have access to same.

6.23 Performance within Budget. At all times following the Closing Date, strictly perform in accordance with the Approved Budget, including having made all scheduled payments to the "Lenders" (as defined in the Pre-Petition Credit Agreement) and Lenders, as applicable, as and when required, subject to the following (the "Permitted Variance"): (a) the Borrowers' cumulative "net cash flow" amounts (without giving effect to any proceeds of the DIP Term Loan Facility) as set forth in the Approved Budget for all weeks commencing after the Petition Date shall not be less than (i) the cumulative projected "net cash flow amounts" (without giving effect to any proceeds of the DIP Term Loan Facility) amounts set forth in the Approved Budget *minus* (ii) the Test Amount, which shall be tested as of Saturday of each week (commencing with the fourth (4th) week after the Petition Date), and (b) the Borrowers' "Total Eligible Inventory and In-Transit" as set forth in the Approved Budget as of Saturday of each week shall be at least 87.5% of the amount set forth in the Approved Budget for each week commencing on the fourth (4th) week after the Petition Date. Each of the foregoing covenants shall be tested pursuant to the Approved Budget Variance Report delivered by the Lead Borrower to the Agent and Tranche A-1 Agent in accordance with Section 6.01(b).

6.24 Bankruptcy Related Affirmative Covenants.

(a) The Borrowers shall complete, or shall cause to be completed, the following actions as and when required below, which motions and orders shall, in all cases, be upon terms and conditions acceptable to the Agent and Tranche A-1 Agent in their sole discretion:

(i) no later than April 7, 2017, the Bankruptcy Court shall have entered an order approving the Interim Financing Order;

(ii) no later than five (5) Business Days after the date of the Initial Financing Order, the Canadian Bankruptcy Court shall have issued the Canadian Recognition Order;

(iii) no later than on April 18, 2017, the Bankruptcy Court shall have entered an order approving a motion (the "Initial Store Closing Motion") requesting an order from the Bankruptcy Court pursuant to Section 363 of the Bankruptcy Code authorizing the Loan Parties (other than the Canadian Loan Parties) to enter into the Agency Agreement and conduct the Initial Store Closings with the Bankruptcy Court;

(iv) no later than May 9, 2017, the Bankruptcy Court shall have entered an order approving the Final Financing Order; and

(v) on or before April 25, 2017, the filing of a plan of reorganization, Disclosure Statement, and plan solicitation process, upon terms and conditions acceptable to the Agent, Tranche A-1 Agent and Lenders in their sole and absolute discretion (the "Acceptable Plan");

(vi) on or before June 4, 2017, the Bankruptcy Court shall have held a hearing on the Disclosure Statement;

(vii) entry of an order by the Bankruptcy Court on or before June 5, 2017, approving the Disclosure Statement;

(viii) on or before June 8, 2017, the Debtors shall have commenced solicitation with respect to an Acceptable Plan;

(ix) on or before July 23, 2017, the Bankruptcy Court shall have held a hearing on an Acceptable Plan;

(x) entry of an order by the Bankruptcy Court on or before July 27, 2017, confirming the Acceptable Plan, which Order shall be recognized and enforced by the Canadian Bankruptcy Court within five (5) Business Days thereafter;

(xi) on or before July 28, 2017, the Loan Parties shall have entered into an agreement with an Approved Liquidator or Approved Liquidators with respect to the closure of, and liquidation of inventory and equipment located at, the remaining Stores of the Loan Parties on terms and conditions acceptable to the Agent and Tranche A-1 Agent, including, without limitation, commencement of such liquidation on August 11, 2017 if the Acceptable Plan has not been consummated in accordance with clause (xiii) below; and

(xii) on or before August 10, 2017, consummation of the Acceptable Plan, including irrevocable payment in full in cash of all Pre-Petition Obligations and Obligations on the date of such consummation.

(b) If the Agent and Tranche A-1 Agent have not received a duly executed copy of the Restructuring Support Agreement upon terms and conditions acceptable to the Agent, Tranche A-1 Agent and Lenders in their sole and absolute discretion, which agreement shall have been filed with the Bankruptcy Court on or before April 25, 2017, then the Borrowers shall complete, or shall cause to be completed, the following actions as and when required below, which motions and orders shall, in all cases, be upon terms and conditions acceptable to the Agent and Tranche A-1 Agent in their sole discretion (it being understood that any such proceedings and actions will require, with respect to the Canadian Loan Parties, prior approval of the Canadian Bankruptcy Court):

(i) no later than May 2, 2017, the Loan Parties shall have engaged a real estate broker acceptable to the Agent and Tranche A-1 Agent, which engagement shall be on terms and conditions acceptable to the Agent and Tranche A-1 Agent, to liquidate the Real Estate subject to Mortgages;

(ii) on or before May 2, 2017, the Loan Parties shall have filed a motion (the "Bidding Procedures Motion") requesting an order from the Bankruptcy Court approving bidding procedures relating to the solicitation of qualified bids and approval of a sale of all or substantially all of the assets of the Loan Parties pursuant to Section 363 of the Bankruptcy Code, which motion and bidding procedures (including the bidding protections set forth therein) shall be

on terms and conditions acceptable to the Agent and Tranche A-1 Agent in their sole and absolute discretion, and shall contain, without limitation, provisions with respect to the sale process time line set forth below (it being acknowledged and agreed that, in order for a bid to qualify for consideration under such bidding procedures, it must satisfy the Obligations and the Pre-Petition Obligations in full in cash from the proceeds paid as part of any such bid on the date of consummation);

(iii) on or before May 2, 2017, the Loan Parties shall have filed a motion a motion (the "Sale Order Motion") (which may be combined with the Bidding Procedures Motion), which motion shall be in form and substance acceptable to the Agent and Tranche A-1 Agent requesting an order from the Bankruptcy Court pursuant to Section 363 of the Bankruptcy Code authorizing the Loan Parties to consummate the Permitted Sale;

(iv) on or before May 28, 2017, the Bankruptcy Court shall have held a hearing on the Bidding Procedures Motion and Sale Order Motion;

(v) no later than May 29, 2017, the Bankruptcy Court shall have entered an order (the "Bidding Procedures Order") approving the bidding procedures set forth in the Bidding Procedures Motion, which Bidding Procedures Order shall be in form and substance acceptable to the Agent and Tranche A-1 Agent;

(vi) no later than June 8, 2017, the Loan Parties shall forward so-called "bid packages" to any potential bidders to whom bid packages had not already been delivered prior to the Petition Date (including, without limitation, all nationally recognized liquidators), subject to the terms and conditions contained in the Bidding Procedures Order, including, without limitation, potential bidders being qualified and executing an acceptable confidentiality agreement;

(vii) no later than June 28, 2017, binding bids with respect to a Permitted Sale shall be due and delivered to the Loan Parties in accordance with the Bidding Procedures Order (and copies of such bids shall be provided to the Agent and Tranche A-1 Agent);

(viii) no later than July 8, 2017, an auction with respect to a Permitted Sale shall have been completed in accordance with the Bidding Procedures Order;

(ix) no later than July 13, 2017, the Bankruptcy Court shall have entered one or more orders (the "Sale Order") approving a Permitted Sale as requested in the Sale Order Motion, which Sale Order shall be in form and substance acceptable to the Agent and Tranche A-1 Agent and, if applicable, authorizing the conduct of "going out of business" sales at the Loan Parties' applicable locations; and

(x) the closing of the Permitted Sale shall have occurred no later than (A) one (1) Business Day after the Sale Order is entered, with respect to any Permitted Sale consisting of a "going out of business" sale approved pursuant to the Sale Order and (B) five (5) Business Days after the Sale Order is entered, with respect to any Permitted Sale consisting of a "going concern" sale approved pursuant to the Sale Order.

(c) If the Restructuring Support Agreement has not been delivered as and when required by Section 6.24(a)(iv) above, then the Loan Parties shall provide the Agent and Tranche A-1 Agent with a status report and such other updated information relating to the sale process as may be

reasonably requested by the Agent or Tranche A-1 Agent, in form and substance reasonably acceptable to the Agent and Tranche A-1 Agent.

(d) If an Event of Default pursuant to Section 8.01(a) or, solely with respect to Section 6.23 or 6.24, Section 8.01(b) has occurred and is continuing, then, at the request of the Agent, the Loan Parties shall promptly engage an Approved Liquidator or Approved Liquidators on terms and conditions reasonably acceptable to the Agent and Tranche A-1 Agent.

(e) Within five (5) Business Days of the entry of the Final Financing Order, the Borrowers shall have received at least $28,000,000 in net cash proceeds from the DIP Term Loan Facility, which amounts shall be used to repay the Tranche A Loans (without a permanent reduction to the Aggregate Tranche A Commitments).

6.25 Lease Extension. No later than April 18, 2017, the Loan Parties shall have filed a motion seeking an order ("Lease Extension Order") of the Bankruptcy Court extending the time period of the U.S. Loan Parties to assume or reject leases to not less than 210 days from the Petition Date, and on or before May 4, 2017, the Bankruptcy Court shall have entered the Lease Extension Order.

6.26 Financing Orders. The Loan Parties shall comply with the terms and conditions of the Financing Orders and Canadian Recognition Order, as then in effect, in all respects, and shall not seek any reversal, vacatur, stay, amendment or modification thereto without the prior written consent of the Agent Tranche A-1 Agent; and (ii) all terms and conditions of all other orders entered by the Bankruptcy Court or the Canadian Bankruptcy Court, unless otherwise agreed to by the Agent and Tranche A-1 Agent. Restructuring Support Agreement. The Loan Parties shall comply with the Restructuring Support Agreement.

NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied (other than contingent indemnification Obligations for which a claim has not then been asserted or unasserted expense reimbursement obligations), or any Letter of Credit shall remain outstanding (except to the extent fully Cash Collateralized or supported by other collateral accepted by the L/C Issuer and the Agent), no Loan Party shall, nor shall it permit any Restricted Subsidiary to, directly or indirectly:

7.01 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired or sign or file, or suffer to exist (provided that, solely with respect to unauthorized UCC or PPSA filings, suffer to exist for a period of more than twenty-five (25) days after any Loan Party receives written notice or has knowledge thereof), in each case, under the UCC the PPSA or any similar Law or statute of any jurisdiction a financing statement that names any Loan Party or any Restricted Subsidiary thereof as debtor; sign or suffer to exist any security agreement authorizing any Person thereunder to file such financing statement, other than, as to all of the above, Permitted Encumbrances.

7.02 Investments. Make any Investments, except Permitted Investments.

7.03 Indebtedness; Disqualified Stock. (a) Create, incur, assume, guarantee, suffer to exist or otherwise become or remain liable with respect to, any Indebtedness, except Permitted Indebtedness; or (b) issue Disqualified Stock.

7.04 Fundamental Changes. Merge, amalgamate, dissolve, liquidate, consolidate with or into another Person, except that, so long as no Default or Event of Default shall have occurred and be continuing prior to or after giving effect to any action described below or would result therefrom:

(a) any Subsidiary which is not a Loan Party may merge or consolidate with (i) a Loan Party, provided that the Loan Party shall be the continuing or surviving Person, or (ii) any one or more other Subsidiaries or joint ventures which are not Loan Parties, provided that when any wholly-owned Restricted Subsidiary is merging or consolidating with another Subsidiary or joint venture, the wholly-owned Restricted Subsidiary shall be the continuing or surviving Person;

(b) any Loan Party or any Subsidiary which is a Loan Party may merge or consolidate with or into a Borrower or any other Loan Party, provided that in any merger or consolidation involving a Borrower, a Borrower shall be the continuing or surviving Person; and

(c) any Subsidiary of a Loan Party (other than the Lead Borrower) may liquidate or dissolve or change its legal form if the Lead Borrower determines in good faith that such action is in the best interests of Parent and its Subsidiaries; provided that (i) no Change of Control shall result therefrom, (ii) the surviving Person (if such Person is already a Loan Party), or in the case of liquidation or dissolution, the Person who receives the assets of such dissolving or liquidated Subsidiary (to the extent such Subsidiary was a Loan Party immediately prior to the dissolution or liquidation), shall be a Loan Party, and (iii) such liquidation, dissolution or change in legal form would not reasonably be expected to be materially adverse to the interests of the Lenders;

provided, however, that none of the foregoing clauses (a) – (c) shall permit the merger, amalgamation, or other consolidation with or between a U.S. Person and a Canadian Person.

7.05 Dispositions. Make any Disposition, except Permitted Dispositions.

7.06 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, except:

(a) each Subsidiary of a Loan Party may make Restricted Payments to any Loan Party;

(b) the Loan Parties and each Subsidiary of the Loan Parties may make Restricted Payments to the Parent not to exceed an amount necessary to permit the Parent to pay its proportionate share of (i) reasonable and customary corporate and operating expenses (including reasonable out-of-pocket expenses for legal, administrative and accounting services provided by third parties, and compensation, benefits and other amounts payable to officers and employees in connection with their employment in the ordinary course of business and to board of director observers), and (ii) franchise Taxes and other fees, Taxes and expenses required to maintain its corporate or other existence, and general corporate overhead expenses to the extent such expenses are attributable to the ownership or operation of the Loan Parties and the Subsidiaries in the ordinary course of business;

(c) each Subsidiary of Parent that is not a Loan Party may make Restricted Payments to any other Subsidiary of Parent;

(d) Reserved;

(e) the Loan Parties and each Subsidiary may make Restricted Payments to Parent in connection with payments required to be made under the Tax Sharing Agreement.

To the extent that any Loan Party or its Subsidiaries are permitted to make any Restricted Payments pursuant to this Section 7.06, the same may be made as a loan or advance to the recipient thereof, and in such case the amount of such loan or advance so made shall reduce the amount of Restricted Payments that may be made by such Loan Party and its Restricted Subsidiaries in respect thereof.

7.07 Prepayments of Indebtedness. Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner any Indebtedness or make any payment in violation of any subordination terms of any Subordinated Indebtedness (other than, subject to an Approved Budget, (i) Indebtedness incurred hereunder, (ii) Indebtedness under the Pre-Petition Credit Agreement in accordance with the terms and conditions herein and in the Financing Order and Canadian Recognition Order, (iii) permitted by an order of the Bankruptcy Court and Canadian Bankruptcy Court, and (iv) payments of interest under the Term Loan Facilities solely from the proceeds of "Term Priority Collateral" (as such term is defined in the Intercreditor Agreement)).

7.08 Change in Nature of Business.

(a) In the case of the Parent, engage in any business or activity other than (i) the direct or indirect ownership of all outstanding Equity Interests in the other Loan Parties and Parent's other Subsidiaries, (ii) maintaining its corporate or other entity existence, (iii) participating in tax, accounting and other administrative activities as the parent of the consolidated group of companies, including the Loan Parties, (iv) the execution and delivery of the Loan Documents and the Term Loan Documents to which it is a party and the performance of its obligations thereunder, (v) performance of rights and obligations under the Advisory Agreement, (vi) making any Restricted Payment permitted under Section 7.06, (vii) taking any other action expressly permitted under the Loan Documents, (viii) making Permitted Investments constituting capital contributions to its Subsidiaries, (ix) executing, delivering and performing any rights and obligations under any employment, manager or member agreements and any documents (including, without limitation, indemnity and insurance agreements) related thereto, (x) purchasing Qualified Capital Stock of its Subsidiaries, (xi) transactions under the Tax Sharing Agreement, (xii) establishing and maintaining deposit accounts and securities accounts in accordance with the provisions of Section 6.13, (xiii) the making of loans to officers, directors, and employees in exchange for Equity Interest of the Parent purchased by such officers, directors, or employees pursuant to clause (l)(iii) of the definition of "Permitted Investments" and the acceptance of notes related thereto, and (xiv) activities incidental to the businesses or activities described in clauses (i) through (xiii) of this Section 7.08(a).

(b) In the case of each of the Loan Parties (other than Parent), engage in any line of business substantially different from those lines of business conducted by the Loan Parties and their Subsidiaries on the Closing Date or any business reasonably related, similar, ancillary, complementary or incidental thereto or reasonable extensions thereof.

7.09 Transactions with Affiliates. Enter into, renew, extend or be a party to any transaction of any kind with any Affiliate of any Loan Party, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to such Loan Party or such Restricted Subsidiary as would be obtainable by such Loan Party or such Restricted Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate of such Loan Party, provided that the foregoing restriction shall not apply to:

(a) a transaction between or among (i) the Loan Parties; (ii) Subsidiaries or joint ventures of the Loan Parties that, in each case, are not Loan Parties; or (iii) Subsidiaries of the Loan Parties (whether or not such Subsidiaries are Loan Parties) so long as if a Loan Party is party thereto such Loan Party is the party receiving the more favorable terms;

(b) advances for commissions, travel and other similar purposes in the ordinary course of business to directors, officers and employees, in all cases, subject to an Approved Budget;

(c) the issuance of Equity Interests in the Parent to any shareholder, officer, member, director, manager, partner, employee or consultant of the Parent or any of its Subsidiaries;

(d) subject to an Approved Budget, the payment of reasonable fees and out-of-pocket costs to directors (or their equivalents), and compensation and employee benefit arrangements paid to, and indemnities provided for the benefit of, directors (or their equivalents), officers or employees of the Parent or any of its Subsidiaries;

(e) any issuances of securities of the Parent (other than Disqualified Stock and other Equity Interests not permitted hereunder) or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment agreements, deferred compensation agreements, stock options and stock ownership plans (in each case in respect of Equity Interests in the Parent) of the other Loan Parties or any of its Subsidiaries;

(f) Reserved;

(g) Reserved;

(h) Reserved;

(i) Reserved;

(j) Reserved;

(k) transactions permitted pursuant to Sections 7.02, 7.03, 7.04, 7.05 and 7.06;

(l) royalty-free licenses of any of the Loan Parties' or their Subsidiaries' trademarks, trade names and business systems by the Loan Parties to Subsidiaries that are not Loan Parties;

(m) intellectual property licensing arrangements between the Loan Parties and their Subsidiaries in the ordinary course of business;

(n) transactions set forth on Schedule 7.09; and

(o) payments pursuant to the Tax Sharing Agreement among the Loan Parties to the extent attributable to the ownership or operations of the Loan Parties;

provided, however, for the avoidance of doubt, the Loan Parties shall not be permitted to make any payments under the Advisory Agreement.

7.10 Burdensome Agreements. Enter into or permit to exist any Contractual Obligation (other than this Agreement, any other Loan Document, the Pre-Petition Credit Agreement or any Term Loan Document) and except in the case of restrictions and conditions imposed by Law) that limits the ability (i) of any Restricted Subsidiary to make Restricted Payments or other distributions to any Loan Party or to otherwise transfer property to or invest in a Loan Party, (ii) of any Restricted Subsidiary to Guarantee the Obligations, (iii) of any Restricted Subsidiary to make or repay loans to a Loan Party, or (iv) of the Loan Parties or any Restricted Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person in favor of the Agent; provided, however, that the foregoing shall not prohibit (A) any negative

pledge incurred or provided in favor of any holder of Indebtedness permitted under clauses (a), (c), (f) or (v) of the definition of Permitted Indebtedness solely to the extent any such negative pledge relates to the property financed by or the subject of such Indebtedness, or (B) customary anti-assignment provisions in licenses and other contracts restricting the sublicensing or assignment thereof or in contracts for the Disposition of any assets or any Subsidiary of a Loan Party, provided that the restrictions in any such contract shall apply only to the assets or Subsidiary of a Loan Party that is to be Disposed of, (C) provisions in leases of real property that prohibit mortgages or pledges of the lessee's interest under such lease or restricting subletting or assignment of such lease, (D) any encumbrance or restriction contained in any agreement of a Person acquired in a Permitted Investment, which encumbrance or restriction was in existence at the time of such Permitted Investment (but not created in contemplation thereof) and which encumbrance or restriction is not applicable to any Person or the properties or assets of any Person, other than the Person or the property and assets of the Person so acquired, (E) customary provisions in joint venture agreements and other similar agreement applicable to joint ventures to the extent such joint ventures are not prohibited hereunder, (F) customary restrictions and conditions contained in agreements relating to the Disposition of property or assets or Equity Interests permitted hereunder by a Loan Party or a Subsidiary of a Loan Party pending such Disposition, provided such restrictions and conditions apply only to the property or assets of the Loan Party or the Subsidiary of a Loan Party that are to be Disposed and such Disposition is permitted hereunder or (G) pursuant to Contractual Obligations that exist on the Closing Date, (H) pursuant to Indebtedness of any Subsidiary of Parent that is not a Loan Party that is permitted by Section 7.03, (I) customary restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business, (J) restrictions in connection with cash or other deposits permitted under Section 7.01, (K) restrictions imposed by any agreement governing Indebtedness entered into after the Closing Date and permitted under Section 7.03 that are, taken as a whole, in the good faith judgment of the Lead Borrower, no more restrictive with respect to the Lead Borrower or any other Loan Party than customary market terms for Indebtedness of such type (and, in any event, are no more restrictive than the restrictions contained in this Agreement), so long as the Lead Borrower shall have determined in good faith that such restrictions will not affect its obligation or ability to make any payments required hereunder, (L) related to any Disposition permitted by Section 7.05 applicable pending such Disposition solely to the assets subject to such Disposition, are negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 7.03 but solely to the extent any negative pledge relates to the property financed by or the subject of such Indebtedness and the proceeds and products thereof, and (M) customary provisions restricting assignment of any agreement entered into in the ordinary course of business.

7.11 Use of Proceeds. Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to (a) purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund Indebtedness originally incurred for such purpose, or (b) make any payments to a Sanctioned Entity or a Sanctioned Person, to finance any investments in a Sanctioned Entity or a Sanctioned Person, to fund any operations of a Sanctioned Entity or a Sanctioned Person, or in any other manner that would result in a violation of Sanctions by any Person.

7.12 Amendment of Material Documents. Without the consent of the Agent (which consent shall not unreasonably be withheld, delayed or conditioned), amend, modify or waive any of a Loan Party's rights under: (a) its Organization Documents in a manner materially adverse to the Credit Parties; (b) the Term Loan Documents or DIP Term Loan Facility, to the extent that such amendment, modification or change would (i) shorten the maturity date of the Pre-Petition First Lien Term Loan Facility, Pre-Petition Second Lien Term Loan Facility, or DIP Term Loan Facility, as applicable, or such refinancing Indebtedness to a date which is prior to ninety-one (91) days after the Maturity Date, (ii) shorten the date scheduled for any principal payment or increase the amount of any required scheduled or

mandatory principal payment, (iii) violate the Intercreditor Agreement, (iv) increase the interest or fees applicable to the DIP Term Loan Facility or any Term Loan Facility by more than 3% per annum (for the avoidance of doubt, the implementation of any default rate under the terms of the applicable Term Loan Documents as in effect on the Closing Date shall be excluded from the 3% threshold amount); (v) amend the provisions relating solely to the voting rights of the Sponsors or their Affiliates (including any bona fide debt fund affiliates or their equivalents); or (vi) increase the principal amount of either the DIP Term Loan Facility, Pre-Petition First Lien Term Loan Facility or Pre-Petition Second Lien Term Loan Facility; (c) the Advisory Agreement; or (d) Material Contract or any Material Indebtedness (other than the Term Loan Documents), except, in the case of this clause (d), to the extent that such amendment, modification or waiver could not reasonably be expected to have a Material Adverse Effect. The Loan Parties shall not, without the prior consent of the Agent and Tranche A-1 Agent, amend, modify or change in any manner any term or condition of the: (i) Restructuring Support Agreement, or (ii) Agency Agreement or any agreement entered into in connection therewith, or give any consent, waiver or approval thereunder, without the prior written consent of the Agent the Tranche A-1 Agent.

7.13 Fiscal Year. Without the prior consent of the Agent (which consent shall not be unreasonably withheld, delayed or conditioned), change the Fiscal Year of any Loan Party, or the non-tax accounting policies (except for changes from the retail method of accounting to the cost method of accounting which shall only require prompt written notice after such change to Agent) or non-tax reporting practices of the Loan Parties, except as required by GAAP.

7.14 Maintenance of Tranche A-1 Reserve. Fail to deliver a Borrowing Base Certificate as and when required hereunder which contains the Tranche A-1 Reserve (if any), including a calculation thereof; provided, that it shall not constitute a violation of this Section 7.14 if the Loan Parties rely on, in calculating the Tranche A-1 Reserve (if any), the amount of Reserves (and the calculation thereof) applicable to the Tranche A-1 Borrowing Base as reflected in the last Borrowing Base Certificate delivered pursuant to Section 6.02(c), in each case so long as the Loan Parties have not been notified by the Agent or the Required Tranche A-1 Lenders prior to the delivery of such Borrowing Base Certificate that the Reserves have increased.

7.15 Financial Covenant. Permit Availability at any time to be less than the greater of (a) $20,000,000 or (b) 10% of the Combined Borrowing Base (without giving effect to the Tranche A-1 Reserve).

7.16 Reclamation Claims. Enter into any agreement to return any of its Inventory to any of its creditors for application against any Pre-Petition Indebtedness, Pre-Petition trade payables or other Pre-Petition claims under Section 546(c) of the Bankruptcy Code or agree to allow any creditor to take any setoff or recoupment against any of its Pre-Petition Indebtedness, Pre-Petition trade payables or other Pre-Petition claims based upon any such return pursuant to Section 553(b)(l) of the Bankruptcy Code or otherwise if, after giving effect to any such agreement, setoff or recoupment, the aggregate amount applied to Pre-Petition Indebtedness, Pre-Petition trade payables and other Pre-Petition claims subject to all such agreements, setoffs and recoupments since the Petition Date would exceed $500,000.

7.17 Canadian Pension Plan**.** No Loan Party shall, without the consent of the Agent, maintain, administer, contribute to or have any liability in respect of any Canadian Pension Plan or acquire an interest in a Person if such Person sponsors, maintains, administers or contributed to, or has any liability in respect of any Canadian Pension Plan.

7.18 Bankruptcy Related Negative Covenants. No Loan Party shall seek, consent to, or permit to exist any of the following:Any order which authorizes the rejection or assumption of any Leases of any Loan Party without the Agent's prior consent;

(b) Any modification, stay, vacation or amendment to the Financing Orders or Canadian Recognition Order to which the Agent, Tranche A-1 Agent, Required Tranche A Lenders, and Required Tranche A-1 Lenders have not consented in writing;

(c) A priority claim or administrative expense or unsecured claim against any Loan Party (now existing or hereafter arising or any kind or nature whatsoever, including, without limitation, any administrative expense of the kind specified in Sections 105, 326, 328, 330, 331, 503(a), 503(b), 506(c) (after entry of the Final Financing Order), 507(a), 507(b), 546(c), 546(d), 726, 1114 of the Bankruptcy Code) equal or superior to the priority claim of the Agent and the Lenders in respect of the Obligations and the Pre-Petition Obligations except as set forth in the Financing Orders and Canadian Recognition Order;

(d) Any Lien on any Collateral having a priority equal or superior to the Lien securing the Obligations or Pre-Petition Liens including any adequate protection Liens except as set forth in the Financing Orders;

(e) Any order which authorizes the return of any of the Loan Parties' property pursuant to Section 546(h) of the Bankruptcy Code or the Canadian Recognition Order;

(f) Any order which authorizes the payment of any Indebtedness (other than the Pre-Petition Obligations and Pre-Petition Indebtedness reflected in an Approved Budget) incurred prior to the Petition Date or, except as set forth in the Financing Orders, the grant of "adequate protection" (whether payment in cash or transfer of property) with respect to any such Indebtedness which is secured by a Lien; or

(g) Any order seeking authority to take any action that is prohibited by the terms of this Agreement or the other Loan Documents or refrain from taking any action that is required to be taken by the terms of this Agreement or any of the other Loan Documents

7.19 Applications Under the CCAA and BIA. Each Loan Party and its Subsidiaries acknowledges that its business and financial relationships with the Lenders are unique from its relationship with any other of its creditors. Each Loan Party and its Subsidiaries agrees that it shall not file any plan of compromise and arrangement under the *Companies' Creditors Arrangement Act* (Canada) or proposal under the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"),or any plan of arrangement under any corporate statute, which provides for, or would permit, directly or indirectly, the Lenders to be classified with any other creditors of such Loan Party and its Subsidiaries for purposes of such plan of compromise and arrangement, proposal, plan or arrangement or otherwise.

ARTICLE VIII
EVENTS OF DEFAULT AND REMEDIES

8.01 Events of Default. Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Borrowers or any other Loan Party fails to pay when due and as required to be paid herein, (i) any amount of principal of any Loan or any L/C Obligation or any Pre-Petition Obligations, or deposit any funds as Cash Collateral in respect of L/C Obligations, or (ii) any interest on any Loan or on any L/C Obligation or any Pre-Petition Obligations, or any fee due hereunder

or on any Pre-Petition Obligations, or (iii) any other amount payable hereunder or under any other Loan Document, the Pre-Petition Credit Agreement, or the Financing Orders; or

(b) Specific Covenants.

(i) Any Loan Party fails to perform or observe any term, covenant or agreement contained in any of Section 6.05(a), 6.07(a) – 6.07(h), 6.10 (solely in the case of the Loan Parties' refusal to allow Agent or its representatives or agents access to the properties or locations of any Loan Party), 6.11, 6.13, 6.22-6.27 or Article VII; or

(ii) Any Loan Party fails to perform or observe any term, covenant or agreement contained in: (A) Section 6.02(c), with respect to delivery of Borrowing Base Certificates, and such failure continues for one (1) Business Day, or (B) Section 6.10 (other than in the case of the Loan Parties' refusal to allow Agent or its representatives or agents access to the properties or locations of any Loan Party); or

(iii) Any Loan Party fails to perform or observe any term, covenant or agreement contained in any of Section 6.01, 6.02 (other than clause (c) thereof), or 6.03, and such failure continues for fifteen (15) days after the earlier of (1) the date on which written notice thereof is given from the Agent to the Lead Borrower or (2) the date on which such failure shall first become known to a Responsible Officer of the Lead Borrower; or

(c) Other Defaults. (i) Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after the earlier of (i) the date on which written notice thereof is given from the Agent to the Lead Borrower or (ii) the date on which such failure shall first become known to a Responsible Officer of the Lead Borrower; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Borrower or any other Loan Party herein, in any other Loan Document, (including, without limitation, any Borrowing Base Certificate) shall be incorrect or misleading in any material respect (or in the case of any representation or warranty qualified by materiality, in any respects) when made or deemed made; or

(e) Cross-Default. (i) The occurrence of an "Event of Default" (as such term is defined under the DIP Term Loan Facility), (ii) any Loan Party or any Restricted Subsidiary thereof (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise), after taking into account any applicable grace or cure periods or any consents thereto, in respect of any Post-Petition or unstayed Material Indebtedness (excluding the Obligations and other Indebtedness under the Loan Documents and Indebtedness under Swap Contracts), or (B) fails to observe or perform any other agreement or condition relating to any such Post-Petition or unstayed Material Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Post-Petition or unstayed Material Indebtedness or the beneficiary or beneficiaries of any Guarantee thereof (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise, but excluding a regularly scheduled required prepayment) prior to its stated maturity, or such Guarantee to become due and payable, provided that this clause (e) shall not apply to secured Indebtedness that becomes due as a result of (y) a casualty or condemnation event or (z) the voluntary Disposition of the property or assets securing such Indebtedness, if such Disposition is permitted

hereunder and under the documents providing for such Indebtedness to the extent that such Loan Party's or Restricted Subsidiary's obligations with respect to such Indebtedness are extinguished in full (other than unasserted contingent indemnification obligations and unasserted expense reimbursement obligations) upon such Disposition, or (iii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which a Loan Party or any Restricted Subsidiary thereof is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which a Loan Party or any Restricted Subsidiary thereof is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by the Loan Party or such Restricted Subsidiary as a result thereof is greater than $10,000,000; or

(f) Reserved; or

(g) Reserved; or

(h) Judgments. There is entered against any Loan Party or any Subsidiary thereof (i) one or more judgments or orders for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding $5,000,000 (to the extent not covered by insurance (other than deductibles), has been notified of the potential claim and does not dispute coverage), or (ii) any one or more non-monetary judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, is not, within 30 days after the entry thereof, satisfied, vacated, discharged or execution thereof stayed or bonded pending appeal, or such final judgment is not satisfied, vacated, discharged prior to the expiration of any such stay; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of any Loan Party under Title IV of ERISA or Section 412 of the Code to the Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of $10,000,000 or which would reasonably likely result in a Material Adverse Effect, or (ii) a Loan Party or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of $10,000,000 or which could reasonably be expected to result in a Material Adverse Effect; or

(j) Invalidity of Loan Documents. (i) Any material provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations and the Pre-Petition Obligations (other than unasserted contingent indemnification obligations or unasserted expense reimbursement obligations), ceases to be in full force and effect (other than as a result of the gross negligence or willful misconduct of Agent or any of its Related Parties); or any Loan Party or Sponsor or any of their respective Subsidiaries or Affiliates contests in any manner the validity or enforceability of any provision of any Loan Document (other than as a result of the gross negligence or willful misconduct of Agent or any of its Related Parties); or any Loan Party or any Subsidiary or Affiliate thereof denies that it has any or further liability or obligation under any provision of any Loan Document (other than as a result of the gross negligence or willful misconduct of Agent or any of its Related Parties), or purports to revoke, terminate or rescind any provision of any Loan Document or seeks to avoid, limit or otherwise adversely affect any Lien purported to be created under any Security Document (other than pursuant to the respective terms hereof or thereof, or as gross negligence or willful misconduct of Agent or any of its Related Parties), except with respect to a Permitted Disposition of the applicable Collateral permitted under this Agreement; or (ii) any Lien purported to be created under any Security Document shall cease to be (other than as gross negligence or willful misconduct of Agent or any of its Related Parties), or shall be asserted by any Loan Party or Sponsor or any of their respective Subsidiaries or Affiliates not to be, a

valid and (to the extent required to be perfected, perfected) Lien on any Collateral, with the priority required by the applicable Security Document, except with respect to a Permitted Disposition of the applicable Collateral permitted under this Agreement; provided, however, that, to the extent not arising from an assertion made by a Loan Party or Sponsor or any of their respective Subsidiaries or Affiliates, such Collateral having a fair market value of less than $2,500,000 shall be permitted under this clause (ii); or

(k) Change of Control. There occurs any Change of Control; or

(l) Cessation of Business. Except for the Initial Store Closing Sale and as otherwise expressly permitted hereunder, any Loan Party or any Significant Subsidiary shall take any action to suspend the operation of all or a material portion of its business, in the ordinary course of business liquidate all or a material portion of its assets or Store locations, and employ an agent or other third party to conduct a program of closings, liquidations or "Going Out of Business Sales" or any material portion of its business, in each case, other than in connection with a Permitted Disposition; or

(m) Loss of Collateral. There occurs any uninsured loss to any of the Collateral, which loss could reasonably be expected to have a Material Adverse Effect; or

(n) Reserved; or

(o) Indictment. The indictment or institution of any legal process or proceeding against, any Loan Party or any Restricted Subsidiary thereof, under any federal, state, municipal, and other criminal statute, rule, regulation, order, or other requirement having the force of law for a felony and such indictment remains unquashed or undismissed for a period of ninety (90) days or more, unless the Agent in its reasonable discretion, determine that the indictment is not material; or

(p) Guaranty. The termination or attempted termination by any Loan Party, Subsidiary of a Loan Party, or Affiliate of a Loan Party of any Facility Guaranty prior to the payment in full of the Obligations (other than unasserted contingent indemnification obligations and unasserted expense reimbursement obligations), except as expressly permitted hereunder or under any other Loan Document; or

(q) Subordination. (i) The subordination provisions of the documents evidencing or governing any Subordinated Indebtedness (the "Subordinated Provisions") shall, in whole or in part, terminate, cease to be effective or cease to be legally valid, binding and enforceable against any holder of the applicable Subordinated Indebtedness; or (ii) any Borrower or any other Loan Party shall, directly or indirectly, disavow or contest in any manner (A) the effectiveness, validity or enforceability of any of the Subordinated Provisions, (B) that the Subordinated Provisions exist for the benefit of the Credit Parties, or (C) that all payments of principal of or premium and interest on the applicable Subordinated Indebtedness, or realized from the liquidation of any property of any Loan Party, shall be subject to any of the Subordinated Provisions.

(r) Chapter 11 Case. The occurrence of any of the following in the Chapter 11 Case:

(i) any Loan Party, without the Agent's, Tranche A-1 Agent's, Required Tranche A Lenders' and Required Tranche A-1 Lenders' prior written consent, files a motion with the Bankruptcy Court seeking the authority to liquidate all or substantially all of any Loan Party's assets or capital stock unless the transactions that are the subject of the motion will result in payment in full in cash of the Pre-Petition Obligations and the

Obligations on the closing of such sale (for the avoidance of doubt, the Initial Store Closing Sale shall not violate this provision);

(ii) other than in connection with the payment in full or refinancing of the Pre-Petition Obligations and the Obligations, the bringing or supporting of a motion, taking of any action or the filing of any plan or disclosure statement attendant thereto by or on behalf of any Loan Party in the Chapter 11 Case: (A) to obtain additional financing under Section 364(c) or (d) of the Bankruptcy Code not otherwise permitted pursuant to this Agreement; (B) to grant any Lien other than Permitted Encumbrances upon or affecting any Collateral; (C) except as provided in the Interim Financing Order or Final Financing Order, as the case may be, to use cash collateral under Section 363(c) of the Bankruptcy Code without the prior written consent of the Agent and Tranche A-1 Agent; (D) that seeks to prohibit Agent or Lenders from credit bidding on any or all of the Loan Parties' assets during the pendency of the Chapter 11 Case; or (E) any other action or actions adverse to the interest of the Agent or the Lenders in their capacities as such or their rights and remedies hereunder or its interest in the Collateral;

(iii) (A) other than in connection with the payment in full or refinancing of the Pre-Petition Obligations and the Obligations on the effective date of such plan, the filing of any plan of reorganization or disclosure statement attendant thereto, or any direct or indirect amendment to such plan or disclosure statement, by any Loan Party or any other Person to which the Agent does not consent or otherwise agree to treatment of the respective claims of the Agent and the Lenders, (B) the entry of any order terminating the Loan Parties' exclusive right to file a plan of reorganization without the consent of the Agent, or (C) the expiration of the Loan Parties' exclusive right to file a plan of reorganization without the consent of the Agent;

(iv) the entry of an order in the Chapter 11 Case confirming a plan that (A) is not acceptable to the Agent, Tranche A-1 Agent, Required Tranche A Lenders and Required Tranche A-1 Lenders in their discretion (it being agreed that a plan that satisfies the Obligations and the Pre-Petition Obligations (if any) irrevocably in full in cash on the effective date thereof is acceptable to the Agent, Tranche A-1 Agent, Required Tranche A Lenders and Required Tranche A-1 Lenders) or (B) does not contain a provision for termination of the Commitments and repayment in full in cash of all of the Pre-Petition Obligations and the Obligations under this Agreement on or before the effective date of such plan or plans;

(v) the entry of an order reversing, amending, supplementing, staying, vacating or otherwise modifying the Loan Documents, the Pre-Petition Credit Agreement or the Interim Financing Order, the Final Financing Order or the Cash Management Order without the written consent of the Agent, Tranche A-1 Agent, Required Tranche A Lenders and Required Tranche A-1 Lenders or, in the case of an order that would not reasonably be expected to have a material adverse effect on the Lenders, the Agent, or the filing of a motion for reconsideration with respect to the Interim Financing Order or the Final Financing Order or the Interim Financing Order, the Final Financing Order or the Cash Management Order are otherwise not in full force and effect, in each case, without the consent of the Agent, Tranche A-1 Agent, Required Tranche A Lenders and Required Tranche A-1 Lenders or, in the case of an order that would not reasonably be expected to have a material adverse effect on the Lenders, the Agent;

(vi) the Final Financing Order is not entered prior to the expiration of the Interim Financing Order, and in any event within thirty five (35) days of the Petition Date;

(vii) except as set forth in any motions which have been delivered to and are acceptable to the Agent and Tranche A-1 Agent and as contemplated by an Approved Budget (subject to the Permitted Variance), the payment of, or application for authority to pay, any Pre-Petition Indebtedness or Pre-Petition claim without the Agent's and the Tranche A-1 Agent's prior written consent;

(viii) the allowance of any claim or claims under Section 506(c) of the Bankruptcy Code or otherwise against the Agent, any other Credit Party or any of the Collateral;

(ix) the filing of a motion by a Loan Party or any of their respective Affiliates for, or the entry of an order directing, the appointment of an interim or permanent trustee in the Chapter 11 Case or the appointment of a receiver or an examiner in the Chapter 11 Case with expanded powers to operate or manage the financial affairs, the business, or reorganization of the Loan Parties (other than, for the avoidance of doubt, a fee examiner or similar examiner); or the sale without the Agent's, Tranche A-1 Agent's, Required Tranche A Lenders' and Required Tranche A-1 Lenders' consent of all or substantially all of the Loan Parties' assets either through a sale under Section 363 of the Bankruptcy Code, through a confirmed plan of reorganization in the Chapter 11 Case, or otherwise that does not provide for irrevocable payment in full in cash of the Pre-Petition Obligations and the Obligations and termination of the Commitments on the effective date of such plan or the closing of such sale;

(x) the dismissal of the Chapter 11 Case, or the conversion of the Chapter 11 Case from Chapter 11 to Chapter 7 of the Bankruptcy Code, or any Loan Party files a motion or other pleading seeking the dismissal of the Chapter 11 Case under Section 1112 of the Bankruptcy Code or otherwise;

(xi) the entry of an order by the Bankruptcy Court granting relief from or modifying the automatic stay of Section 362 of the Bankruptcy Code (1) to allow any creditor to execute upon or enforce a Lien on any Collateral having a value of $500,000 (or $1,000,000 in the aggregate) or more (other than with respect to equipment at Store locations after completion of an Initial Store Closing Sale at such location), or (2) with respect to any Lien or the granting of any Lien on any Collateral to any state or local environmental or regulatory agency or authority;

(xii) the commencement of a suit or action against the Agent, any Lender or any other Credit Party (both under this Agreement and as such terms are defined in the Pre-Petition Credit Agreement) by or on behalf of any Loan Party, its bankruptcy estates, or any of their Affiliates;

(xiii) the entry of an order in the Chapter 11 Case avoiding or permitting recovery of any portion of the payments made on account of the Indebtedness owing under this Agreement or the other Loan Documents or the Pre-Petition Credit Agreement;

(xiv) the failure of any Loan Party to perform any of its obligations under the Interim Financing Order, the Final Financing Order or the Cash Management Order or any of its material obligations under the any other order of the Bankruptcy Court;

(xv) Reserved;

(xvi) if, unless otherwise approved by the Agent and the Tranche A-1 Agent, an order of the Bankruptcy Court shall be entered providing for a change in venue with respect to the Chapter 11 Case;

(xvii) the entry of an order in the Chapter 11 Case granting any other super-priority administrative claim or Lien equal or superior to that granted to the Agent, the Lenders and Pre-Petition Agent except as set forth in the Financing Orders or the Canadian Recognition Order; or

(xviii) the failure of any Loan Party to perform any of its obligations under the Bidding Procedures Order.

8.02 Remedies Upon Event of Default.

(a) Subject to the applicable Financing Order or Canadian Recognition Order, as applicable, including, without limitation, any "Remedies Notice Period" as defined therein, if any Event of Default occurs and is continuing, the Agent may, or, at the request of the Required Lenders shall, take any or all of the following actions:

(i) declare the Commitments of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such Commitments and obligation shall be terminated;

(ii) declare the unpaid principal amount of all outstanding Loans and all Pre-Petition Obligations, all interest accrued and unpaid thereon, and all other Obligations to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Loan Parties;

(iii) require that the Loan Parties Cash Collateralize the L/C Obligations; and

(iv) whether or not the maturity of the Obligations shall have been accelerated pursuant hereto (but subject to prior notice requirements of the Canadian Bankruptcy Court in the case of the Canadian Loan Parties), proceed to protect, enforce and exercise all rights and remedies of the Credit Parties under this Agreement, any of the other Loan Documents, the Pre-Petition Loan Documents, or applicable Law, including, but not limited to, by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in this Agreement and the other Loan Documents, Pre-Petition Loan Documents, or any instrument pursuant to which the Obligations or Pre-Petition Obligations are evidenced, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any other legal or equitable right of the Credit Parties.

No remedy herein is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or any other provision of Law.

(b) If at any time while the Tranche A-1 Loan is outstanding any Tranche A-1 Event of Default occurs and is continuing and the Tranche A-1 Standstill Period has expired, the Agent, at the written request of the Required Tranche A-1 Lenders, shall, within a reasonable time after receipt of such request (but in any event within two (2) Business Days with respect to clause (i) below, only) take any or all of the following actions:

(i) declare the unpaid principal amount of the outstanding Tranche A-1 Loan, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document with respect to the Tranche A-1 Loan to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Loan Parties; or

(ii) whether or not the maturity of the Tranche A-1 Loan shall have been accelerated pursuant hereto, proceed to protect, enforce and exercise all rights and remedies (including secured creditor remedies) under this Agreement, any of the other Loan Documents or applicable Law on behalf of the Tranche A-1 Lenders, including, but not limited to, by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in this Agreement and the other Loan Documents or any instrument pursuant to which the Tranche A-1 Loan is evidenced, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any other legal or equitable right of the Tranche A-1 Lenders.

(c) Reserved.

(d) No remedy herein is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or any other provision of Law. The obligations of the Agent under this Section 8.02 shall at all times and in all circumstances be subject to, and be entitled to the benefits of, the provisions of Article IX hereof.

8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall be applied by the Agent in the following order, but in all cases, subject to the Carve-Out up to the Carve-Out Reserve:

First, to payment in full of the Pre-Petition Obligations, including the funding of indemnity accounts;

Second, to payment of that portion of the Obligations (excluding the Other Liabilities) constituting fees, indemnities, Credit Party Expenses and other amounts (including fees, charges and disbursements of counsel to the Agent and amounts payable under Article III) payable to the Agent;

Third, to payment of that portion of the Obligations (excluding the Other Liabilities) constituting indemnities, Credit Party Expenses, and other amounts (other than principal, interest and fees) payable to the Lenders and the L/C Issuer (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuer and amounts payable under Article III), ratably among them in proportion to the amounts described in this clause Second payable to them (other than any amount owing to Tranche A-1 Lenders);

Fourth, to the extent not previously reimbursed by the Lenders, to payment to the Agent of that portion of the Obligations constituting principal and accrued and unpaid interest on any Permitted Overadvances;

Fifth, to the extent that Swing Line Loans have not been refinanced by a Tranche A Loan, payment to the Swing Line Lender of that portion of the Obligations constituting accrued and unpaid interest on the Swing Line Loans;

Sixth, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Tranche A Loans and other Obligations (other than Obligations owing to the Tranche A-1 Lenders), and fees (including Letter of Credit Fees), ratably among the Tranche A Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Sixth payable to them;

Seventh, to the extent that Swing Line Loans have not been refinanced by a Tranche A Loan, to payment to the Swing Line Lender of that portion of the Obligations constituting unpaid principal of the Swing Line Loans;

Eighth, to payment of that portion of the Obligations constituting unpaid principal of the Tranche A Loans, ratably among the Tranche A Lenders in proportion to the respective amounts described in this clause Eighth held by them until paid in full;

Ninth, to the Agent for the account of the L/C Issuer, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit;

Tenth, to payment of that portion of the Obligations (excluding the Other Liabilities) constituting indemnities, expenses, and other amounts (other than principal, interest and fees) payable to the Tranche A-1 Lenders (including fees, charges and disbursements of counsel to the respective Tranche A-1 Lenders), ratably among them in proportion to the amounts described in this clause Tenth;

Eleventh, ratably to pay any fees then due to the Tranche A-1 Lenders until paid in full;

Twelfth, ratably to pay interest accrued in respect of the Tranche A-1 Loans until paid in full;

Thirteenth, ratably to pay principal due in respect of Tranche A-1 Loans ratably among the Tranche A-1 Lenders, in proportion to the respective amounts described in this clause Thirteenth held by them until paid in full;

Fourteenth, to payment of all other Obligations (including without limitation the cash collateralization of unliquidated asserted indemnification obligations as provided herein, but excluding any Other Liabilities), ratably among the Credit Parties in proportion to the respective amounts described in this clause Fourteenth held by them;

Fifteenth, to payment of that portion of the Obligations arising from Cash Management Services to the extent secured under the Security Documents, ratably among the Credit Parties in proportion to the respective amounts described in this clause Fifteenth held by them;

Sixteenth, to payment of all other Obligations arising from Bank Products to the extent secured under the Security Documents, ratably among the Credit Parties in proportion to the respective amounts described in this clause Fifteenth held by them; and

Last, the balance, if any, after all of the Obligations have been paid in full, to the Loan Parties or as otherwise required by Law.

Subject to Section 2.03(c), amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Eighth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

ARTICLE IX
THE AGENT

9.01 Appointment and Authority. Each of the Lenders and the Swing Line Lender hereby irrevocably appoints Wells Fargo to act on its behalf as the Agent hereunder and under the other Loan Documents and authorizes the Agent to take such actions on its behalf and to exercise such powers as are delegated to the Agent by the terms hereof or thereof (including, without limitation, acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations and appearing in the Chapter 11 Case on behalf of the Lenders), together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Agent, the Lenders and the L/C Issuer (and are in no event an agreement between the Credit Parties, on the one hand, and the Loan Parties, on the other hand), the Loan Parties have no liabilities or obligations under this Article and none of the provisions are applicable to the Loan Parties, and no Loan Party or any Subsidiary thereof shall have rights as a third party beneficiary of any of such provisions in this Article, other than Sections 9.06, 9.10, 9.11, 9.12(e) and 9.16 which shall also be for the benefit of the Loan Parties.

Without limiting the powers of the Agent, for the purposes of holding any hypothec granted to the Attorney (as defined below) pursuant to the laws of the Province of Québec to secure the prompt payment and performance of any and all Obligations by any Loan Party, each of the Credit Parties hereby irrevocably appoints and authorizes the Agent and, to the extent necessary, ratifies the appointment and authorization of the Agent, to act as the hypothecary representative of the creditors as contemplated under Article 2692 of the *Civil Code of Québec* (in such capacity, the "Attorney"), and to enter into, to take and to hold on their behalf, and for their benefit, any hypothec, and to exercise such powers and duties that are conferred upon the Attorney under any related deed of hypothec. The Attorney shall: (a) have the sole and exclusive right and authority to exercise, except as may be otherwise specifically restricted by the terms hereof, all rights and remedies given to the Attorney pursuant to any such deed of hypothec and applicable law, and (b) benefit from and be subject to all provisions hereof with respect to the Agent *mutatis mutandis*, including, without limitation, all such provisions with respect to the liability or responsibility to and indemnification by the Credit Parties and Loan Parties. Any person who becomes a Credit Party shall, by its execution of an Assignment and Assumption Agreement, be deemed to have consented to and confirmed the Attorney as the person acting as hypothecary representative holding the aforesaid hypothecs as aforesaid and to have ratified, as of the date it becomes a Credit Party, all actions taken by the Attorney in such capacity. The substitution of the Agent pursuant to the provisions of this Article IX shall also constitute the substitution of the Attorney.

9.02 Rights as a Lender. Each of the Persons serving as the Agent hereunder shall have the same rights and powers in their capacity as a Lender as any other Lender and may exercise the same as

though they were not the Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Loan Parties or any Subsidiary or other Affiliate thereof as if such Person were not the hereunder and without any duty to account therefor to the Lenders.

9.03 Exculpatory Provisions. The Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Agent shall not be required to take any action that, in their opinion or the opinion of their counsel, may expose the Agent to liability or that is contrary to any Loan Document or applicable law;

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Loan Parties or any of its Affiliates that is communicated to or obtained by the Person serving as the Agent or any of its Affiliates in any capacity; and

(d) shall not have any responsibility for ascertaining, monitoring or making any inquiry as to whether any Lender is a Restricted Affiliate Lender or whether any or all Restricted Affiliate Lenders meet the requirements set forth therefor in this Agreement or any Restricted Affiliate Lender Assignment (including, without limitation, the aggregate 50% limitation applicable to Restricted Affiliate Lenders of the Aggregate Tranche A-1 Commitments).

The Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a final and non-appealable judgment of a court of competent jurisdiction.

The Agent shall not be deemed to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default is given to such Person by the Loan Parties, a Lender or the L/C Issuer. Upon the occurrence and during the continuance of a Default or Event of Default, the Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Applicable Lenders. Unless and until the Agent shall have received such direction, the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to any such Default or Event of Default as it shall deem advisable in the best interest of the Credit Parties. In no event shall the Agent be required to comply with any such directions to the extent that the Agent believes that its compliance with such directions would be unlawful.

The Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan

Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence or continuance of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent.

9.04 Reliance by Agent. The Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including, but not limited to, any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless the Agent shall have received written notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Agent may consult with legal counsel (who may be counsel for any Loan Party), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. Notwithstanding the right of the Agent to request information regarding the percentage of the Aggregate Commitments held by Restricted Affiliate Lenders, the Agent shall not be required to request any such additional information in connection with any consent to assignment under Section 10.06 and may rely on any representations and warranties made by the Borrowers and the Restricted Affiliate Lenders with respect to compliance with applicable limitations on assignments to Restricted Affiliate Lenders.

9.05 Delegation of Duties. The Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub agents appointed by the Agent. The Agent and any such sub agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub agent and to the Related Parties of the Agent and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Agent.

9.06 Resignation of Agent. The Agent may at any time give written notice of its resignation to the Lenders and the Lead Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, and, so long as an Event of Default is not continuing, with the consent of the Lead Borrower (which consent shall not be unreasonably withheld or delayed), to appoint a successor, which shall be a bank or other financial institution with an office in the United States, or an Affiliate of any such bank or other financial institution with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and, if applicable, consented to by the Lead Borrower and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Lenders and the L/C Issuer, appoint a successor Agent meeting the qualifications set forth above; provided that if the Agent shall notify in writing the Lead Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents

(except that in the case of any Collateral held by the Agent on behalf of the Lenders or the L/C Issuer under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor Agent is appointed) and (2) all payments and communications provided to be made by, to or through the Agent shall instead be made by or to each Lender and the L/C Issuer directly and all determinations to be made by the Agent shall be made by two Lenders (or if only there is only one Lender, then the sole Lender) holding the largest amount of the Aggregate Commitments (or if the Commitments have been terminated, the Loans) (other than, in each case, with respect to Defaulting Lenders in which such payments, communications and determinations are not required or are at the discretion of the Agent, which the Borrowers may retain as if it were the Agent in accordance with this Agreement), until such time as the Required Lenders appoint (and, if applicable, the Lead Borrower consents to) a successor Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section) and the retiring (or retired) Agent agrees to deliver all Collateral in its or its subagents' or its representatives' possession to the successor Agent at the address specified by such successor Agent to the retiring (or retired) Agent in writing. The fees payable by the Borrowers to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Lead Borrower and such successor Agent. After the retiring Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 (subject to the limitations set forth therein) shall continue in effect for the benefit of such retiring Agent, its subagents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as Agent hereunder.

Any resignation by Wells Fargo as Agent pursuant to this Section shall also constitute its resignation as Swing Line Lender and the resignation of Wells Fargo as L/C Issuer. Upon the acceptance of a successor's appointment as Agent hereunder, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer and Swing Line Lender, (b) the retiring L/C Issuer and Swing Line Lender shall, going forward, be discharged from all of their respective duties and obligations and rights hereunder or under the other Loan Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements reasonably satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit.

9.07 Non-Reliance on Agent and Other Lenders. Each Lender and the L/C Issuer acknowledges that it has, independently and without reliance upon the Agent, any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and the L/C Issuer also acknowledges that it will, independently and without reliance upon the Agent, any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder. Except as provided in Section 9.12, the Agent shall not have any duty or responsibility to provide any Credit Party with any other credit or other information concerning the affairs, financial condition or business of any Loan Party that may come into the possession of any such agent.

9.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Bookrunners, Arrangers, Syndication Agent or Documentation Agent listed on the cover page hereof shall

have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity as the Agent, a Lender, the Swing Line Lender or the L/C Issuer hereunder.

9.09 Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Agent shall have made any written demand on the Loan Parties) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuer, the Agent and the other Credit Parties (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuer, the Agent, such Credit Parties and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuer the Agent and such Credit Parties under Sections 2.03(i), 2.03(j) and 2.03(k) as applicable, 2.09 and 10.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, interim receiver, monitor, administrator, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender, the L/C Issuer and each other Credit Party to make such payments to the Agent and, if the Agent shall consent to the making of such payments directly to the Lenders, the L/C Issuer and the other Credit Parties, to pay to the Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agent and its agents and counsel, and any other amounts due the Agent under Sections 2.09 and 10.04.

Nothing contained herein shall be deemed to authorize the Agent to authorize or consent to or accept or adopt on behalf of any Lender or the L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or the L/C Issuer or to authorize the Agent to vote in respect of the claim of any Lender or the L/C Issuer in any such proceeding.

9.10 Collateral and Guaranty Matters. The Credit Parties irrevocably authorize the Agent, at its option and in its sole discretion,

(a) to release any Lien on any property granted to or held by the Agent under any Loan Document (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than contingent indemnification obligations for which no claim has been asserted and unasserted expense reimbursement obligations), and the expiration, termination, backstopping or Cash Collateralization of all Letters of Credit required hereunder, (ii) that is Disposed or to be Disposed as part of or in connection with any Disposition permitted hereunder or under any other Loan Document, or (iii) if approved, authorized or ratified in writing by the Applicable Lenders in accordance with Section 10.01;

(b) Reserved; and

(c) to release any Guarantor from its obligations under the Facility Guaranty if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder.

Upon request by the Agent at any time, the Applicable Lenders will confirm in writing the Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Facility Guaranty pursuant to this Section 9.10. In each case as specified in this Section 9.10, the Agent will, at the Loan Parties' reasonable expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment, security interest and Lien granted under the Security Documents or to subordinate its interest in such item, or to release such Guarantor from its obligations under the Facility Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 9.10.

9.11 Notice of Transfer. The Agent may deem and treat a Lender party to this Agreement as the owner of such Lender's portion of the Obligations for all purposes, unless and until, and except to the extent, an Assignment and Acceptance shall have become effective as set forth in Section 10.06.

9.12 Reports and Financial Statements. By signing this Agreement, each Lender:

(a) agrees to furnish the Agent, at such times as the Agent may reasonably request, with a summary of all Other Liabilities due or to become due to such Lender. In connection with any distributions to be made hereunder, the Agent shall be entitled to assume that no amounts are due to any Lender on account of Other Liabilities unless the Agent has received written notice thereof from such Lender;

(b) is deemed to have requested that the Agent furnish such Lender, promptly after they become available, copies of all Borrowing Base Certificates and financial statements required to be delivered by the Lead Borrower hereunder and all commercial finance examinations and appraisals of the Collateral received by the Agent (collectively, the "Reports");

(c) expressly agrees and acknowledges that the Agent makes no representation or warranty as to the accuracy of the Reports, and shall not be liable for any information contained in any Report;

(d) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that the Agent or any other party performing any audit or examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel;

(e) agrees to keep all Reports confidential in accordance with the provisions of Section 10.07 hereof; and

(f) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold the Agent and any such other Lender preparing a Report harmless from any action the indemnifying Lender may take or conclusion the indemnifying Lender may reach or draw from any Report in connection with any Credit Extensions that the indemnifying Lender has made or may make to the Borrowers, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a Loan or Loans; and (ii) to pay and protect, and indemnify, defend, and hold the Agent and any such other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including attorney costs) incurred by the Agent and any such other Lender preparing a Report as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

9.13 Agency for Perfection. Each Lender hereby appoints each other Lender as agent for the purpose of perfecting Liens for the benefit of the Agent and the Lenders, in assets which, in accordance with Article 9 of the UCC or any other applicable Law of the United States can be perfected only by possession. Should any Lender (other than the Agent) obtain possession of any such Collateral, such Lender shall notify the Agent thereof, and, promptly upon the Agent's request therefor shall deliver such Collateral to the Agent or otherwise deal with such Collateral in accordance with the Agent's instructions.

9.14 Indemnification of Agent. Without limiting the obligations of the Loan Parties hereunder, the Lenders hereby agree to indemnify the Agent, the L/C Issuer and any Related Party, as the case may be, ratably according to their Applicable Percentages, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against the Agent, the L/C Issuer and their Related Parties in any way relating to or arising out of this Agreement or any other Loan Document or any action taken or omitted to be taken by the Agent, the L/C Issuer and their Related Parties in connection therewith; provided, that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agent's, the L/C Issuer's and their Related Parties' gross negligence or willful misconduct as determined by a final and nonappealable judgment of a court of competent jurisdiction.

9.15 Relation among Lenders. The Lenders are not partners or co-venturers, and no Lender shall be liable for the acts or omissions of, or (except as otherwise set forth herein in case of the Agent) authorized to act for, any other Lender.

9.16 Defaulting Lenders.

(a) If for any reason any Lender shall become a Defaulting Lender and such failure is not cured within one (1) Business Day after receipt from the Agent of written notice thereof, then, in addition to the rights and remedies that may be available to the other Credit Parties, the Loan Parties', or any other party at law or in equity (and not at limitation thereof): (i) any such Defaulting Lender's right to participate in the administration of, or decision-making rights related to, the Obligations, this Agreement or the other Loan Documents shall be suspended during the pendency of such failure or refusal, (ii) any such Defaulting Lender shall be deemed to have assigned any and all payments due to it from the Loan Parties, whether on account of outstanding Loans, interest, fees or otherwise, to the remaining non-Defaulting Lenders for application to, and reduction of, their proportionate shares of all outstanding Obligations, and (iii) at the option of the Agent, any amount payable to such Defaulting Lender hereunder (whether on account of principal, interest, fees or otherwise) shall, in lieu of being distributed to such Defaulting Lender, be retained by the Agent as cash collateral for future funding obligations of the Defaulting Lender in respect of any Loan or existing or future participating interest in any Swing Line Loan or Letter of Credit. Such Defaulting Lender's decision-making and participation rights and rights to payments as set forth in clauses (i), (ii), and (iii) hereinabove shall be restored only upon the payment by the Defaulting Lender of its Applicable Percentage of any Obligations, any participation obligation, or expenses as to which it is delinquent, together with interest thereon at the rate set forth in Section 2.08(c) hereof from the date when originally due until the date upon which any such amounts are actually paid, or otherwise cure such default or other cause of such Lender becoming a Defaulting Lender.

(b) The non-Defaulting Lenders shall also have the right, but not the obligation, in their respective, sole and absolute discretion, to cause the termination and assignment, without any further action by the Defaulting Lender for no cash consideration (pro rata, based on the respective Commitments of those Lenders electing to exercise such right), of the Defaulting Lender's Commitment to fund future Loans. Upon any such purchase of the Applicable Percentage of any Defaulting Lender, the Defaulting

Lender's share in future Credit Extensions and its rights under the Loan Documents with respect thereto shall terminate on the date of purchase, and the or Defaulting Lender shall promptly execute all documents reasonably requested to surrender and transfer such interest, including, if so requested, an Assignment and Acceptance.

(c) Each Defaulting Lender shall indemnify the Agent and each non-Defaulting Lender from and against any and all loss, damage or expenses, including but not limited to reasonable attorneys' fees and funds advanced by the Agent or by any non-Defaulting Lender, on account of a Defaulting Lender's failure to timely fund its Applicable Percentage of a Loan or to otherwise perform its obligations under the Loan Documents.

9.17 Syndication Agent; Documentation Agent and Tranche A-1 Agent.

(a) Notwithstanding the provisions of this Agreement or any of the other Loan Documents, no Person who is or becomes a Syndication Agent or a Documentation Agent shall have any powers, rights, duties, responsibilities or liabilities with respect to this Agreement and the other Loan Documents.

(b) The Tranche A-1 Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. The Tranche A-1 Agent shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though they were not the Tranche A-1 Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Tranche A-1 Agent hereunder in its individual capacity. Each Lender and the L/C Issuer acknowledges that it has, independently and without reliance upon the Tranche A-1 Agent or any of its Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and the L/C Issuer also acknowledges that it will, independently and without reliance upon the Tranche A-1 Agent or any of its Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

9.18 Intercreditor Agreement. The parties hereto acknowledge and agree that the Agent was authorized to enter into the Intercreditor Agreement, and that such agreement is binding upon them. Each Lender and other Credit Party (a) hereby consents to the subordination of the Liens on the Collateral securing the Obligations to the extent, and on the terms set forth in, the Intercreditor Agreement, (b) hereby agrees that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreement and (c) hereby acknowledges and agrees that the Intercreditor Agreement, together with the Liens on the Collateral securing the Obligations and Pre-Petition Obligations pursuant thereto, remains in full force and effect. The foregoing provisions are intended as an inducement to the Credit Parties to extend credit to the Borrowers, and such Credit Parties are intended third-party beneficiaries of such provisions and the provisions of the Intercreditor Agreement.

9.19 Reserves. Notwithstanding anything to the contrary contained in this Agreement, as long as the Tranche A-1 Loan remains outstanding, the Agent shall maintain Reserves (without limiting the right of the Agent to include additional Reserves or the requirement to include the Tranche A-1 Reserve) of the type existing on the Closing Date; provided that (x) the Agent may eliminate any Reserve concurrent with, or after elimination of, the event or circumstance that gave rise to the establishment of such Reserve, (y) the Agent may change, in its Permitted Discretion, the methodology used to calculate any Reserve if the effect of such change is to increase the amount of such Reserve and (z) the Agent may reduce, eliminate or modify any Reserves to the extent imposed or established after the Closing Date. For

clarity, the foregoing shall not limit the right of the Agent (i) to modify the amount of any of the Reserves based upon mathematical calculations (e.g. based on an increase or reduction in Customer Credit Liabilities at the time of calculation) or (ii) without regard to clause (i) hereof, to increase any Reserve from the level in effect at the time of the Closing Date and thereafter to reduce the amount of such Reserve to an amount not less than the amount thereof in effect on the Closing Date, in the case of each of clauses (i) and (ii), in a manner otherwise permitted by this Agreement. For the avoidance of doubt (1) the Tranche A-1 Reserve (if any) shall be automatically applied to the Tranche A-1 Borrowing Base at all times and (2) nothing herein shall limit the Agent's ability to change the Appraised Value of the Eligible Inventory pursuant to the most recent appraisal obtained by the Agent.

ARTICLE X
MISCELLANEOUS

10.01 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by any Loan Party therefrom, shall be effective unless in writing (x) in the case of the Intercreditor Agreement, with the consent of the Required Lenders and the Required Tranche A-1 Lenders obtained (or signed by the Agent, with the consent of the Required Lenders and the Required Tranche A-1 Lenders), (y) other than as set forth in clause (x) above, with the consent of the Required Lenders obtained (or signed by the Agent, with the consent of the Required Lenders), and (z) signed by the Lead Borrower or the applicable Loan Party, as the case may be, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

(a) increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender;

(b) as to any Lender, postpone any date fixed by this Agreement or any other Loan Document for (i) any scheduled payment (including the Maturity Date) or mandatory prepayment of principal, interest, fees or other amounts due hereunder or under any of the other Loan Documents without the written consent of such Lender entitled to such payment, or (ii) any scheduled or mandatory reduction or termination of the Aggregate Commitments hereunder or under any other Loan Document without the written consent of such Lender.

(c) as to any Lender, reduce the principal of, or the rate of interest specified herein on, any Loan held by such Lender, or (subject to clause (iv) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document to or for the account of such Lender; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrowers to pay interest or Letter of Credit Fees at the Default Rate;

(d) as to any Lender, change Section 2.13 or Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of such Lender, and (ii) repayments required upon the Termination Date of the non-extending Commitments);

(e) change any provision of this Section 10.01 (other than clauses (a), (b), (c), (d), (i), (j) or (l) of this proviso, which are addressed in clause (f) below) or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender (other than any Restricted Affiliate Lender);

(f) amend clause (a), (b), (c), (d), (i), (j) or (l) of this proviso without the written consent of each Lender;

(g) except for (i) Permitted Dispositions, (ii) transactions permitted by Section 6.21 or Section 7.04, (iii) as permitted hereunder (including Section 9.10 hereof) or under any other Loan Document and (iv) the payment in full of all Obligations, (y) release all or substantially all of the Collateral from the Liens of the Security Documents, or (z) release any Loan Party from its Obligations under the Loan Documents (including any release of a Guarantor from the Facility Guaranty) or amendment of any Guarantor's obligations from secured to unsecured, or from a full recourse Guarantee to a limited or non-recourse Guarantee), in each case, without the written consent of each Lender other than the Restricted Affiliate Lenders;

(h) increase the Aggregate Commitments without the written consent of each Lender;

(i) increase any advance rate percentage set forth in the definition of "Tranche A Borrowing Base" or otherwise change the definition of the term "Tranche A Borrowing Base" or any component definition thereof if as a result thereof the amounts available to be borrowed by the Borrowers would be increased without the written consent of each Lender, provided that the foregoing shall not limit (i) the discretion of the Agent to change, establish or eliminate any Reserves, or (ii) for the avoidance of doubt, the Agent's ability to change the Appraised Value of the Eligible Inventory and Eligible Real Estate pursuant to the most recent applicable appraisal obtained by the Agent;

(j) modify the definition of Permitted Overadvance so as to increase the amount thereof or, except as provided in such definition, the time period for which a Permitted Overadvance may remain outstanding without the written consent of each Lender;

(k) except as expressly permitted herein or in any other Loan Document, subordinate the Obligations hereunder or the Liens granted hereunder or under the other Loan Documents, to any other Indebtedness or Lien, as the case may be without the written consent of each Lender; provided that the Agent may enter into the Intercreditor Agreement or any amendment, restatement, supplement or other modification thereto without the consent of any Lender; and

(l) change the definition of the term "Tranche A-1 Borrowing Base" or any component definition thereof if as a result thereof the amounts available to be borrowed by the Borrowers would be increased without the written consent of each Tranche A-1 Lender, provided that the foregoing shall not limit (i) the discretion of the Agent to change, establish or eliminate any Reserves, or (ii) for the avoidance of doubt, the Agent's ability to change the Appraised Value of the Eligible Inventory pursuant to the most recent appraisal obtained by the Agent;

and, provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, affect the rights or duties of the L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of the Swing Line Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Agent in addition to the Lenders required above, affect the rights or duties of the Agent under this Agreement or any other Loan Document; (v) no amendment, waiver or consent shall, unless in writing and signed by the Tranche A-1 Agent, in addition to the Lenders required above, affect the rights or duties of the Tranche A-1 Agent under this Agreement (except with respect to the automatic deletion of such agent in accordance with the provisions of the definition of "Tranche A-1 Agent" as in effect on the Closing Date), (v) the Fee Letter

may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto, and (vi) any extension, increase or renewal of the Commitment of any Lender shall be subject to flood insurance diligence and compliance reasonably satisfactory to such Lender, as applicable. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased or extended without the consent of such Lender.

Notwithstanding anything to the contrary in this Agreement or any other Loan Document, no provider or holder of any Bank Products or Cash Management Services 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 any Loan Party.

If any Lender does not consent (a "Non-Consenting Lender") to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the consent of each Lender that is required to consent (e.g., all Lenders, all affected Lenders, all Tranche A Lenders or all Tranche A-1 Lenders, as applicable) and that has been approved by the Required Lenders, the Lead Borrower may replace such Non-Consenting Lender in accordance with Section 10.13; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Lead Borrower to be made pursuant to this paragraph). The Agent may, and is hereby deemed instructed by the Applicable Lenders to, consent to amendments (or amendments and restatements) to this Agreement and the other Loan Documents as may be necessary or appropriate in the reasonable opinion of the Agent to effect the transactions contemplated by Section 6.12(b)(3) to the extent the applicable Person being joined as a Loan Party is organized under the Laws of Puerto Rico or Canada.

Notwithstanding anything to the contrary contained in this Section 10.01 or otherwise in this Agreement or any other Loan Document, (i) this Agreement and any other Loan Document may be amended, supplemented or otherwise modified, or any provision thereof waived, with the consent of the Agent and the Borrowers without the need to obtain the consent of any Lender, Swing Line Lender or L/C Issuer, if such amendment, supplement, modification or waiver is delivered in order to (A) to comply with local Law or advice of local counsel, (B) cure ambiguities, omissions, mistakes or defects or (C) cause any Security Document to be consistent with this Agreement and the other Loan Documents and (ii) without the consent of any Lender, Swing Line Lender or L/C Issuer, the Borrowers and the Agent or any collateral agent may enter into any amendment, supplement or modification of any Loan Document, or enter into any new agreement or instrument, to effect the granting, perfection, protection, expansion or enhancement of any security interest of the Credit Parties in any Collateral or additional property to become Collateral for the benefit of the Credit Parties or as required by local law to give effect to, or protect any security interests for the benefit of the Credit Parties, in any property or so that the security interests therein comply with applicable Law or this Agreement or in each case to otherwise enhance the rights or benefits of any Lender under any Loan Document. The Agent shall make available to the Lenders copies of each such amendment or other modification to this Agreement.

Further, for the avoidance of doubt, notwithstanding anything in this Section 10.01 to the contrary, for purposes of determining whether the Required Lenders, all directly affected Lenders or all Lenders have (A) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, (B) otherwise acted on any matter related to any Loan Document, or (C) directed or required the Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or

under any Loan Document, the aggregate amount of Commitments held by the Restricted Affiliate Lenders shall, except in the case of any Restricted Affiliate Lender Amendment be disregarded (and treated for all purposes as if not outstanding); provided, however, if the Required Lenders shall have consented to such amendment, modification, waiver, consent or other action, then each Restricted Affiliate Lender shall be deemed to have affirmatively consented to such amendment, waiver, modification or other action (notwithstanding that such Restricted Affiliate Lender's Commitments were disregarded (and treated for all purposes as if not outstanding) in the determination of whether Required Lenders had consented to such amendment, modification, waiver, consent or other action); provided further, that any amendment, modification, waiver or consent under clauses (a), (b), (c), (d), (i), (j) and (l) of the first proviso set forth in Section 10.01) shall require the affirmative consent of each Restricted Affiliate Lender (such amendment, modification, waiver or consent being a "Restricted Affiliate Lender Amendment"). In addition, for the avoidance of doubt, the limitations set forth in this Section 10.01 with respect to a Restricted Affiliate Lender shall not be applicable to any Lender which is an assignee of a Restricted Affiliate Lender of a Loan (or a participating interest therein) previously legally or beneficially owned by a Restricted Affiliate Lender as long as such assignee is not a Restricted Affiliate Lender or an Affiliate of the Sponsor.

Each Restricted Affiliate Lender, solely in its capacity as a Lender, hereby agrees, and each Affiliate Lender Assignment Agreement shall provide a confirmation that, (i) such Restricted Affiliate Lender shall not take any step or action in the Chapter 11 Case, the Canadian Case or any other voluntary or involuntary proceeding commenced under any Debtor Relief Law to object to, impede, or delay the exercise of any rights or the taking of any action by the Agent or Tranche A-1 Agent (or the taking of any action by a third party that is supported by the Agent or Tranche A-1 Agent) in relation to such Restricted Affiliate Lender's claim with respect to its Loans (a "Claim") (including, without limitation, objecting to any debtor in possession financing, use of cash collateral, grant of adequate protection, sale or disposition, compromise, or plan of reorganization) so long as such Restricted Affiliate Lender is treated in connection with such exercise or action on the same or better terms as the other Lenders and (ii) with respect to any matter requiring the vote of Lenders during the pendency of the Chapter 11 Case, the Canadian Case or any other voluntary or involuntary proceeding commenced under any Debtor Relief Law (including, without limitation, voting on any plan of reorganization), the Loans held by such Restricted Affiliate Lender (and any Claim with respect thereto) shall be deemed to be voted without discretion in the same proportion as the allocation of voting with respect to such matter by Lenders who are not Restricted Affiliate Lenders, so long as such Restricted Affiliate Lender is treated in connection with the exercise of such right or taking of such action on the same or better terms as the other Lenders. For the avoidance of doubt, the Lenders and each Restricted Affiliate Lender agree and acknowledge that the provisions set forth in this paragraph, and the related provisions set forth in each Affiliate Lender Assignment Agreement, constitute a "subordination agreement" as such term is contemplated by, and utilized in, Section 510(a) of the United States Bankruptcy Code, and, as such, would be enforceable for all purposes in the Chapter 11 Case, the Canadian Case and in any other case where a Loan Party has filed for protection under any Debtor Relief Law applicable to such Loan Party.

The Lead Borrower agrees that, upon request by the Agent, the Lead Borrower shall promptly provide to the Agent a complete list of all Restricted Affiliate Lenders who are holding any Commitments at such time (in each case, so long as the Lead Borrower shall have received notice of any assignment of Commitments to Restricted Affiliate Lenders).

10.02 Notices; Effectiveness; Electronic Communications.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or

overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Loan Parties, the Agent, the L/C Issuer or the Swing Line Lender, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

(iii) Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier 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). Notices delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Loan Parties, the Agent, the Lenders, the L/C Issuer and the other Credit Parties hereunder, whether required to be delivered "in writing" or otherwise, may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Agent, provided that the foregoing shall not apply to notices to any Lender or the L/C Issuer pursuant to Article II if such Lender or the L/C Issuer, as applicable, has notified the Agent that it is incapable of receiving notices under such Article by electronic communication. The Agent agrees to promptly inform the Lead Borrower if any such Lender or L/C Issuer, as applicable, has notified the Agent that it is incapable of receiving such notices under Article II by electronic communication. The Agent may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Agent otherwise prescribes in writing, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to any Loan Party,

any Lender, the L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Loan Parties' or the Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to any Loan Party, any Lender, the L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of the Loan Parties, the Agent, the L/C Issuer and the Swing Line Lender may change its address, telecopier or telephone number for notices and other communications hereunder by written notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by written notice to the Lead Borrower, the Agent, the L/C Issuer and the Swing Line Lender. In addition, each Lender agrees to notify the Agent in writing from time to time to ensure that the Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(e) Reliance by Agent, L/C Issuer and Lenders. The Agent, the L/C Issuer and the Lenders shall be entitled to rely and act upon any notices in good faith (including telephonic Swing Line Loan Notices) purportedly given by or on behalf of the Loan Parties even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Loan Parties shall indemnify the Agent, the L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance in good faith by such Person on each notice purportedly given by or on behalf of the Loan Parties (other than any losses, costs, expenses and liabilities found by a court of competent jurisdiction in a final and nonappealable judgment to have directly arisen from such Person's or its Related Parties' gross negligence or willful misconduct). All telephonic notices to and other telephonic communications with the Agent or any Loan Party may be recorded by the Agent or any Loan Party, and each of the parties hereto hereby consents to such recording.

(f) Information Provisions Relating to Restricted Affiliate Lenders. No Affiliate of the Sponsor (including any Restricted Affiliate Lender) shall have any right to (A) receive any information, reports or other materials prepared by the Agent or any Lender or any communication by or among the Agent and/or one or more Lenders, except to the extent such information, reports, materials or communications have been made available to the Borrowers, (B) attend (including by telephone or any other method) any meeting or discussions (or portion thereof) among the Agent and any Lender to which representatives of the Borrowers are not invited or (C) access any electronic site established for the Lenders and not the Borrowers, or confidential communications from counsel or financial advisors of the Agent or the Lenders.

10.03 No Waiver; Cumulative Remedies. No failure by any Credit Party to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or under any other Loan Document preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges provided herein and in the other Loan Documents are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default or Event of Default,

regardless of whether any Credit Party may have had notice or knowledge of such Default or Event of Default at the time.

10.04 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Borrowers shall pay all Credit Party Expenses.

(b) Indemnification by the Loan Parties. Other than with respect to Indemnified Taxes and Other Taxes which are addressed in Section 3.01, the Loan Parties shall indemnify the Agent (and any sub-agent thereof), each other Credit Party, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless (on an after tax basis) from, any and all losses, claims, causes of action, damages, liabilities, settlement payments, costs, and related expenses (including the reasonable fees, charges and disbursements of one primary counsel, one local counsel in each reasonably necessary and relevant jurisdiction and one specialty counsel in each reasonably necessary and relevant jurisdiction, if applicable, for each reasonably necessary and relevant specialty and shall include reasonable and documented allocated costs of in-house counsel), incurred by any Indemnitee or asserted against any Indemnitee by any third party or by any Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the Agent (and any sub-agents thereof) and their Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit, any bank advising or confirming a Letter of Credit or any other nominated person with respect to a Letter of Credit seeking to be reimbursed or indemnified or compensated, and any third party seeking to enforce the rights of a Borrower, beneficiary, nominated person, transferee, assignee of Letter of Credit proceeds, or holder of an instrument or document related to any Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Loan Party or any of its Restricted Subsidiaries, or any Environmental Liability related in any way to any Loan Party or any of its Restricted Subsidiaries, (iv) any claims of, or amounts paid by any Credit Party to, a Blocked Account Bank or other Person which has entered into a control agreement in connection with the requirements hereunder with any Credit Party hereunder, or (v) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Borrower or any other Loan Party or any of the Loan Parties' directors, shareholders or creditors, and regardless of whether any Indemnitee is a party thereto, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Indemnitee; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (v) are determined by a final and nonappealable judgment of a court of competent jurisdiction to have directly resulted from the gross negligence or willful misconduct of such Indemnitee or of any of its Affiliates or Subsidiaries or any of the officers, directors, managers, employees or controlling Persons of such Indemnitee or any of such Indemnitee's Affiliates or Subsidiaries, (w) result from a claim brought by a Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrowers or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction will give prior written notice of any settlements; (y) a material intentional breach of any obligations under any Loan Document by such Indemnitee or of any such Indemnitee's Related Parties, in each case as determined by a final, non-appealable judgment of a court of competent jurisdiction or (z) any dispute solely among Indemnitees

other than any claims against an Indemnitee in its capacity or in fulfilling its role as an agent or arranger or any similar role under this Agreement or other Loan Documents and other than any claims arising out of any act or omission of the Borrowers or any of their Affiliates, in each case as determined by a final, non-appealable judgment of a court of competent jurisdiction; provided, however, the Agent shall, to the extent practical, endeavor to provide the Lead Borrower with prior notice of any settlements, but failure to provide such notice shall not negate the effectiveness of such settlement, or impose any liability or obligations on the Agent or any other Credit Party.

(c) Reimbursement by Lenders. Without limiting their obligations under Section 9.14 hereof, to the extent that the Loan Parties for any reason fail to pay any amount required under subsection (a) or (b) of this Section to be paid by it, each Lender severally agrees to pay to the Agent (or any such sub-agent), the L/C Issuer or such Related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Agent (or any such sub-agent) or the L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for the Agent (or any such sub-agent) or L/C Issuer in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable Law, the Loan Parties shall not assert, and hereby waive, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) Payments. All amounts due under this Section shall be payable on demand therefor.

(f) Survival. The agreements in this Section shall survive the resignation of the Agent and the L/C Issuer, the assignment of any Commitment or Loan by any Lender, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

10.05 Payments Set Aside. To the extent that any payment by or on behalf of the Loan Parties is made to any Credit Party, or any Credit Party exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Credit Party in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and the L/C Issuer severally agrees to pay to the Agent upon demand its Applicable Percentage (without duplication) of any amount so recovered from or repaid by the Agent, plus interest thereon from the date of such demand to

the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the L/C Issuer under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

10.06 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that no Loan Party may assign or otherwise transfer any of its rights or obligations hereunder or under any other Loan Document without the prior written consent of the Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of Section 10.06(b), (ii) by way of participation in accordance with the provisions of subsection Section 10.06(d), or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.06(f) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Credit Parties) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment(s) and the Loans (including for purposes of this Section 10.06(b), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts,

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $5,000,000 unless each of the Agent and, so long as no Event of Default has occurred and is continuing, the Lead Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not apply to the Swing Line Lender's rights and obligations in respect of Swing Line Loans;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) Reserved; and

(B) the consent of the Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of any Commitment if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender; provided that notwithstanding anything to the contrary set forth in this Agreement, any assignment to a Restricted Affiliate Lender shall require the prior written consent of the Agent (it being understood that the Agent shall consent to any such assignment so long as such Restricted Affiliate Lender represents that such assignment does not cause Restricted Affiliate Lenders (1) to hold or have participation interests in, collectively, greater than 50% of the Aggregate Tranche A-1 Commitments or (2) at any time there are more than two Tranche A-1 Lenders, to consist of more than forty-nine percent (49%) of the total number of all the Tranche A-1 Lenders); and

(C) the consent of the L/C Issuer (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding); and

(D) the consent of the Swing Line Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of the assignment of any Commitment.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Agent an Assignment and Assumption (or in the case of an assignment to a Restricted Affiliate Lender, an Affiliate Lender Assignment Agreement) (on which Assignment and Assumption the Assignee shall include a notice address for such Person), together with a processing and recordation fee of $3,500, provided, however, that (i) the Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment and (ii) such processing and recordation fee shall not be required with respect to any assignment to another Lender, an Affiliate of a Lender or an Approved Fund. The assignee, if it shall not be a Lender, shall deliver to the Agent an Administrative Questionnaire. The Affiliate Lender Assignment Agreement will contain (i) a representation and warranty to the effect that, after giving effect to the assignment thereunder, the assignee (together with all other Restricted Affiliate Lenders who are Lenders or are Participants under Section 10.06(d) of this Agreement) hold directly (or indirectly as participating interests) an aggregate amount of the Tranche A-1 Commitments no greater than 50% of the Aggregate Tranche A-1 Commitments, (ii) a representation and warranty to the effect that, after giving effect to the assignment thereunder, at any time that there are more than two Tranche A-1 Lenders, the Restricted Affiliate Lenders shall not consist of more than forty-nine percent (49%) of the total number of all Tranche A-1 Lenders and (iii) a provision that any assignment to a Restricted Affiliate Lender that would (1) result in such Restricted Affiliate Lender (together with all other Restricted Affiliate Lenders who are Lenders or are Participants under Section 10.06(d) of this Agreement) holding directly (or indirectly as participating interest) an aggregate amount of the Tranche A-1 Commitments in excess of 50% of the Aggregate Tranche A-1 Commitments or (2) at any time there are more than two Tranche A-1 Lenders, result in the Restricted Affiliate Lenders consisting of more than forty-nine percent (49%) of the total number of all Tranche A-1 Lenders is void *ab initio*.

Subject to acceptance (to the extent Agent's consent is required pursuant to this Section 10.06, otherwise, subject to receiving) and recording thereof by the Agent pursuant to subsection (c) of this Section and delivering the documentation required by Section 3.01(e) to the Lead Borrower and the Agent if the Eligible Assignee would be a Foreign Lender, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, and 10.04 (including any limitations to and restrictions on such benefits set forth therein and elsewhere in the Loan Documents) with respect to facts and circumstances occurring prior to the effective date of such assignment and shall be subject to the obligations of the immediately succeeding sentence. Upon request, after the Lead Borrower receives either (i) the original Note held by the assigning Lender evidencing the assigned Commitments or Loans or (ii) a lost note affidavit in form and substance satisfactory to the Borrowers executed by the assigning Lender and indemnifying the Borrowers and the other Loan Parties for any and all actions and claims that have arisen or may arise in connection with such lost Note evidencing the assigned Commitments or Loans in a manner that is reasonably acceptable to the Borrowers, the Borrowers (at their reasonable expense) shall issue a new Note in favor of the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.06(d).

(c) Register. The Agent, acting solely for this purpose as an agent of the Borrowers (and such agency being solely for tax purposes), shall maintain at the Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Loan Parties, the Agent and the Lenders may 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 notice to the contrary, without any liability to the Loan Parties or its Affiliates for any error set forth therein. The Register shall be available for inspection by the Lead Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Loan Parties or the Agent, sell participations to any Person (other than a natural person or the Loan Parties or any of the Loan Parties' Affiliates or Subsidiaries other than Restricted Affiliate Lenders in conformity with this clause (d)) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swing Line Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Loan Parties, the Agent, the Lenders and the L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement; and provided, further, that (x) at no time shall any Lender sell Participations to a Restricted Affiliate Lender such that, after giving effect to such sale, such Participants (together with Restricted Affiliate Lenders) hold directly (or indirectly as participating interests) an aggregate amount of Tranche A-1 Commitments in excess of 50% of the Aggregate Tranche A-1 Commitments, (y) at no time shall any Lender sell Participations to a Restricted Affiliate Lender such that, after giving effect to such sale, at any

time that there are more than two Tranche A-1 Lenders, such Participants (together with Restricted Affiliate Lenders), would consist of more than forty-nine percent (49%) of the total number of all Tranche A-1 Lenders and (z) no Participation may be sold to a Restricted Affiliate Lender if any Default or Event of Default has occurred and is continuing. For the avoidance of doubt, no Participation of Tranche A Loans or Tranche A Commitments may be sold to a Restricted Affiliate Lender. Any Participant shall agree in writing to comply with all confidentiality obligations set forth in Section 10.07 as if such Participant was a Lender hereunder, and the Loan Parties shall be, solely with respect to provisions related to confidentiality, beneficiaries of any such agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in clauses (a), (b), (c), (d), (e) (with respect to change to the provisions of Section 10.01) or (g) of the first proviso to Section 10.01 that affects such Participant; provided, further, that any consent from any Restricted Affiliate Lender shall be subject to and further limited as set forth in Section 10.01 to the same extent as if it were a Lender. Subject to subsection (e) of this Section, the Loan Parties agree that each Participant shall be entitled to the benefits of Sections 3.01, 3.04, and 3.05 (subject to the limitations and restrictions set forth therein) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.06(b). To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender, acting for this purpose as an agent of the Loan Parties, shall maintain at its offices a record of each agreement or instrument effecting any participation and a register for the recordation of the names and addresses of its Participants and their rights with respect to principal amounts and other Obligations from time to time (each a "Participation Register"). The entries in each Participation Register shall be conclusive absent manifest error and the Loan Parties, the Agent, the L/C Issuer and the Lenders may treat each Person whose name is recorded in a Participant Register as a Participant for all purposes of this Agreement (including, for the avoidance of doubt, for purposes of entitlement to benefits under Section 3.01, Section 3.04, Section 3.05 and Section 10.08), without any liability to the Loan Parties or its Affiliates for any error set forth therein. The Participation Register shall be available for inspection by the Lead Borrower, the L/C Issuer and any Lender, at any reasonable time and from time to time upon reasonable prior notice. Notwithstanding anything to the contrary, each Lender agrees not to enter into any written agreement with any Participant that will permit such Participant to control the voting rights of such Lender with respect to amendments, restatements, modification, waivers and consents under Section 10.01 or other rights of such Lender under the Loan Documents that such Participant does not expressly receive pursuant to this Section 10.06(d).

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01, Section 3.04, or Section 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Lead Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.01 unless the Lead Borrower is notified in writing of the participation sold to such Participant and such Participant agrees, for the benefit of the Loan Parties, to comply with Section 3.01(e) as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(h) Resignation as L/C Issuer or Swing Line Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time Wells Fargo assigns all of its Commitment and Loans pursuant to subsection (b) above, Wells Fargo may, (i) upon thirty (30) days' written notice to the Lead Borrower and the Lenders, resign as L/C Issuer and/or (ii) upon thirty (30) days' written notice to the Lead Borrower, Wells Fargo may resign as Swing Line Lender. In the event of any such resignation as L/C Issuer or Swing Line Lender, the Lead Borrower (in its sole discretion) shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swing Line Lender hereunder (and the Lenders agree to accept such appointment, or if such Lenders reject such appointment in violation of this clause, then the Lead Borrower shall have the opportunity to appoint any other Person that is an Eligible Assignee and Wells Fargo agrees to consent to such appointment as Agent, L/C Issuer and Swing Line Lender); provided, however, that no failure by the Lead Borrower to appoint any such successor shall affect the resignation of Wells Fargo as L/C Issuer or Swing Line Lender, as the case may be. If Wells Fargo resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans pursuant to Section 2.03(c)). If Wells Fargo resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender from and after the date of such appointment, as the case may be, and (b) the successor L/C Issuer shall issue letters of credit in substitution for (or backstop) the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Wells Fargo to effectively assume the obligations of Wells Fargo with respect to such Letters of Credit or the Borrowers shall have the opportunity to Cash Collateralize any outstanding Letters of Credit issued by Wells Fargo as L/C Issuer.

10.07 Treatment of Certain Information; Confidentiality. Each of the Credit Parties agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, funding sources, attorneys, advisors and representatives (it being understood and agreed that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential pursuant to the provisions of this Section 10.07 and the Loan Parties and its Affiliates shall be beneficiaries to such agreement), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions

substantially the same as those (or more restrictive than those) of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to any Loan Party and its obligations (in the case of both clauses (i) and (ii) above it being understood and agreed that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential pursuant to the provisions of this Section 10.07 and the Loan Parties and its Affiliates shall be beneficiaries to such agreement), (g) with the consent of the Lead Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to any Credit Party or any of their respective Affiliates on a non-confidential basis from a source other than the Loan Parties.

For purposes of this Section, "Information" means all information received from the Loan Parties or any Affiliate thereof relating to the Loan Parties or any Affiliate thereof or their respective businesses, other than any such information that is available to any Credit Party on a non-confidential basis prior to disclosure by the Loan Parties or any Subsidiary thereof, provided that, in the case of information received from any Loan Party or any Subsidiary after the Closing Date, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Credit Parties acknowledges that (a) the Information may include material non-public information concerning the Loan Parties or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including Federal and state securities Laws.

10.08 Right of Setoff. If an Event of Default shall have occurred and be continuing or if any Lender shall have been served with a trustee process or similar attachment relating to property of a Loan Party, subject to the Intercreditor Agreement, each Lender, the L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Agent or the Required Lenders with prompt written notice thereof delivered to the Lead Borrower, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the L/C Issuer or any such Affiliate to or for the credit or the account of the Borrowers or any other Loan Party against any and all of the Obligations now or hereafter existing under this Agreement or any other Loan Document to such Lender or the L/C Issuer, regardless of the adequacy of the Collateral, and irrespective of whether or not such Lender or the L/C Issuer shall have made any written demand under this Agreement or any other Loan Document and although such obligations of the Borrowers or such Loan Party may be contingent or unmatured or are owed to a branch or office of such Lender or the L/C Issuer different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each Lender, the L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the L/C Issuer or their respective Affiliates may have. Each Lender and the L/C Issuer agrees to notify in writing the Lead Borrower and the Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

10.09 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the

maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If the Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrowers. In determining whether the interest contracted for, charged, or received by the Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

10.10 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by each of the parties hereto and when the Agent and the Lead Borrower shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy, pdf., or other electronic transmission shall be as effective as delivery of a manually executed counterpart of this Agreement.

10.11 Survival. All representations and warranties made hereunder and in any other Loan Document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Credit Parties, regardless of any investigation made by any Credit Party or on their behalf and notwithstanding that any Credit Party may have had notice or knowledge of any Default or Event of Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding (other than any Letter of Credit that has been Cash Collateralized or such other collateral has been accepted by the Agent and L/C Issuer). Further, the provisions of Sections 3.01, 3.04, 3.05 and 10.04 and **Article IX** shall survive and remain in full force and effect regardless of the repayment of the Obligations, the expiration or termination of the Letters of Credit (other than any Letter of Credit that has been Cash Collateralized or such other collateral has been accepted by the Agent and L/C Issuer) and the Commitments or the termination of this Agreement or any provision hereof. In connection with the termination of this Agreement and the release and termination of the security interests in the Collateral, the Agent may require such indemnities and collateral security as they shall reasonably deem necessary or appropriate to protect the Credit Parties against (x) loss on account of credits previously applied to the Obligations that may subsequently be reversed or revoked, (y) any obligations that may thereafter arise with respect to the Other Liabilities and (z) any Obligations that may thereafter arise under Section 10.04.

10.12 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.13 Replacement of Lenders. Notwithstanding anything to the contrary herein or in the other Loan Documents, if any Lender or L/C Issuer requests compensation under Section 3.04, or if the Borrowers are required to pay any additional amount to any Lender, L/C Issuer or any Governmental Authority for the account of any Lender or L/C Issuer pursuant to Section 3.01, any Lender delivers a notice described in Section 3.02 or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrowers may, at their sole reasonable expense and effort, upon notice to such Lender or L/C Issuer, as the case may be, and the Agent, require such Lender or L/C Issuer to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights and obligations under this Agreement and the related Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrowers shall have paid to the Agent the processing and recordation fee specified in Section 10.06(b), unless waived by the Agent in its sole discretion;

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts) (if such Lender is a Defaulting Lender, excluding any amounts such Lender is not entitled to receive pursuant to Section 9.16(a) after subtracting all amounts such Lender owe to the Loan Parties and their Subsidiaries)

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction (whether now or in the future) in such compensation or payments thereafter; and

(d) such assignment does not conflict with applicable Laws.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrowers to require such assignment and delegation cease to apply. Each Lender and L/C Issuer hereby grants to the Agent an irrevocable power of attorney (which power is coupled with an interest) to execute and deliver, on behalf of such Lender or such L/C Issuer, as the case may be, as assignor, any Assignment and Assumption necessary to effectuate any assignment of such Lender's or such L/C Issuer's interests hereunder in the circumstances contemplated by this Section 10.13.

10.14 Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF, BUT INCLUDING SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW, AND TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE.

(b) SUBMISSION TO JURISDICTION. EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE BANKRUPTCY COURT AND THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR

RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE LOAN PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH BANKRUPTCY COURT OR NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT PROVIDED THAT CLAIMS WITH RESPECT TO (I) THE CANADIAN SECURITY AGREEMENT MAY, AS PROVIDED THEREIN, ALSO BE TRIED IN THE COURTS OF ONTARIO (OR SUCH OTHER CANADIAN JURISDICTION IN REGARD TO THE VALIDITY, PERFECTION OR EFFECT OF PERFECTION OF ANY LIEN OR IN REGARD TO PROCEDURAL MATTERS THAT WOULD GOVERN UNDER APPLICABLE LAW) AND (II) ANY CANADIAN HYPOTHEC MAY, AS PROVIDED THEREIN, ALSO BE TRIED IN THE COURTS OF QUEBEC. 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. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT ANY CREDIT PARTY MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING SEEKING ENFORCEMENT AGAINST ANY COLLATERAL IN THE COURTS OF ANY JURISDICTION (INCLUDING WHERE SUCH COLLATERAL MAY BE FOUND) OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) WAIVER OF VENUE. EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

(e) ACTIONS COMMENCED BY THE PARTIES HERETO. EACH PARTY HERETO AGREES THAT ANY ACTION COMMENCED BY SUCH PARTY ASSERTING ANY CLAIM OR COUNTERCLAIM ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL BE BROUGHT SOLELY IN THE BANKRUPTCY COURT OR A COURT OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY OR ANY FEDERAL COURT SITTING THEREIN AS SUCH PARTY MAY ELECT IN ITS SOLE DISCRETION AND CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS WITH RESPECT TO ANY SUCH ACTION. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT ANY CREDIT PARTY MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING SEEKING ENFORCEMENT AGAINST COLLATERAL IN THE COURTS OF ANY JURISDICTION (INCLUDING WHERE SUCH COLLATERAL MAY BE FOUND) OR THE ENFORCEMENT OF ANY JUDGMENT.

10.15 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

10.16 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby, the Loan Parties and the Credit Parties each acknowledge and agree (with respect to the Credit Parties, solely with respect to such Credit Party that on behalf of any other Person and, with respect to the Loan Parties, solely with respect to the Loan Parties and not on behalf of any other Person) that: (i) the credit facility provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Loan Parties, on the one hand, and the Credit Parties, on the other hand, and each of the Loan Parties and Credit Parties is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, the each Credit Party is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Loan Parties or any of their respective Affiliates, stockholders, creditors or employees or any other Person; (iii) none of the Credit Parties has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Loan Parties with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether any of the Credit Parties has advised or is currently advising any Loan Party or any of its Affiliates on other matters) and none of the Credit Parties has any obligation to any Loan Party or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein, in the other Loan Documents or in another written agreement; (iv) the Credit Parties and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Loan Parties and their respective Affiliates, and none of the Credit Parties has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Credit Parties have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. Each party hereto hereby waives and releases, to the fullest extent permitted by Law, any claims that it may have against each other party hereto with respect to any breach or alleged breach of agency or fiduciary duty.

10.17 USA PATRIOT Act Notice and Anti-Money Laundering & Anti-Terrorism Compliance.

(a) Each Lender that is subject to the Act (as hereinafter defined) and the Agent (for itself and not on behalf of any Lender) hereby notifies the Loan Parties that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies each Loan Party, which information

includes the name and address of each Loan Party and other information that will allow such Lender or the Agent, as applicable, to identify each Loan Party in accordance with the Act. Each Loan Party is in compliance, in all material respects, with the Act and Canadian Anti-Money Laundering & Anti-Terrorism Legislation. No part of the proceeds of the Loans will be used by the Loan Parties, directly or indirectly for any purpose which would contravene or breach the Canadian Anti-Money Laundering & Anti-Terrorism Legislation or Canadian Economic Sanctions and Export Control Laws or 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.

(b) Each Loan Party acknowledges that, pursuant to the provisions of Canadian Anti-Money Laundering & Anti-Terrorism Legislation, Agent and Lenders may be required to obtain, verify and record information regarding each Loan Party, its respective directors, authorized signing officers, direct or indirect shareholders or other Persons in control of such Loan Party, and the transactions contemplated hereby. The Loan Parties shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any Lender or Agent, or any prospective assign or participant of a Lender or Agent, necessary in order to comply with any applicable Canadian Anti-Money Laundering & Anti-Terrorism Legislation, whether now or hereafter in existence. If Agent has ascertained the identity of any Loan Party or any authorized signatories of any Loan Party for the purposes of applicable Canadian Anti-Money Laundering & Anti-Terrorism Legislation, then the Agent (i) shall be deemed to have done so as an agent for each Lender, and this Agreement shall constitute a "written agreement" in such regard between each Lender and the Agent within the meaning of applicable Canadian Anti-Money Laundering & Anti-Terrorism Legislation and (ii) shall provide to each Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

Notwithstanding the provisions of this Section and except as may otherwise be agreed in writing, each Lender agrees that Agent has no obligation to ascertain the identity of the Loan Parties or any authorized signatories of the Loan Parties on behalf of any Lender, or to confirm the completeness or accuracy of any information it obtains from the Loan Parties or any such authorized signatory in doing so.

10.18 Foreign Asset Control Regulations; Sanctions. Neither of the advance of the Loans nor the use of the proceeds of any thereof will violate (i) the Trading With the Enemy Act (50 U.S.C. § 1 et seq., as amended) (the "Trading With the Enemy Act") or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) (the "Foreign Assets Control Regulations") or any enabling legislation or executive order relating thereto (which for the avoidance of doubt shall include, but shall not be limited to (a) Executive Order 13224 of September 21, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) (the "Executive Order") and (b) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56)) or (ii) the Canadian Anti-Money Laundering & Anti-Terrorism Legislation or the Canadian Economic Sanctions and Export Control Laws. Furthermore, none of the Loan Parties or their Affiliates (a) is or will become a Canadian Blocked Person or a "blocked person" as described in the Executive Order, the Trading With the Enemy Act or the Foreign Assets Control Regulations or (b) engages or will engage in any dealings or transactions, or be otherwise associated, with any such Canadian Blocked Person or "blocked person" or in any manner violative of any such order.

10.19 Time of the Essence. Time is of the essence of the Loan Documents.

10.20 Additional Rights of Tranche A-1 Lenders. Notwithstanding anything herein to the contrary,

(a) With respect to the Default Rate applicable to the Tranche A-1 Loan, the consent of only the Required Tranche A-1 Lenders shall be required to amend the definition of "Default Rate" applicable thereto or to waive any obligation of the Borrowers to pay interest on the Tranche A-1 Loans at the Default Rate;

(b) With respect to the Default Rate applicable to the Tranche A Loans, the consent of the Tranche A-1 Lenders shall not be required to amend the definition of "Default Rate" applicable thereto or to waive any obligation of the Borrowers to pay interest on the Tranche A Loans or Letter of Credit Fees at the Default Rate;

(c) Any change to any provision of this Section 10.20 or the definition of "Required Tranche A-1 Lenders" or any other provision hereof specifying the number or percentage of Tranche A-1 Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, shall require the consent of each Lender;

(d) (i) Any change to the definition of the term "Tranche A-1 Borrowing Base" or any component definition thereof (if the effect is adverse in any material respect to the Tranche A-1 Lenders as such component definition is used in such term) if as a result thereof the amounts available to be borrowed by the Borrowers would be increased shall require the written consent of the Agent, each Tranche A-1 Lender and the Required Lenders, or (ii) any modification, reduction, elimination or failure to maintain the Tranche A-1 Reserve shall require the written consent of the Lead Borrower, the Agent and each Tranche A-1 Lender; provided that the Lead Borrower, the Agent and the Tranche A-1 Lenders may agree to reduce or waive such Tranche A-1 Reserve; provided, further, that the foregoing shall not limit the Agent's ability to change the Appraised Value of the Eligible Inventory pursuant to the most recent appraisal obtained by the Agent;

(e) Any amendment, waiver or consent to any of the following shall, in addition to any other consents required by this Agreement, require the consent of the Required Tranche A-1 Lenders:

(i) any modification to the definitions of Borrowing Base, Change of Control, Eligible Assignee, Tranche A-1 Applicable Percentage, Tranche A-1 Event of Default, Tranche A-1 Reserve, or Tranche A-1 Standstill Period (and any component definition contained in any of the foregoing terms if the effect is adverse in any material respect to the Tranche A-1 Lenders as such component definition is used in such terms);

(ii) any modification of the provisions of Section 2.01(a)(i), Section 2.05(c), (f) and (g), Section 2.13, Section 5.24, Section 6.01(b), Section 6.02, Section 6.10, 6.11, Section 6.13 (and any component definition contained in any of the foregoing sections (A) to the extent used in such section and (B) if the effect is adverse in any material respect to the Tranche A-1 Lenders as such component definition is used in such sections), Sections 6.22 - 6.27, Section 7.06, Section 7.09, Sections 7.14 – 7.18, Section 8.01, Section 8.02, Section 8.03 or Section 9.19 of this Agreement;

(iii) any modification to the definitions of Approved Budget, Approved Budget Variance Report, Approved Liquidator, Carve-Out Reserve, Consultants, Permitted Sale or Restructuring Support Agreement; and

(iv) the increase of the rates of interest set forth in the definition of "Applicable Margin" at any level of the pricing grid applicable thereto, or of the "Default Rate" with respect to the Tranche A Loans or Letter of Credit Fees unless the "Tranche A-1 Interest Rate" and "Default Rate" with respect to the Tranche A-1 Loans is increased by the same percentage (i.e., if the Applicable Margin is increased by 1% per annum then the interest rate applicable to the Tranche A-1 Loans shall be increased by 1% per annum) (it being understood and agreed that any such increase applicable to the Tranche A-1 Loans shall be automatic and effective without the consent of the Tranche A-1 Lenders); provided that the foregoing shall not include any increase occurring because of fluctuations in underlying rate indices or the imposition of the "Default Rate";

(f) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto; and

(g) notwithstanding the foregoing, any amendment, waiver or consent that reduces the rate of interest specified herein on the Tranche A-1 Loan or postpones any date fixed by this Agreement or any other Loan Document for any payment or mandatory prepayment of principal, interest or fees due to the Tranche A-1 Lenders hereunder shall require only the written consent of each Tranche A-1 Lender entitled to such payment and the Borrowers (and the consent of the Required Lenders shall not be required).

In the event of any conflict between the provisions of this Section 10.20 and any other provisions of this Agreement, the provisions of this Section 10.20 shall control.

10.21 Press Releases.

(a) Each Credit Party executing this Agreement agrees that neither it nor its Affiliates will in the future issue any press releases or other public disclosure using the name of the Agent or its Affiliates or referring to this Agreement or the other Loan Documents without at least two (2) Business Days' prior notice to the Agent and without the prior written consent of the Agent (which consent shall not be unreasonably withheld, delayed or conditioned) unless (and only to the extent that) such Credit Party or Affiliate is required to do so under applicable Law and then, in any event, to the extent reasonably possible under applicable Law, such Credit Party or Affiliate will consult with the Agent before issuing such press release or other public disclosure.

(b) Each Loan Party consents to the publication in the ordinary course by Agent or the Arranger of customary advertising material, including any "tombstone" or comparable advertising, on its website or in other marketing materials of Agent, relating to the financing transactions contemplated by this Agreement using such Loan Party's name, product photographs, logo, trademark, or other insignia. Such consent shall remain effective until revoked by such Loan Party in writing to the Agent and the Arranger. With respect to the publication of any additional materials not addressed in the first sentence of this clause (b), the Agent or such Lender shall provide a draft reasonably in advance (and in no event less than two (2) Business Days' prior written notice, with copies thereof attached to such notice) of any such advertising material to the Lead Borrower for review and comment prior to the publication thereof. The Agent reserves the right to provide to industry trade organizations and loan syndication and pricing reporting services information necessary and customary for inclusion in league table measurements.

10.22 Additional Waivers.

(a) The Obligations are the joint and several obligation of each Loan Party. To the fullest extent permitted by Applicable Law, the obligations of each Loan Party shall not be affected by (i) the failure of any Credit Party to assert any claim or demand or to enforce or exercise any right or remedy against any other Loan Party under the provisions of this Agreement, any other Loan Document or otherwise, (ii) any rescission, waiver, amendment or modification of, or any release from any of the terms or provisions of, this Agreement or any other Loan Document, or (iii) the failure to perfect any security interest in, or the release of, any of the Collateral or other security held by or on behalf of the Agent or any other Credit Party.

(b) The obligations of each Loan Party shall not be subject to any reduction, limitation, impairment or termination for any reason (other than the payment in full in cash of the Obligations after the termination of the Commitments), including any claim of waiver, release, surrender, alteration or compromise of any of the Obligations, and shall not be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any of the Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of each Loan Party hereunder shall not be discharged or impaired or otherwise affected by the failure of the Agent or any other Credit Party to assert any claim or demand or to enforce any remedy under this Agreement, any other Loan Document or any other agreement, by any waiver or modification of any provision of any thereof, any default, failure or delay, willful or otherwise, by any Loan Party in the performance of any of the Obligations, or by any other act or omission that may or might in any manner or to any extent vary the risk of any Loan Party or that would otherwise operate as a discharge of any Loan Party as a matter of law or equity (other than the payment in full in cash of all the Obligations after the termination of the Commitments).

(c) To the fullest extent permitted by applicable Law, each Loan Party waives any defense based on or arising out of any defense of any other Loan Party or the unenforceability of the Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any other Loan Party, other than the indefeasible payment in full in cash of all the Obligations and the termination of the Commitments. The Agent and the other Credit Parties may, at their election, foreclose on any security held by one or more of them by one or more judicial or non-judicial sales, accept an assignment of any such security in lieu of foreclosure, compromise or adjust any part of the Obligations, make any other accommodation with any other Loan Party, or exercise any other right or remedy available to them against any other Loan Party, without affecting or impairing in any way the liability of any Loan Party hereunder except to the extent that all the Obligations have been paid in full in cash and the Commitments have been terminated. Each Loan Party waives any defense arising out of any such election even though such election operates, pursuant to applicable Law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of such Loan Party against any other Loan Party, as the case may be, or any security.

(d) Each Borrower is obligated to repay the Obligations as joint and several obligors under this Agreement. Upon payment by any Loan Party of any Obligations, all rights of such Loan Party against any other Loan Party arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior payment in full in cash of all the Obligations and the termination of the Commitments. In addition, any indebtedness of any Loan Party now or hereafter held by any other Loan Party is hereby subordinated in right of payment to the prior payment in full of the Obligations and no Loan Party will demand, sue for or otherwise attempt to collect any such indebtedness until such time as the Obligations have been paid in full. If any amount shall erroneously be paid to any Loan Party on account of (i) such subrogation, contribution, reimbursement, indemnity or similar right or (ii) any such indebtedness of any

Loan Party, such amount shall be held in trust for the benefit of the Credit Parties and shall forthwith be paid to the Agent to be credited against the payment of the Obligations, whether matured or unmatured, in accordance with the terms of this Agreement and the other Loan Documents. Subject to the foregoing, to the extent that any Borrower shall, under this Agreement as a joint and several obligor, repay any of the Obligations constituting Loans made to another Borrower hereunder or other Obligations incurred directly and primarily by any other Borrower (an "Accommodation Payment"), then the Borrower making such Accommodation Payment shall be entitled to contribution and indemnification from, and be reimbursed by, each of the other Borrowers in an amount, for each of such other Borrowers, equal to a fraction of such Accommodation Payment, the numerator of which fraction is such other Borrower's Allocable Amount and the denominator of which is the sum of the Allocable Amounts of all of the Borrowers. As of any date of determination, the "Allocable Amount" of each Borrower shall be equal to the maximum amount of liability for Accommodation Payments which could be asserted against such Borrower hereunder without (a) rendering such Borrower "insolvent" within the meaning of Section 101 (31) of the Bankruptcy Code, Section 2 of the Uniform Fraudulent Transfer Act ("UFTA") or Section 2 of the Uniform Fraudulent Conveyance Act ("UFCA"), (b) leaving such Borrower with unreasonably small capital or assets, within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA, or Section 5 of the UFCA, or (c) leaving such Borrower unable to pay its debts as they become due within the meaning of Section 548 of the Bankruptcy Code or Section 4 of the UFTA, or Section 5 of the UFCA.

10.23 No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

10.24 Attachments. The exhibits and schedules attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail.

10.25 Conflict. The Loan Parties, the Agent and the Lenders acknowledge that the exercise of certain of the and Agent's rights and remedies hereunder may be subject to, and restricted by, the provisions of the Intercreditor Agreement. Except as specified herein, nothing contained in the Intercreditor Agreement shall be deemed to modify any requirement or shall be deemed to modify any of the provisions of this Agreement and the other Loan Documents, which, among the Loan Parties, the Agent and the Lenders shall remain in full force and effect. In the event of any conflict between the terms of this Agreement and the Intercreditor Agreement, the terms of the Intercreditor Agreement shall govern and control.

10.26 Certain Provisions Regarding Restricted Lender Affiliates**.** No Restricted Lender Affiliate will (i) benefit from any action initiated by the Lenders against the Agent except in its capacity as a Lender and solely to the extent of its Applicable Percentage, or (ii) move to prevent the Agent from taking any action or compel the Agent to take any action under this Agreement except in connection with any action taken by the Agent or the Lenders in direct contravention of a Restricted Lender Affiliate's express consent rights as a Lender to the extent provided under Section 10.01.

10.27 Judgment Currency**.** If, for the purpose of obtaining judgment in any court or obtaining an order enforcing a judgment, it becomes necessary to convert any amount due under this Agreement in Dollars or in any other currency (hereinafter in this Section 10.27 called the "first currency") into any other currency (hereinafter in this Section 10.27 called the "second currency"), then the conversion shall

be made at the Spot Rate for buying the first currency with the second currency prevailing at the Agent's close of business on the Business Day next preceding the day on which the judgment is given or (as the case may be) the order is made. Any payment made by a Loan Party to the Agent or any other Credit Party pursuant to this Agreement or any other Loan Document in the second currency shall constitute a discharge of the obligations of any applicable Loan Parties to pay to such Credit Party any amount originally due to the Credit Party in the first currency under this Agreement or such other Loan Document only to the extent of the amount of the first currency which such Credit Party is able on the date of the receipt by it of such payment in any second currency to purchase in accordance with such Credit Party's normal banking procedures, with the amount of such second currency so received. If the amount of the first currency falls short of the amount originally due to such Credit Party in the first currency under this Agreement, the Loan Parties agree that they will indemnify each Credit Party against and save such Credit Party harmless from any shortfall so arising. This indemnity shall constitute an obligation of each such Loan Party separate and independent from the other obligations contained in this Agreement, shall give rise to a separate and independent cause of action and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum or sums in respect of amounts due to any Credit Party under any Loan Documents or under any such judgment or order. Any such shortfall shall be deemed to constitute a loss suffered by such Credit Party and the Loan Parties shall not be entitled to require any proof or evidence of any actual loss. The covenants contained in this Section 10.27 shall survive the payment in full of the Obligations under this Agreement.

[Signature Pages Follow]

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

BORROWERS:

PAYLESS INC.,
a Delaware corporation

By: _____
Name: W. Paul Jones
Title: Chief Executive Officer and President

PAYLESS FINANCE, INC.,
a Nevada corporation

By: _____
Name: Michael C. Schwindle
Title: President

PAYLESS SHOESOURCE DISTRIBUTION, INC.,
a Kansas corporation

By: _____
Name: Michael C. Schwindle
Title: Vice President

PAYLESS SHOESOURCE, INC.,
a Missouri corporation

By: _____
Name: W. Paul Jones
Title: Chief Executive Officer and President

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

BORROWERS:

PAYLESS INC.,
a Delaware corporation

By: _____
Name: W. Paul Jones
Title: Chief Executive Officer and President

PAYLESS FINANCE, INC.,
a Nevada corporation

By: _____
Name: Michael C. Schwindle
Title: President

PAYLESS SHOESOURCE DISTRIBUTION, INC.,
a Kansas corporation

By: _____
Name: Michael C. Schwindle
Title: Vice President

PAYLESS SHOESOURCE, INC.,
a Missouri corporation

By: _____
Name: W. Paul Jones
Title: Chief Executive Officer and President

GUARANTORS:

WBG – PSS HOLDINGS LLC,
a Delaware limited liability company

By: _____
Name: Michael C. Schwindle
Title: President

CLINCH, LLC,
a Delaware limited liability company

By: _____
Name: Michael C. Schwindle
Title: Chief Executive Officer

COLLECTIVE BRANDS SERVICES, INC.,
a Delaware corporation

By: _____
Name: Michael C. Schwindle
Title: President

COLLECTIVE LICENSING INTERNATIONAL, LLC, a Delaware limited liability company

By: _____
Name: Michael C. Schwindle
Title: Chief Executive Officer and President

COLLECTIVE LICENSING, LP,
a Delaware limited partnership

By: _____
Name: Michael C. Schwindle
Title: President

PAYLESS COLLECTIVE GP, LLC,
a Delaware limited liability company

By: PAYLESS SHOESOURCE WORLDWIDE, INC.
Its: Managing Member

By: _____
Name: W. Paul Jones
Title: Chief Executive Officer and President

PSS DELAWARE COMPANY 4, INC.,
a Delaware corporation

By: _____
Name: Michael C. Schwindle
Title: President

COLLECTIVE BRANDS FRANCHISING SERVICES, LLC, a Kansas limited liability company

By: PAYLESS SHOESOURCE WORLDWIDE, INC.
Its: Managing Member

By: _____
Name: W. Paul Jones
Title: Chief Executive Officer and President

EASTBOROUGH, INC.,
a Kansas corporation

By: _____
Name: Gary C, Madsen
Title: Vice President and Treasurer

PAYLESS INTERNATIONAL FRANCHISING, LLC, a Kansas limited liability company

By: _____
Name: Michael C. Schwindle
Title: Vice President

PAYLESS COLLECTIVE GP, LLC,
a Delaware limited liability company

By: PAYLESS SHOESOURCE WORLDWIDE, INC.
Its: Managing Member

By: _____
Name: W. Paul Jones
Title: Chief Executive Officer and President

PSS DELAWARE COMPANY 4, INC.,
a Delaware corporation

By: _____
Name: Michael C. Schwindle
Title: President

COLLECTIVE BRANDS FRANCHISING SERVICES, LLC, a Kansas limited liability company

By: PAYLESS SHOESOURCE WORLDWIDE, INC.
Its: Managing Member

By: _____
Name: W. Paul Jones
Title: Chief Executive Officer and President

EASTBOROUGH, INC.,
a Kansas corporation

By: _____
Name: Gary C, Madsen
Title: Vice President and Treasurer

PAYLESS INTERNATIONAL FRANCHISING, LLC, a Kansas limited liability company

By: _____
Name: Michael C. Schwindle
Title: Vice President

PAYLESS COLLECTIVE GP, LLC,
a Delaware limited liability company

By: PAYLESS SHOESOURCE WORLDWIDE, INC.
Its: Managing Member

By: _____
Name: W. Paul Jones
Title: Chief Executive Officer and President

PSS DELAWARE COMPANY 4, INC.,
a Delaware corporation

By: _____
Name: Michael C. Schwindle
Title: President

COLLECTIVE BRANDS FRANCHISING SERVICES, LLC, a Kansas limited liability company

By: PAYLESS SHOESOURCE WORLDWIDE, INC.
Its: Managing Member

By: _____
Name: W. Paul Jones
Title: Chief Executive Officer and President

EASTBOROUGH, INC.,
a Kansas corporation

By: _____
Name: Gary C. Madsen
Title: Vice President and Treasurer

PAYLESS INTERNATIONAL FRANCHISING, LLC, a Kansas limited liability company

By: _____
Name: Michael C. Schwindle
Title: Vice President

PAYLESS NYC, INC.,
a Kansas corporation

By: _____
Name: Gary C. Madsen
Title: Vice President and Treasurer

PAYLESS PURCHASING SERVICES, INC.,
a Kansas corporation

By: _____
Name: Michael C. Schwindle
Title: President

PAYLESS SHOESOURCE MERCHANDISING, INC., a Kansas corporation

By: _____
Name: Michael C. Schwindle
Title: Senior Vice President and Chief Financial Officer

PAYLESS SHOESOURCE WORLDWIDE, INC.,
a Kansas corporation

By: _____
Name: W. Paul Jones
Title: Chief Executive Officer and President

SHOE SOURCING, INC.,
a Kansas corporation

By: _____
Name: Michael C. Schwindle
Title: Chairman and President

PAYLESS NYC, INC.,
a Kansas corporation

By: _____
Name: Gary C. Madsen
Title: Vice President and Treasurer

PAYLESS PURCHASING SERVICES, INC.,
a Kansas corporation

By: _____
Name: Michael C. Schwindle
Title: President

PAYLESS SHOESOURCE MERCHANDISING, INC., a Kansas corporation

By: _____
Name: Michael C. Schwindle
Title: Senior Vice President and Chief Financial Officer

PAYLESS SHOESOURCE WORLDWIDE, INC.,
a Kansas corporation

By: _____
Name: W. Paul Jones
Title: Chief Executive Officer and President

SHOE SOURCING, INC.,
a Kansas corporation

By: _____
Name: Michael C. Schwindle
Title: Chairman and President

PAYLESS NYC, INC.,
a Kansas corporation

By: _____
Name: Gary C. Madsen
Title: Vice President and Treasurer

PAYLESS PURCHASING SERVICES, INC.,
a Kansas corporation

By: _____
Name: Michael C. Schwindle
Title: President

PAYLESS SHOESOURCE MERCHANDISING, INC., a Kansas corporation

By: _____
Name: Michael C. Schwindle
Title: Senior Vice President and Chief Financial Officer

PAYLESS SHOESOURCE WORLDWIDE, INC.,
a Kansas corporation

By: _____
Name: W. Paul Jones
Title: Chief Executive Officer and President

SHOE SOURCING, INC.,
a Kansas corporation

By: _____
Name: Michael C. Schwindle
Title: Chairman and President

PAYLESS GOLD VALUE CO, INC.,
a Colorado corporation

By: _____
Name: Michael C. Schwindle
Title: President

PAYLESS SHOESOURCE OF PUERTO RICO, INC., a Puerto Rico corporation

By: _____
Name: Michael C. Schwindle
Title: Chief Executive Officer

PSS CANADA, INC.,
a Kansas corporation

By: _____
Name: Michael C. Schwindle
Title: President

PAYLESS SHOESOURCE CANADA INC.,
a Canadian federal corporation

By: _____
Name: Michael C. Schwindle
Title: Vice President and Treasurer

PAYLESS SHOESOURCE CANADA GP INC.,
a Canadian federal corporation

By: _____
Name: Michael C. Schwindle
Title: Vice President and Treasurer

PAYLESS SHOESOURCE CANADA LP,
an Ontario limited partnership

By: PAYLESS SHOESOURCE CANADA GP INC.
Its: general partner

By: _____
Name: Michael C. Schwindle
Title: Vice President and Treasurer

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Agent, L/C Issuer, Tranche A Lender, and Swing Line Lender

By: _____
Name: Jennifer Cann
Title: Managing Director

TPG SPECIALTY LENDING, INC., as Tranche A-1 Agent and Tranche A-1 Lender

By: 

Name: Michael Fishman
Title: Co-Chief Executive Officer

BANK OF AMERICA, N.A., as Tranche A Lender

By: _____
Name: Brian Lindblom
Title: Director

CIT FINANCE, LLC, as Tranche A Lender and Tranche A-1 Lender

By: _____
Name: Christopher J. Esposito
Title: Managing Director

EXHIBIT B

DIP Term Loan Agreement

EXECUTION VERSION

SUPERPRIORITY SECURED DEBTOR – IN – POSSESSION

TERM LOAN AND GUARANTEE AGREEMENT

among

WBG – PSS HOLDINGS LLC
PAYLESS INC.,
PAYLESS FINANCE, INC.,
PAYLESS SHOESOURCE, INC. and
PAYLESS SHOESOURCE DISTRIBUTION, INC.
collectively, as Borrowers, and as debtors and debtors-in-possession
under Chapter 11 of the Bankruptcy Code

The Several Lenders from Time to Time Parties Hereto,

and

CORTLAND PRODUCTS CORP.
as Administrative Agent and Collateral Agent,

Dated as of April 5, 2017

TABLE OF CONTENTS

SCHEDULES:

EXHIBITS:

SUPERPRIORITY SECURED DEBTOR-IN-POSSESSION TERM LOAN AND GUARANTEE AGREEMENT ("Agreement"), dated as of April 5, 2017, among WBG – PSS Holdings LLC, a Delaware limited liability company ("Holdings"), Payless Inc., a Delaware corporation (the "Company"), Payless Finance, Inc., a Nevada corporation ("Finance"), Payless ShoeSource, Inc., a Missouri corporation ("Payless") and Payless ShoeSource Distribution, Inc., a Kansas corporation ("Payless Distribution" and together with the Company, Finance and Payless, the "Borrowers" and each a "Borrower"), the Subsidiary Guarantors from time to time party hereto, Cortland Products Corp., as Administrative Agent and Collateral Agent, and each of the Lenders from time to time party hereto.

W I T N E S S E T H:

WHEREAS, on April 4, 2017 (the "Petition Date"), the Borrowers, Clinch, LLC, a Delaware limited liability company, Collective Brands Franchising Services, LLC, a Kansas limited liability company, Collective Brands Services, Inc., a Delaware corporation, Collective Licensing International, LLC, a Delaware limited liability company, Collective Licensing, LP, a Delaware limited partnership, Eastborough, Inc., a Kansas corporation, Payless Collective GP, LLC, a Delaware limited liability company, Payless Gold Value CO, Inc., a Colorado corporation, Payless International Franchising, LLC, a Kansas limited liability company, Payless NYC, Inc., a Kansas corporation, Payless Purchasing Services, Inc., a Kansas corporation, Payless ShoeSource Merchandising, Inc., a Kansas corporation, Payless ShoeSource Worldwide, Inc., a Kansas corporation, PSS Delaware Company 4, Inc., a Delaware corporation, Shoe Sourcing, Inc., a Kansas corporation and PSS Canada, Inc., a Kansas corporation, together with the Borrowers and Holdings, the "Debtors") commenced certain Chapter 11 Cases, as administratively consolidated as Chapter 11 Case No. 17-42267 (each a "Chapter 11 Case" and collectively, the "Chapter 11 Cases") by filing separate voluntary petitions for reorganization under Chapter 11, 11 U.S.C. 101 et seq. (the "Bankruptcy Code"), with the United States Bankruptcy Court for the Eastern District of Missouri (the "Bankruptcy Court"). Each of the Borrowers and the Guarantors continue to operate its businesses and manage its properties as a debtor and debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

WHEREAS, prior to the Petition Date, certain lenders provided financing to Borrowers pursuant to that certain Credit Agreement, dated as of March 11, 2014, among the Borrowers, the other credit parties signatory thereto, Cortland Products Corp. (as successor to Morgan Stanley Senior Funding Inc. in such capacity, the "Prepetition First Lien Term Agent") and the lenders from time to time signatory thereto (as amended, modified or supplemented through the Petition Date, the "Prepetition First Lien Term Credit Agreement");

WHEREAS, Borrowers have requested that Lenders (as hereinafter defined); provide a senior secured, superpriority debtor-in-possession term loan facility to the Borrowers in the maximum principal amount of $80,000,000 in the aggregate (the "Term DIP Facility"); the Lenders' commitments under the Term DIP Facility (the "Term DIP Commitments"); the loans under the Term DIP Facility (the "Term DIP Loans"); each Lender's claim under the Term DIP Facility (each, a "Term DIP Claim"; and collectively, the "Term DIP Claims") (the transactions contemplated hereby, the "Transactions"). The Term DIP Loans will be made for purposes set forth in Section 5.12;

WHEREAS, Borrowers desire that all Obligations under the Loan Documents will be joint and several and all of the Guarantors will guaranty all of the Obligations under the Loan Documents;

WHEREAS, in order to secure the Obligations of the Borrowers and the Guarantors under the Loan Documents, the Borrowers and the Guarantors will grant to the Collateral Agent, for the benefit of Collateral Agent and all other Secured Parties, a security interest in and DIP Lien upon substantially all of the now existing and hereafter acquired personal and real property of the Borrowers and the Guarantors, including, without limitation, all present and future equity interests of all Subsidiaries of the Borrowers and the Guarantors;

WHEREAS, the relative priority of the Liens and security interests granted to secure the Obligations in relation to the Liens and security interests securing the Prepetition First Lien Obligations and certain other obligations will be set forth in the Interim Order and the Final Order (in each case, as hereinafter defined);

WHEREAS, the Borrowers and Guarantors will provide to the lenders and other secured parties under the Prepetition First Lien Term Credit Agreement and the other Prepetition First Lien Loan Documents, adequate protection in accordance with the Interim Order and the Final Order; and

WHEREAS, the Lenders are willing to extend such credit to the Borrowers on the terms and subject to the conditions set forth herein.

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

SECTION 1.
DEFINITIONS

1.1 Defined Terms. As used in this Agreement (including the recitals hereof), the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"ABL Agent" shall mean Wells Fargo Bank, National Association, in its capacity as administrative agent and collateral agent under the Prepetition ABL Facility Documents, or any successor administrative agent or collateral agent or other agent appointed under the Prepetition ABL Facility Documents in accordance with the provisions thereof.

"ABL Borrowing Base" shall mean the "borrowing base" in respect of the Prepetition ABL Facility or such similar term as defined in the Prepetition ABL Facility Documents.

"ABL Collateral" shall mean ABL Priority Collateral as defined in the ABL/Term Loan Intercreditor Agreement (as in effect on the date hereof and as amended or modified).

"ABL DIP Agent" shall mean Wells Fargo Bank, National Association, in its capacity as administrative agent and collateral agent under the ABL DIP Credit Agreement Documents, or any successor administrative agent or collateral agent or other agent appointed under the ABL DIP Credit Agreement Documents in accordance with the provisions thereof.

"ABL DIP Claims" shall mean the superpriority administrative expense claims held by lenders under the ABL DIP Credit Agreement.

"ABL DIP Credit Agreement" shall mean the Debtor-in-Possession Credit Agreement, dated as of the date hereof, among the ABL DIP Agent and other parties thereto, as modified, supplemented, amended, restated (including any amendment and restatement hereof), extended or renewed from time to time in accordance with the terms hereof and thereof.

"ABL DIP Credit Agreement Documents" shall mean the ABL DIP Credit Agreement and the other "Loan Documents" as defined in the ABL DIP Credit Agreement (as in effect on the date hereof and as amended or modified).

"ABL DIP Loans" shall mean the loans borrowed under the ABL DIP Credit Agreement.

"ABL Real Property DIP Collateral" shall have the meaning set forth in the definition of Applicable Percentage.

"ABL/Term Loan Intercreditor Agreement" shall mean the Intercreditor Agreement, dated as of March 11, 2014, between the ABL Agent, the Prepetition First Lien Term Agent and the Prepetition Second Lien Collateral Agent, and acknowledged by certain of the Loan Parties, as the same may be amended, supplemented, waived or otherwise modified from time to time in accordance with the terms hereof and thereof.

"Account Control Agreement" shall have the meaning set forth in Section 7.8(f).

"Additional Term DIP Security Documents" shall mean the documents granting to the Collateral Agent for the benefit of the Secured Parties security interests in the Collateral, including each Account Control Agreement.

"Adjusted Net Worth" shall have the meaning set forth in Section 9.9.

"Administrative Agent" shall mean Cortland, in its capacity as administrative agent for the Lenders hereunder and under the other Loan Documents, and shall include any successor to the Administrative Agent appointed pursuant to Section 11.9.

"Administrative Agent Fee Letter" means that certain fee letter dated as of April 5, 2017, by and between the Administrative Agent and the Borrowers.

"Affiliate" shall mean, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling", "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

"Affiliate Transaction" shall have the meaning set forth in Section 8.8.

"Agency Agreement" shall mean that certain agreement on terms satisfactory to the Required Lenders among the Borrowers and the Approved Liquidator relating to the Initial Store Closing Sale, as in effect on the Closing Date and as may be amended with the consent of the Required Lenders.

"Aggregate Deficit Amount" shall have the meaning set forth in Section 9.9.

"Aggregate Excess Amount" shall have the meaning set forth in Section 9.9.

"Agreement" shall mean this Superpriority Secured Debtor-in-Possession Term Loan and Guarantee Agreement, as modified, supplemented, amended, restated (including any amendment and restatement hereof), extended or renewed from time to time in accordance with the terms hereof.

"Applicable Margin" shall mean in the case of Term Loans maintained as (i) Base Rate Loans, 8.00% and (ii) LIBOR Loans, 9.00%.

"Applicable Percentage" shall mean with respect to any Asset Sale or Recovery Event (i) in the case of any Real Property that constitutes Prepetition ABL Priority Collateral (such Real Property being "ABL Real Property DIP Collateral"), the percentage equal to the excess of 100% of the Net Cash Proceeds with respect thereto over an amount equal to the contribution of such ABL Real Property DIP Collateral to the ABL Borrowing Base) and (ii) otherwise, 100%.

"Approved Fund" shall have the meaning set forth in Section 12.4.

"Approved Liquidator" shall mean a nationally recognized professional liquidator, broker or other advisor acceptable to the Required Lenders.

"Asset Sale" shall mean any Disposition by Holdings or any of its Subsidiaries of property pursuant to Sections 8.4(f) (other than to the extent constituting a Recovery Event (without giving effect to the dollar threshold in the definition thereof)), (r), (u), and/or (v).

"Assignee" shall have the meaning set forth in Section 12.4.

"Assignment and Assumption" shall mean an assignment and assumption, substantially in the form of Exhibit A, or such other form satisfactory to the Administrative Agent.

"Authorized Officer" shall mean the chief executive officer, president, chief financial officer, any vice president, controller, treasurer or assistant treasurer, secretary or assistant secretary of a Loan Party, a chief restructuring officer appointed during the pendency of the Chapter 11 Cases, if any, or any of the other individuals designated in writing to the Administrative Agent by an existing Authorized Officer of a Loan Party as an authorized signatory of any certificate or other document to be delivered hereunder.

"Automatic Stay" shall mean the automatic stay imposed under section 362 of the Bankruptcy Code.

"Bail-In Action" shall mean the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bail-In Legislation" shall mean, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Bankruptcy Code" shall have to meaning assigned to such term in the recitals to this Agreement.

"Bankruptcy Court" shall have the meaning assigned to such term in the recitals to this Agreement.

"Bankruptcy Plan" shall mean a plan of reorganization filed by the Debtors in form and substance satisfactory to the Administrative Agent and the Required Lenders, and consistent with the RSA.

"Base Rate" shall mean, at any time, the highest of (i) the Prime Lending Rate at such time, (ii) 1/2 of 1% in excess of the overnight Federal Funds Rate at such time and (iii) the LIBOR Rate that would then be in effect for a LIBOR Loan with an Interest Period of one month plus 1%; provided, that the Base Rate shall not be less than 2.00% per annum. For purposes of this definition, the LIBOR Rate shall be determined using the LIBOR Rate as otherwise determined by the Administrative Agent in accordance with the definition of LIBOR Rate, except that (x) if a given day is a Business Day, such determination shall be made on such day (rather than two Business Days prior to the commencement of an Interest Period) or (y) if a given day is not a Business Day, the LIBOR Rate for such day shall be the rate determined by the Administrative Agent pursuant to preceding clause (x) for the most recent Business Day preceding such day. Any change in the Base Rate due to a change in the Prime Lending Rate, the Federal Funds Rate or such LIBOR Rate shall be effective as of the opening of business on the day of such change in the Prime Lending Rate, the Federal Funds Rate or such LIBOR Rate, respectively.

"Base Rate Loan" shall mean each Term Loan designated or deemed designated as such by the Borrowing Agent at the time of the incurrence thereof or conversion thereto.

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

"Borrower" shall have the meaning set forth in the preamble hereto.

"Borrower Group" means collectively the Company, Finance, Payless and Payless Distribution.

"Borrowing" shall mean the borrowing of one Type of Term Loan of a single Tranche from all the Lenders having Term DIP Commitments of the respective Tranche on a given date (or resulting from a conversion or conversions on such date) having in the case of LIBOR Loans,

the same Interest Period; provided that Base Rate Loans incurred pursuant to Section 2.11(b) shall be considered part of the related Borrowing of LIBOR Loans.

"Borrowing Agent" means the Company.

"Business Day" shall mean (i) for all purposes other than as covered by clause (ii) below, any day except Saturday, Sunday and any day which shall be in the state of New York, a legal holiday or a day on which banking institutions are authorized or required by law or other government action to close and (ii) with respect to all notices and determinations in connection with, and payments of principal and interest on, LIBOR Loans, any day which is a Business Day described in clause (i) above and which is also a day for trading by and between banks in U.S. dollar deposits in the London interbank market.

"Capital Lease Obligations" shall mean, with respect to any Person for any period, all rental obligations of such Person which, under GAAP, are required to be capitalized on the books of such Person, in each case taken at the amount thereof accounted for as indebtedness in accordance with such principles. For the avoidance of doubt, "Capital Lease Obligations" shall not include obligations or liabilities of any Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations would be required to be classified and accounted for as an operating lease under GAAP as existing on the Closing Date.

"Capital Stock" shall mean any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation (including common stock and preferred stock), any and all equivalent ownership interests in a Person (other than a corporation), including partnership interests (general and limited), and membership and limited liability company interests, and any and all warrants, rights or options to purchase any of the foregoing (but excluding any debt security that is exchangeable for or convertible into such capital stock).

"Carve-Out" shall have the meaning assigned to such term in the then applicable Order.

"Carve-Out Trigger Notice" shall mean a written notice delivered by the Administrative Agent at the direction of the Required Lenders to the Loan Parties and their counsel, the United States Trustee and lead counsel to any Committee, which notice may be delivered following the occurrence of an Event of Default and stating that the Post-Carve-Out Trigger Notice Cap has been invoked.

"Case Professionals" shall mean any professional (other than an ordinary course professional) retained by the Borrowers or the Committee pursuant to a final order of the Bankruptcy Court (which order has not been vacated or stayed, unless the stay has been vacated) under sections 327, 328, 363 or 1103(a) of the Bankruptcy Code.

"Cash Equivalents" shall mean, as of any date of determination, (i) marketable securities (a) issued or directly and unconditionally guaranteed as to interest and principal by the United States Government or (b) issued by any agency of the United States in each case maturing within thirteen months after such date; (ii) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public

instrumentality thereof, in each case maturing within thirteen months after such date and having, at the time of the acquisition thereof, a rating of at least A-1 from Standard & Poor's Rating Group ("S&P") or at least P-1 from Moody's Investors Service Inc. ("Moody's"); (iii) (a) commercial paper maturing no more than thirteen months from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody's and (b) other corporate obligations maturing no more than thirteen months from the acquisition thereof and having, at the time of the acquisition thereof, a rating of at least AA from S&P or at least Aa2 from Moody's; (iv) variable rate demand notes and auction rate securities maturing no more than thirteen months from the date of creation thereof; certificates of deposit or bankers' acceptances maturing within thirteen months after such date and issued or accepted by any Lender or by any commercial bank organized under the laws of the United States of America or any state thereof or the District of Columbia that (a) is at least "adequately capitalized" (as defined in the regulations of its primary Federal banking regulator) and (b) has Tier 1 capital (as defined in such regulations) of not less than $100,000,000; and shares of any money market mutual fund that (a) has substantially all of its assets invested continuously in the types of investments referred to in clauses (i) and (ii) above, (b) has net assets of not less than $500,000,000 and (c) has the highest rating obtainable from either S&P or Moody's and (vii) solely with respect to any Foreign Subsidiary, substantially similar investments to those outlined in clauses of (i) through (vi) above, of reasonably comparable credit quality (taking into account the jurisdiction where such Foreign Subsidiary conducts business) in any jurisdiction in which such Person conducts business (it being understood that such investments may be denominated in the currency of any jurisdiction in which such Person conducts business).

"Change in Tax Law" shall mean the enactment, promulgation, execution or ratification of, or any change in or amendment to, any law (including the Code), treaty, regulation or rule (or in the official application or interpretation of any law, treaty, regulation or rule, including a holding, judgment or order by a court of competent jurisdiction) relating to taxation.

"Change of Control" shall mean (a) the Permitted Holders shall, in the aggregate, cease to be the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 of the Securities Exchange Act of 1934), of more than 50% of the outstanding equity interests of Holdings or (b) a "Change of Control" as defined in the Prepetition First Lien Term Credit Agreement, Prepetition Second Lien Credit Agreement, the Prepetition ABL Facility Documents or the ABL DIP Credit Agreement, as applicable. Notwithstanding the foregoing, the transactions contemplated by the RSA shall not constitute a "Change of Control" hereunder.

"Chapter 11 Cases" has the meaning assigned to such term in the recitals to this Agreement.

"Closing Date" shall have the meaning set forth in Section 12.10.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time and the regulations promulgated and rulings issued thereunder.

"Collateral" shall mean all property and assets (whether real or personal) with respect to which any security interests have been granted (or purported to be granted) pursuant to any Term DIP Security Document; provided, that the Collateral shall not include any Excluded Assets.

"Collateral Agent" shall mean the Administrative Agent acting as collateral agent for the Secured Parties pursuant to the Term DIP Security Documents.

"Committee" shall have the meaning assigned to such term in Section 5.12(b).

"Commonly Controlled Entity" shall mean a person or an entity, whether or not incorporated, that is part of a group that includes Holdings or the Borrowing Agent and that is treated as a single employer under Sections 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes relating to Section 412 of the Code).

"Commodity Exchange Act" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"Company" shall have the meaning set forth in the preamble hereto.

"Compliance Certificate" shall mean a certificate duly executed by an Authorized Officer substantially in the form of Exhibit B.

"Consolidated" means, when used to modify a financial term, test, statement, or report of a Person, the application or preparation of such term, test, statement or report (as applicable) based upon the consolidation, in accordance with GAAP, of the financial condition or operating results of such Person and its Subsidiaries.

"Consultants" shall mean the Independent Consultant or the Financial Advisor, individually or, as the context may require, collectively.

"Consenting First Lien Lenders" shall have the meaning assigned to such term in Section 6.1(m).

"Contractual Obligation" shall mean, with respect to any Person, any provision of any agreement, instrument or other undertaking (other than a Loan Document, Prepetition First Lien Loan Document, Prepetition Second Lien Loan Document, ABL DIP Credit Agreement Document, or Prepetition ABL Facility Document) to which such Person is a party or by which it or any of its property is bound.

"Contribution Percentage" shall have the meaning set forth in Section 9.9.

"Control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Cortland" shall mean Cortland Products Corp., in its individual capacity, and any successor corporation thereto by merger, consolidation or otherwise.

"Debtors" shall have the meaning assigned to such term in the recitals to this Agreement.

"Debtor Relief Laws" shall mean the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

"Default" shall mean any event, act or condition which with notice or lapse of time, or both, would constitute an Event of Default.

"Defaulting Lender" shall mean any Lender which becomes the subject of a Bail-In Action.

"DIP Budget" shall have the meaning assigned to such term in Section 7.2(g).

"DIP Fee Letter" means that certain fee letter dated as of April 5, 2017, by and between certain lenders and the Borrowers.

"DIP Liens" shall have the meaning assigned to such term in the Orders.

"DIP Superpriority Claims" shall have the meaning assigned to such term in the then applicable Order.

"DIP Termination Date" shall have the meaning assigned to such term in the then applicable Order.

"Disclosure Statement" shall mean a disclosure statement filed by the Debtors in the Chapter 11 Cases, in form and substance satisfactory to the Administrative Agent and the Required Lenders.

"Disposition" shall mean, with respect to any property (including, without limitation, Capital Stock of the Borrowing Agent or any of its Subsidiaries), any sale, assignment, conveyance, transfer or other disposition thereof (including by merger or consolidation or amalgamation and excluding the granting of a Lien permitted hereunder) and any issuance of Capital Stock of Holdings' Subsidiaries. The terms "Dispose" and "Disposed of" shall have correlative meanings. For the avoidance of doubt, the terms Disposition, Dispose and Disposed of do not refer to the issuance, sale or transfer of Capital Stock by Holdings.

"Disqualified Capital Stock" shall mean any Capital Stock which, by its terms (or by the terms of any security or other Capital Stock 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 (other than solely for Qualified Capital Stock), pursuant to a sinking fund obligation or otherwise (except as a result of a change in control or asset sale so long as any right of the holders thereof upon the occurrence of a change in control or asset sale event shall be subject to the prior repayment in full of the Term Loans and all other Obligations under the Loan Documents that are then accrued and payable and the termination of the Term DIP Commitments), in each case, prior to the date that is ninety-one (91) days after the Latest Maturity Date at the time of issuance of the respective Capital Stock, (b) is redeemable at the option of the holder thereof (other than solely for Qualified Capital Stock), in whole or in part, prior to the date that is ninety-one (91) days after the Latest Maturity Date at the time of issuance

of the respective Capital Stock, except as a result of a change in control or an asset sale or, in case of Capital Stock issued to an employee or director of Holdings or a Subsidiary, the death, disability, retirement, severance or termination of employment or service of such holder, in each case so long as any such right of the holder is subject to the prior repayment in full of the Term Loans and all other Obligations under the Loan Documents that are then accrued and payable and the termination of the Term DIP Commitments, (c) requires the payment of any cash dividend or any other scheduled cash payment, in each case, prior to the date that is ninety-one (91) days after the Latest Maturity Date at the time of issuance of the respective Capital Stock, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Capital Stock that would constitute Disqualified Capital Stock, in each case, prior to the date that is ninety-one (91) days after the Latest Maturity Date at the time of issuance of the respective Capital Stock; provided that if such Capital Stock is issued to any plan for the benefit of employees of Holdings or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Capital Stock solely because it may be required to be repurchased by Holdings or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations. The amount of Disqualified Capital Stock deemed to be outstanding at any time for purposes of this Agreement will be the maximum amount that Holdings and its Subsidiaries may become obligated to pay upon maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Capital Stock or portion thereof, plus accrued dividends.

"Dollars" and the sign "$" shall each mean freely transferable lawful money of the United States.

"Domestic Subsidiary" shall mean, with respect to any Person, any Subsidiary of such Person incorporated or organized in the United States, any State thereof or the District of Columbia.

"EEA Financial Institution" shall mean (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" shall mean any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" shall mean any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Effective Date" shall mean the effective date of the Bankruptcy Plan pursuant to an order of the Bankruptcy Court.

"Eligible Assignee" shall mean (a) any Lender, any Affiliate of a Lender and any Approved Fund (any two or more Approved Funds with respect to a particular Lender being treated as a single Eligible Assignee for all purposes hereof), and (b) any commercial bank,

insurance company, financial institution, investment or mutual fund or other entity that is an "accredited investor" (as defined in Regulation D under the Securities Act); provided that "Eligible Assignee" shall exclude any natural person, or any Sponsor, the Borrowing Agent, or any of Holdings or any Sponsors' or the Borrowing Agent's Affiliates.

"Eligible Inventory" shall have the meaning assigned to such term in the ABL DIP Credit Agreement.

"Environmental Claims" shall mean any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations and/or proceedings relating in any way to any noncompliance with, or liability arising under, Environmental Law or any permit issued by any Governmental Authority under any Environmental Law (hereafter, "Claims"), including, without limitation, (a) any and all Claims by Governmental Authorities for enforcement, cleanup, removal, response, remedial or other corrective actions or damages pursuant to any Environmental Law, and (b) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief arising out of or relating to an alleged injury or threat of injury to human health and safety with respect to exposure to, or the environment due to the presence of, Materials of Environmental Concern.

"Environmental Laws" shall mean any and all current or future foreign, federal, state, local or municipal Requirements of Law and common law regulating, relating to or imposing liability or standards of conduct concerning Materials of Environmental Concern, human health and safety with respect to exposure to Materials of Environmental Concern, pollution, and protection or restoration of the environment.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time and the regulations promulgated and rulings issued thereunder.

"EU Bail-In Legislation Schedule" shall mean the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"Event of Default" shall have the meaning set forth in Section 10.1.

"Events and Circumstances" shall mean the filing of the Chapter 11 Cases and any reorganization proceedings in the Canadian Bankruptcy Court (and any defaults under pre-petition agreements, so long as the exercise of remedies as a result of such defaults are stayed under the Bankruptcy Code or Canadian Bankruptcy Court or such agreements are voided or invalidated by the Bankruptcy Court or Canadian Bankruptcy Court), (ii) events specifically described in the declaration in support of the Chapter 11 Cases, dated on or about the date hereof and (iii) the incurrence of any claim or liability that is Prepetition, unsecured and junior in priority to the Obligations.

"Excluded Accounts" shall mean payroll accounts, employee benefit accounts, withholding tax and other fiduciary accounts, worker's compensation and trust and tax withholding which are funded by the Loan Parties in the ordinary course of business or as required by any Requirement of Law.

"Excluded Assets" shall mean Excluded Property, as defined in the Term DIP Security Agreement.

"Excluded Foreign Subsidiary" shall mean any (i) FSHCO or Foreign Subsidiary, (ii) Domestic Subsidiary or Foreign Subsidiary, in each case, the Capital Stock of which is directly or indirectly owned by any Foreign Subsidiary, and (iii) Subsidiary that is a controlled foreign corporation within the meaning of Section 957 of the Code and the Capital Stock of which is directly or indirectly owned by any FSHCO; provided, that no Subsidiary of Holdings or the Borrowing Agent shall be an "Excluded Foreign Subsidiary" if such Subsidiary is a Loan Party (or comparable term) for purposes of the Prepetition Second Lien Credit Agreement, the Prepetition First Lien Term Credit Agreement, the Prepetition ABL Facility or the ABL DIP Credit Agreement.

"Excluded Taxes" shall mean, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on behalf of the Borrowers or any Guarantor hereunder and under any Term DIP Note, (i) any Tax imposed on or measured by its net income (however denominated) or net profits, and any franchise taxes imposed on it and any similar Taxes imposed on it in lieu of overall net income or franchise taxes, including taxes imposed on its overall gross income, or branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which any Loan Party is located, in each case imposed pursuant to the laws of the jurisdiction (or any subdivision thereof or therein) in which it is organized or in which it has its principal office or applicable lending office, or with which it otherwise has or had a connection (other than a connection resulting solely from the Loan Documents), (ii) any United States federal withholding Tax imposed under FATCA, (iii) any United States federal withholding tax imposed under the law applicable as of the date the Lender becomes a party hereto or designates a new lending office (other than a change of lending office pursuant to Section 2.13), except in each case to the extent that its assignor was entitled, at the time of such assignment, or such Lender was entitled, immediately before it changed its lending office, to receive additional or indemnified amounts from the Borrowers or Guarantor with respect to such Tax pursuant to Section 4.4(a), (iv) any U.S. federal, state or local backup withholding tax, and (v) any withholding tax that is attributable to the Administrative Agent's, a Lender's or other recipient's failure, inability or ineligibility at any time during which it is a party to this Agreement to deliver the IRS forms described in Section 4.4(b) (and the Non-Bank Certificate, as applicable), except to the extent that such failure, inability or ineligibility is due to a Change in Tax Law occurring after the date on which it became a party to this Agreement.

"Executive Order" shall have the meaning set forth in Section 5.21(b)(i).

"FATCA" shall mean Sections 1471 through 1474 of the Code as of the date of this Agreement or any amended or successor version that is substantially comparable, any current or future regulations or official interpretations thereof (provided, that any such future regulations or interpretations are substantially comparable to the current regulations or interpretations as of the date of this Agreement) and any agreement entered into pursuant to Section 1471(b)(1) of the Code and any applicable intergovernmental agreements with respect thereto (together with any law, regulation or other official guidance implementing such agreements).

"Federal Funds Rate" shall mean, for any period, a fluctuating interest rate equal for each day during such period to the weighted average of the rates on overnight Federal Funds transactions with members of the Federal Reserve System, as published for such day (or, if such day is not a Business Day, for the next preceding 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 the Administrative Agent from three Federal Funds brokers of recognized standing selected by the Administrative Agent.

"Fees" shall mean all amounts payable pursuant to or referred to in Section 3.1.

"Final Order" shall mean the final order entered by the Bankruptcy Court in the Chapter 11 Cases authorizing and approving, among other things, the Term DIP Facility and the Transactions.

"Final Term DIP Commitment" shall mean, for each Lender, the amount set forth opposite such Lender's name in Schedule I directly below the column entitled "Final Term DIP Commitment" as terminated pursuant to Sections 3.2 and/or 10. The aggregate amount of the Final Term DIP Commitments as of the Closing Date is $80,000,000 less the Initial Term DIP Commitments.

"Finance" shall have the meaning set forth in the preamble to this Agreement.

"Financial Advisor" shall mean Alvarez & Marsal North America, LLC (or another independent advisor reasonably acceptable to the Required Lenders).

"first-priority" shall mean, with respect to any Lien purported to be created in any Collateral pursuant to the Orders or any Term DIP Security Document, that such Lien is the most senior Lien to which such Collateral is subject (subject to the Carve-Out and Permitted Priority Liens applicable to such Collateral which have priority by operation of law (including the priority granted under the UCC to any purchase money security interests that are Permitted Priority Liens) or by contract (including pursuant to the Orders) permitted hereunder over the respective Liens on such Collateral created pursuant to the Orders or relevant Term DIP Security Document).

"Fiscal Month" means any fiscal month of any Fiscal Year.

"Fiscal Year" means any period of twelve (12) consecutive months ending on the Saturday closest to January 31st of any calendar year.

"Foreign Lender" shall have the meaning set forth in Section 4.4(b).

"Foreign Subsidiary" shall mean any Subsidiary of a Loan Party that is not a Domestic Subsidiary.

"Foreign ABL Loan Party" shall mean each of Payless ShoeSource of Puerto Rico, Inc., Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc., and Payless ShoeSource Canada LP.

"FSHCO" shall mean any entity that (i) is directly owned by Holdings, the Borrowing Agent or any Domestic Subsidiary of Holdings or the Borrowing Agent and (ii) substantially all of the assets of which consist of the Capital Stock of one or more controlled foreign corporations within the meaning of Section 957 of the Code.

"GAAP" shall mean generally accepted accounting principles in the United States as in effect from time to time, consistently applied (or, for Foreign Subsidiaries in conformity with generally accepted accounting principles that are applicable in their respective jurisdiction of organization).

"Governmental Approval" shall mean any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

"Governmental Authority" shall mean the government of the United States, any other nation or any political subdivision thereof, whether state, provincial or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Guarantee" shall have the meaning set forth in Section 9.2.

"Guarantee Obligation" shall mean, as to any Person (the "guaranteeing person"), any obligation, including a reimbursement, counterindemnity or similar obligation, of the guaranteeing person that guarantees or in effect guarantees, or which is given to induce the creation of a separate obligation by another Person (including any bank under any letter of credit) that guarantees or in effect guarantees, any Indebtedness (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (a) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (b) to advance or supply funds (i) for the purchase or payment of any such primary obligation or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (d) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include (v) [reserved], (w) endorsements of instruments for deposit or collection in the ordinary course of business, (x) customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets or Capital Stock permitted under this Agreement, (y) product warranties given in the ordinary course of business or (z) ordinary course performance guarantees by Holdings or any of its Subsidiaries of the obligations (other than for the payment of Indebtedness) of Holdings or any of its Subsidiaries. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such

primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Borrowing Agent in good faith; provided that, in the case of any Guarantee Obligations where the recourse to such Person for such Indebtedness is limited to the assets subject to the Lien granted to secure such Indebtedness, then the amount of any Guarantee Obligation of any guaranteeing person shall be the lesser of (A) the amount of the Indebtedness secured by such Lien and (B) the value of the assets subject to such Lien.

"Guaranteed Obligations" shall have the meaning set forth in Section 9.1.

"Guarantor Joinder Agreement" shall mean an agreement substantially in the form of Exhibit D.

"Guarantors" shall mean, collectively, Holdings, the Subsidiary Guarantors and, in the case of Guaranteed Obligations incurred directly by Holdings or any Subsidiary Guarantor, the Borrowers.

"HMT" shall have the meaning set forth in Section 5.21(b)(v).

"Holdings" shall have the meaning set forth in the preamble hereto.

"Houlihan" shall have the meaning set forth in Section 6.1(b).

"Incur" shall mean issue, assume, enter into any Guarantee of, incur or otherwise become liable for; and the terms "Incurs," "Incurred" and "Incurrence" shall have a correlative meaning; provided that (i) any Indebtedness or Capital Stock of any of Holdings or its Subsidiaries existing on the Closing Date (after giving effect to the Transaction) shall be deemed to be Incurred by Holdings or such Subsidiary, as the case may be, on the Closing Date and (ii) any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Subsidiary (whether by merger, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Subsidiary at the time it becomes a Subsidiary. Accrual of interest, the accretion of accreted value, the payment of interest in the form of additional Indebtedness, and the payment of dividends on Capital Stock constituting Indebtedness in the form of additional shares of the same class of Capital Stock, will not be deemed to be an Incurrence of Indebtedness. Any Indebtedness issued at a discount (including Indebtedness on which interest is payable through the issuance of additional Indebtedness) shall be deemed Incurred at the time of original issuance of the Indebtedness at the initial accreted amount thereof.

"Indebtedness" shall mean, with respect to any Person at any date, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services (other than (1) Postpetition trade or other similar payables not overdue by more than sixty (60) days, accrued income taxes, VAT, deferred taxes, sales taxes, equity taxes and accrued liabilities incurred in the ordinary course of such Person's business, (2) earn-outs and any sums for which such Person is obligated pursuant to noncompetition arrangements entered into in connection with any acquisition until such obligations become a liability on the balance sheet of such Person in accordance with GAAP, without giving effect to references in the footnotes to the Borrowing Agent's financial

statements, (3) royalty payments made in the ordinary course of business in respect of exclusive and non-exclusive licenses, (4) any accruals for (A) payroll and (B) other non-interest bearing liabilities accrued in the ordinary course of business, (5) any obligations in respect of operating leases that are not Synthetic Lease Obligations, (6) any deferred rent obligations, and (7) pension and other employee commitments) which purchase price is (i) due more than six months from the date of incurrence of the obligation in respect thereof or (ii) evidenced by a note or similar written instrument), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all Capital Lease Obligations and all Synthetic Lease Obligations of such Person (excluding, for the avoidance of doubt, lease payments under operating leases), (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under or in respect of acceptances, letters of credit, surety bonds or similar arrangements, (g) all Guarantee Obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (f) above, (h) all obligations (excluding prepaid interest thereon) of the kind referred to in clauses (a) through (g) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on property (including accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation, but only to the extent of the lesser of (i) the fair market value of such property subject to such Lien and (ii) the amount of Indebtedness secured by such Lien and (iii) all net obligations of such Person on a mark-to-market basis in respect of Swap Agreements. For the avoidance of doubt, "Indebtedness" shall not include (i) obligations or liabilities of any Person in respect of any of its Qualified Capital Stock nor the obligations of any Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations would be required to be classified and accounted for as an operating lease under GAAP as existing on the Closing Date (whether or not such lease exists on the Closing Date or hereafter arises), (ii) obligations under any Swap Agreements unless such obligations are payment obligations that relate to a Swap Agreement that has terminated, (iii) customary obligations under employment agreements and deferred compensation and (iv) deferred tax liabilities.

"Indemnitee" shall have the meaning set forth in Section 12.1(b).

"Indemnified Taxes" shall mean (a) Taxes other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

"Independent Consultant" shall mean Guggenheim Partners, LLC (or another independent third party consultant acceptable to the Required Lenders).

"Initial Budget" shall mean a 13-week operating budget setting forth all forecasted receipts and disbursements on a weekly basis for such 13-week period beginning as of the week of the Petition Date, broken down by week, including the anticipated weekly uses of the proceeds of the Term DIP Facility for such period, which shall include, among other things, available cash, cash flow, trade payables and ordinary course expenses, total expenses and

capital expenditures, fees and expenses relating to the Term DIP Facility, fees and expenses related to the Chapter 11 Cases, and working capital and other general corporate needs, which forecast shall be in form and substance reasonably satisfactory to the Administrative Agent at the direction of the Required Lenders. Such Budget shall be in the form set forth in Schedule 7.2(g) hereto. Until supplemented pursuant to Section 7.2(g), the Initial Budget shall constitute a "DIP Budget".

"Initial DIP Borrowing" shall have the meaning set forth in Section 2.1(a).

"Initial Store Closing Motion" shall have the meaning set forth in Section 7.16(e).

"Initial Store Closing Sale" shall mean the closure of, and liquidation of inventory and equipment located at, (i) up to (x) three hundred eighty-nine (389) stores; plus (y) an additional six hundred (600) Stores to the extent contemplated by the DIP Budget, and (ii) such additional Stores with the consent of the Required Lenders and any consents required pursuant to the Agency Agreement.

"Initial Term DIP Commitment" shall mean, for each Lender, the amount set forth opposite such Lender's name in Schedule I directly below the column entitled "Initial Term DIP Commitment" as terminated pursuant to Sections 3.2 and/or 10. The aggregate amount of the Initial Term DIP Commitments as of the Closing Date is $30,000,000.

"Insolvency" shall mean, with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

"Insolvent" shall mean pertaining to a condition of Insolvency.

"Intellectual Property" shall mean all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws, including all copyrights, trademarks, and service marks, including all associated goodwill, in each case whether registered or applied for with a Governmental Authority, patents, technology, know-how and processes, trade secrets, and any trade dress including logos, designs, and other indicia of origin, internet domain names, intangible rights in software and databases not otherwise included in the foregoing, but not including any of the foregoing in the public domain. Intellectual Property includes all issuances, registrations and applications relating to any of the foregoing.

"Intercompany Note" shall mean a promissory note evidencing intercompany Indebtedness, duly executed and delivered substantially in the form of Exhibit M (or such other form as shall be reasonably satisfactory to the Administrative Agent), with blanks completed in conformity herewith.

"Intercreditor Agreement" shall mean each of the ABL/Term Loan Intercreditor Agreement, the Term Loan Intercreditor Agreement, and any other Intercreditor Agreement, in each case, if then in effect.

"Interest Determination Date" shall mean, with respect to any LIBOR Loan, the second Business Day prior to the commencement of any Interest Period relating to such LIBOR Loan, as the case may be.

"Interest Period" shall have the meaning set forth in Section 2.10.

"Interest Rate Protection Agreement" shall mean any interest rate swap agreement, interest rate cap agreement, interest collar agreement, interest rate hedging agreement or other similar agreement or arrangement.

"Interim Order" shall mean the interim order entered by the Bankruptcy Court in the Chapter 11 Cases (as the same may be amended, supplemented, or modified from time to time after entry thereof in a manner satisfactory to the Administrative Agent and the Required Lenders in their sole discretion) authorizing and approving, among other things, the Term DIP Facility and the Transactions, which interim order is in form and substance satisfactory to the Administrative Agent and the Required Lenders in their sole discretion.

"Investments" shall have the meaning set forth in Section 8.6. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment and net of actual cash dividends or other payments received by the Person making such Investment on account of such Investment.

"IRS" shall mean the U.S. Internal Revenue Service.

"K&S" shall have the meaning set forth in Section 6.1(b).

"Lease Extension Order" shall have the meaning set forth in Section 7.16(h).

"Leaseholds" shall mean, with respect to any Person, all the right, title and interest of such Person as lessee or licensee in, to and under leases or licenses of land, improvements and/or fixtures.

"Lender" shall mean each financial institution listed on Schedule I, and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, other than any such Person that shall have ceased to be a party hereto pursuant to an Assignment and Assumption.

"Lender Group Consultant" shall have the meaning set forth in Section 7.17(c).

"LIBOR Loan" shall mean each Term Loan designated as such by the Borrowing Agent at the time of the incurrence thereof or conversion thereto.

"LIBOR Rate" shall mean (a) the rate per annum determined by the Administrative Agent at approximately 11:00 a.m. (London time) on the date that is two Business Days prior to the commencement of such Interest Period by reference to the applicable Bloomberg LIBOR screen page for deposits in Dollars (or such other comparable page as may, in the opinion of the Administrative Agent, replace such page for the purpose of displaying such rates) for a period

equal to such Interest Period; provided that to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, the "LIBOR Rate" shall be the interest rate per annum determined by the Administrative Agent to be the average of the rates per annum at which deposits in Dollars are offered for such relevant Interest Period to major banks in the London interbank market in London, England by the Administrative Agent at approximately 11:00 a.m. (London time) on the date that is two Business Days prior to the beginning of such Interest Period, divided by (b) a percentage equal to 100% minus the then stated maximum rate of all reserve requirements (including, without limitation, any marginal, emergency, supplemental, special or other reserves required by applicable law) applicable to any member bank of the Federal Reserve System in respect of Eurocurrency funding or liabilities as defined in Regulation D (or any successor category of liabilities under Regulation D); provided that the LIBOR Rate shall not be less than 1.0% per annum.

"Lien" shall mean any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), security interest, preference, priority or other security agreement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, any financing or similar statement or notice filed under the UCC or any other similar recording or notice statute, and any lease having substantially the same effect as any of the foregoing).

"Loan Documents" shall mean this Agreement, the Term DIP Security Agreement, the Administrative Agent Fee Letter, the DIP Fee Letter, and, after the execution and delivery thereof pursuant to the terms of this Agreement, each Term DIP Note, each other Term DIP Security Document, and any other document executed in connection with the foregoing.

"Loan Parties" shall mean Holdings, the Borrowers and each Subsidiary Guarantor.

"Loans" means the Term Loans.

"Majority Lenders" of any Tranche shall mean those Non-Defaulting Lenders which would constitute the Required Lenders under, and as defined in, this Agreement if all outstanding Obligations of the other Tranches under this Agreement were repaid in full and all Commitments with respect thereto were terminated.

"Material Adverse Effect" shall mean, other than, in each case, the commencement and continuation of the Chapter 11 Cases, as customarily would occur as a result of the Chapter 11 Cases, the events leading up thereto, the effect of the bankruptcy, conditions in the industry in which the Borrowers operate in as existing on the Closing Date and/or consummation of transactions contemplated by the Loan Parties' "first day" pleadings reviewed by the Administrative Agent and the Required Lenders, a material adverse change in (i) the business, operations, properties or condition (financial or otherwise) of the Loan Parties and their Subsidiaries, collectively, (ii) the legality, validity or enforceability of any Loan Documents or the Orders, (iii) the ability of the Borrowers or the Guarantors, taken as a whole, to perform their payment obligations under the Loan Documents, (iv) the perfection or priority of the Liens granted pursuant to the Loan Documents or the Orders, or (v) the rights and remedies of the Administrative Agent and the Lenders under the Loan Documents taken as a whole.

"Material Indebtedness" shall have the meaning set forth in Section 7.7(b).

"Materials of Environmental Concern" shall mean any chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, any petroleum or petroleum products, asbestos, polychlorinated biphenyls, lead or lead-based paints or materials, radon, urea-formaldehyde insulation, molds, fungi, mycotoxins, radioactive materials or radiation defined or regulated under any Environmental Law.

"Maturity Date" shall mean the DIP Termination Date.

"Maximum Rate" shall have the meaning set forth in Section 12.18.

"Milestone" shall have the meaning set forth in the RSA.

"Minimum Borrowing Amount" shall mean $1,000,000.

"Monthly Payment Date" shall mean the last Business Day of each month occurring after the Closing Date.

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

"Mortgage" shall mean a mortgage, deed of trust, deed to secure debt, leasehold deed to secure debt, debenture or similar security instrument.

"Mortgaged Property" shall mean any Real Property owned by any Loan Party which is secured by a Mortgage pursuant to the Prepetition First Lien Term Credit Agreement.

"Multiemployer Plan" shall mean a plan that is a multiemployer plan as defined in Section 4001(a)(3) of ERISA, which is contributed to by (or to which there is or may be an obligation to contribute of) Holdings, the Borrowing Agent or any Commonly Controlled Entity or to which Holdings, the Borrowing Agent or a Commonly Controlled Entity has any direct or indirect liability or has within any of the preceding five years made or accrued an obligation to make contributions.

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

"Net Cash Proceeds" shall mean (a) in connection with any Asset Sale, any Recovery Event or any other sale of assets, the proceeds thereof actually received in the form of cash and cash equivalents (including Cash Equivalents) (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as and when received), net of (i) attorneys' fees, accountants' fees, investment banking fees, and other bona fide fees, costs and expenses actually incurred in connection therewith, (ii) amounts (including the principal amount, any premium, penalty or interest) required to be applied (or to establish an escrow for the future repayment thereof) to the repayment of Indebtedness (including repayments of Indebtedness under the Prepetition First Lien Term Credit Agreement, the Prepetition ABL Facility and the ABL DIP Credit Agreement but only to the extent such repayment is required pursuant to the terms thereof) secured by a Lien expressly permitted hereunder on any asset that is the subject of such

Asset Sale or Recovery Event or any other sale of assets (other than any Lien pursuant to a Term DIP Security Document), (iii) taxes paid and the Borrowing Agent's reasonable and good faith estimate of income, franchise, sales, and other applicable taxes required to be paid by Holdings, the Borrowing Agent or any Subsidiary in connection with such Asset Sale or Recovery Event or any other sale of assets, (iv) a reasonable reserve for any indemnification payments (fixed or contingent) attributable to the seller's indemnities and representations and warranties to the purchaser in respect of such Asset Sale or any other sale of assets owing by Holdings or any of its Subsidiaries in connection therewith and which are reasonably expected to be required to be paid; provided that to the extent such indemnification payments are not made and are no longer reserved for, such reserve amount shall constitute Net Cash Proceeds, (v) cash escrows to Holdings or any of its Subsidiaries from the sale price for such Asset Sale or other sale of assets; provided that any cash released from such escrow shall constitute Net Cash Proceeds upon such release, (vi) in the case of a Recovery Event, costs of preparing assets for transfer upon a taking or condemnation and (vii) other customary fees and expenses actually incurred in connection therewith, and (b) in connection with any incurrence or issuance of Indebtedness or Capital Stock, the cash proceeds received from any such issuance or incurrence, net of attorneys' fees, investment banking fees, accountants' fees, underwriting discounts and commissions and other bona fide fees and expenses actually incurred in connection therewith, and any taxes paid or reasonably estimated to be actually paid in connection therewith.

"Net Worth" shall have the meaning set forth in Section 9.9.

"New York UCC" shall mean the Uniform Commercial Code as in effect from time to time in the State of New York.

"Non-Bank Certificate" shall have the meaning set forth in Section 4.4(b).

"Non-Defaulting Lender" shall mean and include each Lender, other than a Defaulting Lender.

"Non-Guarantor Subsidiary" shall mean any Subsidiary that is not a Subsidiary Guarantor; provided, that no Subsidiary of Holdings or the Borrowing Agent (other than the Foreign ABL Loan Parties, which shall guarantee the ABL DIP Credit Agreement) shall be a "Non-Guarantor Subsidiary" if such Subsidiary is not a "Non-Guarantor Subsidiary" (or comparable term) for purposes of the Prepetition Second Lien Loan Documents, the Prepetition ABL Facility, Prepetition First Lien Term Credit Agreement and the ABL DIP Credit Agreement.

"Non-U.S. Plan" shall mean any plan, fund (including, without limitation, any superannuation fund) or other similar program established, contributed to (regardless of whether through direct contributions or through employee withholding) or maintained outside the United States by Holdings, the Borrowing Agent or one or more Subsidiaries primarily for the benefit of employees of Holdings, such Borrower or such Subsidiaries residing outside the United States, which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment, and which plan is not subject to ERISA or the Code (other than any plan maintained or required to be contributed to by a Governmental Authority).

"Notice of Borrowing" shall have the meaning set forth in Section 2.3(a).

"Notice of Conversion/Continuation" shall have the meaning set forth in Section 2.7.

"Notice Office" shall mean the office of the Administrative Agent as the Administrative Agent may hereafter designate in writing as such to the other parties hereto.

"NRF" shall have the meaning set forth in Section 6.1(b).

"Obligations" shall mean (a) the due and punctual payment of the unpaid principal of and interest on (including interest accruing after the maturity of the Term Loans and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrowers or any Guarantor, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Term Loans, and all other obligations and liabilities of the Borrowers or any other Loan Party (including with respect to guarantees) to the Administrative Agent, any Lender, or any other Secured Party, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement or any other Loan Document or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses, guarantee obligations or otherwise (including all fees, charges and disbursements of counsel to the Administrative Agent or to any Lender that are required to be paid by the Borrowers or any Guarantor pursuant to any Loan Document and any other monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding); (b) the due and punctual performance of all other obligations of the Borrowers under or pursuant to this Agreement and each of the other Loan Documents, and (c) the due and punctual payment and performance of all the obligations of each other Loan Party under or pursuant to any Loan Document.

"OFAC" shall have the meaning set forth in Section 5.21(b)(v).

"Orders" shall mean, collectively, the Interim Order and the Final Order.

"Organizational Document" shall mean (i) relative to each Person that is a corporation, its charter and its by-laws (or similar documents), (ii) relative to each Person that is a limited liability company, its certificate of formation and its operating agreement (or similar documents), (iii) relative to each Person that is a limited partnership, its certificate of formation and its limited partnership agreement (or similar documents), (iv) relative to each Person that is a general partnership, its partnership agreement (or similar document) and (v) relative to any Person that is any other type of entity, such documents as shall be comparable to the foregoing.

"Other Taxes" shall mean all present or future stamp, court or documentary, intangible recording, filing or similar Taxes (excluding, for the avoidance of doubt, any Excluded Taxes) that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are imposed on a

Lender or Agent by a jurisdiction with which it has or had a connection (other than a connection resulting solely from the Loan Documents) with respect to an assignment.

"Parent Company" shall mean any direct or indirect parent company of which Holdings is a Wholly Owned Subsidiary (other than investment funds that are Affiliates of a Sponsor).

"Participant" shall have the meaning set forth in Section 12.4(c).

"Participant Register" shall have the meaning set forth in Section 12.4(c).

"Patriot Act" shall mean the USA PATRIOT Act, Pub. L. 107-56 (signed into law October 26, 2001), as amended by the USA PATRIOT Improvement and Reauthorization Act, Pub. L. 109-177 (signed into law March 9, 2006) (as amended from time to time).

"Payless" shall have the meaning set forth in the preamble to this Agreement.

"Payless Distribution" shall have the meaning set forth in the preamble to this Agreement.

"Payment Office" shall mean the account of the Administrative Agent as the Administrative Agent may hereafter designate in writing as such to the other parties hereto.

"PBGC" shall mean the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

"Perfection Certificate" shall mean the Perfection Certificate substantially in the form of Exhibit N.

"Permitted Holders" shall mean any Sponsor and any controlled Affiliate of a Sponsor on the Closing Date.

"Permitted Priority Liens" shall mean any of those existing liens incurred pursuant to Section 8.2(e), (f), (g)(i), (h)(i), (i), (k), (m), (n) and (gg) of the Prepetition First Lien Term Credit Agreement and any other lien arising as a matter of law and permitted pursuant to the Prepetition First Lien Term Credit Agreement, to the extent that such existing Liens are valid, perfected, enforceable and unavoidable Liens as of the Petition Date.

"Permitted Variance" shall mean, initially for the first four weeks after entry of the Interim Order and thereafter on a rolling four (4) week basis (each such period, a "Testing Period"): (a) the Borrowers' cumulative "net cash flow" amounts (without giving effect to any proceeds of the Term Loans) as set forth in the DIP Budget shall not be less than (i) the cumulative projected "net cash flow amounts" (without giving effect to any proceeds of the ABL DIP Loans) amounts set forth in the DIP Budget minus (ii) the Test Amount, which shall be tested as of Saturday of each week (commencing with the fourth (4th) week after the Petition Date), and (b) the Borrowers' changes in "Total Eligible Inventory and In-Transit" as set forth in the DIP Budget as of Saturday of each week shall be at least 87.5% of the amount set forth in the DIP Budget for each week commencing on the fourth (4th) week after the Petition Date. The Permitted Variance with respect to each Testing Period shall be determined and reported to the

Administrative Agent and the Lenders not later than Friday immediately following each such Testing Period. Additional variances, if any, from the DIP Budget, and any proposed changes to the DIP Budget, shall be subject to the approval of the Administrative Agent at the direction of the Required Lenders.

"Person" shall mean any individual, partnership, joint venture, firm, corporation, association, limited liability company, trust or other enterprise or any Governmental Authority.

"Petition Date" has the meaning assigned to such term in the recitals to this Agreement.

"Plan" shall mean, at a particular time, an "employee benefit plan" as defined in Section 3 of ERISA (other than a Multiemployer Plan) and in respect of which the Borrowing Agent or a Commonly Controlled Entity is (or, if such plan were terminated at such time, would under section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Plan Confirmation Order" shall mean the Bankruptcy Court's entry of an order, in form and substance reasonably satisfactory to the Administrative Agent at the direction of the Required Lenders, confirming the Bankruptcy Plan.

"Platform" shall have the meaning set forth in Section 7.2(a).

"Post-Carve-Out Trigger Notice Cap" shall have the meaning assigned to such term in the then applicable Order.

"Postpetition" means the period after the commencement of the Chapter 11 Cases.

"Prepetition" means the period prior to the commencement of the Chapter 11 Cases.

"Prepetition ABL Facility" shall mean the asset-based revolving credit agreement, dated as of October 9, 2012, among Holdings, Payless Inc. (formerly known as Collective Brands, Inc.), certain Subsidiaries of the Company party thereto, the lenders party thereto and the ABL Agent.

"Prepetition ABL Facility Documents" shall mean the "Loan Documents" (as defined in the Prepetition ABL Facility), other than, for the avoidance of doubt, this Agreement or the ABL DIP Credit Agreement.

"Prepetition ABL Facility Loans" shall mean the loans borrowed under the Prepetition ABL Facility.

"Prepetition ABL Obligations" shall have the meaning assigned to the term "Obligations" (as in effect on the date hereof and as amended or modified) in the Prepetition ABL Facility (as in effect on the date hereof and as amended or modified).

"Prepetition ABL Priority Collateral" shall have the meaning assigned to the term "ABL Priority Collateral" in the ABL/Term Loan Intercreditor Agreement, as amended by the Orders, whether or not the same remains in full force and effect.

"Prepetition Agents" shall mean the Prepetition First Lien Term Agent and the Prepetition Second Lien Administrative Agent.

"Prepetition First Lien Term Agent" shall have the meaning assigned to such term in the recitals to this Agreement.

"Prepetition First Lien Lender Superpriority Claims" shall mean the superpriority administrative expense claims to the extent of any postpetition diminution in value of the Prepetition First Lien Lenders' interest in the Collateral.

"Prepetition First Lien Lenders" shall mean the "Lenders" as defined in the Prepetition First Lien Term Credit Agreement as of the Closing Date.

"Prepetition First Lien Loan Documents" shall mean the "Loan Documents" as defined in the Prepetition First Lien Term Credit Agreement as of the Closing Date.

"Prepetition First Lien Obligations" shall mean the "Obligations" as defined in the Prepetition First Lien Term Credit Agreement as of the Closing Date.

"Prepetition First Lien Term Credit Agreement" shall have the meaning assigned to such term in the recitals to this Agreement.

"Prepetition First Lien Term Credit Agreement Closing Date" shall mean March 11, 2014.

"Prepetition Indebtedness" shall mean Indebtedness of any Loan Party that was incurred or accrued prior to the commencement of the Chapter 11 Cases.

"Prepetition Payment" shall mean a payment (by way of adequate protection or otherwise) of principal or interest or otherwise on account of any Prepetition Indebtedness, Trade Payables or other Prepetition claims against any Debtor.

"Prepetition Second Lien Administrative Agent" shall mean Morgan Stanley Senior Funding, Inc., in its capacity as administrative agent under the Prepetition Second Lien Credit Agreement.

"Prepetition Second Lien Collateral Agent" shall have the meaning assigned to the term "Collateral Agent" in the Prepetition Second Lien Credit Agreement (as in effect on the date hereof and as amended or modified).

"Prepetition Second Lien Credit Agreement" shall mean that certain second lien term loan and guarantee agreement, dated as of March 11, 2014, among Borrower, Holdings, the lenders party thereto and the Prepetition Second Lien Administrative Agent.

"Prepetition Second Lien Lender" shall have the meaning assigned to the term "Lender" in the Prepetition Second Lien Credit Agreement (as in effect on the date hereof and as amended or modified).

"Prepetition Second Lien Loan Documents" shall mean the Prepetition Second Lien Credit Agreement and the other "Loan Documents" as defined in the Prepetition Second Lien Credit Agreement (as in effect on the date hereof and as amended or modified).

"Prepetition Second Lien Loans" shall have the meaning assigned to the term "Term Loans" in the Prepetition Second Lien Credit Agreement (as in effect on the date hereof and as amended or modified).

"Prepetition Second Lien Obligations" shall have the meaning assigned to the term "Obligations" (as in effect on the date hereof and as amended or modified) in the Prepetition Second Lien Credit Agreement (as in effect on the date hereof and as amended or modified).

"Prepetition Term Liens" shall have the meaning assigned to such term in the then applicable Order.

"Prime Lending Rate" means the per annum rate of interest quoted in The Wall Street Journal, Money Rates Section as the Prime Rate (currently defined as the base rate on corporate loans posted by at least 70% of the nation's ten 10 largest banks), as in effect from time to time.

"Private Lender Information" shall mean any information and documentation that is not Public Lender Information.

"Properties" shall have the meaning set forth in Section 5.17(a).

"Public Lender Information" shall mean information and documentation that is either exclusively (i) of a type that would be publicly available if the Borrowing Agent, Holdings and their respective Subsidiaries were public reporting companies or (ii) not material with respect to any of the Borrowing Agent, Holdings or any of their respective Subsidiaries or any of their respective securities for purposes of foreign, United States Federal and state securities laws.

"Qualified Capital Stock" shall mean any Capital Stock that is not Disqualified Capital Stock.

"Real Property" shall mean, with respect to any Person, all the right, title and interest of such Person in and to land, improvements and fixtures, including Leaseholds.

"Recovery Event" shall mean any settlement of or payment in respect of any property or casualty insurance (excluding business interruption insurance) claim or any condemnation, eminent domain or similar proceeding relating to any asset of Holdings or any of its Subsidiaries.

"Refinance" shall mean, in respect of any Indebtedness, to refinance, redeem, defease, refund, extend, renew or repay any Indebtedness with the proceeds of other Indebtedness, or to issue other Indebtedness, in exchange or replacement for, or convert any Indebtedness into any other, such Indebtedness in whole or in part; "Refinanced" and "Refinancing" shall have correlative meanings.

"Refund" shall have the meaning set forth in Section 4.4(e).

"Register" shall have the meaning set forth in Section 12.15.

"Registered Public Accounting Firm" has the meaning specified by the Securities Laws and shall be independent of the Holdings and its Subsidiaries as prescribed by the Securities Laws.

"Regulation D" shall mean Regulation D of the Board.

"Related Party" shall have the meaning set forth in Section 10.1(i).

"Release" shall mean disposing, discharging, injecting, spilling, pumping, leaking, leaching, dumping, emitting, escaping, emptying, pouring, seeping, or migrating into, through or upon the environment, including any land or water or air.

"Released DIP Parties" shall have the meaning set forth in Section 2.19.

"Released Parties" shall have the meaning set forth in Section 5.12.

"Releasing Parties" shall have the meaning set forth in Section 2.19.

"Relevant Payment" shall have the meaning set forth in Section 9.9.

"Reorganization" shall mean, with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

"Reportable Event" shall mean any of the events set forth in Section 4043(c) of ERISA with respect to a Plan, other than those events as to which the thirty day notice period is waived by regulation.

"Reported Fee Accruals" means all accrued and unpaid fees, disbursements, costs and expenses, allowed by the Bankruptcy Court and incurred by the Case Professionals.

"Representative" shall mean, with respect to any series of Indebtedness permitted under Section 8.1(b), the trustee, administrative agent, collateral agent, security agent or similar agent under the indenture or agreement pursuant to which such Indebtedness is issued, Incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

"Required Lenders" shall mean, at any time, Non-Defaulting Lenders holding at least a majority (over 50%) of the sum of all outstanding Term Loans.

"Requirement of Law" shall mean, with respect to any Person, any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Restricted Payments" shall have the meaning set forth in Section 8.5.

"RSA" shall have the meaning assigned to such term in Section 6.1(m).

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

"Sanctions" shall have the meaning set forth in Section 5.21(b)(v).

"SEC" shall mean the Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

"Secured Parties" shall mean the collective reference to the Administrative Agent, the Lenders, or an Affiliate of the Administrative Agent, or a Lender.

"Securities Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Shareholders' Equity" means, as of any date of determination, consolidated shareholders' equity of the Borrowers and its Subsidiaries as of that date determined in accordance with GAAP.

"Single Employer Plan" shall mean any Plan that is covered by Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, other than a Multiemployer Plan, that is maintained or contributed to by Holdings, the Borrowing Agent or any Commonly Controlled Entity or to which Holdings, the Borrowing Agent or a Commonly Controlled Entity has any direct or indirect liability or could have liability under Section 4069 of ERISA in the event that such plan has been or were to be terminated.

"Sole Purpose Parent Company" shall mean a Parent Company that engages in no business or activity other than its ownership of the capital stock of Holdings or a Wholly Owned Subsidiary of such Parent Company which is itself a Sole Purpose Parent Company; provided that a Parent Company shall not constitute a Sole Purpose Parent Company if it directly or indirectly owns equity interests in any Person which is not (x) Holdings and, indirectly through Holdings, Subsidiaries of Holdings and/or (y) one or more Sole Purpose Parent Companies.

"Sponsors" shall mean, collectively, Golden Gate Private Equity, Inc., Blum Capital Partners, L.P., and their respective Controlled Affiliates.

"Store" means any retail store (which may include any real property, fixtures, equipment, inventory and other property related thereto) operated, or to be operated, by any Loan Party.

"Subordinated Indebtedness" shall mean, with respect to the Obligations, any Indebtedness of the Borrowers or any Guarantor which is by its terms subordinated in the right of payment to the Obligations (including, in the case of a Guarantor, Obligations of such Guarantor under its Guarantee).

"Subsequent DIP Borrowings" shall have the meaning set forth in Section 2.1(a).

"Subsidiary" shall mean, with respect to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other Capital Stock having ordinary

voting power (other than stock or such other Capital Stock having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries of Holdings.

"Subsidiary Guarantor" shall mean each Wholly Owned Domestic Subsidiary of Holdings (other than (i) the Borrowers, (ii) any FSHCO, (iii) any direct or indirect Domestic Subsidiary of a Foreign Subsidiary and (iv) any Subsidiary which is a corporation which is exempt from U.S. federal income tax described in Section 501(c) of the Code; provided, that "Subsidiary Guarantor" shall not include (i) any Subsidiary prohibited from guaranteeing the Term DIP Facility (x) by applicable law, rule or regulation existing on the Closing Date or (y) by applicable law, rule, regulation or by any contractual obligation existing at the time of acquisition of such Subsidiary after the Closing Date, for so long as such prohibition exists, (ii) any Subsidiary which would require governmental or regulatory consent, approval, license or authorization to provide a guarantee, unless such consent, approval, license or authorization has been received, and (iii) any Subsidiary to the extent such guarantee would reasonably be expected to result in adverse tax consequences as a result of the application of Section 956 of the Code (as reasonably determined by the Borrowing Agent), it being understood and agreed that if a Subsidiary executes this Agreement as a "Subsidiary Guarantor" then it shall constitute a "Subsidiary Guarantor"; provided further, notwithstanding the above, no Subsidiary (other than the Foreign ABL Loan Parties, which shall guarantee the ABL DIP Credit Agreement) shall be excluded as a "Subsidiary Guarantor" if such Subsidiary enters into, or is required to enter into, a guarantee (or becomes, or is required to become, a borrower or other obligor under) of the Prepetition Second Lien Credit Agreement, the Prepetition ABL Facility, the Prepetition First Lien Term Credit Agreement, or the ABL DIP Credit Agreement.

"Swap Agreement" shall mean any agreement with respect to any swap, cap, collar, hedge, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions (including, without limitation, any Interest Rate Protection Agreement).

"Swap Termination Value" means, in respect of any one or more Swap Agreement, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Agreement, (a) for any date on or after the date such Swap Agreement have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Agreement, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Agreement (which may include a Lender or any Affiliate of a Lender).

"Synthetic Lease Obligation" shall mean the monetary obligation of a Person under a so-called synthetic, off-balance sheet or tax retention lease.

"Tax Sharing Agreement" means the tax sharing agreement dated as of the Prepetition First Lien Term Credit Agreement Closing Date between Payless Inc. (formerly known as Collective Brands, Inc.) and Wolverine World Wide, Inc.

"Taxes" shall mean all present or future taxes, levies, imposts, duties, fees, assessments, deductions, withholdings (including backup withholding) or other charges in the nature of taxation 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 to such taxes, levies, imposts, duties, fees, assessments or other charges.

"Term DIP Claims" shall have the meaning set forth in the preamble to this Agreement.

"Term DIP Commitments" shall have the meaning set forth in the recitals to this Agreement.

"Term DIP Facility" has the meaning assigned to such term in the recitals to this Agreement.

"Term DIP Loans" shall have the meaning set forth in the preamble to this Agreement.

"Term DIP Note" shall have the meaning set forth in Section 2.6(a).

"Term DIP Security Agreement" shall mean the Term DIP Security Agreement in the form of Exhibit E, as modified, supplemented, amended, restated (including any amendment and restatement thereof), extended or renewed from time to time in accordance with the terms thereof and hereof.

"Term DIP Security Document" shall mean and include each of the Term DIP Security Agreement, and, after the execution and delivery thereof, each Additional Term DIP Security Document and each Intercreditor Agreement.

"Term Loan" shall mean any loan made or maintained by any Lender pursuant to this Agreement, including for the avoidance of doubt, Term DIP Loans.

"Term Loan Intercreditor Agreement" shall mean the Intercreditor Agreement, dated as of March 11, 2014, between the Prepetition First Lien Term Agent and the Prepetition Second Lien Collateral Agent, and acknowledged by certain of the Loan Parties, as the same may be amended, supplemented, waived or otherwise modified from time to time in accordance with the terms hereof and thereof.

"Term Priority Collateral" shall have the meaning set forth in the ABL/Term Loan Intercreditor Agreement, whether or not the same remains in full force and effect.

"Termination Date" the first date on which each of the following conditions are satisfied:

(a) the full cash payment of the Obligations under the Loan Documents (other than unasserted contingent indemnification obligations);

(b) the termination or expiration of all Term DIP Commitments; and

(c) the full cash payment of the Obligations under the Secured Swap Agreements, to the extent due and payable or that would be due and payable pursuant to the Secured Swap Agreement upon the release of the pledge and security interests granted under the Term DIP Security Documents (other than any Obligations relating to Swap Agreements that, at such time, are allowed by the applicable provider of such Swap Agreements to remain outstanding without being required to be repaid).

"Test Amount" shall mean, (i) at all times from and after the Petition Date until the second amended DIP Budget has been approved, $25,000,000, (ii) from and after the date of the second amended DIP Budget has been approved until the third amended DIP Budget has been approved, $30,000,000, and (iii) at all times after the third amended DIP Budget has been approved, $35,000,000

"Testing Period" shall have the meaning set forth in the definition of "Permitted Variance".

"Total Term DIP Commitment" shall mean, at any time, the sum of the Initial Term DIP Commitment and Final Term DIP Commitment. The aggregate amount of the Total Term DIP Commitment as of the Closing Date is $80,000,000.

"Tranche" shall mean the respective facility and commitments utilized in making Term Loans hereunder, with there being one Tranche on the Closing Date, i.e., Initial DIP Borrowing.

"Transaction" shall have the meaning set forth in the preamble hereto and including the payment of all fees, costs and expenses in connection with the foregoing (such fees, costs and expenses being, the "Transaction Costs").

"Transaction Costs" has the meaning set forth in the definition of Transaction.

"Type" shall mean the type of Term Loan determined with regard to the interest option applicable thereto, i.e., whether a Base Rate Loan or a LIBOR Loan.

"UCC" shall mean the Uniform Commercial Code as from time to time in effect in the relevant jurisdiction.

"United States" and "U.S." shall each mean the United States of America.

"Variance Report" shall have the meaning set forth in Section 7.2(g).

"Wholly Owned Domestic Subsidiary" shall mean, with respect to any Person, any Wholly Owned Subsidiary of such Person which is a Domestic Subsidiary.

"Wholly Owned Subsidiary" shall mean, with respect to any Person, (i) any corporation 100% of whose Capital Stock is at the time owned by such Person and/or one or more Wholly Owned Subsidiaries of such Person and (ii) any partnership, limited liability company, association, joint venture or other entity in which such Person and/or one or more Wholly Owned

Subsidiaries of such Person has a 100% equity interest at such time (other than, in the case of a Foreign Subsidiary of the Borrowing Agent with respect to the preceding clauses (i) and (ii), director's qualifying shares and/or other nominal amount of shares required to be held by Persons other than the Borrowing Agent and its Subsidiaries under applicable law).

"Write-Down and Conversion Powers" shall mean, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

1.2 Other Interpretive Provisions. Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms not defined in Section 1.1 shall have the respective meanings given to them under GAAP (but subject to the terms of Section 12.7), (ii) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (iii) unless the context otherwise requires, 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, including cash, Capital Stock, securities, revenues, accounts, leasehold interests and contract rights, (iv) the word "will" shall be construed to have the same meaning and effect as the word "shall," and (v) unless the context otherwise requires, any reference herein (A) to any Person shall be construed to include such Person's successors and assigns and (B) to Holdings, the Borrowing Agent or any other Loan Party shall be construed to include Holdings, the Borrowing Agent or such Loan Party as debtor and debtor-in-possession and any receiver or trustee for Holdings, the Borrowing Agent or any other Loan Party, as the case may be, in any insolvency or liquidation proceeding.

(c) The words "hereof," "herein" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(e) Notwithstanding anything herein or any other Loan Document to the contrary, whenever any document, agreement or other item is required by any Loan Document to be delivered on a day that is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day, for the avoidance of doubt, including the Milestones and any other deadlines herein with respect to filings, orders, motions and other deliverables with respect to the Chapter 11 Cases.

(f) Any reference herein and in the other Loan Documents to the "payment in full" of the Obligations and words of similar import shall mean the payment in full of the

Obligations, other than unasserted contingent indemnification obligations and unasserted expense reimbursement obligations.

1.3 Joint and Severability of the Borrower Group.

(a) In order to induce the Lenders to extend credit hereunder, the Borrowers agree that they will be jointly and severally liable for all the Obligations, including the principal of and interest on all Loans made to any Borrower. Each member of the Borrower Group further agrees that the due and punctual payment of the Obligations may be extended or renewed, in whole or in part, without notice to or further assent from it, and that it will remain bound hereunder notwithstanding any such extension or renewal of any Obligation.

(b) Each member of the Borrower Group waives presentment to, demand of payment from and protest to any other member of the Borrower Group of any of the Obligations, and also waives notice of acceptance of its obligations and notice of protest for nonpayment. The Obligations of any Borrower hereunder shall not be affected by (i) the failure of any Lender or the Administrative Agent to assert any claim or demand or to enforce or exercise any right or remedy against any member of the Borrower Group under the provisions of this Agreement or otherwise or (ii) any rescission, waiver, amendment or modification of any of the terms or provisions of this Agreement or any other agreement (other than the payment in full in cash of all the Obligations and except to the extent that such Obligations have been explicitly modified pursuant to an amendment or waiver that has become effective in accordance with the terms of this Agreement.

(c) Each member of the Borrower Group further agrees that its agreement under this Section 1.3 constitutes a promise of payment when due (whether or not any bankruptcy or similar proceeding shall have stayed the accrual or collection of any of the Obligations or operated as a discharge thereof) and not of collection, and waives any right to require that any resort be had by any Lender or the Administrative Agent to any balance of any deposit account or credit on the books of such Lender or the Administrative Agent in favor of any member of the Borrower Group or any other Person.

(d) The obligations of each member of the Borrower Group under this Section 1.3 shall not be subject to any reduction, limitation, impairment or termination for any reason, and shall not be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever, by reason of the invalidity, illegality or unenforceability of the Obligations, any impossibility in the performance of the Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of the member of the Borrower Group under this Section 1.3 shall not be discharged or impaired or otherwise affected by (i) the failure of the Administrative Agent or any Lender to assert any claim or demand or to enforce any remedy under this Agreement or any other agreement, (ii) any waiver or modification in respect of any thereof, (iii) any default, failure or delay, willful or otherwise, in the performance of any of the Obligations or (iv) any other act or omission that may or might in any manner or to any extent vary the risk of such member of the Borrower Group or otherwise operate as a discharge of such member of the Borrower Group or any member of the Borrower Group as a matter of law or equity.

(e) Each member of the Borrower Group further agrees that its obligations under this Section 1.3 shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Obligation is rescinded or must otherwise be restored by the Administrative Agent or any Lender upon the bankruptcy or reorganization of any other member of the Borrower Group or otherwise.

(f) In furtherance of the foregoing and not in limitation of any other right which the Administrative Agent or any Lender may have at law or in equity against any member of the Borrower Group by virtue of this Section 1.3, upon the failure of any other member of the Borrower Group to pay any Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice of prepayment or otherwise, each member of the Borrower Group hereby promises to and will, upon receipt of written demand by the Administrative Agent, forthwith pay, or cause to be paid, in cash the amount of such unpaid Obligation.

(g) If by virtue of the provisions set forth herein, any member of the Borrower Group is required to pay and shall pay Obligations of another member of the Borrower Group, all rights of such member of the Borrower Group against such other member of the Borrower Group arising as a result thereof by way of right of subrogation, right of contribution or otherwise shall in all respects be subordinated and junior in right of payment to the prior payment in full of all the Obligations, and any of these rights among members of the Borrower Group shall not be due or paid until all Obligations shall have been paid in full.

SECTION 2.
AMOUNT AND TERMS OF CREDIT.

2.1 The Initial Term DIP Commitments.

(a) Subject to and upon the terms and conditions set forth herein, each Lender severally agrees upon entry of the Final Order and satisfaction of the conditions to Borrowing set forth in Section 6.2 (i) to make a Term Loan to the Borrowers in a principal amount not to exceed its pro rata share of $30,000,000 (the "Initial DIP Borrowing") based on its Term DIP Commitment, (ii) following satisfaction of the conditions to Borrowing in Section 6.3, to make one or more Term Loans to the Borrowers in a principal amount not to exceed its pro rata share of $80,000,000 less the Initial DIP Borrowing (each such Borrowing, a "Subsequent DIP Borrowings") and except as hereinafter provided, which Term Loans shall, at the option of the Borrowers, be incurred and maintained as, and/or converted into, Base Rate Loans or LIBOR Loans, provided that except as otherwise specifically provided in Section 2.11(b), the Initial DIP Borrowing comprising the same Borrowing shall at all times be of the same Type. Once repaid, Initial DIP Borrowings incurred hereunder may not be reborrowed.

(b) After the Closing Date, subject to and upon the terms and conditions set forth herein, each Lender with a Term DIP Commitment (other than an Initial Term DIP Commitment) severally agrees to make Term Loans to the Borrowing Agent, which Term Loans under such Tranche (i) shall be incurred on the date set forth for such incurrence in the Notice of Borrowing, (ii) shall be denominated in Dollars, (iii) except as hereinafter provided, shall, at the option of the Borrowing Agent, be incurred and maintained as, and/or converted into, Base Rate Loans or LIBOR Loans, provided that except as otherwise specifically provided in

Section 2.11(b), all Term Loans under a Tranche comprising the same Borrowing shall at all times be of the same Type, and (iv) shall be made by each such Lender in that aggregate principal amount which does not exceed the Total Term DIP Commitment. Once repaid, Term Loans incurred hereunder may not be reborrowed.

2.2 Minimum Amount of Each Borrowing. The aggregate principal amount of (a) the Initial DIP Borrowing shall not be less than the Initial Term DIP Commitment and (b) the aggregate amount of the Subsequent DIP Borrowings shall not be less than the Final Term DIP Commitment.

2.3 Notice of Borrowing.

(a) Except with respect to the Initial DIP Borrowing, which may be made upon written notice provided on the date three (3) Business Day prior to such Initial DIP Borrowing and Loan, if the Borrowing Agent desires to incur the Term Loans (or portions thereof) as (x) LIBOR Loans hereunder, the Borrowing Agent shall give the Administrative Agent at the Notice Office at least three Business Days' (or such shorter period as shall be acceptable to the Administrative Agent) prior notice of the Term Loans to be incurred hereunder and (y) Base Rate Loans hereunder, the Borrowing Agent shall give the Administrative Agent at the Notice Office at least one Business Day's (or such shorter period as shall be acceptable to the Administrative Agent) prior notice of the Term Loans to be incurred hereunder, provided that any such notice shall be deemed to have been given on a certain day only if given before 11:00 A.M. (New York City time) on such day. Such notice (the "Notice of Borrowing"), except as otherwise expressly provided in Section 2.11, shall be irrevocable and shall be in writing, in the form of Exhibit F, appropriately completed to specify: (i) the aggregate principal amount of the Term Loans to be incurred pursuant to such Borrowing, (ii) the date of such Borrowing (which shall be a Business Day) and the date of the entry of the Final Order, (iii) whether the Term Loans being incurred pursuant to such Borrowing are to be initially maintained as Base Rate Loans or, to the extent permitted hereunder, LIBOR Loans and, if LIBOR Loans, the initial Interest Period to be applicable thereto, and (iv) the wire instructions for the account to which the funds should be sent. The Administrative Agent shall promptly give each Lender which is required to make Term Loans, notice of such proposed Borrowing, of such Lender's proportionate share thereof and of the other matters required by the immediately preceding sentence to be specified in the Notice of Borrowing.

(b) Without in any way limiting the obligation of the Borrowing Agent to confirm in writing any telephonic notice of any Borrowing or prepayment of Term Loans, the Administrative Agent may act without liability upon the basis of telephonic notice of such Borrowing or prepayment, as the case may be, believed by the Administrative Agent in good faith to be from an Authorized Officer of the Borrowing Agent, prior to receipt of written confirmation. In each such case, the Borrowing Agent hereby waives the right to dispute the Administrative Agent's record of the terms of such telephonic notice of such Borrowing or prepayment of Term Loans, as the case may be, absent manifest error.

2.4 Repayment of Term Loans. All Loans shall be due and payable on the DIP Termination Date without further application to or order from the Bankruptcy Court, together

with accrued and unpaid interest on the principal amount to be paid to but excluding the date of payment.

2.5 Disbursement of Funds. No later than 1:00 P.M. (New York City time) on the date specified in each Notice of Borrowing, each Lender with a Term DIP Commitment of the respective Tranche will make available its pro rata portion (determined in accordance with Section 2.8) of each such Borrowing requested to be made on such date. All such amounts will be made available in Dollars and in immediately available funds at the Payment Office, and upon receipt of all requested Loan funds, the Administrative Agent will make available to the applicable Borrower in accordance with the Notice of Borrowing, the aggregate of the amounts so made available by the Lenders. Unless the Administrative Agent shall have been notified by any Lender prior to the date of Borrowing that such Lender does not intend to make available to the Administrative Agent such Lender's portion of any Borrowing to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date of Borrowing and the Administrative Agent may (but shall not be obligated to), in reliance upon such assumption, make available to the applicable Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender, the Administrative Agent shall be entitled to recover such corresponding amount on demand from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent shall promptly notify the Borrowing Agent and the Borrowing Agent shall immediately pay such corresponding amount to the Administrative Agent. The Administrative Agent also shall be entitled to recover on demand from such Lender or the Borrowing Agent, as the case may be, interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrowing Agent until the date such corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to (i) if recovered from such Lender, the overnight Federal Funds Rate for the first three (3) days and at the interest rate otherwise applicable to such Term Loans for each day thereafter and (ii) if recovered from the Borrowing Agent, the rate of interest applicable to the respective Borrowing, as determined pursuant to Section 2.9. Nothing in this Section 2.5 shall be deemed to relieve any Lender from its obligation to make Term Loans hereunder or to prejudice any rights which any Borrower may have against any Lender as a result of any failure by such Lender to make Term Loans hereunder.

2.6 Term DIP Notes.

(a) The Borrowers' obligation to pay the principal of, and interest on, the Term Loans under a Tranche made by each Lender shall be evidenced in the Register maintained by the Administrative Agent pursuant to Section 12.15 and shall, if requested by such Lender, also be evidenced by a promissory note duly executed and delivered by the Borrowers substantially in the form of Exhibit G, with blanks appropriately completed in conformity herewith (each, a "Term DIP Note" and, collectively, the "Term DIP Notes").

(b) Each Lender will note on its internal records the amount of each Term Loan under a Tranche made by it and each payment in respect thereof and prior to any transfer of any of its Term DIP Notes with respect to such Term Loans will endorse on the reverse side thereof the outstanding principal amount of such Term Loans evidenced thereby. Failure to make

any such notation or any error in such notation shall not affect the Borrowers' obligations in respect of such Term Loans.

(c) Notwithstanding anything to the contrary contained above in this Section 2.6 or elsewhere in this Agreement, Term DIP Notes shall only be delivered to Lenders which at any time specifically request the delivery of such Term DIP Notes. No failure of any Lender to request or obtain a Term DIP Note evidencing its Term Loans under a Tranche to the Borrowers shall affect or in any manner impair the obligations of the Borrowers to pay the Term Loans under such Tranche (and all related Obligations) incurred by the Borrowers which would otherwise be evidenced thereby in accordance with the requirements of this Agreement, and shall not in any way affect the security or guarantees therefor provided pursuant to the various Loan Documents. Any Lender which does not have a Term DIP Note evidencing its outstanding Term Loans shall in no event be required to make the notations otherwise described in preceding clause (b). At any time when any Lender requests the delivery of a Term DIP Note to evidence any of its Term Loans under a Tranche, the Borrowers shall promptly execute and deliver to the respective Lender the requested Term DIP Note in the appropriate amount or amounts to evidence such Term Loans.

2.7 Conversions. The Borrowers shall have the option to continue, convert, on any Business Day, all or a portion equal to at least the Minimum Borrowing Amount of the outstanding principal amount of Term Loans made pursuant to one or more Borrowings (so long as of the same Tranche) of one or more Types of Term Loans into a Borrowing (of the same Tranche) of another Type of Term Loan, provided that, (i) except as otherwise provided in Section 2.11(b) or unless the Borrowers comply with the provisions of Section 2.12, LIBOR Loans may be converted into Base Rate Loans only on the last day of an Interest Period applicable to the Term Loans being converted and no such partial conversion of LIBOR Loans shall reduce the outstanding principal amount of such LIBOR Loans made pursuant to a single Borrowing to less than the Minimum Borrowing Amount applicable thereto and (ii) no conversion pursuant to this Section 2.7 shall result in a greater number of Borrowings of LIBOR Loans than is permitted under Section 2.2. Each such conversion shall be effected by the Borrowing Agent giving the Administrative Agent at the Notice Office prior to 11:00 A.M. (New York City time) at least (x) in the case of conversions of Base Rate Loans into LIBOR Loans or continuations of LIBOR Loans, three Business Days' prior written notice and (y) in the case of conversions of LIBOR Loans into Base Rate Loans, one Business Day's prior written notice (each, a "Notice of Conversion/Continuation"), in each case in the form of Exhibit H, appropriately completed to specify the Term Loans to be so converted or continued, the Borrowing or Borrowings pursuant to which such Term Loans were incurred and, if to be converted into LIBOR Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall give each Lender prompt notice of any such proposed conversion affecting any of its Term Loans. If the Borrowing Agent fails to specify a Type of Term Loan in a Notice of Borrowing or if the Borrowing Agent fails to give a timely notice requesting a conversion or continuation, then the Term Loans shall be made as, or converted or continued to, Base Rate Loans.

2.8 Pro Rata Borrowings. All Borrowings of any Tranche of Term Loans under this Agreement shall be incurred from the Lenders pro rata on the basis of their Term DIP Commitments applicable to such Tranche of Term Loans. It is understood that no Lender shall

be responsible for any default by any other Lender of its obligation to make Term Loans hereunder and that each Lender shall be obligated to make the Term Loans provided to be made by it hereunder, regardless of the failure of any other Lender to make its Term Loans hereunder.

2.9 Interest.

(a) The Borrowers agree to pay interest in respect of the unpaid principal amount of each Borrowing maintained as a Base Rate Loan from the date of Borrowing thereof until the earlier of (i) the maturity thereof (whether by acceleration or otherwise) and (ii) the conversion of such Base Rate Loan to a LIBOR Loan pursuant to Section 2.7 or 2.10, as applicable, at a rate per annum which shall be equal to the sum of the relevant Applicable Margin plus the Base Rate, each as in effect from time to time.

(b) The Borrowers agree to pay interest in respect of the unpaid principal amount of each Borrowing maintained as a LIBOR Loan from the date of Borrowing thereof until the earlier of (i) the maturity thereof (whether by acceleration or otherwise) and (ii) the conversion of such LIBOR Loan to a Base Rate Loan pursuant to Section 2.7, 2.10 or 2.11, as applicable, at a rate per annum which shall, during each Interest Period applicable thereto, be equal to the sum of the relevant Applicable Margin as in effect from time to time during such Interest Period plus the LIBOR Rate for such Interest Period.

(c) [Reserved].

(d) Upon the occurrence and during the continuance of a Default or an Event of Default, principal and, to the extent permitted by law, interest in respect of each Term Loan and other amounts shall, in each case, bear interest at a rate per annum equal to (x) in the case of overdue principal, the rate which is 2% in excess of the rate then borne by such Term Loans and (y) in the case of all other amounts (including, to the extent permitted by law, overdue interest) payable hereunder and under any other Loan Document shall bear interest at a rate per annum equal to the rate which is 2% in excess of the rate applicable to Term Loans that are maintained as Base Rate Loans from time to time. Interest that accrues under this Section 2.9(d) shall be payable on demand.

(e) Accrued (and theretofore unpaid) interest shall be payable (i) in respect of each Base Rate Loan, (x) monthly in arrears on each Monthly Payment Date, (y) on the date of any repayment or prepayment in full of all outstanding Base Rate Loans, and (z) at maturity (whether by acceleration or otherwise) and, after such maturity, on demand, and (ii) in respect of each LIBOR Loan, (x) on the last day of each Interest Period applicable thereto, and (y) on the date of any repayment or prepayment (on the amount repaid or prepaid), at maturity (whether by acceleration or otherwise) and, after such maturity, on demand.

(f) Upon each Interest Determination Date, the Administrative Agent shall determine the LIBOR Rate for each Interest Period applicable to the respective LIBOR Loans and shall promptly notify the Borrowers and the Lenders of such LIBOR Loans thereof. Each such determination shall, absent manifest error, be final and conclusive and binding on all parties hereto.

2.10 Interest Periods. At the time the Borrowers give any Notice of Borrowing or Notice of Conversion/Continuation in respect of the making of, continuation of, or conversion into, any LIBOR Loan (in the case of the initial Interest Period applicable thereto) or prior to 11:00 A.M. (New York City time) on the third Business Day prior to the expiration of an Interest Period applicable to such LIBOR Loan (in the case of any subsequent Interest Period), the Borrowers shall have the right to elect the interest period (each, an "Interest Period") applicable to such LIBOR Loan, which Interest Period shall, at the option of the Borrowers, be a one month period, provided that (in each case):

(a) all LIBOR Loans comprising a Borrowing shall at all times have the same Interest Period;

(b) the initial Interest Period for any LIBOR Loan shall commence on the date of Borrowing of such LIBOR Loan (including the date of any conversion thereto from a Base Rate Loan) and each Interest Period occurring thereafter in respect of such LIBOR Loan shall commence on the day on which the next preceding Interest Period applicable thereto expires;

(c) (i) if any Interest Period for a LIBOR Loan begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of such calendar month, and (ii) if any Interest Period for LIBOR Loan begins on the last Business Day of a calendar month, such Interest Period shall end on the last Business Day of the last calendar month of such Interest Period;

(d) if any Interest Period for a LIBOR Loan would otherwise expire on a day which is not a Business Day, such Interest Period shall expire on the next succeeding Business Day; provided, however, that if any Interest Period for a LIBOR Loan would otherwise expire on a day which is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the next preceding Business Day;

(e) unless the Required Lenders otherwise agree, no Interest Period may be selected at any time when a Default or an Event of Default is then in existence; and

(f) no Interest Period in respect of any Borrowing of any Tranche of Term Loans shall be selected which extends beyond the Maturity Date for such Tranche of Term Loans.

If by 11:00 A.M. (New York City time) on the third Business Day prior to the expiration of any Interest Period applicable to a Borrowing of LIBOR Loans, the Borrowers have failed to elect, or is not permitted to elect, a new Interest Period to be applicable to such LIBOR Loans as provided above, the Borrowers shall be deemed to have elected to continue such LIBOR Loans as LIBOR Loans with an Interest Period of one month effective as of the expiration date of such current Interest Period.

2.11 Increased Costs, Illegality, etc.

(a) In the event that any Lender shall have determined (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto but, with respect to clause (A) below, may be made only by the Administrative Agent):

(A) on any Interest Determination Date that, by reason of any changes in any Requirement of Law arising after the date of this Agreement affecting the London interbank market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of LIBOR Rate; or

(B) at any time, that such Lender shall incur increased costs, Taxes (other than Excluded Taxes and Indemnified Taxes which are otherwise provided for in Section 4.4) or reductions in the amounts received or receivable hereunder with respect to any LIBOR Loan because of (x) any change since the date of this Agreement in any applicable law or governmental rule, regulation, order, guideline or request (whether or not having the force of law) or in the interpretation or administration thereof and including the introduction of any new law or governmental rule, regulation, order, guideline or request, such as, but not limited to, a change in official reserve requirements, but, in all events, excluding reserves required under Regulation D to the extent included in the computation of the LIBOR Rate and/or (y) other circumstances arising since the date of this Agreement affecting such Lender, the London interbank market or the position of such Lender in such market (including that the LIBOR Rate with respect to such LIBOR Loan does not adequately and fairly reflect the cost to such Lender of funding such LIBOR Loan); or

(C) at any time, that the making or continuance of any LIBOR Loan has been made (x) unlawful by any law or governmental rule, regulation or order, (y) impossible by compliance by any Lender in good faith with any governmental request (whether or not having force of law) or (z) impracticable as a result of a contingency occurring after the date of this Agreement which materially and adversely affects the London interbank market;

then, and in any such event, such Lender (or the Administrative Agent, in the case of clause (A) above) shall promptly give notice to the Borrowers and, except in the case of clause (A) above, to the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the other Lenders). Thereafter (x) in the case of clause (A) above, LIBOR Loans shall no longer be available until such time as the Administrative Agent notifies the Borrowers and the Lenders that the circumstances giving rise to such notice by the Administrative Agent no longer exist, and any Notice of Borrowing or Notice of Conversion/Continuation given by the Borrowers with respect to LIBOR Loans which have not yet been incurred (including by way of conversion) shall be deemed rescinded by the Borrowers, (y) in the case of clause (B) above, the Borrowers agree to pay to such Lender, upon such Lender's written request therefor, such additional amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender shall determine after consultation with the Borrowers) as shall be required to compensate such Lender for such increased costs or reductions in amounts received or receivable hereunder (a written notice as to

the additional amounts owed to such Lender, showing in reasonable detail the basis for the calculation thereof, submitted to the Borrowers by such Lender shall, absent manifest error, be final and conclusive and binding on all the parties hereto) and (z) in the case of clause (C) above, the Borrowers shall take one of the actions specified in Section 2.11(b) as promptly as possible and, in any event, within the time period required by law.

(b) At any time that any LIBOR Loan is affected by the circumstances described in Section 2.11(a)(B), the Borrowers may, and in the case of a LIBOR Loan affected by the circumstances described in Section 2.11(a)(C), the Borrowers shall, either (x) if the affected LIBOR Loan is then being made initially or pursuant to a conversion, cancel such Borrowing by giving the Administrative Agent written notice on the same date that the Borrowers were notified by the affected Lender or the Administrative Agent pursuant to Section 2.11(a)(B) or (C) or (y) if the affected LIBOR Loan is then outstanding, upon at least three Business Days' written notice to the Administrative Agent, require the affected Lender to convert such LIBOR Loan into a Base Rate Loan, provided that, if more than one Lender is affected at any time, then all affected Lenders must be treated the same pursuant to this Section 2.11(b).

(c) If any Lender determines that after the date of this Agreement the introduction of or any change in any applicable law or governmental rule, regulation, order, guideline, directive or request (whether or not having the force of law) concerning capital adequacy, or any change in interpretation or administration thereof by the NAIC or any Governmental Authority, central bank or comparable agency, will have the effect of increasing the amount of capital required or expected to be maintained by such Lender or any corporation controlling such Lender based on the existence of such Lender's Term DIP Commitments hereunder or its obligations hereunder, then the Borrowers agree to pay to such Lender, upon its written demand therefor, such additional amounts as shall be required to compensate such Lender or such other corporation for the increased cost to such Lender or such other corporation or the reduction in the rate of return to such Lender or such other corporation as a result of such increase of capital. In determining such additional amounts, each Lender will act reasonably and in good faith and will use averaging and attribution methods which are reasonable, provided that such Lender's determination of compensation owing under this Section 2.11(c) shall, absent manifest error, be final and conclusive and binding on all the parties hereto. Each Lender, upon determining that any additional amounts, will be payable pursuant to this Section 2.11(c), will give prompt written notice thereof to the Borrowers, which notice shall show in reasonable detail the basis for calculation of such additional amounts, although the failure to give any such notice shall not release or diminish a Borrower's obligations to pay additional amounts pursuant to this Section 2.11(c) upon the subsequent receipt of such notice.

(d) Notwithstanding anything in this Agreement to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder, issued in connection therewith or in implementation thereof and (y) all requests 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, shall be deemed to be a change after the date of this Agreement in a requirement of law or

government rule, regulation or order, regardless of the date enacted, adopted, issued or implemented (including for purposes of this Section 2.11).

(e) For the avoidance of doubt, this Section 2.11 shall not apply to any Excluded Taxes, or to any Indemnified Taxes, which are otherwise provided for in Section 4.4.

2.12 Compensation.

(a) The Borrowers agree to compensate each Lender, upon its written request (which request shall set forth in reasonable detail the basis for requesting such compensation), for all actual losses, reasonable and documented out-of-pocket expenses and liabilities (including, without limitation, any actual loss, reasonable and documented out-of-pocket expense or liability incurred by reason of the liquidation or reemployment of deposits or other funds required by such Lender to fund its LIBOR Loans but excluding loss of anticipated profits) which such Lender may sustain: (i) if for any reason (other than a default by such Lender or the Administrative Agent) a Borrowing of, or conversion from or into, LIBOR Loans does not occur on a date specified therefor in a Notice of Borrowing or Notice of Conversion/Continuation (whether or not withdrawn by the Borrowers or deemed withdrawn pursuant to Section 2.11(a)); (ii) if any prepayment or repayment (including any prepayment or repayment made pursuant to Section 4.1, Section 4.2 or as a result of an acceleration of the Term Loans pursuant to Section 10) or conversion of any of its LIBOR Loans occurs on a date which is not the last day of an Interest Period with respect thereto (other than as a result of any required conversion pursuant to Section 2.11(b)); (iii) if any prepayment of any of its LIBOR Loans is not made on any date specified in a notice of prepayment given by the Borrowers; or (iv) as a consequence of (x) any other default by the Borrowers to repay LIBOR Loans when required by the terms of this Agreement or any Term DIP Note held by such Lender or (y) any election made pursuant to Section 2.11(b).

(b) With respect to any Lender's claim for compensation under Section 2.11 or 2.12, the Borrowers shall not be required to compensate such Lender for any amount incurred more than 180 days prior to the date that such Lender or the Administrative Agent notifies the Borrowers of the event that gives rise to such claim; provided that, if the circumstance giving rise to such claim is retroactive, then such 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(c) The Borrowers shall make such compensation under Section 2.11 or 2.12 within thirty (30) days after receipt of written request therefor.

2.13 Change of Lending Office. Each Lender agrees that on the occurrence of any event giving rise to the operation of Section 2.11(a)(B) or (C), Section 2.11(c) or Section 4.4 with respect to such Lender, it will, if requested by the Borrowing Agent, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Term Loans affected by such event, provided that such designation is made on such terms that such Lender and its lending office suffer no legal, regulatory or unreimbursed economic disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of such Section. Nothing in this Section 2.13 shall affect or postpone any of the obligations of the Borrowers or the right of any Lender provided in Sections 2.11 and 4.4.

2.14 [Reserved].

2.15 [Reserved].

2.16 [Reserved].

2.17 [Reserved].

2.18 No Discharge; Survival of Claims. Except as otherwise contemplated by the RSA, until payment in full of the Loans and all other Obligations, each of the Borrowers and the Guarantors agree that (a) the Obligations hereunder shall not be discharged by the entry of an order confirming a plan of reorganization or liquidation in any Chapter 11 Case (and each of the Borrowers and the Guarantors, pursuant to section 1141(d)(4) of the Bankruptcy Code, hereby waive any such discharge) and (b) the Superpriority DIP Claim and the DIP Liens granted to the Agents pursuant to the Orders and described in this Section 2.18 shall not be affected in any manner by the entry of an order confirming a plan of reorganization or liquidation in any Chapter 11 Case.

2.19 Release. Each of the Borrowers and the Guarantors hereby acknowledge effective upon entry of the Final Order, and subject to the terms thereof, that the Borrowers, the Guarantors and any of their Subsidiaries have no defense, counterclaim, offset, recoupment, claim or demand of any kind or nature whatsoever that can be asserted to reduce or eliminate all of any part of the Borrowers', the Guarantors' or their respective Subsidiaries' liability to repay the Administrative Agent, Collateral Agent or any Lender as provided in this Agreement or to seek affirmative relief or damages of any kind or nature from the Administrative Agent, Collateral Agent or any Lender. Upon entry of the Final Order, the Borrowers and the Guarantors, each in their own right and on behalf of their bankruptcy estates, and on behalf of all their successors, assigns, Subsidiaries and any Affiliates and any Person acting for and on behalf of, or claiming through them, (collectively, the "Releasing Parties"), hereby fully, finally and forever release and discharge the Administrative Agent, the Collateral Agent and Lenders and all of Administrative Agent's, Collateral Agent's and Lenders' officers, directors, servants, agents, attorneys, assigns, heirs, parents, subsidiaries, and each Person acting for or on behalf of any of them (collectively, the "Released DIP Parties") of and from any and all actions, causes of action, demands, suits, claims, liabilities, Liens, lawsuits, adverse consequences, amounts paid in settlement, costs, damages, debts, deficiencies, diminution in value, disbursements, expenses, losses and other obligations of any kind or nature whatsoever, in each case, existing at the time of entry of the Final Order, whether in law, equity or otherwise (including, without limitation, those arising under sections 541 through 550 of the Bankruptcy Code and interest or other carrying costs, penalties, legal, accounting and other professional fees and expenses, and incidental, consequential and punitive damages payable to third parties), directly or indirectly arising out of, connected with or relating to this Agreement, the Interim Order, the Final Order and the transactions (including, for avoidance of doubt, the Transactions) contemplated hereby, and all other agreements, certificates, instruments and other documents and statements (whether written or oral) related to any of the foregoing.

2.20 Waiver of any Priming Rights. On and after the Closing Date, and on behalf of themselves and their estates, and for so long as any Obligations shall be outstanding, the

Borrowers and the Guarantors hereby irrevocably waive any right, pursuant to sections 364(c) or 364(d) of the Bankruptcy Code or otherwise, to grant any Lien of equal or greater priority than the DIP Liens securing the Obligations, or to approve a claim of equal or greater priority than the Obligations, in each case, other than as contemplated by the ABL DIP Credit Agreement Documents.

SECTION 3.
COMMITMENT FEES; FEES; REDUCTIONS OF COMMITMENTS

3.1 Fees.

(a) The Borrowing Agent agrees to pay to the Lenders such fees in the amounts and at the times specified as may be agreed to in writing from time to time by Holdings or any of its Subsidiaries and the Required Lenders (including, without limitation, all amounts owing under the Administrative Agent Fee Letter and the DIP Fee Letter).

(b) The Borrowing Agent agrees to pay to the Administrative Agent such fees in the amounts and at the times specified as may be agreed to in writing from time to time by Holdings or any of its Subsidiaries and the Administrative Agent (including, without limitation, all amounts owing under the Administrative Agent Fee Letter and the DIP Fee Letter).

3.2 Mandatory Reduction of Term DIP Commitments. The Term DIP Commitments shall automatically terminate upon the making of the final Subsequent DIP Borrowing, with the portion thereof applicable to the Initial DIP Borrowing and any Subsequent DIP Borrowings terminating upon the making of the Initial DIP Borrowing or such Subsequent DIP Borrowing, as applicable.

SECTION 4.
PREPAYMENTS; PAYMENTS; TAXES

4.1 Voluntary Prepayments.

(a) The Borrowers may at any time and from time to time prepay the Term Loans, in whole or in part, in each case, without premium or penalty, upon irrevocable written notice (subject to revocation as, and in the circumstances, set forth in clause (II) below) delivered to the Administrative Agent no later than Noon (New York City time) three Business Days prior thereto, in the case of LIBOR Loans, and no later than Noon (New York City time) one Business Day prior to the date of such payment, in the case of Base Rate Loans, which notice shall specify the date and amount of prepayment, identify the Tranche of the prepayment of Term Loans and whether the prepayment is of LIBOR Loans or Base Rate Loans; provided, that if a LIBOR Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, such Borrower shall also pay any amounts owing pursuant to Section 2.12; and provided, further, that (I) each voluntary prepayment of Term Loans pursuant to this Section 4.1(a) shall be applied to each Tranche of Term Loans on a pro rata basis and (II) if such notice of prepayment indicates that such prepayment is conditioned upon the consummation of any other transaction or the occurrence of any event (including an acquisition or a Change of Control), such notice of prepayment may be revoked if such Refinancing is not consummated or such condition is not satisfied, subject to payment of any costs referred to in Section 2.12. Upon receipt of any such

notice the Administrative Agent shall promptly notify each relevant Lender thereof. If any such notice is given, the amount specified in such notice shall be due and payable on the date specified therein, together with accrued interest to such date on the amount prepaid. Prepayments shall be accompanied by accrued interest. Partial prepayments of Term Loans shall be in an aggregate principal amount of $1,000,000 and integral multiples of $1,000,000 in excess of that amount.

(b) [Reserved].

(c) All voluntary prepayments of a Tranche of Term Loans in accordance with this Section 4.1 shall be applied toward repayment of the outstanding Term DIP Claims on a pro rata basis.

4.2 Mandatory Repayments.

(a) If any Indebtedness shall be incurred by Holdings or any of its Subsidiaries, not later than two Business Days after the incurrence of such Indebtedness, an amount equal to 100% of the Net Cash Proceeds thereof shall be applied toward the prepayment of the Term Loans as set forth in this Section 4.2.

(b) [Reserved].

(c) If on any date Holdings or any of its Subsidiaries shall receive Net Cash Proceeds from any Asset Sale or any Recovery Event (other than any Net Cash Proceeds received in respect of Prepetition ABL Priority Collateral or assets of the ABL Foreign Loan Parties), then the Applicable Percentage of such Net Cash Proceeds shall be applied within five Business Days of such date to prepay outstanding Term Loans in accordance with this Section 4.2; provided, that the Borrowers shall have the option, directly or through one or more of their Subsidiaries, to reinvest such Net Cash Proceeds within ninety (90) days of receipt thereof in assets useful in the business of the Borrowers and their Subsidiaries; provided, further, that all such Net Cash Proceeds not so reinvested within such period must be applied in accordance with this Section 4.2(c) without giving effect to the proviso herein;

(d) Amounts to be applied in connection with prepayments made pursuant to this Section 4.2 shall be applied toward repayment of the outstanding Term DIP Claims on a pro rata basis.

(e) [Reserved].

(f) With respect to each repayment of Term Loans required by this Section 4.2, the Borrowing Agent (i) shall provide written notice to the Administrative Agent by 12 pm at least one Business Day in advance of such prepayment and (ii) may designate the Types of Term Loans of the respective Tranche which are to be repaid and, in the case of LIBOR Loans, the specific Borrowing or Borrowings of the respective Tranche pursuant to which such LIBOR Loans were made, provided that: (i) unless the Borrowing Agent complies with the provisions of Section 2.12, repayments of LIBOR Loans pursuant to this Section 4.2 may only be made on the last day of an Interest Period applicable thereto unless all LIBOR Loans of the respective Tranche with Interest Periods ending on such date of required repayment and all Base

Rate Loans of the respective Tranche have been paid in full; (ii) if any repayment of LIBOR Loans made pursuant to a single Borrowing shall reduce the outstanding LIBOR Loans made pursuant to such Borrowing to an amount less than the Minimum Borrowing Amount applicable thereto, such Borrowing shall be automatically converted into a Borrowing of Base Rate Loans; and (iii) each repayment of any Term Loans made pursuant to a Borrowing shall be applied pro rata among such Term Loans. Notwithstanding the foregoing, at the election of the Borrowing Agent, the amount of any prepayment of Term Loans required under this Section 4.2 may be deposited in an escrow account on terms reasonably satisfactory to the Administrative Agent and applied to the prepayment of LIBOR Loans upon the expiration of the applicable Interest Period; provided, that if an Event of Default has occurred and is continuing, the Administrative Agent may, and upon the written direction from the Required Lenders, shall, apply any or all of such amounts then on deposit in such escrow account to the payment of such Term Loans, together with any amounts owing to the Lenders in accordance with the provisions of Section 2.12.

4.3 Method and Place of Payment. Except as otherwise specifically provided herein, all payments under this Agreement and under any Term DIP Note shall be made to the Administrative Agent for the account of the Lender or Lenders entitled thereto not later than 1:00 P.M. (New York City time) on the date when due and shall be made in Dollars in immediately available funds at the Payment Office, and any payment received after such time may, in Administrative Agent's discretion, be deemed received on the next succeeding Business Day. Whenever any payment to be made hereunder or under any Term DIP Note shall be stated to be due on a day which is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest shall be payable at the applicable rate during such extension.

4.4 Net Payments.

(a) Except as provided in this Section 4.4(a), all payments made by or on behalf of the Borrowers hereunder and under any Loan Document will be made without setoff, counterclaim or other defense. All such payments will be made free and clear of, and without deduction or withholding for, any Taxes with respect to such payments, unless required by applicable law. If any Taxes are required to be withheld or deducted, the Borrowers or Guarantor, if applicable, agrees to pay the full amount of such Taxes to the relevant Governmental Authority and, if such Tax is an Indemnified Tax, such additional amounts to the recipient as may be necessary so that every payment of all amounts due under this Agreement or under any Loan Document will not be less than the amount provided for herein or in such Loan Document after withholding or deduction for or on account of such Indemnified Taxes (including such deductions and withholdings applicable to additional sums payable under this Section 4.4(a)). As soon as practicable after any payment of Taxes, but in no event later than forty-five (45) days after the date of the payment of any Taxes, the Borrowers or Guarantors, if applicable, will furnish to the Administrative Agent certified copies of the receipt issued by the relevant Governmental Authority evidencing such payment by such Borrower or Guarantor. The Borrowers or Guarantors, if applicable, agree to indemnify and hold harmless the Administrative Agent and each Lender, and to reimburse such Person for the full amount of any Indemnified Taxes so levied or imposed (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 4.4(a)) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed by

the relevant Governmental Authority and paid by such Person, within ten (10) days after written demand therefor. A certificate as to the amount of such payment or liability and the reasons therefor in reasonable detail delivered to the Borrowers by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. The Borrowers or Guarantor, if applicable, shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(b) Without limiting the generality of Section 4.4(c), each Lender and the Administrative Agent that is a United States person (as such term is defined in Section 7701(a)(30) of the Code) for U.S. federal income tax purposes, agrees to deliver to the Borrowing Agent and the Administrative Agent (or in the case of the Administrative Agent, to the Borrowing Agent) on or prior to the date it becomes a party to this Agreement, two accurate, complete and executed originals of Internal Revenue Service Form W-9 certifying to such Person's entitlement to exemption from United States federal backup withholding, unless such Lender demonstrates that it is treated as an exempt recipient under Treasury Regulation Section 1.6049-4(c)(1)(ii). Each Lender and the Administrative Agent that is not a United States Person (as such term is defined in Section 7701(a)(30) of the Code) for U.S. federal income tax purposes (each, a "Foreign Lender") agrees to deliver to the Borrowing Agent and the Administrative Agent (or in the case of the Administrative Agent, to deliver to the Borrowing Agent) on or prior to the date it becomes a party to this Agreement, whichever of the following is applicable:

(i) two accurate, complete and executed originals of Internal Revenue Service Form W-8ECI, or any subsequent versions thereof or successors thereto;

(ii) two accurate, complete and executed originals of Internal Revenue Service Form W-8BEN or W-8BEN-E or any subsequent versions thereof or successors thereto, certifying to such Person's entitlement as of such date to a complete exemption from, or reduction of, United States withholding tax with respect to payments to be made under this Agreement and under any Term DIP Note;

(iii) two accurate, complete and executed originals of Internal Revenue Service Form W-8IMY, or any subsequent versions thereof of successors thereto, and all required supporting documentation; or

(iv) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code: (A) two executed certificates providing that such Foreign Lender is not (1) a "bank" within the meaning of Section 881(c)(3)(A) of the Code; (2) a "10 percent shareholder" of the Borrowers within the meaning of Section 881(c)(3)(B) of the Code; or (3) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code, which certificates shall be substantially in the form of Exhibit I (any such certificate, a "Non-Bank Certificate") and (B) two accurate, complete and executed originals of Internal Revenue Service Form W-8BEN or W-8BEN-E (with respect to the portfolio interest exemption) (or any subsequent versions thereof or successors thereto) certifying to such Lender's entitlement

as of such date to a complete exemption from United States withholding tax with respect to payments of interest to be made under this Agreement and under any Term DIP Note.

In addition, the Administrative Agent and each Lender agrees that from time to time after the Closing Date, when a change in circumstances renders the previous certification inaccurate in any material respect, it will deliver to the Borrowers and the Administrative Agent two new accurate and complete original signed copies of Internal Revenue Service Form W-8ECI, Form W-8BEN or W-8BEN-E (with respect to the benefits of any income tax treaty), Form W-8BEN or W-8BEN-E (with respect to the portfolio interest exemption) and a Non-Bank Certificate, or Form W-9, as the case may be (or any subsequent versions thereof or successors thereto), in order to confirm or establish its continued entitlement to a complete exemption from United State withholding tax or backup withholding with respect to payments under this Agreement and any Term DIP Note, or it shall promptly notify the Borrowers and the Administrative Agent (if applicable) of its inability to deliver any such form or certificate pursuant to this Section 4.4 (b).

(c) If any Lender or the Administrative Agent is entitled to an exemption from or reduction in withholding Tax with respect to payments under this Agreement and any Term DIP Note, then such Lender and the Administrative Agent agree to deliver to the Borrowers and the Administrative Agent upon request such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate of withholding, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrowers to determine the withholding or deduction required to be made (including with respect to FATCA), provided, however, that the Administrative Agent or any Lender shall not be required to provide any such additional documentation that is required by any taxing authority outside of the United States if in the reasonable judgment of the Administrative Agent or such Lender, the provision of such documentation would subject it to any material unreimbursed cost or expense or would materially prejudice its legal or commercial position.

(d) 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 were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrowing Agent and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrowing Agent or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrowing Agent or the Administrative Agent as may be necessary for the Borrowing Agent and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 4.4(d), FATCA shall include any amendments made to FATCA after the date of this Agreement.

(e) If a Borrower or Guarantor pays any additional amount or makes any indemnity payment under this Section 4.4 to a Lender or the Administrative Agent and such Lender or the Administrative Agent determines in its sole discretion exercised in good faith that

it has received any refund of Indemnified Taxes or Other Taxes as to which it has been indemnified by such Borrower or any Guarantor (a "Refund"), such Lender or the Administrative Agent shall pay to a Borrower or Guarantor, as the case may be, such Refund (but only to the extent of indemnity payments made under this Section 4.4 with respect to Indemnified Taxes and Other Taxes giving rise to such Refund) net of all out-of-pocket expenses (including Taxes) in respect of such Refund and without interest; provided, however, that (i) any Lender or the Administrative Agent may determine, in its sole discretion exercised in good faith consistent with its policies, whether to seek a Refund; (ii) any Taxes, costs, penalties, interest or other charges that are imposed on a Lender or the Administrative Agent as a result of a disallowance or reduction of any Refund with respect to which such Lender or the Administrative Agent has made a payment to a Borrower or the Guarantor pursuant to this Section 4.4(e) (and any interest or penalties imposed thereon) shall be treated as a Tax for which a Borrower or Guarantor, as the case may be, is obligated to indemnify such Lender or the Administrative Agent pursuant to this Section 4.4 without any exclusions or defenses; (iii) nothing in this Section 4.4(e) shall require any Lender or the Administrative Agent to disclose any confidential information to the Borrowers or the Guarantor (including, without limitation, its tax returns); and (iv) no Lender or the Administrative Agent shall be required to pay any amounts pursuant to this Section 4.4(e) at any time which an Event of Default exists (provided that such amounts shall be credited against amounts otherwise owed under this Agreement by a Borrower or Guarantor); and (v) notwithstanding anything to the contrary in this Section 4.4(e), in no event will the Lender or Administrative Agent be required to pay any amount to the Borrowers or Guarantor the payment of which would place the Lender or Administrative Agent in a less favorable net after-tax position than the Lender or Administrative Agent would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid.

SECTION 5.
REPRESENTATIONS AND WARRANTIES

To induce the Administrative Agent and the Lenders to enter into this Agreement and to make the Term DIP Loans, each of the Loan Parties hereby jointly and severally represents and warrants, (a) on the Closing Date, that the following representations are true and correct in all material respects (without duplication of any materiality qualifiers set forth therein):

5.1 Financial Condition; Budget.

(a) [Reserved].

(b) The audited consolidated balance sheets of the Company and its Subsidiaries as at January 30, 2015 and January 30, 2016, and the related consolidated statements of income, stockholders' equity and cash flows for the fiscal years ended on January 30, 2015 and January 30, 2016, reported on by and accompanied by an unqualified report as to going concern or scope of audit from Deloitte & Touche LLP, copies of which have heretofore been furnished to each Lender, present fairly in all material respects the consolidated financial condition of the Company and its Subsidiaries as at such date, and the consolidated results of its operations and its consolidated cash flows for the respective fiscal years then ended. The unaudited consolidated balance sheet of the Company and its Subsidiaries at December 31, 2016 and the related consolidated statements of income and cash flows and changes in shareholders'

equity of the Company and its Subsidiaries for the fiscal quarter ended December 31, 2016, copies of which have heretofore been furnished to each Lender, present fairly in all material respects the consolidated financial condition of the Company and its Subsidiaries at the date of such financial statements and the results for the period covered thereby, subject to year-end adjustments and the absence of footnotes. All such financial statements, including the related schedules and notes thereto, have been prepared in accordance with GAAP (without giving effect to the parenthetical set forth in the definition thereof) applied consistently throughout the periods involved (except for the lack of footnotes and being subject to year-end adjustments). To the knowledge of the Loan Parties none of Holdings or any of its Subsidiaries has, as of the Closing Date after giving effect to the Transaction and excluding obligations under the Loan Documents, the Prepetition Second Lien Loan Documents, the Prepetition First Lien Term Credit Agreement Documents and the ABL DIP Credit Agreement Documents, any material liabilities or obligations of any nature whatsoever (whether absolute, accrued, contingent or otherwise and whether or not due) which are not reflected in the most recent financial statements referred to in this paragraph as a result of any change, event, development, circumstance, condition or effect during the period from January 30, 2016 to and including the Closing Date.

(c) The Initial Budget delivered pursuant to Section 6.1(g) and each DIP Budget delivered thereafter pursuant to Section 7.2(g) hereof are based on are based on good faith estimates and assumptions believed by management of the Borrowers to be reasonable and fair in light of current conditions and facts known to the Borrowers at the time delivered (it being understood that such Budgets and the assumptions on which they were based, may or may not prove to be correct).

5.2 No Change. Since the Petition Date, there has been no change in the financial condition, business, operations, or properties of Holdings and/or its Subsidiaries that has had, or could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

5.3 Existence; Compliance with Law. Each of Holdings, the Borrowers and each Subsidiary (a) is duly organized, validly existing and in good standing (to the extent such concept exists) under the laws of the jurisdiction of its organization except, solely in the case of any Subsidiary of any Borrower that is not a Loan Party, where the failure to be duly organized, validly existing or in good standing could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (b) subject to the entry by the Bankruptcy Court of the applicable Orders, has the power and authority, and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged except where the failure to have such power, authority or legal right could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (c) is duly qualified as a foreign corporation or other organization and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification except where the failure to be so qualified or in good standing could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect and (d) is in compliance with all Requirements of Law, except to the extent that the failure to comply therewith could not, either individually or in the aggregate, reasonably be expected to result in any liability or loss that is not subject to the Automatic Stay.

5.4 Power; Authorization; Enforceable Obligations. Subject to the entry by the Bankruptcy Court of the applicable Orders, each Loan Party has the power and authority, and the legal right, to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrowers, to obtain extensions of credit hereunder. Each Loan Party has taken all necessary organizational action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrowers, to authorize the extensions of credit on the terms and conditions of this Agreement and to authorize the other Transaction. Each Loan Document has been duly executed and delivered on behalf of each Loan Party party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

5.5 Consents. No Governmental Approval or consent or authorization of, filing with, notice to or other act by or in respect of, any other Person is required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, except (i) Governmental Approvals, consents, authorizations, filings and notices that have been obtained or made and are in full force and effect, (ii) the filings referred to in Section 5.19; (iii) the Interim Order and the Final Order, as applicable, and (iv) those, the failure of which to obtain or make could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.6 No Legal Bar; Approvals. Subject to entry of the Interim Order and Final Order, as applicable, the execution, delivery and performance of this Agreement and the other Loan Documents, the borrowings hereunder and the use of the proceeds thereof (i) will not violate, or conflict with, any Requirement of Law or any Contractual Obligation of Holdings or any of its Subsidiaries except such violations or conflicts as could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, or result in any liability or loss that is not subject to the Automatic Stay, (ii) will not result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any Requirement of Law, any Organizational Documents of Holdings or any of its Subsidiaries or any Contractual Obligation of Holdings of or any of its Subsidiaries (other than the Liens created by the Term DIP Security Documents or created by the ABL DIP Credit Agreement Documents), except as could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or (iii) will not violate, or conflict with, the Organizational Documents of Holdings or any of its respective Subsidiaries. Each of Holdings and each of its Subsidiaries is in compliance with all Requirements of Law, except such non-compliances as could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.7 Litigation. Other than the Events and Circumstances, or as stayed upon the commencement of the Chapter 11 Cases, no litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of any Loan Party, threatened that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.8 No Default. No Default or Event of Default has occurred and is continuing or would immediately result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

5.9 Ownership of Property; Liens. Each of Holdings and each of its Subsidiaries has good record and marketable title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for Liens permitted by Section 8.2 and except where the failure to have such title or interests could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

5.10 Intellectual Property. Except as could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect: (a) the Loan Parties own and have properly recorded including full payment of all maintenance and renewal fees, or are licensed to use, pursuant to valid and enforceable written agreements, all Intellectual Property used in the conduct of the business of Holdings and its Subsidiaries as currently conducted, (b) no claim has been asserted and is pending by any Person challenging or questioning any Loan Party's use of any Intellectual Property or the validity or effectiveness of any Loan Party's Intellectual Property or alleging that the conduct of any Loan Party's business infringes or violates the rights of any Person, nor does Holdings or the Borrowers know of any valid basis for any such claim and (c) to the knowledge of the Loan Parties, no Person is infringing, violating or misappropriating any Loan Party's rights to any Intellectual Property.

5.11 Taxes. Each of Holdings and each of its Subsidiaries has filed or caused to be filed Tax returns that are required to be filed and has paid all Taxes shown to be due and payable on said returns or on any assessments made against it or any of its property and all other Taxes imposed on it or any of its property by any Governmental Authority (other than any (i) Taxes the amount or validity of which are currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of Holdings or the relevant Subsidiary or (ii) with respect to which the failure to make such filing or payment could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect). No Tax Lien has been filed, and, to the knowledge of any of the Loan Parties, no claim is being threatened in writing, with respect to any Taxes other than Liens or claims which could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.12 Use of Proceeds; Margin Regulations.

(a) The proceeds of the Term Loans will be used only for the following purposes in each case, in accordance with the DIP Budget and except as otherwise agreed by the Administrative Agent (acting at the direction of the Required Lenders): (i) for the payment of prepetition amounts acceptable to the Required Lenders as authorized by the Bankruptcy Court pursuant to orders approving the first day motions filed by the Loan Parties; (ii) in accordance with the terms of the Term DIP Facility and the Orders (A) for the payment of working capital and other general corporate needs of the Borrowers and the Guarantors in the ordinary course of business, (B) for the payment of Chapter 11 expenses, including Taxes, allowed professional fees, costs and expenses for advisors, consultants, counsel and other professionals retained by the

Borrowers and (C) to pay fees and expenses related to the Term DIP Facility, and (iii) to repay amounts outstanding pursuant to the ABL DIP Credit Agreement.

(b) Without in any way limiting the foregoing in subsection (a) above, no Collateral, proceeds of the Loans, any portion of the Carve-Out or any other amounts may be used directly or indirectly by any of the Loan Parties, the official committee of unsecured creditors appointed in the Chapter 11 Cases (the "Committee"), if any, or any trustee or other estate representative appointed in the Chapter 11 Cases (or any successor case) or any other person or entity (or to pay any professional fees, disbursements, costs or expenses incurred in connection therewith): (a) to seek authorization to obtain liens or security interests that are senior to, or on a parity with, the DIP Liens or the Prepetition Term Liens (as defined in the Order); or (b) to investigate (including by way of examinations or discovery proceedings), prepare, assert, join, commence, support or prosecute any action for any claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination or similar relief against, or adverse to the interests of, in any capacity, against any of the Agents, the Lenders, the Prepetition First Lien Term Agent or the Prepetition First Lien Lenders, and each of their respective officers, directors, controlling persons, employees, agents, attorneys, affiliates, assigns, or successors of each of the foregoing (collectively, the "Released Parties"), with respect to any transaction, occurrence, omission, action or other matter (including formal discovery proceedings in anticipation thereof), including, without limitation, (i) any claims or causes of action arising under chapter 5 of the Bankruptcy Code; (ii) any so-called "lender liability" claims and causes of action; (iii) any action with respect to the validity, enforceability, priority and extent of, or asserting any defense, counterclaim, or offset to, the Obligations, the Term DIP Claims, the Liens granted under the Loan Documents, the Loan Documents, the Prepetition First Lien Loan Documents or the Prepetition First Lien Obligations; (iv) any action seeking to invalidate, modify, set aside, avoid or subordinate, in whole or in part, the Obligations or the Prepetition First Lien Obligations; (v) any action seeking to modify any of the rights, remedies, priorities, privileges, protections and benefits granted to either (A) the Agents or the Lenders hereunder or under any of the Loan Documents, or (B) the Prepetition First Lien Term Agent or the Prepetition First Lien Lenders under any of the Prepetition First Lien Loan Documents (in each case, including, without limitation, claims, proceedings or actions that might prevent, hinder or delay any of the Agents' or the Lenders' assertions, enforcements, realizations or remedies on or against the Collateral in accordance with the applicable Loan Documents and the Orders); or (vi) objecting to, contesting, or interfering with, in any way, the Agents' and the Lenders' enforcement or realization upon any of the Collateral once an Event of Default has occurred; provided, however, that no more than $25,000 in the aggregate of the Collateral, the Carve-Out, proceeds from the borrowings under the Term DIP Facility or any other amounts, may be used by the Committee to investigate claims and/or liens of the Prepetition First Lien Term Agent and Prepetition First Lien Lenders under the Prepetition First Lien Term Credit Agreement and the Prepetition Second Lien Administrative Agent and Prepetition Second Lien Lenders under the Prepetition Second Lien Credit Agreement.

5.13 Labor Matters. Except as, in the aggregate, could not reasonably be expected to result in a Material Adverse Effect: (a) there are no strikes, slowdowns, stoppages, unfair labor practice charges or other labor disputes against any of Holdings or any of its Subsidiaries pending or, to the knowledge of any Loan Party, threatened; (b) hours worked by and payment

made to employees of each of Holdings and each of its Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters and there are no other violations of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with wage and hour matters; and (c) all payments due from any of Holdings or any of its Subsidiaries on account of employee health and welfare insurance have been paid or accrued as a liability on the books of Holdings or the relevant Subsidiary. The consummation of the Transaction will not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which Holdings or any of its Subsidiaries is bound.

5.14 ERISA.

(a) Except as, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect:

(i) neither a Reportable Event nor a failure to meet the minimum funding standards of Section 412 or 430 of the Code or Section 302 or 303 of ERISA has occurred with respect to any Single Employer Plan or Multiemployer Plan during the five-year period prior to the date on which this representation is made or deemed made;

(ii) no Plan has applied for or received a waiver of the minimum funding standard or an extension of any amortization period within the meaning of Section 412 of the Code or Section 302 or 304 of ERISA;

(iii) each Plan has complied and is in compliance in form and operation with its terms and with the applicable provisions of ERISA and the Code (including without limitation the Code provisions compliance with which is necessary for any intended favorable tax treatment) and all other applicable laws and regulations;

(iv) no determination has been made that any Plan is, or is expected to be, considered an at-risk plan within the meaning of Section 430 of the Code or Section 303 of ERISA;

(v) all contributions required to be made with respect to a Plan or a Multiemployer Plan have been timely made or have been reflected on the most recent consolidated balance sheet filed prior to the date hereof or accrued in the accounting records of any Borrower, in accordance with and to the extent required by GAAP;

(vi) the administrator of a Plan has not provided a notice of intent to terminate such Plan pursuant to Section 4041(a)(2) of ERISA (including any such notice with respect to a Plan amendment referred to in Section 4041(e) of ERISA) and no termination of a Plan has occurred, no proceedings have been instituted by the PBGC to terminate or appoint a trustee to administer any Single Employer Plan, and no Lien in favor of the PBGC or a Plan has arisen

(vii) none of Holdings, the Borrowers, any Subsidiary or any Commonly Controlled Entity has had or is reasonably expected to have a complete or partial withdrawal from any Multiemployer Plan and none of Holdings, the Borrowers,

any Subsidiary or any Commonly Controlled Entity would become or would reasonably be expected to become subject to any material liability under ERISA if Holdings, any such Borrowers, any such Subsidiary or any such Commonly Controlled Entity were to withdraw partially or completely from all Multiemployer Plans as of the valuation date most closely preceding the date on which this representation is made or deemed made;

(viii) no such Multiemployer Plan is or is reasonably expected to be in Reorganization or Insolvent and none of Holdings, the Borrowers, any Subsidiary or any Commonly Controlled Entity has received any notice, and no Multiemployer Plan has received from Holdings, the Borrowers, any Subsidiary or any Commonly Controlled Entity any notice that a Multiemployer Plan is in or is reasonably expected to be in endangered or critical status under Section 432 of the Code or Section 305 of ERISA;

(ix) each Plan (and each related trust, if any) which is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the IRS to the effect that it meets the requirements of Sections 401(a) and 501(a) of the Code or is comprised of a master or prototype plan that has received a favorable opinion letter from the IRS, and, nothing has occurred since the date of such determination that would adversely affect such determination (or, in the case of a Plan with no determination, nothing has occurred that would adversely affect the issuance of a favorable determination letter or otherwise adversely affect such qualification); and

(x) there has been no cessation of operations at a facility of Holdings, the Borrowers, any Subsidiary or any Commonly Controlled Entity in the circumstances described in Section 4062(e) of ERISA; and

(xi) none of Holdings, the Borrowers, any Subsidiary or any Commonly Controlled Entity has engaged in a non-exempt prohibited transaction within the meaning of Section 4975 of the Code or Section 406 of ERISA with respect to a Plan, and none of Holdings, the Borrowers, any Subsidiary nor any Commonly Controlled Entity has incurred any liability under Title IV of ERISA with respect to any Plan or any Multiemployer Plan (other than premiums due and not delinquent under Section 4007 of ERISA).

(b) There are no actions, suits or claims pending against or involving a Plan (other than routine claims for benefits) or, to the knowledge of Holdings, the Borrowers, any Subsidiary or any Commonly Controlled Entity, threatened, which would reasonably be expected to be asserted successfully against any Plan and, if so asserted successfully, could reasonably be expected either singly or in the aggregate to result in a Material Adverse Effect.

(c) Except as, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, (i) each Non-U.S. Plan has been maintained in compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders and has been maintained, where required, in good standing with applicable regulatory authorities, (ii) all contributions required to be made with respect to a Non-U.S. Plan as of the Closing Date have been timely made, and (iii) none of Holdings, the

Borrowers or any Subsidiary has incurred any obligation in connection with the termination of, or withdrawal from, any Non-U.S. Plan.

5.15 Investment Company Act. Neither Holdings nor any of its Subsidiaries is an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended.

5.16 Subsidiaries. As of the Closing Date and after giving effect to the Transaction, Schedule 5.16 sets forth the name and jurisdiction of organization of each Subsidiary and, as to each such Subsidiary, the percentage of each class of Capital Stock owned by Holdings or any of its Subsidiaries and whether such Subsidiary is a Subsidiary Guarantor.

5.17 Environmental Matters. Except as could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect:

(a) the facilities and properties currently and, to the knowledge of any Loan Party, formerly owned, leased or operated by Holdings or any of its Subsidiaries (the "Properties") do not contain any Materials of Environmental Concern in amounts or concentrations or under circumstances so as has given rise to or would give rise to liability of Holdings or any of its Subsidiaries under, any Environmental Law;

(b) no Loan Party has received any written notice of violation, alleged violation, non-compliance, liability or potential liability under or compliance with Environmental Laws with regard to any of the Properties or the business operated by Holdings or any of its Subsidiaries, nor does any Loan Party have knowledge that any such notice will be received or is being threatened;

(c) Materials of Environmental Concern have not been Released, transported or disposed of from the Properties by or on behalf of Holdings or any of its Subsidiaries in violation of, or in a manner or to a location that has given rise to or would give rise to liability under, any Environmental Law, nor have any Materials of Environmental Concern been Released, generated, treated, stored or disposed of at, on or under any of the Real Properties or by Holdings or any of its Subsidiaries in violation of, or in a manner that has given rise to or would give rise to liability under, any applicable Environmental Law;

(d) no judicial proceeding or governmental or administrative action is pending or, to the knowledge of any Loan Party, threatened, under any Environmental Law to which Holdings or any of its Subsidiaries is named as a party, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to the Real Properties or the business operated by Holdings or any of its Subsidiaries;

(e) to the knowledge of any Loan Party, there are no past or present actions, activities, circumstances, conditions, events or incidents with respect to the Properties or the business operated by Holdings or any of its Subsidiaries, including, without limitation, the Release, emission, discharge, presence or disposal of any Material of Environmental Concern, that could form the basis of any judicial proceeding or governmental or administrative action against Holdings or any of its Subsidiaries or against any person or entity whose liability for any

such action or order Holdings or any of its Subsidiaries has retained or assumed either contractually or by operation of law, or otherwise result in any costs, liabilities or restrictions on ownership, occupancy, use or transferability of any property under Environmental Law; and

(f) Holdings, its Subsidiaries, the Real Property and all operations at the Real Property are in compliance with all applicable Environmental Laws.

The representations and warranties in this Section 5.17 are the sole representations and warranties of the Loan Parties with respect to any environmental, health or safety matters, including those relating to Environmental Laws or Materials of Environmental Concern.

5.18 Accuracy of Information, etc. No written data (other than the DIP Budget and information of a general economic or general industry nature) concerning Holdings or any of its Subsidiaries contained in this Agreement, any other Loan Document or any other document, certificate or statement furnished by or on behalf of any Loan Party to the Administrative Agent or the Lenders, or any of them, for use in connection with the transactions contemplated by this Agreement or the other Loan Documents, contained as of the date such statement, information, data document or certificate was so furnished, when taken as a whole, any untrue information or data of a fact in any material respect or omitted to state a fact necessary to make the information or data contained herein or therein not misleading in any material respect. The DIP Budget and pro forma financial information, taken as a whole, contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of Holdings in good faith to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact, forecasts and projections are subject to uncertainties and contingencies, actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount and no assurance can be given that any forecast or projections will be realized.

5.19 Security Interest.

(a) This Agreement, the Orders and the Term DIP Security Documents, subject to entry of the Orders, are effective to create in favor of the Collateral Agent, subject to the Carve-Out and, subject to the ABL/Term Loan Intercreditor Agreement, the Prepetition ABL Priority Collateral, for the benefit of the Secured Parties, legal, valid, enforceable and continuing first-priority Liens on, and security interests in, the Collateral pledged hereunder or thereunder, in each case, with respect to priority, subject to no Liens other than Permitted Priority Liens with the relative priorities granted pursuant to the terms of the Orders, as applicable. Pursuant to the terms of the Interim Order and/or Final Order, no filing or other action will be necessary to perfect or protect such Liens and security interests. Pursuant to and to the extent provided in the Interim Order and the Final Order, the Indebtedness of the Debtors under this Agreement will constitute part of the Superpriority DIP Claim.

5.20 Chapter 11 Cases. The Chapter 11 Cases were commenced on the Petition Date in accordance with applicable law and proper notice has been or will be given of (i) the motion seeking approval of the Loan Documents, the Interim Order and the Final Order and (ii) the

hearing for the entry of the Interim Order, and (iii) hearing for the entry of the Final Order, as applicable.

5.21 Patriot Act; OFAC.

(a) To the extent applicable, each of Holdings and its Subsidiaries is in compliance, in all material respects, with the Patriot Act.

(b) Holdings represents that neither Holdings nor any of its Subsidiaries nor any director, officer, or employee thereof, nor, to its knowledge, any, agent, affiliate or representative of Holdings or any Subsidiary, is an individual or entity that is, or is owned or controlled by a Person that is:

(i) listed in the annex to, or it otherwise subject to the provisions of, Executive Order No. 13224 on Terrorist Financing effective September 24, 2001 (the "Executive Order");

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

(iii) prohibited from dealing or otherwise engaging in any transaction by any laws with respect to terrorism or money laundering;

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

(v) the subject of any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC"), the United Nations Security Council, the European Union or Her Majesty's Treasury ("HMT"), (collectively, "Sanctions"),

(vi) located, organized or resident in a country or territory that is the subject of Sanctions (including, without limitation, Cuba, Iran, North Korea and Syria).

(c) Holdings represents and covenants that it will not, directly or indirectly, use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person:

(i) to fund or facilitate any activities or business of or with any Person or in any country or territory that, at the time of such funding or facilitation, is the subject of Sanctions; or

(ii) in any other manner that will result in a violation of Sanctions by any Person (including any Person participating in the offering, whether as underwriter, advisor, investor or otherwise).

5.22 Orders. The Loan Parties are in compliance in all material respects with the terms and conditions of the Orders. Each of the Interim Order (with respect to the period prior to the

entry of the Final Order) or the Final Order. The Final Order (from after the date the Final Order is entered) is in full force and effect and has not been vacated, reversed or rescinded or, without the prior written consent of the Administrative Agent (acting at the direction of the Required Lenders), in their reasonable discretion, amended or modified and no appeal of any such Order has been timely filed or, if timely filed, a stay pending such appeal is currently effective.

5.23 Business and Property of the Loan Parties. Upon and after the Closing Date, no Loan Party nor any of their respective Subsidiaries proposes to engage in any business other than those businesses in which such entity is engaged on the date of this Agreement or that are reasonably related thereto and activities necessary to conduct the foregoing. On the Closing Date, subject to the entry of the Interim Order and the other "first day orders," the Loan Parties and their Subsidiaries has good and marketable title to, valid leasehold interests in, or valid licenses or other rights to use all personal property and possess all of the rights and consents necessary for the conduct of such businesses.

SECTION 6.
CONDITIONS PRECEDENT

6.1 Conditions to Effectiveness. The agreement of each Lender to make any extension of credit requested to be made by it under this Agreement on the Closing Date is subject to the satisfaction or waiver in accordance with Section 12.12, prior to or concurrently with the making of such extension of credit, of the following conditions precedent:

(a) Loan Documents. The Administrative Agent shall have received (i) this Agreement, executed and delivered by the Borrowers, Holdings, and each Subsidiary Guarantor and each Person listed on Schedule I, (ii) the Term DIP Security Agreement, executed and delivered by each Loan Party party thereto, (iii) the Administrative Agent Fee Letter and DIP Fee Letter, and (iv) the Intercompany Note executed and delivered by each Loan Party party thereto.

(b) Fees. On the Closing Date, the Lenders and the Administrative Agent shall have received all Fees and other amounts due and payable on or prior to the Closing Date, including all reasonable and documented (in summary form) out-of-pocket fees, costs, disbursements and expenses of (i) the Agents including, without limitation, all amounts owing under the Administrative Agent Fee Letter (limited, in the case of counsel, to all reasonable fees, costs, disbursements and expenses of the Agents' outside counsel, Norton Rose Fulbright US LLP ("NRF")), and (ii) the Lenders including, without limitation, all amounts owing under the DIP Fee Letter (limited, in the case of counsel, financial advisors and other outside professional advisors to all reasonable fees, costs, disbursements and expenses of the Lenders' outside counsel, King & Spalding LLP ("K&S") and (iii) Houlihan Lokey Capital, Inc. ("Houlihan"), as financial advisor to the Lenders (pursuant to that certain letter of engagement dated as of January 26, 2017, by and between K&S, the Borrowers and Houlihan, and (iv) any other professional advisors retained by the Administrative Agent, or the Lenders or their respective counsel, including the fees, charges and disbursements of one firm of local counsel for the Administrative Agent, the Collateral Agent or the Lenders and other professional advisors, all of which shall have been paid in full in cash, to the extent invoiced to the Borrowers no later than one (1) Business Day prior to the Closing Date.

(c) Closing Certificates; Organizational Documents; Good Standing Certificates. The Administrative Agent shall have received a certificate of each Loan Party, dated the Closing Date signed by the Secretary or any Assistant Secretary of such Loan Party and attested to by an Authorized Officer of such Loan Party, with the following insertions and attachments: (i) certified organizational authorizations, incumbency certifications, the certificate of incorporation or other similar organizational document of each Loan Party certified by the relevant authority of the jurisdiction of organization of such Loan Party and bylaws or other similar organizational document of each Loan Party certified as being in full force and effect on the Closing Date, (ii) a good standing certificate (long form, to the extent available) for each Loan Party from its jurisdiction of organization and (iii) a Perfection Certificate of each Loan Party, dated as of the Closing Date, signed by an Authorized Officer of such Loan Party.

(d) [Reserved].

(e) Patriot Act. The Administrative Agent and the Lenders shall have received, at least three (3) Business Days prior to the Closing Date, all documentation and other information about the Borrowers and the Guarantors as has been reasonably requested in writing at least ten (10) days prior to the Closing Date by the Administrative Agent and such Lenders that they reasonably determine is required by Governmental Authorities under applicable "know your customer" and anti-money-laundering rules and regulations, including, without limitation, the Patriot Act.

(f) Representations and Warranties. The representations and warranties set forth herein shall be true and correct in all material respects (without duplication of any materiality qualifiers set forth therein) as of the Closing Date, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects (without duplication of any materiality qualifiers set forth therein) as of such earlier date.

(g) The Administrative Agent and the Lenders shall have received the Initial Budget.

(h) All first day motions, including those related to the Term DIP Facility, filed by the Loan Parties and related orders entered by the Bankruptcy Court in the Chapter 11 Cases shall be in form and substance reasonably satisfactory to the Administrative Agent at the direction of the Required Lenders.

(i) Other than the Events and Circumstances, or as stayed upon the commencement of the Chapter 11 Cases, there shall exist no action, suit, investigation, litigation or proceeding pending or threatened in any court or before any arbitrator or governmental instrumentality that (i) could reasonably be expected to result in a Material Adverse Effect or (ii) restrains, prevents or imposes or can reasonably be expected to impose materially adverse conditions upon the Term DIP Facility, the Collateral or the transactions contemplated thereby.

(j) Subject to entry of the Orders, the Collateral Agent, for the benefit of the Lenders, shall have a valid and perfected Lien on and security interest in the Collateral of the Debtors on the basis and with the priority set forth herein.

(k) [Reserved].

(l) The Administrative Agent shall have received a duly executed IRS Form W-9 or other applicable tax form from each of the Borrowers.

(m) (i) The Loan Parties shall have entered into a restructuring support agreement with the holders (each, a "Consenting First Lien Lender"; and collectively, the "Consenting First Lien Lenders") that hold in the aggregate not less than 50.1% of the Prepetition First Lien Obligations, in form and substance reasonably satisfactory to the Administrative Agent and the Lenders (the "RSA").

(n) Other than the Orders, there shall not exist any law, regulation, ruling, judgment, order, injunction or other restraint that prohibits, restricts or imposes a materially adverse condition on the Term DIP Facility or the exercise by the Collateral Agent at the direction of the Lenders of its rights as a secured party with respect to the Collateral.

(o) The Intercreditor Agreements shall be in full force and effect.

(p) The Administrative Agent and the Lenders shall have received (i) duly executed copies of the engagement letters for the Consultants, which shall be on terms and conditions reasonably acceptable to the Required Lenders and (ii) evidence that the Loan Parties filed a motion on the Petition Date seeking to retain the Consultants on terms reasonably satisfactory to the Required Lenders.

(q) The Administrative Agent and the Lenders shall have received evidence that the Borrowers and an Approved Liquidator have entered into the Agency Agreement on terms satisfactory to the Required Lenders and such Agency Agreement shall be in full force and effect subject only to the entry by the Bankruptcy Court of an order approving the Initial Store Closing Sale.

In determining the satisfaction of the conditions specified in this Section 6.1, (x) to the extent any item is required to be satisfactory to any Lender, such item shall be deemed satisfactory to each Lender which has not notified the Administrative Agent in writing prior to the occurrence of the Closing Date that the respective item or matter does not meet its satisfaction and (y) in determining whether any Lender is aware of any fact, condition or event that has occurred and which would reasonably be expected to have a Company Material Adverse Effect, each Lender which has not notified the Administrative Agent in writing prior to the occurrence of the Closing Date of such fact, condition or event shall be deemed not to be aware of any such fact, condition or event on the Closing Date. Upon the initial funding of the Initial DIP Borrowings, then the Closing Date shall have been deemed to have occurred, regardless of any subsequent determination that one or more of the conditions thereto had not been met (although the occurrence of the Closing Date shall not release Holdings or the Borrowers from any liability for failure to satisfy one or more of the applicable conditions contained in this Section 6.1).

The acceptance of the benefits of each extension of credit hereunder shall constitute a representation and warranty by Holdings and the Borrowers to the Administrative Agent and each of the Lenders that all the conditions specified in this Section 6.1 (with respect to

extensions of credit on the Closing Date) and applicable to such extensions of credit are satisfied as of that time, unless waived in accordance with Section 12.12. All of the Term DIP Notes, certificates, legal opinions and other documents and papers referred to in this Section 6.1, unless otherwise specified, shall be delivered to the Administrative Agent at the Notice Office for the account of each of the Lenders.

6.2 Conditions to Initial Borrowing. With respect to the Initial Borrowing,

(a) Initial Borrowing. The Bankruptcy Court shall have entered the Final Order within thirty-five (35) Business Days following the Petition Date, in form and substance satisfactory to the Administrative Agent and the Required Lenders, which Final Order shall include, without limitation, copies of the Term DIP Facility, and the Initial Budget, as exhibits thereto, entered on notice to such parties as may be reasonably satisfactory to the Administrative Agent and the Required Lenders, (i) authorizing and approving the Term DIP Facility and the Transactions, including, without limitation, the granting of the superpriority status, security interests and priming liens, and the payment of all fees, referred to herein; (ii) lifting or modifying the Automatic Stay to permit the Borrowers and the Guarantors to perform their obligations and the Lenders to exercise their rights and remedies with respect to the Term DIP Facility; (iii) authorizing the use of each collateral and providing for adequate protection in favor of the Prepetition First Lien Lenders as and to the extent provided herein; and (iv) reflecting such other terms and conditions that are satisfactory to the Administrative Agent, the Required Lenders and the Loan Parties in their reasonable discretion, in each case, on the terms and conditions set forth herein, which Final Order shall be in full force and effect, shall not have been reversed, vacated or stayed and shall not have been amended, supplemented or otherwise modified without the prior written consent of the Administrative Agent and the Required Lenders, which consent shall not be unreasonably withheld, delayed, or conditions.

(b) Notice of Borrowing. The Administrative Agent shall have received a Notice of Borrowing on the date three (3) Business Day prior to the Initial DIP Borrowing meeting the requirements of Section 2.3(a).

(c) Representations and Warranties. The representations and warranties set forth herein shall be true and correct in all material respects (without duplication of any materiality qualifiers set forth therein) as of the date of the Initial DIP Borrowing, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects (without duplication of any materiality qualifiers set forth therein) as of such earlier date.

(d) No Default. No Default or Event of Default shall exist, or would result from the Initial DIP Borrowing.

(e) The Initial DIP Borrowing shall be for purposes and in amounts (i) consistent with the DIP Budget (subject to the Permitted Variance) and the RSA and (ii) reasonably satisfactory to the Administrative Agent and the Required Lenders.

(f) Ratings. Each of Holdings and the Borrowers shall have used commercially reasonable efforts to obtain public ratings for the Term DIP Facility from each of

S&P and Moody's and thereafter, shall use commercially reasonable efforts to cause the Term DIP Facility to be continuously publicly rated by S&P and Moody's.

6.3 Conditions to Subsequent DIP Borrowings. With respect to any Subsequent DIP Borrowing,

(a) Borrowings. Either (i) the Effective Date shall have occurred; or (ii) (A) the Bankruptcy Court shall have entered (x) an order approving the Disclosure Statement in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders, which such order shall be in full force and effect and shall not have been reversed, vacated or stayed, and shall not have been amended, supplemented or otherwise modified without the prior written consent of the Administrative Agent at the direction of the Required Lenders and (y) an order approving such Subsequent DIP Borrowing in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders, which such order shall be in full force and effect and shall not have been reversed, vacated or stayed, and shall not have been amended, supplemented or otherwise modified without the prior written consent of the Administrative Agent at the direction of the Required Lenders and (B) the Required Lenders shall have consented to such Borrowing and the use of proceeds thereof.

(b) Notice of Borrowing. The Administrative Agent shall have received a Notice of Borrowing meeting the requirements of Section 2.3(a).

(c) Representations and Warranties. The representations and warranties set forth herein shall be true and correct in all material respects (without duplication of any materiality qualifiers set forth therein) as of the date of the Borrowing, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects (without duplication of any materiality qualifiers set forth therein) as of such earlier date.

(d) No Default. No Default or Event of Default shall exist, or would result from the Borrowing.

(e) Final Order. The Final Order shall be in full force and effect and shall not have been reversed, vacated or stayed, and shall not have been amended, supplemented or otherwise modified without the prior written consent of the Administrative Agent at the direction of the Required Lenders.

(f) Each Borrowing shall be for purposes and in amounts (i) consistent with the DIP Budget (subject to the Permitted Variance) and the RSA and (ii) reasonably satisfactory to the Administrative Agent and the Required Lenders.

SECTION 7.
AFFIRMATIVE COVENANTS

Holdings and the Borrowing Agent hereby jointly and severally agree that, until all Term DIP Commitments have been terminated and the principal of and interest on each Term Loan, all fees and all other expenses or amounts payable under any Loan Document shall have been paid in full (other than contingent indemnification and reimbursement obligations for which no claim

has been made), each of Holdings and the Borrowing Agent shall, and shall cause each of its Subsidiaries to:

7.1 Financial Statements. Furnish to the Administrative Agent (who shall promptly furnish to each Lender):

(a) As soon as available, (i) a Consolidated balance sheet of the Borrowers and its Subsidiaries as at the end of each Fiscal Year, and the related consolidated statements of income or operations, Shareholders' Equity and cash flows for such Fiscal Year, setting forth in each case (to the extent available, with respect to any Fiscal Year ending prior to, or a portion of which occurs prior to, the Closing Date) in comparative form the figures for the previous Fiscal Year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of a Registered Public Accounting Firm of nationally recognized standing reasonably acceptable to the Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards, (ii) but in any event within thirty (30) days after the end of each of the Fiscal Months of each Fiscal Year of the Borrowers, a Consolidated balance sheet of the Borrowers and its Subsidiaries as at the end of such Fiscal Month, and the related consolidated statements of income or operations (which shall be limited to operating profit (including interest but excluding taxes)), and, to the extent prepared, cash flows for such Fiscal Month, and for the portion of the Borrowers' Fiscal Year then ended, setting forth in each case (to the extent available, with respect to any Fiscal Month or Fiscal Year ending prior to, or a portion of which occurs prior to, the Closing Date) in comparative form the figures for the corresponding Fiscal Month of the previous Fiscal Year and the corresponding portion of the previous Fiscal Year, all in reasonable detail, certified by an Authorized Officer of the Borrowers as fairly presenting, in all material respects, the financial condition, results of operations, and to the extent prepared, cash flows of the Borrowers and its Subsidiaries as of the end of such Fiscal Month, subject only to normal year-end audit adjustments and the absence of footnotes;

(b) The DIP Budget may be updated, modified or supplemented (with the consent of the Required Lenders and/or at the reasonable request of the Required Lenders) from time to time, and each such updated, modified or supplemented budget shall be approved by, and in form and substance satisfactory to, the Required Lenders and no such updated, modified or supplemented budget shall be effective until so approved and once so approved shall be deemed a DIP Budget; provided, that during the fourth (4th) week of the initial DIP Budget (and the fourth (4th) week of each successive DIP Budget thereafter), the Borrowers shall submit a budget for the next successive thirteen (13) week period to the Required Lenders, which budget shall be in form and substance acceptable to the Required Lenders and approved by the Required Lenders; provided, further, that in the event that the Required Lenders and the Borrowers cannot, while acting in good faith, agree as to an updated, modified or supplemented budget, such disagreement shall give rise to an Event of Default hereunder once the period covered by the most recent DIP Budget has terminated. Each DIP Budget delivered to the Required Lenders shall be accompanied by such supporting documentation as requested by the Administrative Agent or Required Lenders; and

(c) within thirty (30) calendar days after the end of each fiscal month of each fiscal year, management operating reports of Borrowing Agent and its Subsidiaries as of the close of such fiscal month and the then elapsed portion of the fiscal year.

All such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and (except as otherwise provided below) in accordance with GAAP applied consistently (except to the extent any such inconsistent application of GAAP has been approved by such accountants (in the case of clauses (a) and (b) above) or Authorized Officer (in the case of clause (b) above), as the case may be, and disclosed in reasonable detail therein) consistently throughout the periods reflected therein and with prior periods.

7.2 Certificates; Other Information. Furnish to the Administrative Agent (other than in the case of clause (f) below, who shall promptly furnish to each Lender), or, in the case of clause (e) below, the Administrative Agent or requesting Lender, as the case may be:

(a) Promptly upon the request of the Administrative Agent, in connection with the delivery of any financial statements or other information pursuant to Section 7.1 or this Section 7.2, confirmation of whether such statements or information contain any Private Lender Information. Holdings, the Borrowing Agent and each Lender acknowledge that 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 Borrowing Agent, Holdings, their respective Subsidiaries or their securities) and, if documents or notices required to be delivered pursuant to Section 7.1 or this Section 7.2 or otherwise are being distributed through IntraLinks/IntraAgency, SyndTrak or another relevant secure website or other information platform (the "Platform"), any document or notice that the Borrowing Agent has indicated contains Private Lender Information shall not be posted on that portion of the Platform designated for such public-side Lenders. If the Borrowing Agent has not indicated whether a document or notice delivered pursuant to Section 7.1 or this Section 7.2 contains Private Lender Information, the Administrative Agent reserves the right to post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive Private Lender Information with respect to the Borrowing Agent, Holdings, their respective Subsidiaries and their securities. Holdings and the Borrowing Agent further acknowledge and agree, at the reasonable request of the Administrative Agent, to assist in the preparation of a version materials and presentations to be used in connection with the syndication of the Term DIP Facility to potential Lenders who do not wish to receive Private Lender Information, consisting exclusively of Public Lender Information;

(b) concurrently with the delivery of any financial statements pursuant to Sections 7.1(a), and (b) other than with respect to any period ending prior to the Closing Date, a Compliance Certificate (i) stating that, to the best of the Authorized Officer's knowledge, Holdings and its Subsidiaries during such period has observed or performed all of its covenants and other agreements contained in this Agreement or the other Loan Documents to which it is a party to be observed, performed or satisfied by it, and such Authorized Officer has obtained no knowledge of any Event of Default except as specified in such Compliance Certificate, (ii) to the extent not previously disclosed to the Administrative Agent, a description of any change in the jurisdiction of organization of any Loan Party, and (iii) a description of each event, condition or circumstance during the last fiscal quarter covered by such Compliance Certificate requiring a mandatory prepayment under Section 4.2;

(c) upon the reasonable request of the Administrative Agent or Required Lenders, periodic estimated summaries of the then Reported Fee Accruals;

(d) promptly after Holdings' or any of its Subsidiaries' receipt thereof, a copy of any "management letter" received from its certified public accountants and management's response thereto;

(e) promptly following the Administrative Agent's or any Lender's request therefor, all documentation and other information that such Lender reasonably requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering or terrorist financing rules and regulations, including the Patriot Act; and

(f) as promptly from time to time following the Administrative Agent's request therefor, such other information regarding the operations, business affairs and financial condition of Holdings, the Borrowing Agent or any Subsidiary, or compliance with the terms of any Loan Document, as the Administrative Agent may reasonably request.

(g) following the delivery of the Initial Budget on the Closing Date, (i) during the fourth (4th) week of the Initial Budget (and the fourth (4th) week of each successive DIP Budget thereafter), an updated budget for the then-upcoming thirteen (13) week period, in each case, in substance reasonably satisfactory to and approved by the Administrative Agent (at the direction of the Required Lenders) and consistent with the form of the Initial Budget delivered on the Closing Date, including professional fees and expenses budgeted for the Case Professionals on a monthly basis and a summary of accrued professional fees for Case Professionals on a weekly basis (the "DIP Budget"); and (ii) beginning on the fourth Friday following the Closing Date, and on every second Friday thereafter, a variance report (the "Variance Report") (A) showing actual receipts and disbursements for each line item compared to the DIP Budget, as applicable, of the Loan Parties as of Saturday of each week on a cumulative basis from the Petition Date until the fourth (4th) week after the Petition Date and then on a rolling four (4) week basis at all times thereafter and setting forth all the variances, on a line-item basis, as applicable, from the amount set forth for such period as compared to the Initial Budget or the most recently approved DIP Budget delivered prior to such Variance Report, and each such Variance Report shall include explanations for all material variances and shall be certified by the chief financial officer of the Loan Parties, (B) showing the actual "Eligible Inventory" as of Saturday of each week and the variance to the DIP Budget for such week, and (C) certified by an Authorized Officer of the Borrowers.

7.3 Payment of Taxes. Pay and discharge all Taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits, or upon any properties belonging to it, in each case on a timely basis, and all lawful claims which, if unpaid, might become a lien or charge upon any properties; provided that Holdings, the Borrowers and their Subsidiaries shall not be required to pay any such Tax, assessment, charge, levy or claim (i) which is being contested in good faith and by proper proceedings if it has maintained adequate reserves with respect thereto in accordance with GAAP or (ii) with respect to which the failure to make such payment could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

7.4 Maintenance of Existence; Compliance. (a) (i) Preserve, renew and keep in full force and effect its organizational existence under the laws of its jurisdiction of organization or formation and (ii) take all reasonable action to maintain or obtain all Governmental Approvals and all other all rights, privileges and franchises, in each case necessary or desirable in the normal conduct of its business, except, in each case, as otherwise permitted hereunder and except, (x) in the case of clause (i) (in respect of Subsidiaries that are not Loan Parties) and (ii) above, to the extent that failure to do so could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect and (y) in connection with a transaction permitted by Sections 8.3 and 8.4; (b) comply in all material respects with all Requirements of Law (including Environmental Laws) except to the extent that failure to comply therewith could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and (c) comply with all Governmental Approvals except to the extent that failure to do so could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

7.5 Maintenance of Property; Insurance.

(a) (i) Keep all property useful and necessary in its business in good working order and condition, ordinary wear and tear and casualty and condemnation excepted, except to the extent the failure to do so could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (ii) preserve or renew all of its Intellectual Property, except to the extent (x) such Intellectual Property is no longer used in the conduct of the business of the Loan Parties, (y) the Borrowing Agent determines in its good faith business judgment that it is not commercially reasonable to preserve or renew such Intellectual Property, taken as a whole, or (z) such non-renewal or non-preservation is otherwise permitted under this Agreement or the other Loan Documents, (iii) maintain with financially sound and reputable insurance companies, insurance with respect to its properties and businesses in a manner consistent with industry practice for companies similarly situated owning similar properties and engaged in similar businesses (it being agreed by the Administrative Agent that the insurance policies, the amounts of coverage and the companies used by the Loan Parties and their Subsidiaries on the Closing Date are satisfactory to the Administrative Agent and that, solely to the extent and in the amounts and manner in place on the Closing Date in all material respects as set forth on Schedule 7.5, the Loan Parties and their Subsidiaries may continue to use self insurance to satisfy the requirements in this Section 7.5 and that, as of the Closing Date, such self insurance program complies with the requirements in this Section 7.5), and (iv) ensure that subject to the ABL/Term Loan Intercreditor Agreement at all times the Collateral Agent for the benefit of the Secured Parties, shall be named as an additional insured with respect to liability policies (other than worker's compensation policies and public liability policies) and the Collateral Agent for the benefit of the Secured Parties and shall be named as loss payee with respect to the property insurance (other than public property policies) maintained by the Borrowing Agent and each Subsidiary Guarantor.

(b) Subject to the ABL/Term Loan Intercreditor Agreement, Holdings will, and will cause each of its Subsidiaries to, at all times keep its property constituting Collateral insured in favor of the Collateral Agent as loss payee and/or additional insured (subject to the exceptions in the immediately preceding paragraph), as applicable, and all policies or certificates (or certified copies thereof) with respect to such insurance (and any other insurance maintained

by Holdings and/or its Subsidiaries) (i) shall be endorsed to the Collateral Agent's reasonable satisfaction for the benefit of the Collateral Agent (including, without limitation, by naming the Collateral Agent as loss payee and/or additional insured, as applicable) and (ii) shall state that such insurance policies shall not be canceled without at least thirty (30) days' prior written notice (or if such cancellation is by reason of nonpayment of premium, at least ten (10) days' prior written notice) thereof by the respective insurer to the Collateral Agent (unless it is such insurer's policy not to provide such a statement).

7.6 Inspection of Property; Books and Records; Discussions. Keep proper books of records and accounts in which entries full, true and correct in all material respects in conformity with all Requirements of Law shall be made of all dealings and transactions in relation to its business and activities and from which financial statements conforming with GAAP can be derived and (ii) permit, at the Borrower's expense, representatives of the Administrative Agent (and, if a Lender requests to accompany the Administrative Agent, such Lender) to visit and inspect any of its properties and examine and make abstracts from any of its books and records at any reasonable time during normal business hours, upon reasonable prior notice, and as often as may reasonably be desired and to discuss the business, operations, properties and financial condition of Holdings and its Subsidiaries with employees of the Borrowers and their Subsidiaries and with the independent certified public accountants of Holdings and its Subsidiaries so long as the Borrowers shall have been given the reasonable opportunity to participate in such discussions; provided, that notwithstanding the foregoing, (i) any such visit or inspection shall be conducted through the Administrative Agent, (ii) unless an Event of Default shall have occurred and be continuing, such visits and inspections shall be limited to four (4) times in any twelve month period and only one (1) such time shall be at the Borrower's expense and (iii) nothing in this Section 7.6 shall require Holdings or its Subsidiaries to take any action that would violate a confidentiality agreement or waive any attorney-client or similar privilege.

7.7 Notices. Upon actual knowledge thereof by an Authorized Officer, promptly give written notice to the Administrative Agent (who shall promptly furnish to each Lender) of:

(a) the occurrence of any Default or Event of Default;

(b) any default or event of default under the Prepetition Second Lien Loan Documents, the Prepetition ABL Facility or Indebtedness (other than the Obligations) in an aggregate principal amount exceeding $10,000,000 ("Material Indebtedness");

(c) any litigation, investigation or proceeding that may exist at any time involving Holdings or any Subsidiary, that (i) could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or (ii) relates to any Loan Document;

(d) the following events, promptly and in any event within ten (10) days after Holdings, the Borrowers, any Subsidiary or any Commonly Controlled Entity knows or has reason to know thereof: (i) the occurrence of any Reportable Event with respect to any Single Employer Plan, a failure to make any required contribution to a Single Employer Plan or a Multiemployer Plan or Non-U.S. Plan, the creation of any Lien in favor of the PBGC or a Plan or any withdrawal from, or the termination, Reorganization or Insolvency of, any Multiemployer Plan that would result in the imposition of a withdrawal liability, (ii) the institution of

proceedings or the taking of any other action by the PBGC or Holdings, the Borrowers, any Subsidiary or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination, Reorganization or Insolvency of, any Single Employer Plan or Multiemployer Plan, (iii) that a Single Employer Plan has failed to satisfy the minimum funding standard within the meaning of Section 412 of the Code or Section 302 of ERISA, or an application may be or has been made for a waiver or modification of the minimum funding standard (including any required installment payments) or an extension of any amortization period under Section 412 of the Code or Section 302 or 304 of ERISA with respect to a Single Employer Plan, (iv) that a determination has been made that any Single Employer Plan is, or is expected to be, considered an at-risk plan within the meaning of Section 430 of the Code or Section 303 of ERISA, (v) that a Multiemployer Plan is in or is reasonably expected to be in endangered or critical status under Section 305 of ERISA, (vi) that any contribution required to be made with respect to a Single Employer Plan, Multiemployer Plan or Non-U.S. Plan has not been timely made, (vii) that a non-exempt prohibited transaction within the meaning of Section 4975 of the Code or Section 406 of ERISA has occurred with respect to a Plan, (viii) the adoption of, or the commencement of contributions to, any Single Employer Plan by Holdings, the Borrowers, any Subsidiary or any Commonly Controlled Entity, (ix) the cessation of operations at a facility of Holdings, the Borrowers, any Subsidiary or any Commonly Controlled Entity in the circumstances described in Section 4062(e) of ERISA, or (x) the adoption of any amendment to a Single Employer Plan that results in an increase in contribution obligations of Holdings, the Borrowers, any Subsidiary or any Commonly Controlled Entity; and in each case in clauses (i) through (x) above, such event or occurrence, together with all other such events or conditions, if any, has had, or could reasonably be expected to have, a Material Adverse Effect;

(e) any change in the financial condition, business, operations, assets or liabilities of Holdings or any of its Subsidiaries that has had, or could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect;

(f) any of the following environmental matters to the extent that such environmental matters, either individually or in the aggregate would have a Material Adverse Effect:

(i) any pending or threatened Environmental Claim against Holdings or any of its Subsidiaries or any Real Property owned, leased or operated by Holdings or any of its Subsidiaries;

(ii) any condition or occurrence on or arising from any Real Property owned, leased or operated Holdings or any of its Subsidiaries that (a) results in noncompliance by Holdings or any of its Subsidiaries with any applicable Environmental Law or (b) could reasonably be expected to form the basis of an Environmental Claim against Holdings or any of its Subsidiaries or any such Real Property;

(iii) any condition or occurrence on any Real Property owned, leased or operated by Holdings or any of its Subsidiaries that would cause such Real Property to be subject to any restrictions on the ownership, lease, occupancy, use or transferability by Holdings or any of its Subsidiaries of such Real Property under any Environmental Law; or

(iv) the taking of any removal or remedial action to the extent required by any Environmental Law or any Governmental Authority in response to the Release or threatened Release of any Materials of Environmental Concern on any Real Property owned, leased or operated by Holdings or any of its Subsidiaries;

(g) the termination, discharge, or resignation of any of the Consultants; and

(h) the receipt or delivery of any material notice (including, without limitation, any notice of any breach or alleged breach) under the Agency Agreement or any agency agreement, asset purchase agreement or other contract relating to a Permitted Sale (as defined in the ABL DIP Credit Agreement) by any party thereto.

Each notice pursuant to this Section 7.7 shall be accompanied by a statement of an Authorized Officer of the Borrowers setting forth details of the occurrence referred to therein and stating what action the relevant Person proposes to take with respect thereto.

7.8 Additional Collateral, etc.

(a) With respect to any property (to the extent included in the definition of Collateral) acquired at any time after the Closing Date by any Loan Party (other than any property described in paragraph (c) or (d) below) as to which the Collateral Agent, for the benefit of the Secured Parties, does not have a perfected Lien, promptly execute and deliver to the Collateral Agent such amendments to the Term DIP Security Agreement or such other documents as the Collateral Agent reasonably deems necessary to grant to the Collateral Agent, for the benefit of the Secured Parties, a security interest in such property and take all actions reasonably necessary or advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a perfected (if and to the extent the assets subject to the applicable Term DIP Security Document can be perfected by the actions required, and to the extent required, by such Term DIP Security Document) first-priority (with respect to Term Priority Collateral) security interest (subject to the ABL/Term Loan Intercreditor Agreement and Liens permitted hereunder) in such property, including the filing of UCC financing statements in such jurisdictions as may be required by the Term DIP Security Agreement or by law or as may reasonably be requested by the Collateral Agent.

(b) [Reserved].

(c) With respect to any new Subsidiary Guarantor created or acquired after the Closing Date (or any Subsidiary that becomes a Subsidiary Guarantor after the Closing Date), promptly, and in any event within ten (10) days of such creation or acquisition (or, in the case of any Subsidiary that becomes a Subsidiary Guarantor, the date that such Subsidiary becomes a Subsidiary Guarantor) (as such date may be extended from time to time by the Administrative Agent) (i) execute and deliver to the Collateral Agent such amendments to this Agreement and the Term DIP Security Agreement as the Collateral Agent deems reasonably necessary or advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a perfected first-priority security interest (subject to the ABL/Term Loan Intercreditor Agreement) in the Capital Stock of such new Subsidiary Guarantor that is owned by any Loan Party, (ii) deliver to the Collateral Agent the certificates representing such Capital Stock (if any), together with undated

stock powers, in blank, executed and delivered by a duly Authorized Officer of the relevant Loan Party and (iii) cause such new Subsidiary Guarantor (a) to execute and deliver to the Collateral Agent (x) a Guarantor Joinder Agreement or such comparable documentation requested by the Collateral Agent to become a Subsidiary Guarantor, (y) a joinder agreement to the Term DIP Security Agreement, substantially in the form annexed thereto and (z) to the extent requested by the Administrative Agent a customary joinder agreement to any Intercreditor Agreement then in effect, (b) to take such actions reasonably necessary or advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a perfected (if and to the extent the assets subject to the applicable Term DIP Security Document can be perfected by the actions required, and to the extent required, by such Term DIP Security Document) first-priority security interest (subject to the ABL/Term Loan Intercreditor Agreement) in the Collateral described in the Term DIP Security Agreement with respect to such new Subsidiary Guarantor, including the filing of UCC financing statements in such jurisdictions as may reasonably be required by the Term DIP Security Agreement or by law or as may be requested by the Collateral Agent and (c) to deliver to the Collateral Agent (i) a certificate of such Subsidiary Guarantor, substantially in the form of the certificate provided by the Loan Parties on the Closing Date pursuant to Section 6.1(c), with appropriate insertions and attachments and (ii) if reasonably requested by the Collateral Agent, a legal opinion from counsel to such new Subsidiary Guarantor in form and substance reasonably satisfactory to the Collateral Agent.

(d) With respect to any new Subsidiary which is an Excluded Foreign Subsidiary described in clause (i) of the definition of Excluded Foreign Subsidiary created or acquired after the Closing Date by any Loan Party, promptly and in any event within three (3) Business Days (i) execute and deliver to the Collateral Agent such amendments to the Term DIP Security Agreement as the Collateral Agent reasonably deems necessary or advisable to grant to the Collateral Agent, for the benefit of the Secured Parties, a perfected first-priority security interest (subject to Liens permitted under Section 8.2) in no more than 65% of the total outstanding voting Capital Stock of any such Excluded Foreign Subsidiary and 100% of the total outstanding non-voting Capital Stock of any such Excluded Foreign Subsidiary and (ii) deliver to the Collateral Agent the certificates (if any) representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly Authorized Officer of the relevant Loan Party.

(e) With respect to any new Non-Guarantor Subsidiary created or acquired after the Closing Date by any Loan Party (but excluding any Excluded Foreign Subsidiary. Notwithstanding anything to the contrary in the foregoing clauses (c) and (d), the Borrowing Agent may notify the Agent at any time that the Borrowers desire to join an Excluded Foreign Subsidiary as a Subsidiary Guarantor under this Agreement and the other Loan Documents, and, in any such case, cause such Excluded Foreign Subsidiary to (i) become a Subsidiary Guarantor by executing and delivering to the Collateral Agent a Guarantor Joinder Agreement along with such other documentation as the Collateral Agent deems reasonably appropriate for effecting such joinder, (ii) grant a Lien in favor of the Collateral Agent for the ratable benefit of the Secured Parties on the assets and other personal property of such Excluded Foreign Subsidiary of the same type that constitute Collateral for purposes of the Term DIP Security Documents (other than with respect to any Excluded Assets of such Excluded Foreign Subsidiary but without giving effect to any provision of the definition of Excluded Assets that would otherwise result in such Excluded Foreign Subsidiary (and its tangible and intangible personal property) constituting

an Excluded Asset) and (iii) enter into (A) any such amendments, modifications, or other changes to this Agreement and any other Loan Document reasonably requested by the Collateral Agent in its reasonable discretion in order to address any matters in connection with, or related to, such Excluded Foreign Subsidiary becoming a Subsidiary Guarantor under the Loan Documents and (B) in the case of any Collateral of such Excluded Foreign Subsidiary that is located outside the continental United States, any local security documents or other agreements necessary to effect the Collateral Agent's security interest in such jurisdiction as determined by the Collateral Agent in its reasonable discretion. Each of the Lenders hereby authorize the Collateral Agent to enter into any such amendments, modifications, or other changes to this Agreement or any of the other Loan Documents solely to implement the foregoing.

(f) Within fifteen (15) days following an Event of Default (or such later date as the Administrative Agent may agree) in the case of all lockboxes and deposit accounts and bank or securities accounts of each Loan Party (other than Excluded Accounts), obtain and deliver to the Administrative Agent, account control agreements in form and substance reasonably satisfactory to the Administrative Agent (each an "Account Control Agreement"); provided, that notwithstanding any of the foregoing, so long as the ABL DIP Credit Agreement remains outstanding and in effect, no Loan Party shall be required to deliver Account Control Agreements for lockboxes, deposit accounts and bank or securities accounts which are not required to be subject to Cash Management Agreements (as defined in the ABL DIP Credit Agreement) under Section 6.13 of the ABL DIP Credit Agreement.

(g) Promptly upon the entering into of any security agreements or pledge agreements governed by, or with respect to assets maintained in, jurisdictions other than the United States to secure obligations under the Prepetition ABL Facility, the Prepetition First Lien Term Credit Agreement, or the ABL DIP Credit Agreement then at such time, the applicable Loan Party shall deliver a similar security agreement or pledge agreement, in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders, in favor of the Collateral Agent.

7.9 Credit Ratings. Use commercially reasonable efforts to maintain at all times a public credit rating by each of S&P and Moody's in respect of the Term DIP Facility provided for under this Agreement and a corporate rating by S&P and a corporate family rating by Moody's for the Borrowers, in each case, with no requirement to maintain any specific minimum rating (it being understood and agreed that "commercially reasonable efforts" shall in any event include the payment by the Borrowers of customary rating agency fees and reasonable cooperation with information and data requests by Moody's and S&P in connection with their ratings process).

7.10 Further Assurances. At any time or from time to time upon the request of the Administrative Agent, at the expense of the Borrowers but subject to the limitations set forth in the Loan Documents and this Agreement, promptly execute, acknowledge and deliver such further documents and do such other acts and things as the Administrative Agent may reasonably request in order to effect fully the purposes of the Loan Documents. In furtherance and not in limitation of the foregoing, the Loan Parties shall take such actions as the Administrative Agent or the Required Lenders may reasonably request from time to time (including, without limitation, the execution and delivery of guarantees, security agreements, pledge agreements, mortgages,

deeds of trust, stock powers, financing statements and other documents, the filing or recording of any of the foregoing, and the delivery of stock certificates and other Collateral with respect to which perfection is obtained by possession, in each case to the extent required by the applicable Loan Documents) to ensure that the Obligations are guaranteed by the Guarantors and are secured by substantially all of the assets (other than those assets specifically excluded by the terms of this Agreement and the other Loan Documents) of such Loan Parties on a first-priority basis (subject to the ABL/Term Loan Intercreditor Agreement and Permitted Priority Liens.

7.11 [Reserved].

7.12 Use of Proceeds. The Borrowers shall use the proceeds of the Term Loans only as provided in Section 5.12.

7.13 Compliance with Environmental Law.

(a) Holdings will comply, and will cause each of its Subsidiaries to comply, with all Environmental Laws and permits applicable to, or required by, the ownership, lease or use of its Real Property now or hereafter owned, leased or operated by Holdings or any of its Subsidiaries and will promptly pay or cause to be paid all costs and expenses incurred in connection with such compliance, except for such noncompliances or failure to pay as could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or be adverse to Lenders in any material respect. Neither Holdings nor any of its Subsidiaries will generate, use, treat, store, Release or dispose of, or be adverse to Lenders in any material respect, or permit the generation, use, treatment, storage, Release or disposal of Materials of Environmental Concern on any Real Property now or hereafter owned, leased or operated by Holdings or any of its Subsidiaries, or transport or permit the transportation of Materials of Environmental Concern to or from any such Real Property, except for such generation, use, treatment, storage, Release, disposal, or transport as could not reasonably be expected to have a Material Adverse Effect or be adverse to Lenders in any material respect.

(b) (i) After the receipt by the Administrative Agent or any Lender of any notice of the type described in Section 7.7(f), (ii) after fifteen (15) days have passed since receipt of written notice from Administrative Agent or any Lender that Holdings or any of its Subsidiaries are not in compliance with Section 7.13(a) and such non-compliance has not been corrected, or (iii) in the event that the Administrative Agent or the Lenders have exercised any of the remedies pursuant to Section 10, Holdings will (in each case) provide, at the sole expense of the Borrowers and at the written request of the Administrative Agent, a Phase I environmental site assessment report concerning any such related Mortgaged Property, prepared by an environmental consulting firm reasonably approved by the Administrative Agent indicating, where relevant, the presence or absence of Materials of Environmental Concern and the likely cost of any removal or remedial action in connection with such Materials of Environmental Concern on such Mortgaged Property. If the Borrowers fail to provide the same within forty-five (45) days after such request was made, the Administrative Agent may order the same, the cost of which shall be borne by the Borrowers, and the Borrowers shall grant and hereby grant to the Administrative Agent and the Lenders and their respective agents reasonable access to such related Mortgaged Property to undertake such an assessment at any reasonable time upon reasonable written notice to Holdings, all at the sole expense of the Borrower.

7.14 [Reserved].

7.15 Progress Calls. Upon request, the Borrowers shall hold monthly progress conference calls for the Administrative Agent and the Lenders, starting in the first week following the Closing Date, until the payment in full in cash of the Obligations and the termination of the Term DIP Commitments hereunder. Such conference calls shall be attended by the Borrowers' financial advisors and be held every month as soon as an Authorized Officer of the Borrowers and representatives of such financial advisors are reasonably available to have such conference call. During such conference calls an Authorized Officer of the Borrowers and its financial advisors shall provide the participating Lenders with a reasonably comprehensive update on the Chapter 11 Cases, variances with respect to the DIP Budget and any other material information relating to the business, condition (financial or otherwise), operation, performance, properties or prospects of any of the Loan Parties and any other information that may be reasonably requested by the Administrative Agent or any Lender.

7.16 Bankruptcy Covenants. Notwithstanding anything in the Loan Documents to the contrary, the Debtors shall comply with all material covenants, terms and conditions and otherwise perform all obligations set forth in the Orders.

(a) Chapter 11 Case Documents and Notices. Each Debtor shall deliver or cause to be delivered for review and comment, as soon as commercially reasonable and in any event at least two (2) Business Days prior to filing all material pleadings, motions and other documents (provided that any of the foregoing relating to the Term DIP Facility shall be deemed material) to be filed on behalf of the Debtors with the Bankruptcy Court to K&S and shall consult in good faith with such counsel regarding the form and substance of any such proposed filing. If not otherwise provided by the Bankruptcy Court's electronic docketing system, the Borrowers shall provide (x) copies to the Administrative Agent of all pleadings, motions, applications, judicial information, financial information and other documents filed by or on behalf of the Debtors with the Bankruptcy Court, distributed by or on behalf of the Debtors to any Committee, filed with respect to the Chapter 11 Cases or filed with respect to any Loan Document and (y) such other reports and information as the Administrative Agent may, from time to time, reasonably request. In connection with the Chapter 11 Cases, the Debtors shall give the proper notice for (x) the motions seeking approval of the Loan Documents and the Orders and (y) the hearings for the approval of the Orders. The Borrowers and the other Debtors shall give, on a timely basis as specified in the Orders, all notices required to be given to all parties specified in the Orders.

(b) Restructuring Proposals. Each Loan Party shall promptly deliver or cause to be delivered to the Administrative Agent and the Lenders copies of any term sheets, proposals, presentations or other documents, from any party, related to (i) the restructuring of the Loan Parties, or (ii) the sale of assets of one or all of the Loan Parties.

(c) Prepetition Payments. Except to the extent permitted hereunder, under the Orders or under the DIP Budget, no Loan Party shall, without the express prior written consent of the Administrative Agent and Required Lenders or pursuant to an order of the Bankruptcy Court after notice and a hearing, use the proceeds of the Loans or cash collateral to make any Prepetition Payment.

(d) Agreements. Except as approved in writing by the Administrative Agent (acting at the direction of the Required Lenders) or contemplated by the first day orders, no Loan Party shall assume, reject, cancel, terminate, breach or modify any agreement, contract, instrument or other document if such assumption, rejection, cancellation, termination, breach or modification, either individually or in the aggregate, would have a negative effect on the value of the Collateral or a Material Adverse Effect upon the Loan Parties' operations.

(e) Initial Store Closing Motion. On the Petition Date, the Loan Parties shall have filed a motion (the "Initial Store Closing Motion") requesting an order from the Bankruptcy Court pursuant to Section 363 of the Bankruptcy Code authorizing the Loan Parties to enter into the Agency Agreement and conduct the Initial Store Closing Sales with the Bankruptcy Court.

(f) Agency Agreement. No later than 14 days Postpetition, the Bankruptcy Court shall have entered an order approving the Agency Agreement as requested in the Initial Store Closing Motion.

(g) Sale Process Information. Upon request, the Loan Parties shall provide the Lenders with a status report and such other updated information relating to the sale process as may be reasonably requested by the Lenders, in form and substance reasonably acceptable to the Required Lenders.

(h) Lease Extension. No later than 14 days Postpetition, the Loan Parties shall have filed a motion seeking an order ("Lease Extension Order") of the Bankruptcy Court extending the time period of the Loan Parties to assume or reject leases to not less than 210 days from the Petition Date, and on or before 30 days Postpetition, the Bankruptcy Court shall have entered the Lease Extension Order.

7.17 Retention of Consultants; Communication with Accountants and Other Financial Advisors.

(a) The Administrative Agent and Required Lenders shall have received evidence by no later than the Petition Date, that the Loan Parties have filed motions seeking to retain the Independent Consultant and Financial Advisor. The terms and scope of the engagement of and responsibilities of such Consultants shall be acceptable to the Required Lenders. Subject to Bankruptcy Court approval, to be obtained by no later than forty-five (45) days after the Petition Date, the Loan Parties shall continue to retain such Consultants, the scope and terms of each such engagement to be reasonably satisfactory to the Required Lenders. There shall be no material modifications to the terms (excluding any decreases in compensation but including any other modification in compensation) of the engagement of such Consultants without the consent of the Required Lenders. Until such time as all Prepetition First Lien Obligations and all Obligations have been repaid in full and the Total Term DIP Commitment has been terminated, the Borrowers shall continue to retain such Consultants to assist the Loan Parties with the preparation of the DIP Budget and the other financial and Collateral reporting required to be delivered to the Required Lenders pursuant to this Agreement, and approval of all requests for Borrowing and all disbursements by the Borrowers.

(b) The Borrowers authorize the Administrative Agent, the Required Lenders, and their respective representatives to communicate directly with the Loan Parties' independent certified public accountants, appraisers, financial advisors, investment bankers and consultants (including the Consultants), which have been engaged from time to time by the Loan Parties, and authorizes and shall instruct those accountants, appraisers, financial advisors, investment bankers and consultants to communicate to the Administrative Agent, the Required Lenders and their respective representatives' information relating to each Loan Party with respect to the business, results of operations, prospects and financial condition of such Loan Party. The Borrowers acknowledge and agree that the Loan Parties and their representatives will reasonably cooperate with the Consultants and any Lender Group Consultant (as defined below).

(c) Each Loan Party acknowledges that the Administrative Agent and Required Lenders shall be permitted to engage such outside consultants and advisors (each, a "Lender Group Consultant"), for the sole benefit of the Lenders, as the Required Lenders may determine to be necessary or appropriate, in their reasonable discretion. Each Loan Party covenants and agrees that (i) such Loan Party shall provide its complete cooperation with any Lender Group Consultant (including, without limitation, providing unfettered access to such Loan Party's business, books and records and senior management); (ii) all costs and expenses of any such Lender Group Consultant shall be expenses required to be paid by the Loan Parties under Section 12.1 hereof; and (iii) all reports, determinations and other written and verbal information provided by any Lender Group Consultant shall be confidential and no Loan Party shall be entitled to have access to same.

Notwithstanding anything in the Loan Documents to the contrary, the Debtors shall comply with all material covenants, terms and conditions and otherwise perform all obligations set forth in the Orders.

SECTION 8.
NEGATIVE COVENANTS

Holdings and the Borrowing Agent hereby jointly and severally agree that, until all Term DIP Commitments have been terminated and the principal of and interest on each Term Loan, all fees and all other expenses or amounts payable under any Loan Document shall have been paid in full (other than contingent indemnification and reimbursement obligations for which no claim has been made), except as permitted by the Orders, the DIP Budget each of Holdings and the Borrowing Agent shall not, and shall not permit any of their respective Subsidiaries to, directly or indirectly:

8.1 Indebtedness. Incur any Indebtedness, except:

(a) Indebtedness pursuant to any Loan Document;

(b) Indebtedness in respect of the ABL DIP Credit Agreement Documents in an aggregate principal amount not to exceed $305,000,000 plus any amounts of interest, fees, expenses and indemnification obligations under the ABL DIP Credit Agreement;

(c) Indebtedness (including, without limitation, Capital Lease Obligations) secured by Liens permitted by Section 8.2(k); provided that, immediately after giving effect to

any Incurrence of Indebtedness under this clause (c), the aggregate principal amount of Indebtedness outstanding under this clause (c) shall not exceed $2,500,000 in the aggregate any time such time;

(d) Indebtedness of (w) Holdings to another Loan Party for the purposes of making the payments set forth in Sections 8.5 and 8.8 (x) any Borrower to any Subsidiary Guarantor, (y) any Subsidiary Guarantor of any Borrower to any other Borrower or any other Subsidiary Guarantor and (z) any Subsidiary that is a Non-Guarantor Subsidiary or Excluded Foreign Subsidiary to any other Subsidiary that is a Non-Guarantor Subsidiary, Excluded Foreign Subsidiary, provided further that (i) any such Indebtedness owed to a Loan Party pursuant to this clause (d) shall be evidenced by an Intercompany Note and shall, subject to the ABL/Term Loan Intercreditor Agreement, be pledged pursuant to the Term DIP Security Agreement, (ii) any such Indebtedness of a Loan Party pursuant to this clause (d) shall be subordinated to the Obligations on the terms of the Intercompany Note.

(e) Indebtedness of Foreign Subsidiaries that are Subsidiaries; provided, that, immediately after giving effect to any Incurrence of Indebtedness under this clause (e), the aggregate principal amount of Indebtedness outstanding under this clause (e) shall not exceed $250,000;

(f) Indebtedness consisting of Guarantee Obligations by any Borrower or any Guarantor of Indebtedness otherwise permitted to be Incurred by a Loan Party under this Section 8.1 (other than Section 8.1(j) or (m));

(g) Indebtedness outstanding on the Petition Date and listed on Schedule 8.1(g) (as reduced by any repayments of principal thereof) ;

(h) Indebtedness owed to any Person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance or similar obligations, pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business;

(i) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds, performance and completion guarantees, import and export custom and duty guarantees and similar obligations, or obligations in respect of letters of credit or bank acceptances or similar instruments related thereto, in each case provided in the ordinary course of business or with the construction or improvement of Stores;

(j) guarantees by Holdings, the Borrowers and their Subsidiaries in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of the Borrowers and their Subsidiaries;

(k) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in ordinary course of business; provided, that such Indebtedness is extinguished within five Business Days of its Incurrence;

(l) additional Indebtedness of the Borrowers and their Domestic Subsidiaries; provided that, immediately after giving effect to any of Incurrence of Indebtedness under this clause (l), the sum of the aggregate principal amount of Indebtedness outstanding under this clause (l) shall not exceed $250,000 in the aggregate at any time;

(m) to the extent constituting Indebtedness, judgments, decrees, attachments or awards not constituting an Event of Default under Section 10.1(h);

(n) Indebtedness representing Taxes that are not overdue by more than sixty (60) days or are being contested in compliance with Section 7.3;

(o) Indebtedness consisting of obligations of Holdings or any of its Subsidiaries under deferred compensation incurred by such Person in the ordinary course of business or in connection with any Permitted Investment;

(p) Obligations pursuant to Cash Management Agreements (as defined in the ABL DIP Credit Agreement) and Guarantee Obligations in respect thereof, Other Liabilities (as defined in the ABL DIP Credit Agreement), Indebtedness in respect of employee credit card programs and purchasing card programs in the ordinary course of business, and other Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections and similar arrangements in each case in connection with deposit accounts, in the ordinary course of business;

(q) Indebtedness pursuant to the Prepetition ABL Facility, the Prepetition First Lien Term Credit Agreement or the Prepetition Second Lien Credit Agreement limited to outstanding principal and fees and interest accrued and unpaid as of the Petition Date, in accordance with the Loan Documents and as permitted by the Intercreditor Agreements, as applicable;

(r) Permitted Investments, to the extent constituting Indebtedness; and

(s) Indebtedness in an aggregate principal amount not to exceed $1,000,000 at any time outstanding.

8.2 Liens. Create, Incur, assume or suffer to exist any Lien upon or with respect to any property or assets (real or personal, tangible or intangible), whether now owned or hereafter acquired, except:

(a) [reserved];

(b) other Liens on assets other than on Collateral of the Loan Parties securing obligations permitted hereunder outstanding in the aggregate principal amount not to exceed $1,000,000 at any time outstanding;

(c) Liens on Collateral created pursuant to the ABL DIP Credit Agreement Documents, securing Indebtedness Incurred pursuant to Section 8.1(b) or (p) in favor of the ABL DIP Agent, so long as same is at all times subject to the ABL/Term Loan Intercreditor Agreement;

(d) Liens on cash securing obligations under Swap Agreements permitted hereunder;

(e) Liens for taxes that are (i) not overdue by more than thirty (30) days in an aggregate amount not to exceed $1,000,000 or (ii) being contested in good faith by appropriate proceedings; provided that adequate reserves with respect thereto are maintained on the books of Holdings, the Borrowers or the applicable Subsidiary, as the case may be, in conformity with GAAP (or, for Foreign Subsidiaries that are Subsidiaries, in conformity with generally accepted accounting principles that are applicable in their respective jurisdiction of organization);

(f) carriers', warehousemen's, landlord's, mechanics', materialmen's, repairmen's, suppliers', construction contractors' and sub-contractors' or other like Liens arising in the ordinary course of business that are not overdue for a period of more than thirty (30) days (except for Prepetition claims which may be overdue by more than thirty (30) days), which, in all cases, are being contested in good faith by appropriate proceedings, and Liens on fixtures and movable tangible property located on real property leased or subleased from landlords, lessors and mortgagees;

(g) pledges or deposits in the ordinary course of business (i) in connection with workers' compensation, unemployment insurance and other social security legislation or (ii) securing liability for reimbursement or indemnification obligations of insurance carriers providing property, casualty or liability insurance to Holdings, any Borrower or any Subsidiary;

(h) (i) deposits to secure or relating to the performance of bids, trade contracts (other than Indebtedness for borrowed money), government contracts, leases, utilities, statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including, without limitation, those to secure health and safety obligations) incurred in the ordinary course of business and (ii) Liens securing the financing of insurance premiums with respect thereto incurred in the ordinary course of business;

(i) easements, covenants, conditions, rights-of-way, restrictions (including zoning restrictions), building code and land use laws, encroachments, protrusions, title exceptions, survey exceptions and other similar encumbrances on real property that do not secure any Indebtedness for borrowed money and do not materially detract from the value of the affected real property or materially interfere with the ordinary conduct of business of the Borrowers and their Subsidiaries taken as a whole, and such other minor title defects or survey matters that are disclosed by current surveys that, in each case, do not materially and adversely interfere with the current use of such real property;

(j) Liens (i) in existence on the Petition Date listed on Schedule 8.2(j);

(k) Liens securing Indebtedness of the Borrowers and their Subsidiaries incurred pursuant to Section 8.1(c) to finance the acquisition of fixed or capital assets (including, without limitation, the acquisition, construction or improvement of Real Property owned by a Loan Party); provided that (i) such Liens shall be created within 180 days following the acquisition of such fixed or capital assets, (ii) such Liens do not at any time encumber any

property of the Loan Parties other than the property financed by such Indebtedness and accessions thereto;

(l) Liens created pursuant to any Loan Document;

(m) any interest or title of a lessor or sublessor under any lease or sublease or secured by a lessor's or sublessor's interests under leases or subleases;

(n) Liens (i) 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 in the ordinary course of business (A) that are being contested in good faith by appropriate proceedings, (B) the applicable Loan Party or Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (C) such contest effectively suspends collection of the contested obligation and enforcement of any Lien securing such obligation or (ii) on specific items of inventory or other goods or assets and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods or assets in the ordinary course of business;

(o) adequate protection Liens granted under the Orders;

(p) Liens in respect of the exclusive and non-exclusive licensing of patents, copyrights, trademarks and other Intellectual Property rights in the ordinary course of business entered into prior to the Petition Date;

(q) Liens on property of any Subsidiary that is a Foreign Subsidiary, FSHCO and/or Non-Guarantor Subsidiary, which Liens secure Indebtedness or other obligations of the applicable Subsidiary not prohibited under this Agreement (other than Indebtedness of any Loan Party);

(r) Liens arising from precautionary UCC financing statements or similar filings made in respect of operating leases entered into by the Borrowers and their Subsidiaries as of the Petition Date or, to the extent permitted under the Loan Documents, the consignment of goods to a Borrower or its Subsidiaries;

(s) ground leases in respect of real property on which facilities owned or leased by the Borrowers and their Subsidiaries are located;

(t) licenses, sublicenses, leases or subleases with respect to any assets granted to third Persons in the ordinary course of business; provided that the same do not in any material respect interfere with the business of the Borrowers and their Subsidiaries taken as a whole;

(u) Liens in respect of judgments or decrees that do not constitute an Event of Default under Section 10.1(h);

(v) bankers' Liens, rights of setoff and similar Liens existing solely with respect to cash and Cash Equivalents on deposit in one or more deposit, securities, investment or similar accounts, in each case granted in the ordinary course of business in favor of the bank or

banks where such accounts are maintained, securing amounts owing to such bank with respect to cash management or other account arrangements, including those involving pooled accounts and netting arrangements or sweep accounts of the Borrowers and their Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrowers and their Subsidiaries; provided that in no case shall any such Liens secure (either directly or indirectly) the repayment of any Indebtedness;

(w) [reserved];

(x) (i) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into in the ordinary course of business or Liens arising by operation of law under Article 2 of the New York UCC and (ii) rights of setoff against credit balances of Holdings or any of its Subsidiaries with credit card issuers or credit card processors to Holdings or any of its Subsidiaries in the ordinary course of business;

(y) Liens and other matters of record shown on any title policies delivered pursuant to this Agreement;

(z) [reserved];

(aa) [reserved];

(bb) [reserved];

(cc) [reserved];

(dd) [reserved];

(ee) [reserved];

(ff) [reserved];

(gg) Liens arising by operation of law under Article 4 of the UCC in connection with collection of items provided for therein;

(hh) [reserved];

(ii) Liens securing Indebtedness permitted pursuant to Section 8.1(q).

8.3 Fundamental Changes. Enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), except that, so long as no Default or Event of Default shall have occurred and be continuing prior to or after giving effect to any action described below or would result therefrom:

(a) any Subsidiary of the Borrower may be merged or consolidated with or into the Borrower (provided that the Borrower shall be the continuing or surviving entity) or with or into any Subsidiary Guarantor (provided that a Subsidiary Guarantor shall be the continuing or surviving entity) and (ii) any Subsidiary that is not a Loan Party may be merged or consolidated

with or into another Subsidiary that is not a Loan Party except for any merger or consolidation that would result in assets being contributed to, invested in, or purchased by a Foreign ABL Loan Party;

(b) (x) any Subsidiary Guarantor may Dispose of any or all of its assets (i) to the Borrower or any Subsidiary Guarantor (upon voluntary liquidation, dissolution or otherwise) or (ii) pursuant to a Disposition permitted by Section 8.4 and (y) any Subsidiary of the Borrower that is not a Subsidiary Guarantor may Dispose of any or all of its assets pursuant to a Disposition permitted by Section 8.4; and

(c) any Subsidiary of the Borrower may liquidate or dissolve or change its legal form if the Borrower determines in good faith that such liquidation or dissolution or change its legal form is in the best interests of the Borrower and is not adverse to the Lenders in any material respect; provided that (i) if a Subsidiary Guarantor liquidates or dissolves in accordance with this Section 8.3(c), (x) all or substantially all of its assets shall be transferred to, or otherwise assumed by, the Borrower or another Subsidiary Guarantor, (ii) if a Subsidiary that is not a Subsidiary Guarantor liquidates or dissolves in accordance with this Section 8.3(c), all or substantially all of its assets shall be transferred to, or otherwise assumed by a Loan Party, and (iii) such liquidation, dissolution or change in legal form would not reasonably be expected to be materially adverse to the interests of the Lenders.

8.4 Disposition of Property. Dispose of any of its property, whether now owned or hereafter acquired, or, in the case of any Subsidiary of Holdings, issue or sell any shares of such Subsidiary's Capital Stock to any Person, except:

(a) the Disposition of obsolete, surplus, uneconomical, worn out or damaged property (i) in the ordinary course of business and Dispositions in the ordinary course of business of property or, in the reasonable business judgment of a Loan Party, no longer used in the conduct of the business of the Borrowers and the other Subsidiaries (including allowing any registrations or any applications for registration of any immaterial intellectual property to lapse or go abandoned) and (ii) in accordance with the Initial Store Closing Sale as approved by the Bankruptcy Court;

(b) the Disposition of inventory (i) in the ordinary course of business and (ii) in accordance with the Initial Store Closing Sale as approved by the Bankruptcy Court;

(c) the sale or issuance of common Capital Stock of any Subsidiary of any Borrower to any Borrower or any other Subsidiary of any Borrower (provided that in the case of such issuance of common Capital Stock of a Subsidiary that is not a Wholly Owned Subsidiary, Capital Stock of such Subsidiary may be also issued to other owners thereof to the extent such issuance is not dilutive to the ownership of the Loan Parties), and the sale or issuance of the Borrower's common Capital Stock to Holdings;

(d) the use, sale, exchange or other disposition of money or Cash Equivalents in a manner that is (i) not prohibited by the terms of this Agreement or the other Loan Documents, and (ii) consistent with DIP Budget;

(e) the exclusive or non-exclusive licensing or sublicensing of patents, trademarks, copyrights, and other Intellectual Property rights in the ordinary course of business entered into prior to the Petition Date;

(f) Dispositions which are required by court order or regulatory decree or otherwise required or compelled by regulatory authorities;

(g) (i) exclusive licenses of Intellectual Property of a Loan Party or any of its Subsidiaries in the ordinary course of business entered into prior to the Petition Date, and (ii) non-exclusive licenses of Intellectual Property of a Loan Party or any of its Subsidiaries in the ordinary course of business; licenses for the conduct of licensed departments within the Loan Parties' Stores in the ordinary course of business; provided that, if requested by the Administrative Agent (at the direction of the Required Lenders, in their reasonable discretion), the Administrative Agent shall have entered into an intercreditor agreement with the Person operating such licensed department on terms and conditions reasonably satisfactory to the Agent

(h) Dispositions to, between or among any Borrower and any Subsidiary Guarantors;

(i) Except for any Disposition that would result in assets being contributed to, invested in, or purchased by a Foreign ABL Loan Party; Dispositions (x) between or among any Subsidiary that is not a Subsidiary Guarantor and any other Subsidiary or joint venture that is not a Subsidiary Guarantor, or (y) by a Subsidiary that is not a Subsidiary Guarantor to Borrower or any other Subsidiary Guarantor;

(j) the compromise, settlement or write-off of accounts receivable or sale of overdue accounts receivable for collection in the ordinary course of business;

(k) Dispositions constituting (i) Investments permitted under Section 8.6, (ii) Restricted Payments permitted under Section 8.5, or (iii) Liens permitted under Section 8.2;

(l) [reserved];

(m) Subject to the Net Cash Proceeds of such Dispositions to be applied in accordance with Section 4.2, (i) Dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset or (ii) a Disposition consisting of or subsequent to a total loss or constructive total loss of property;

(n) Dispositions of property to the extent that such property is exchanged for credit against the purchase price of similar replacement property;

(o) the unwinding of any Swap Agreements;

(p) [reserved];

(q) [reserved];

(r) Dispositions of other property so long as the aggregate fair market value of all assets Disposed of in reliance upon this clause (r) shall not exceed $250,000 in the aggregate during the terms of this Agreement; provided that (A) no Event of Default shall have occurred and be continuing or would otherwise result therefrom, (B) such Disposition or series of related Dispositions pursuant to this clause (r) shall not constitute a Disposition of all or substantially all of the assets of Holdings and its Subsidiaries, (C) the Net Cash Proceeds of such Disposition shall be applied in accordance with Section 4.2(c), (D) not less than 75% of the consideration payable to the Borrower and its Subsidiaries in connection with such Disposition is in the form of cash or Cash Equivalents; provided that, for the purposes of this clause (D), the following shall be deemed to be cash: (x) any liabilities that are not Indebtedness (as shown on the most recent balance sheet provided hereunder or in the footnotes thereto) of the Borrower or such Subsidiary, other than liabilities that are by their terms subordinated to the payment in cash of the Obligations under the Loan Documents, that are assumed by the transferee with respect to the applicable Disposition and for which Holdings, the Borrower and the Subsidiaries shall have been validly released by all applicable creditors in writing, (y) any securities received by the Borrower or such Subsidiary from such transferee that are converted by the Borrower or such Subsidiary into cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received in the conversion) within 30 days following the consummation of the applicable Disposition; and (E) the consideration payable to the Borrower and its Subsidiaries in connection with any such Disposition is equal to the fair market value of such property (as determined by the Borrower and Required Lenders in good faith), (F) concurrently with the consummation of such Disposition, an Authorized Officer of the Borrowers shall deliver to the Administrative Agent a certificate executed by such Authorized Officer certifying as to the accuracy of the foregoing conditions, and (G) such Disposition shall not be adverse to Lenders in any material respect;

(s) [reserved];

(t) [reserved];

(u) to the extent permitted by each of the RSA and the DIP Budget, bulk sales or other Dispositions of the Inventory and Equipment of a Loan Party or its Subsidiaries not in the ordinary course of business in connection with Store closings so long as such transactions are on an arm's length basis;

(v) as long as no Event of Default then exists or would immediately arise therefrom, to the extent permitted by each of the RSA and the DIP Budget, Dispositions of non-core Real Property that do not exceed $250,000 in the aggregate during the term of this Agreement is (A) (i) with respect to Real Property owned as of the Closing Date, not currently used in the operations of the business or (B) Real Property that is associated with the permitted closure of Stores or distribution centers, of any Loan Party or any Subsidiary owned as of the Closing Date (or Dispositions of any Person or Persons created to hold such Real Property or the Capital Stock in such Person or Persons), in each case of the foregoing subclauses (A) or (B), including leasing or subleasing transactions, Synthetic Lease Obligation transactions and other similar transactions involving any such Real Property pursuant to leases on market terms;

(w) [reserved];

(x) [reserved];

(y) To the extent permitted by each of the RSA and the then-applicable DIP Budget, Dispositions of property no longer used in the business of the Loan Parties (as determined in the good faith business judgment of such Loan Party) to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds (to the extent needed to do so) of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(z) [reserved];

(aa) any grant of an option to purchase, lease or acquire property, so long as the Disposition resulting from the exercise of such option would otherwise be permitted hereunder;

(bb) licenses for the conduct of third party retail licensed departments within a Store operated by a Loan Party in exchange for royalty fees relating thereto carried out in the ordinary course of business existing as of the Closing Date and in accordance with the DIP Budget; provided that such Loan Party shall provide evidence or other documentation relating to such license following reasonable written request from the Administrative Agent and to the extent requested by the Administrative Agent or the Required Lenders, the Loan Parties shall cause such third party to enter into an intercreditor agreement with the Administrative Agent on terms and conditions reasonably satisfactory to the Required Lenders;

(cc) Dispositions of Intellectual Property that is not required to be preserved or renewed pursuant to Section 7.5(a)(ii); and

(dd) Dispositions in connection with the settlement of claims or disputes and the settlement, release or surrender of tort or other litigation claims to the extent such Dispositions could not reasonably be expected to result in a Material Adverse Effect.

8.5 Restricted Payments. Declare or pay any dividend or distribution on any Capital Stock of Holdings or its Subsidiaries, whether now or hereafter outstanding, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of, any Capital Stock of Holdings or its Subsidiaries, whether now or hereafter outstanding, or pay any management or similar fees to the Sponsor or any holders of the Capital Stock of Holdings or any of their respective Affiliates, or make any other distribution in respect of any Capital Stock of Holdings or its Subsidiaries, either directly or indirectly, whether in cash or property or in obligations of Holdings or its Subsidiaries (collectively, "Restricted Payments"), except that:

(a) Subject to compliance with the DIP Budget, the Borrowers and their Subsidiaries may make Restricted Payments to, or make loans to, Holdings in amounts required for Holdings to pay (and Holdings may pay Restricted Payments, or make loans, in respect of amounts relating to any Parent Company), in each case, without duplication:

(i) any franchise or similar taxes and other fees, taxes and expenses required to maintain Holdings' or any Parent Company's corporate or other entity existence;

(ii) any income and similar taxes attributable to Holdings, the Borrowers and each Subsidiary that are not payable directly by Holdings, the Borrowers or such Subsidiary, as applicable, which amount shall not exceed the combined income and similar taxes that would be paid if Borrowers, Holdings and each Subsidiary were a separate group of corporations filing income and similar tax returns on a consolidated or combined basis with Holdings as the common parent of such affiliated group (taking into account any applicable net operating loss carry forwards within the meaning of Section 172 of the Code and capital loss carry forwards within the meaning of Section 1212 of the Code, available to reduce such Taxes);

(iii) salary and other benefits payable to officers and employees of Holdings or any Parent Company to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of the Borrowers and their Subsidiaries; and

(iv) general corporate operating and overhead costs and expenses of Holdings or any Parent Company (including, without limitation, expenses for legal, administrative and accounting services provided by third parties) to the extent such costs and expenses are attributable to the ownership or operation of the Borrowers and their Subsidiaries.

(b) Subject to compliance with the DIP Budget, the Loan Parties and each Subsidiary may make Restricted Payments to Holdings or any Subsidiary thereof for payments to satisfy their obligations to pay taxes and other required amounts pursuant to any tax sharing agreements (including, without limitation, the Tax Sharing Agreement) among the Loan Parties and their Subsidiaries or in respect of their joint ventures to the extent such taxes and required amounts are attributable to the ownership or operations of the Loan Parties and their Subsidiaries or their joint ventures; provided that such taxes and amounts shall be determined by reference to applicable tax laws and on an arm's length basis;

(c) any Wholly Owned Subsidiary of the Borrowers may make Restricted Payments (other than issuances of Disqualified Capital Stock) to the Borrowers or any other Subsidiary and any non-Wholly Owned Subsidiary may make Restricted Payments (other than issuances of Disqualified Capital Stock) ratably to the holders of such non-Wholly Owned Subsidiary's Capital Stock; and

(d) the Loan Parties and each Subsidiary may make Restricted Payments consisting of Dispositions permitted by Section 8.4 of the type described, and subject to the limitations contained in such section.

Notwithstanding the above, any Restricted Payment made pursuant to this Section 8.5 to any Parent Company that is not a Sole Purpose Parent Company shall not exceed the ratable share of the amount to which such Restricted Payment relates that is solely attributable to the direct or indirect ownership or operation by such Parent Company of Holdings and its Subsidiaries.

8.6 Investments. Make any advance, loan, extension of credit (by way of guarantee or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of any Person (all of the foregoing, "Investments"), except to the extent:

(a) accounts receivable or notes receivable arising from extensions of trade credit granted in the ordinary course of business and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(b) Investments in cash and Cash Equivalents (or Investments that were Cash Equivalents when made, so long as Holdings and its Subsidiaries shall use commercially reasonable efforts to convert such Investments to Investments in cash or Cash Equivalents);

(c) loans and advances to employees, officers and directors of Holdings and its Subsidiaries in the ordinary course of business for business related travel expenses, moving expenses and other similar expenses not to exceed $500,000 at any one time outstanding;

(d) Investments in Non-Loan Parties to make critical vendor relief payments in accordance with the DIP Budget and approved by the Bankruptcy Court;

(e) (i) Investments in the Borrowers or any Person that is a Subsidiary Guarantor or any newly created Subsidiary which becomes a Subsidiary Guarantor at the time of such Investment, (ii) Investments by any Loan Party and its Subsidiaries in their respective Subsidiaries and/or joint ventures outstanding on the Closing Date, (iii) additional Investments by any Loan Party and its Subsidiaries in Loan Parties (other than Holdings) and (iv) additional Investments by Subsidiaries of the Loan Parties that are not Subsidiary Guarantors in any Loan Party or any Subsidiary Guarantor;

(f) Investments by any Subsidiaries that are Non-Guarantor Subsidiaries or Foreign Subsidiaries in any other Subsidiaries that are Non-Guarantor Subsidiaries or Foreign Subsidiaries except for any such Investments that would result in assets being contributed to, invested in, or purchased by a Foreign ABL Loan Party;

(g) to the extent permitted by the DIP Budget, Investments in the ordinary course of business consisting of endorsements of negotiable instruments for collection or deposit;

(h) Investments (including debt obligations and Capital Stock) received in settlement of amounts due to any Borrower and its Subsidiaries effected in the ordinary course of business or owing to such Borrower and its Subsidiaries as a result of insolvency or reorganization proceedings involving an account debtor or upon the foreclosure or enforcement of any Lien in favor of any Borrower and its Subsidiaries or disputes with customers and suppliers;

(i) Investments in existence on the Petition Date and described in Schedule 8.6(k);

(j) Guarantees constituting Permitted Indebtedness;

(k) guarantees permitted by this Agreement;

(l) Investments resulting from the receipt of non-cash consideration received in connection with Dispositions permitted by Section 8.4;

(m) (i) advances of payroll payments to employees consistent with past practices and in the ordinary course of business, or (ii) notes from officers, directors and employees in exchange for equity interest of Holdings purchased by such officers, directors or employees outstanding as of the Petition Date;

(n) to the extent permitted by the DIP Budget, Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of Intellectual Property in the ordinary course of business;

(o) de minimis Investments made in connection with the incorporation or formation of any newly created Subsidiary Guarantors; provided that any amounts in excess of such de minimis amount Invested in any such Subsidiary Guarantors must be permitted under Section 8.6 other than under this clause (o);

(p) in addition to Investments otherwise permitted by this Section 8.6, Investments by the Borrowers and their Subsidiaries; provided that, at the time of any such Investment, the aggregate amount of such Investment outstanding plus the aggregate amount of all other Investments outstanding pursuant to this clause (p) (determined without regard to write-downs or write-offs thereof and, in the case of Investments in the form of non-cash assets, taking the fair market value of such assets at the time of such Investment) shall not exceed $250,000 in the aggregate at any time;

(q) Investments in the form of loans or advances to any Subsidiary of a Loan Party to the extent such loan or advance is otherwise permitted hereunder and does not exceed cash returned to the Loan Parties (through repatriation or otherwise) simultaneously at the time such loan or advance is made so long as any promissory note received by a non-Loan Party in connection therewith is subordinated on terms acceptable to the Agent in its reasonable discretion (it being agreed that the terms of the Intercompany Note shall be acceptable); and

(r) other Investments not exceeding $500,000 in the aggregate after the Closing Date.

8.7 Payments and Modifications of Certain Debt Instruments; Modification to Organizational Documents.

(a) Make any optional prepayment, repayment or redemption with respect to any Indebtedness permitted by Section 8.1 that is subordinated in right of payment to the Obligations, except (i) the conversion of any such Indebtedness to Capital Stock (other than Disqualified Capital Stock) of Holdings or any Parent Company, (ii) intercompany Indebtedness permitted to be Incurred under Section 8.1(d), so long as no Event of Default has occurred and is continuing and or would result therefrom, and (iii) in accordance with the subordination terms thereof or the applicable subordination agreement relating thereto.

(b) [Reserved].

(c) [Reserved].

(d) [Reserved].

(e) Amend or modify, or permit the amendment or modification of, any provision in respect of any of the Indebtedness incurred pursuant to Section 8.1(b) or under the Prepetition ABL Facility, the Prepetition First Lien Term Credit Agreement or the Prepetition Second Lien Credit Agreement unless (i) prior written notice of such amendment or modification has been provided to the Administrative Agent; (ii) such amendment or modification is not prohibited by the ABL/Term Loan Intercreditor Agreement or the Term Loan Intercreditor Agreement, as applicable; and (iii) such amendment or modification is not adverse in any manner to the Prepetition First Lien Lenders or Lenders.

(f) Amend, modify or change any Organizational Documents of Holdings or any of its Subsidiaries, unless such amendment, modification, change or other action contemplated by this clause (f) could not reasonably be expected to be adverse to the interests of the Lenders in any material respect.

(g) Amend, modify, or permit the amendment or modification of the RSA in a manner that is adverse to the interests of the Lenders or the Loan Parties in any material respect, except as permitted under the terms thereof.

(h) Make any optional prepayment, repayment or redemption with respect to any Indebtedness permitted by Section 8.1(b) or 8.1(g), except as expressly set forth in the DIP Budget.

8.8 Transactions with Affiliates. Directly or indirectly, enter into, renew, extend or permit to exist any transaction or contract (including any purchase, sale, lease or exchange of property, the rendering of any service or the payment of any management, advisory or similar fees) with or for the benefit of any Affiliate of any Loan Party (each an "Affiliate Transaction"), except (a) any Restricted Payment permitted by Section 8.5, (b) fees and compensation (including severance), benefits and incentive arrangements (including pursuant to stock option and other employee benefit plans) paid or provided to, and any indemnity provided on behalf of, officers, directors or employees of Holdings, the Borrowers or any Subsidiary in the ordinary course of business to the extent consistent with DIP Budget, (c) the issuance or sale of any Capital Stock of Holdings (and the exercise of any options, warrants or other rights to acquire Capital Stock of Holdings) or any contribution to the capital of Holdings not prohibited by this Agreement, (d) Investments in the Borrower's Subsidiaries and joint ventures (to the extent any such Subsidiary that is not a Subsidiary or any such joint venture is only an Affiliate as a result of Investments by Holdings and its Subsidiaries in such Subsidiary or joint venture) to the extent otherwise permitted under Section 8.6, (e) transactions permitted hereunder, (f) transactions, whether or not in the ordinary course of business, that are on fair and reasonable terms and conditions not less substantially favorable to Holdings or such Subsidiary as would be obtainable by Holdings or such Subsidiary at the time in a comparable arm's-length transaction from unrelated third parties that are not Affiliates, (g) transactions between the Borrower and any

Subsidiary and any Person that is an Affiliate solely due to the fact that a director of such Person is also a director of Holdings (or any Parent Company), the Borrower or any Subsidiary, (h) advances for commissions, travel and other similar purposes in the ordinary course of business to directors, officers and employees, (i) intellectual property licensing arrangements in the ordinary course of business consistent with existing practice, and (j) payments to satisfy their obligations to pay taxes and other required amounts pursuant to any tax sharing agreements among the Loan Parties and their Subsidiaries to the extent such taxes and other required amounts are attributable to the ownership or operations of the Loan Parties and their subsidiaries, provided that such taxes and amounts shall be determined by reference to applicable tax laws and on an arm's length basis.

8.9 [Reserved].

8.10 Changes in Fiscal Periods. Without the prior written consent of the Required Lenders (which consent shall not be unreasonably withheld or delayed), permit the fiscal year of the Borrowing Agent to end on a day other than the Saturday closest to January 31st of any calendar year or change the Borrowing Agent's method of determining fiscal quarters.

8.11 Negative Pledge Clauses. Enter into or suffer to exist or become effective any agreement that prohibits or limits the ability of Holdings or any Subsidiary to incur any Lien upon any of the Collateral, whether now owned or hereafter acquired, to secure its obligations under the Loan Documents to the extent required thereby to which it is a party other than (a) this Agreement and the other Loan Documents, the ABL DIP Credit Agreement Documents, the Prepetition ABL Facility Documents, the Prepetition First Lien Loan Documents, the Prepetition Second Lien Loan Documents, (b) any agreements evidencing or governing any purchase money Liens or Capital Lease Obligations otherwise permitted hereby (in which case, any prohibition or limitation shall only be effective against the assets financed thereby), (c) customary restrictions on the assignment of leases, licenses and contracts entered into in the ordinary course of business, (d) any agreement (including with respect to Indebtedness) in effect at the time any Person becomes a Subsidiary of the Borrower; provided, that such agreement was not entered into in contemplation of such Person becoming a Subsidiary of any Borrower, (e) customary provisions in joint venture agreements, limited liability company operating agreements, partnership agreements, stockholders agreements and other similar agreements in each case existing on the Petition Date, (f) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of the business of the Borrowers and their Subsidiaries, (g) customary restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business, (h) customary anti-assignment provisions in licenses and other contracts restricting the sublicensing or assignment thereof, (i) provisions in leases of real property that prohibit mortgages or pledges of the lessee's interest under such lease or restricting subletting or assignment of such lease, (j) restrictions in connection with cash or other deposits permitted under Section 8.2, (k) pursuant to Contractual Obligations that exist on the Petition Date, (l) pursuant to Indebtedness of any Subsidiary of Holdings that is not a Loan Party that is permitted by Section 8.1(d), (m) Indebtedness permitted under Sections 8.1(c) and (o) any negative pledge incurred or provided in favor of any holder of any secured Indebtedness permitted hereunder and (n) restrictions under agreements evidencing or governing or otherwise relating to Indebtedness of any Subsidiaries that are Foreign Subsidiaries or Non-Guarantor Subsidiaries permitted under Section 8.1; provided that such

Indebtedness is only with respect to the assets of any Subsidiaries that are Foreign Subsidiaries or Non-Guarantor Subsidiaries. Enter into or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Subsidiary to (x) make Payments in respect of any Capital Stock of such Subsidiary held by, or repay or prepay any Indebtedness owed to, any Borrower or any other Subsidiary of any Borrower, (y) make loans or advances to, or other Investments in, any Borrower or any other Subsidiary of any Borrower or (z) transfer any of its assets to any Borrower or any other Subsidiary of any Borrower, except for such encumbrances or restrictions existing under or by reason of (i) any restrictions existing under the Loan Documents, (ii) customary restrictions on the assignment of leases, contracts and licenses entered into in the ordinary course of business, (iii) restrictions of the nature referred to in clause (c) above under agreements governing purchase money liens or Capital Lease Obligations otherwise permitted hereby which restrictions are only effective against the assets financed thereby, (iv) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of the business, (v) customary provisions in joint venture agreements or other similar agreements applicable to joint ventures and applicable solely to such joint venture entered into in the ordinary course of business to the extent in existence on the Petition Date, (vi) any restrictions regarding licenses or sublicenses by the Borrowers and the other Subsidiaries of trademarks, service marks, trade names, copyrights, patents, franchises, licenses and other intellectual property rights in the ordinary course of business (in which case such restriction shall relate only to such right to intellectual property pursuant to such license or sublicense), (vii) pursuant to Contractual Obligations that exist on the Petition Date, (viii) restrictions under agreements evidencing or governing Indebtedness of any Foreign Subsidiaries or Non-Guarantor Subsidiaries permitted under Section 8.1; provided that such restrictions are only with respect to assets of Foreign Subsidiaries or Non-Guarantor Subsidiaries, (ix) restrictions under agreements evidencing or governing Indebtedness permitted under Sections 8.1(b), (c), (e), (m), and (l) (to the extent, in the case of Section 8.1(l), such Indebtedness is of the type contemplated to be incurred under any of Sections 8.1(e).

8.12 Lines of Business. With respect to the Borrowing Agent and each of its Subsidiaries, enter into any business, either directly or through any Subsidiary, except (a) for those businesses in which the Company and its Subsidiaries are engaged on the Closing Date or that are reasonably related, similar, ancillary, complementary or incidental thereto or reasonable extensions thereof and (b) with respect to Holdings, engage in any business or activity other than (i) the direct or indirect ownership of all outstanding Capital Stock in the Borrowing Agent and other Subsidiaries, (ii) maintaining its corporate or other entity existence, (iii) participating in tax, accounting and other administrative activities as the parent of the consolidated group of companies consisting of the Borrowing Agent and its Subsidiaries, (iv) the performance of obligations under the Loan Documents, the Prepetition ABL Facility Documents, the Prepetition First Lien Loan Documents, the Prepetition Second Lien Loan Documents and the ABL DIP Credit Agreement Documents to which it is a party, (v) making and receiving Restricted Payments, (vi) establishing and maintaining bank accounts, (vii) entering into employment agreements and other customary arrangements with officers and directors and performing the activities contemplated thereby, (viii) the performing of activities in preparation for and consummating any public offering of its common stock or any other issuance or sale of its Capital Stock, (ix) the providing of indemnification to officers, managers and directors, (x) taking any other action permitted under the Loan Documents, the Prepetition ABL Facility Documents, the Prepetition First Lien Loan Documents, the Prepetition Second Lien Loan

Documents or the ABL DIP Credit Agreement Documents, (xi) purchasing Qualified Capital Stock of its Subsidiaries, (xii) the making of loans to officers, directors and employees in exchange for its Qualified Capital Stock purchased by such officers, directors and employees and the acceptance of notes relating thereto and (xiii) any activities incidental to the foregoing.

8.13 Investigation Rights. The Committee (to the extent one is appointed) shall have a maximum of sixty (60) calendar days from the date of the Committee's appointment, but in no event later than forty-five (45) calendar days from entry of the Interim Order (the "Investigation Period") to investigate and commence an adversary proceeding or contested matter, as required by the applicable Federal Rules of Bankruptcy Procedure, and challenge (each, a "Challenge") the findings, the Loan Parties' stipulations, or any other stipulations contained in the Interim Order, including, without limitation, any challenge to the validity, priority or enforceability of the liens securing the obligations under the Prepetition First Lien Loan Documents, or to assert any claim or cause of action against the Prepetition First Lien Agent or the Prepetition First Lien Lenders arising under or in connection with the Prepetition First Lien Loan Documents or the Prepetition First Lien Obligations, as the case may be, whether in the nature of a setoff, counterclaim or defense of Prepetition First Lien Obligations, or otherwise. The Investigation Period may only be extended with the prior written consent of counsel to the Administrative Agent (acting at the direction of the Required Lenders), as memorialized in an order of the Bankruptcy Court. Except to the extent asserted in an adversary proceeding or contested matter filed during the Investigation Period, upon the expiration of such applicable Investigation Period (to the extent not otherwise waived or barred), (i) any and all Challenges or potential challenges shall be deemed to be forever waived and barred; (ii) all of the agreements, waivers, releases, affirmations, acknowledgements and stipulations contained in the Interim Order shall be irrevocably and forever binding on the Loan Parties, the Committee and all parties-in-interest and any and all successors-in-interest as to any of the foregoing, including any Chapter 7 Trustee, without further action by any party or the Bankruptcy Court; (iii) the Prepetition First Lien Obligations shall be deemed to be finally allowed and the Prepetition Term Liens shall be deemed to constitute valid, binding and enforceable encumbrances, and not subject to avoidance pursuant to the Bankruptcy Code or applicable non-bankruptcy law; and (iv) the Loan Parties shall be deemed to have released, waived and discharged the Released Parties from any and all claims and causes of action arising out of, based upon or related to, in whole or in part, the Prepetition First Lien Obligations. Notwithstanding anything to the contrary herein: (x) if any Challenge is timely commenced, the stipulations contained in the Interim Order shall nonetheless remain binding on all other parties-in-interest and preclusive except to the extent that such stipulations are expressly and successfully challenged in such Challenge; and (y) the Released Parties reserve all of their rights to contest on any grounds any Challenge.

8.14 Chapter 11 Claims. Except for the Carve-Out, the ABL DIP Claims and Permitted Priority Liens and as provided in the Orders, directly or indirectly, incur, create, assume, suffer to exist or permit any administrative expense claim or Lien that is pari passu with or senior to the claims or Liens of the Administrative Agent and the Lenders against the Loan Parties hereunder or under the Orders, or apply to the Bankruptcy Court for authority to do so.

8.15 Revision of Orders; Applications to Bankruptcy Court; Superpriority Claims. Directly or indirectly, (a) seek, support, consent to or suffer to exist any modification, stay, vacation or amendment of any Order or any other order of the Bankruptcy Court, including (i)

any order which authorizes the rejection or assumption of any leases of any Loan Party without the Required Lender's prior consent (other than the Initial Store Closing Sale) and (ii) any order which authorizes the return of any of the Loan Parties' property pursuant to Section 546(h) of the Bankruptcy Code; except for any modifications and amendments agreed to in writing by the Required Lenders, in their reasonable discretion, (b) apply to the Bankruptcy Court for authority to take any action prohibited by this Article VIII (except to the extent such application and the taking of such action is conditioned upon receiving the written consent of the Administrative Agent and the Required Lenders, in their reasonable discretion) or (c) seek authorization for, or permit the existence of, any claims other than that of the Secured Parties entitled to superpriority status under section 364(c)(1) of the Bankruptcy Code that is senior or pari passu with the Secured Parties' claim under section 364(c)(1) of the Bankruptcy Code, except for the Carve-Out and the ABL DIP Claims.

8.16 Compliance with the DIP Budget.

(a) Except as otherwise provided herein or approved by the Administrative Agent (at the direction of the Required Lenders, in their reasonable discretion), directly or indirectly, (a) use any cash, including the proceeds of any Loans, in a manner or for a purpose other than those permitted under this Agreement, the Orders or the DIP Budget, (b) make any Prepetition Payment or application for authority to make any Prepetition Payment, other than those permitted by this Agreement, the Orders or the DIP Budget, (c) permit the actual aggregate disbursements in any Testing Period to exceed the aggregate amount of disbursements in the DIP Budget for such Testing Period by more than the Permitted Variance, and (d) permit the actual aggregate cash receipts (excluding proceeds of the Loans that may be deemed a receipt) during any Testing Period to be less than the aggregate amount of such cash receipts in the DIP Budget for such Testing Period by more than the Permitted Variance; and

(b) So long as an unwaived Event of Default has not occurred, and to the extent permitted under the Orders, the Loan Parties are authorized and directed to pay fees and expenses allowed and payable, as applicable, by any interim, procedural, or final order of the Bankruptcy Court (that has not been vacated or stayed, unless the stay has been vacated) under sections 330 and 331 of the Bankruptcy Code, as the same may be due and payable.

8.17 [Reserved].

8.18 Reclamation Claims. No Loan Party shall enter into any agreement to return any of its inventory to any of its creditors for application against any Prepetition Indebtedness, Prepetition trade payables or other Prepetition claims under section 546(c) of the Bankruptcy Code or agree to allow any creditor to take any setoff or recoupment against any of its Prepetition Indebtedness, Prepetition trade payables or other Prepetition claims based upon any such return pursuant to section 553(b)(l) of the Bankruptcy Code or otherwise if, after giving effect to any such agreement, setoff or recoupment, the aggregate amount applied to Prepetition Indebtedness, Prepetition trade payables and other Prepetition claims subject to all such agreements, setoffs and recoupments since the Petition Date would exceed $500,000.

SECTION 9.
GUARANTEE

9.1 The Guarantee. Each Guarantor hereby jointly and severally guarantees, as a primary obligor and not as a surety, to each Secured Party and their respective successors and permitted assigns, the prompt payment in full when due (whether at stated maturity, by required prepayment, declaration, demand, by acceleration or otherwise) of (1) the principal of and interest (including any interest, fees, costs or charges that would accrue but for the provisions of the Bankruptcy Code after any bankruptcy or insolvency petition under the Bankruptcy Code or any similar law of any other jurisdiction) on (i) the Term Loans made by the Lenders to the Borrowers, and (ii) the Term DIP Notes held by each Lender of the Borrowers and (2) all other Obligations from time to time owing to the Secured Parties by the Loan Parties (such obligations being herein called the "Guaranteed Obligations"). Each Guarantor hereby jointly and severally agrees that, if the Borrowers shall fail to pay in full when due (whether at stated maturity, by acceleration or otherwise) any of the Guaranteed Obligations, such Guarantor will promptly pay the same in cash, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

9.2 Obligations Unconditional. The obligations of the Guarantors under Section 9.1, respectively, shall constitute a guarantee of payment (and not of collection) and to the fullest extent permitted by applicable Requirements of Law, are absolute, irrevocable and unconditional, joint and several, irrespective of the value, genuineness, validity, regularity or enforceability of the Guaranteed Obligations of the Borrowers under this Agreement, the Term DIP Notes, if any, or any other agreement or instrument referred to herein or therein, or any substitution, release or exchange of any other guarantee of or security for any of the Guaranteed Obligations, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety by any Guarantor, as applicable (except for payment in full). Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of any Guarantor hereunder, which shall, in each case, remain absolute, irrevocable and unconditional under any and all circumstances as described above: at any time or from time to time, without notice to any Guarantor, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;

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

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

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

(e) the release of any other Guarantor pursuant to Section 9.8, or otherwise.

Each of the Guarantors hereby expressly waives diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that any Secured Party exhaust any right, power or remedy or proceed against the Borrowers or any Guarantor under this Agreement or the Term DIP Notes, if any, or any other agreement or instrument referred to herein or therein, or against any other person under any other guarantee of, or security for, any of the Guaranteed Obligations. Each of the Guarantors waives any and all notice of the creation, renewal, extension, waiver, termination or accrual of any of the Guaranteed Obligations and notice of or proof of reliance by any Secured Party upon this guarantee made under this Section 9 (this "Guarantee") or acceptance of this Guarantee, and the Guaranteed Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred in reliance upon this Guarantee, and all dealings between the Borrowers and the Secured Parties shall likewise be conclusively presumed to have been had or consummated in reliance upon this Guarantee. This Guarantee shall be construed as a continuing, absolute, irrevocable and unconditional guarantee of payment without regard to any right of offset with respect to the Guaranteed Obligations at any time or from time to time held by the Secured Parties and the obligations and liabilities of the Guarantors hereunder shall not be conditioned or contingent upon the pursuit by the Secured Parties or any other person at any time of any right or remedy against the Borrowers or against any other person which may be or become liable in respect of all or any part of the Guaranteed Obligations or against any collateral security or guarantee therefor or right of offset with respect thereto. This Guarantee shall remain in full force and effect and be binding in accordance with and to the extent of its terms upon the Guarantors and the successors and assigns thereof, and shall inure to the benefit of the applicable Lenders, and their respective successors and permitted assigns, notwithstanding that from time to time during the term of this Agreement there may be no Guaranteed Obligations outstanding.

9.3 Reinstatement. The obligations of the Guarantors under this Section 9 shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Borrowers or any Loan Party in respect of the Guaranteed Obligations is rescinded or must be otherwise restored by any holder of any of the Guaranteed Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise.

9.4 No Subrogation. Each Guarantor hereby agrees that until the payment and satisfaction in full in cash of all Guaranteed Obligations (other than contingent indemnification and reimbursement obligations for which no claim has been made) and the expiration and termination of the Term DIP Commitments under this Agreement it shall subordinate any claim and shall not exercise any right or remedy, direct or indirect, arising by reason of any performance by it of its guarantee in Section 9.1, whether by subrogation, right of contribution or otherwise, against any Borrower or any other Guarantor of any of the Guaranteed Obligations or any security for any of the Guaranteed Obligations.

9.5 Remedies. Each Guarantor jointly and severally agrees that, as between the Guarantors and the Lenders, the obligations of the Borrowers under this Agreement and the Term DIP Notes, if any, may be declared to be forthwith due and payable as provided in Section 10 (and shall be deemed to have become automatically due and payable in the circumstances provided in Section 10) for purposes of Section 9.1, notwithstanding any stay, injunction or other prohibition preventing such declaration (or such obligations from becoming automatically due and payable) as against any Borrower or any Guarantor and that, in the event of such declaration (or such obligations being deemed to have become automatically due and payable, or the circumstances occurring where Section 10 provides that such obligations shall become due and payable), such obligations (whether or not due and payable by the Borrower) shall forthwith become due and payable by the Guarantors for purposes of Section 9.1.

9.6 Continuing Guarantee. The Guarantee made by the Guarantors in this Section 9 is a continuing guarantee of payment, and shall apply to all Guaranteed Obligations whenever arising.

9.7 General Limitation on Guaranteed Obligations. In any action or proceeding involving any federal, state, provincial or territorial, corporate, limited partnership or limited liability company law, or any applicable state, federal or foreign bankruptcy, insolvency, reorganization or other law affecting the rights of creditors generally, if the obligations of any Guarantor under Section 9.1 would otherwise be held or determined to be void, voidable, invalid or unenforceable, or subordinated to the claims of any other creditors, on account of the amount of its liability under Section 9.1, then, notwithstanding any other provision to the contrary, the amount of such liability of such Guarantor shall, without any further action by such Guarantor, any Loan Party or any other Person, be automatically limited and reduced to the highest amount (after giving effect to the right of contribution established in Section 9.9) that is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding and would not constitute fraudulent conveyance.

The Guarantors confirm that it is the intention that this Guarantee not constitute a fraudulent transfer or conveyance for purposes of Debtor Relief Laws, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal, state or foreign law to the extent applicable to the obligations set forth herein.

9.8 Release of Subsidiary Guarantors and Pledges.

(a) A Subsidiary Guarantor shall be automatically released from its obligations hereunder in the event that (i) all the Capital Stock of such Subsidiary Guarantor shall be sold, transferred or otherwise disposed of to a Person other than Holdings or any of its Subsidiaries in a transaction permitted by Section 8. In connection with any such release of a Guarantor, the Administrative Agent shall promptly execute and deliver to such Guarantor, at such Guarantor's expense, all UCC termination statements and other documents that such Guarantor shall reasonably request to evidence such release.

(b) If (x) any voting Capital Stock issued by any Excluded Foreign Subsidiary described in clause (i) of the definition of Excluded Foreign Subsidiary is redeemed by such Excluded Foreign Subsidiary, (y) the Borrowers provide written notice to the Administrative

Agent that the Borrowers have determined in accordance with clause (i) of the definition of Excluded Foreign Subsidiary that a Subsidiary has become an Excluded Foreign Subsidiary described in such clause (i), or (z) the Borrowers provide written notice to the Administrative Agent that a Foreign Subsidiary or a FSHCO has ceased to be an Excluded Foreign Subsidiary described in clause (i) of the definition of Excluded Foreign Subsidiary and has become an Excluded Foreign Subsidiary described in clause (ii) or (iii) of the definition of Excluded Foreign Subsidiary, then such shares of the relevant issuer shall be automatically and without further action released from the security interests created by this Agreement so that the shares of voting Capital Stock of such Subsidiary subject to the security interests created by this Agreement shall not include more than 65% of the total outstanding voting Capital Stock of any Excluded Foreign Subsidiary described in clause (i) of the definition of Excluded Foreign Subsidiary or at any time include any shares of Capital Stock of any Excluded Foreign Subsidiary described in clause (ii) or clause (iii) of the definition of Excluded Foreign Subsidiary and any certificates representing such released Capital Stock shall be returned to the applicable grantor.

9.9 Right of Contribution. At any time a payment in respect of the Guaranteed Obligations is made under this Guarantee, the right of contribution of each Subsidiary Guarantor against each other Subsidiary Guarantor shall be determined as provided in the immediately following sentence, with the right of contribution of each Subsidiary Guarantor to be revised and restated as of each date on which a payment (a "Relevant Payment") is made on the Guaranteed Obligations under this Guarantee. Each Subsidiary Guarantor hereby agrees that to the extent that a Subsidiary Guarantor shall have made payments in respect of the Guaranteed Obligations that, in the aggregate, exceed such Subsidiary Guarantor's Contribution Percentage (as defined below) of the aggregate payments made by all Subsidiary Guarantors (such excess, the "Aggregate Excess Amount"), each such Subsidiary Guarantor shall be entitled to seek and receive contribution from and against any other Subsidiary Guarantor hereunder which has not paid its Contribution Percentage of the aggregate payments made by all Subsidiary Guarantors (the "Aggregate Deficit Amount") on the date of such payment, in an amount equal to (x) a fraction, the numerator of which is the Aggregate Excess Amount paid by such Subsidiary Guarantor and the denominator of which is the Aggregate Excess Amount paid by all Subsidiary Guarantors, multiplied by (y) the Aggregate Deficit Amount. Each Subsidiary Guarantor's right of contribution shall be subject to the terms and conditions of Section 9.4. The provisions of this Section 9.9 shall in no respect limit the obligations and liabilities of any Subsidiary Guarantor to the Collateral Agent and the other Secured Parties, and each Subsidiary Guarantor shall remain liable to the Collateral Agent and the other Secured Parties for the full amount guaranteed by such Subsidiary Guarantor hereunder; provided, that no Subsidiary Guarantor may take any action to enforce such right until the Guaranteed Obligations have been irrevocably paid in full in cash and the Total Term DIP Commitment has been terminated, it being expressly recognized and agreed by all parties hereto that any Subsidiary Guarantor's right of contribution arising under this Section 9.9 against any other Subsidiary Guarantor shall be expressly junior and subordinate to such other Subsidiary Guarantor's obligations and liabilities in respect of the Obligations and any other obligations owing under this Guarantee. As used in this Section 9.9: (i) each Subsidiary Guarantor's "Contribution Percentage" shall mean the percentage obtained by dividing (x) Adjusted Net Worth (as defined below) of such Subsidiary Guarantor by (y) the aggregate Adjusted Net Worth of all Subsidiary Guarantors; (ii) the "Adjusted Net Worth" of each Subsidiary Guarantor shall mean the greater of (x) the Net Worth (as defined below) of such Subsidiary Guarantor and (y) zero; and (iii) the "Net Worth" of each Subsidiary Guarantor

shall mean the amount by which the fair saleable value of such Subsidiary Guarantor's assets on the date of any payment by such Subsidiary Guarantor exceeds its existing debts and other liabilities (including contingent liabilities, but without giving effect to any Guaranteed Obligations arising under this Guarantee) on such date. Notwithstanding anything to the contrary contained above, any Subsidiary Guarantor that is released from this Guarantee pursuant to Section 9.8 hereof shall thereafter have no contribution obligations, or rights, pursuant to this Section 9.9, and at the time of any such release, if the released Subsidiary Guarantor had an Aggregate Excess Amount or an Aggregate Deficit Amount, same shall be deemed reduced to $0, and the contribution rights and obligations of the remaining Subsidiary Guarantors shall be recalculated on the respective date of releases (as otherwise provided above) based on the payments made hereunder by the remaining Subsidiary Guarantors.

9.10 [Reserved].

SECTION 10.
EVENTS OF DEFAULT

10.1 Events of Default. An "Event of Default" shall occur if any of the following events shall occur and be continuing; provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied (any such event, an "Event of Default"):

(a) a Borrower shall fail to pay any principal of any Term Loan when due in accordance with the terms hereof; or a Borrower shall fail to pay any interest on any Term Loan, or any other amount payable hereunder or under any other Loan Document within five Business Days after any such interest or other amount becomes due in accordance with the terms hereof; or

(b) any representation or warranty made or deemed made by Holdings or its Subsidiaries herein or in any other Loan Document or that is contained in any certificate, document or other statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document shall prove to have been inaccurate in any material respect (without duplication of any materiality qualifiers set forth therein) on or as of the date made or deemed made (or if any representation or warranty is expressly stated to have been made as of a specific date, inaccurate in any material respect as of such specific date); or

(c) any Loan Party shall default in the observance or performance of (i) any agreement contained in Section 7.4(a), Section 7.5, Section 7.6, Section 7.7(a), Section 7.12, Section 7.17 or Section 8; or

(d) any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document (other than as provided in paragraphs (a) through (c) of this Section 10.1), and such default shall continue unremedied for a period of thirty (30) days after the earlier of (i) the date on which an officer of a Loan Party first becomes aware of such default and (ii) the date on which the Administrative Agent or the Required Lenders give written notice thereof to the Borrowing Agent; or

(e) Holdings or any of its Subsidiaries shall (i) default in making any payment of any principal of any post-petition Material Indebtedness (including any Guarantee Obligation

in respect of post-petition Material Indebtedness, but excluding the Term Loans); or (ii) default in making any payment of any interest on any such post-petition Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created; or (iii) default in the observance or performance of any other agreement or condition relating to any such post-petition Material Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to (x) cause, or to permit the holder or beneficiary of such post-petition Material Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause (determined without regard to whether any notice is required) such post-petition Material Indebtedness to become due prior to its stated maturity or (in the case of any such post-petition Material Indebtedness constituting a Guarantee Obligation) to become payable or (y) to cause (determined without regard to whether any notice is required) Holdings or any of its Subsidiaries to purchase or redeem or make an offer to purchase or redeem such Indebtedness prior to its stated maturity; provided that clause (iii) of this Section 10.1(e) shall not apply to secured Indebtedness that becomes due as a result of the voluntary Disposition of the property or assets securing such Indebtedness, if such Disposition is permitted hereunder and such Indebtedness that becomes due is paid upon such Disposition; provided, further, that this clause (e) shall not apply to the extent there occurs under any Swap Agreement an Early Termination Date (as defined in such Swap Agreement, or any similar term in such Swap Agreement) resulting from any Termination Event (as defined in such Swap Agreement, or any similar term in such Swap Agreement) under such Swap Agreement as to which a Loan Party or any Subsidiary thereof is an Affected Party (as defined in such Swap Agreement, or any similar term in such Swap Agreement) (other than with respect to Termination Events or equivalent events pursuant to the terms of such Swap Agreements that are not the result of any default or breach thereunder by any Loan Party or any Subsidiary) unless the Swap Termination Value owed by the Loan Party or such Subsidiary as a result thereof is greater than $25,000,000; or

(f) [reserved];

(g) (i) any Person shall engage in any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (ii) any Lien in favor of the PBGC or a Plan shall arise on the assets of Holdings, the Borrowing Agent, any Subsidiary, or any Commonly Controlled Entity, (iii) a Reportable Event shall occur with respect to any Plan, or proceedings by the PBGC shall commence to have a trustee appointed or to terminate a Plan, or a trustee shall be appointed, to administer or to terminate, any Plan, (iv) the administrator of a Plan shall provide a notice of intent to terminate such Plan pursuant to Section 4041(a)(2) of ERISA (including any such notice with respect to a Plan amendment referred to in Section 4041(e) of ERISA) or any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (v) Holdings, the Borrowing Agent, any Subsidiary or any Commonly Controlled Entity shall, or is reasonably likely to, incur any liability in connection with a partial or complete withdrawal from, or the Insolvency or Reorganization of, a Multiemployer Plan, (vi) a Plan has failed to satisfy the minimum funding standard within the meaning of Section 412 or 430 of the Code or Section 302 or 303 of ERISA, or an application may be or has been made for a waiver or modification of the minimum funding standard (including any required installment payments) or an extension of any amortization period under Section 412 of the Code or Section 302 or 304 of ERISA with respect to a Plan, (vii) a determination has been made that any Plan is, or is expected to be, considered an at-risk plan

within the meaning of Section 430 of the Code or Section 303 of ERISA, (viii) a Multiemployer Plan is reasonably expected to be in endangered or critical status under Section 305 of ERISA or Holdings, the Borrowing Agent, any Subsidiary or Commonly Controlled Entity has been notified by the sponsor of a Multiemployer Plan that such Multiemployer Plan is in Reorganization, Insolvent or has been determined to be in endangered or critical status within the meaning of Section 432 of the Code or Section 305 of ERISA, (ix) the cessation of operations at a facility of Holdings, the Borrowing Agent, any Subsidiary or any Commonly Controlled Entity in the circumstances described in Section 4062(e) of ERISA, or (x) any contribution required to be made with respect to a Plan, Multiemployer Plan or Non-U.S. Plan has not been timely made; and in each case in clauses (i) through (x) above, such event or condition, together with all other such events or conditions, if any, has had, or could reasonably be expected to have, a Material Adverse Effect; or

(h) one or more judgments or decrees shall be entered against Holdings or any of its Subsidiaries involving in the aggregate a liability (not paid or covered by insurance as to which the relevant reputable and solvent insurance company has been notified of the claim and has not denied coverage in writing) of $5,000,000 or more, and all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within sixty (60) days from the entry thereof; or

(i) any material provision of any Term DIP Security Document or any other Loan Document shall cease, for any reason, to be in full force and effect, other than pursuant to the terms hereof or thereof, or as a result of acts or omissions of Administrative Agent, Lenders, their Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person's Affiliates (each, a "Related Party") or any Lien created by any such Term DIP Security Document or any such Loan Document shall cease to be enforceable and of the same effect and priority purported to be created thereby (subject to any Intercreditor Agreement then in effect) with respect to any material portion of the Term Priority Collateral, other than pursuant to the terms hereof or thereof, or as a result of acts or omissions of Administrative Agent or any of its Related Parties; or

(j) the Guarantee contained in Section 9 shall cease, for any reason, to be in full force and effect, other than (x) as provided for in Section 9.8, (y) pursuant to the terms hereof or thereof, or (z) as a result of acts or omissions of Administrative Agent or any of its Related Parties, or any Loan Party or any of their Subsidiaries shall so assert in writing; or

(k) (i) any of the Obligations of the Loan Parties under the Loan Documents for any reason shall cease to be "Senior Indebtedness" (or any comparable term) or "Senior Secured Financing" (or any comparable term) under, and as defined in any documentation governing Subordinated Indebtedness in excess of $5,000,000 or (ii) the subordination provisions set forth in any documentation governing Subordinated Indebtedness in excess of $5,000,000 shall, in whole or in part, cease to be effective or cease to be legally valid, binding and enforceable against the holders of such Subordinated Indebtedness, if applicable, in each case, other than pursuant to the terms hereof or thereof, or as a result of acts or omissions of Administrative Agent or any of its Related Parties;

(l) a Change of Control shall occur;

(m) [reserved];

(n) any uninsured judgments are entered with respect to any post-petition liabilities against any of the Loan Parties or any of their respective properties in a combined aggregate amount in excess of $5,000,000, unless stayed, vacated, or satisfied for a period of twenty (20) calendar days after entry thereof;

(o) any "Event of Default" (as defined in the ABL DIP Credit Agreement) pursuant to the ABL DIP Credit Agreement;

(p) any Loan Party shall default in the observance or performance of its obligations pursuant to the RSA in any material respect;

(q) the occurrence of any of the following in any Chapter 11 Cases:

(i) filing of a plan of reorganization under Chapter 11 of the Bankruptcy Code by the Loan Parties (other than the Bankruptcy Plan) that has not been consented to by the Required Lenders;

(ii) filing of a plan of reorganization by the Loan Parties that does not propose to indefeasibly repay the Obligations in full in cash, unless otherwise consented to by the Administrative Agent and the Required Lenders;

(iii) any of the Loan Parties shall file a pleading seeking to vacate or modify the Orders without the express prior written consent of the Administrative Agent at the direction of the Required Lenders;

(iv) entry of an order without the prior written consent of the Required Lenders amending, supplementing or otherwise modifying any Order, other than (i) any such amendment, supplement or modification that is stayed or reversed with five Business Days and (ii) amendments, supplements or modifications that do not affect the interests of the Lenders;

(v) reversal, vacation or stay of the effectiveness of any Order for a period in excess of five (5) Business Days;

(vi) any violation of a material term of any Order;

(vii) dismissal of the Chapter 11 Case of a Loan Party with material assets or conversion of the Chapter 11 Case of a Loan Party with material assets to a case under Chapter 7 of the Bankruptcy Code, which dismissal or conversion shall not have been reversed, stayed or vacated within three (3) calendar days, or any of the Loan Parties shall seek or request the entry of an order to effect the foregoing;

(viii) appointment of a Chapter 11 trustee or examiner (other that, for the avoidance of doubt, a fee examiner or similar examiner) with enlarged powers relating to the operation of the business of the Borrowers or any Guarantor, which

appointment shall not have been reversed, stayed or vacated within three (3) calendar days, or any of the Loan Parties shall seek or request the entry of an order to effect the foregoing;

(ix) any sale of all or substantially all assets of the Loan Parties pursuant to section 363 of the Bankruptcy Code, unless (i) the proceeds of such sale indefeasibly satisfy the Obligations in full in cash, or (ii) such sale is supported by the Administrative Agent at the direction of the Required Lenders;

(x) failure to meet a Milestone, unless extended or waived by the written consent of the Administrative Agent at the direction of the Required Lenders;

(xi) granting of relief from the Automatic Stay in the Chapter 11 Cases to permit foreclosure or enforcement on assets of any Borrower or any Guarantor, in each case, with an aggregate fair market value in excess of $500,000 (other than with respect to equipment at Store locations after completion of an Initial Store Closing Sale at such location);

(xii) the Loan Parties' filing of (or supporting another party in the filing of) a motion seeking entry of, or the entry of an order, granting any superpriority claim or lien (except as contemplated herein) which is senior to or pari passu with the Lenders' claims under the Term DIP Facility;

(xiii) [reserved];

(xiv) the Loan Parties' challenge (or supporting any other person's challenge) to the validity or enforceability of any of the obligations of the parties under the Prepetition Loan Documents;

(xv) payment of or granting adequate protection with respect to prepetition debt, other than as expressly provided herein or in the Orders or consented to by the Administrative Agent at the direction of the Required Lenders;

(xvi) except as set forth in any motions which have been delivered to and are acceptable to the Required Lenders and as contemplated by the DIP Budget (subject to the Permitted Variance), the payment of, or application for authority to pay, any Prepetition Indebtedness or Prepetition claim without the Required Lenders' prior written consent

(xvii) expiration or termination of the exclusive period for the Loan Parties to file a plan of reorganization in the Chapter 11 Cases;

(xviii) cessation of the DIP Superpriority Claims to be valid, perfected and enforceable in all respects;

(xix) Permitted Variances under the DIP Budget are exceeded for any period of time without consent of or waiver by the Administrative Agent at the direction of the Required Lenders;

(xx) the allowance of any claim or claims under Section 506(c) of the Bankruptcy Code or otherwise against the Administrative Agent, any Lender, or any other Loan Party or any of the Collateral;

(xxi) the termination of the RSA by Prepetition First Lien Lenders that has the effect of causing the percentage of funded debt owned in the aggregate by Consenting First Lien Lenders to fall below 50.1% of the total amount outstanding under the Prepetition First Lien Loan Documents, it being understood and agreed that the Prepetition First Lien Lenders shall have the right to revoke their votes to accept the Bankruptcy Plan as provided in the RSA;

(xxii) any Loan Party asserting any right of subrogation or contribution against any other Loan Party until all borrowings under the Term DIP Facility are paid in full and the commitments are terminated;

(xxiii) the commencement of a suit or action against the Administrative Agent, any Lender or any other Loan Party (both under this Agreement and as such terms are defined in the Prepetition First Lien Term Credit Agreement) by or on behalf of any Loan Party, its bankruptcy estates, or any of their Affiliates

(xxiv) the entry of an order in the Chapter 11 Cases avoiding or permitting recovery of any portion of the payments made on account of the Indebtedness owing under this Agreement or the other Loan Documents or the Prepetition First Lien Term Credit Agreement;

(xxv) [reserved]; or

(xxvi) if, unless otherwise approved by the Required Lenders, an order of the Bankruptcy Court shall be entered providing for a change in venue with respect to the Chapter 11 Cases;

then, and in every such event, and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by written notice to the Borrowers, their counsel, the U.S. Trustee and counsel for any statutory committee, terminate the Term DIP Facility, declare the obligations in respect thereof to be immediately due and payable and, subject to Section 10.2, exercise all rights and remedies under the Loan Documents and the Orders.

10.2 Action in Event of Default. (a) If any Event of Default occurs and is continuing, then, and in any such event, without further order from the Bankruptcy Court, and subject to the terms of the Orders, the Automatic Stay provisions of section 362 of the Bankruptcy Code shall be vacated and modified to the extent necessary to permit the Administrative Agent and the Lenders to exercise all rights and remedies provided for in the Loan Documents, and to take any or all of the following actions without further order of or application to the Bankruptcy Court (as applicable): (i) immediately terminate the Loan Parties' limited use of any cash collateral; (ii) cease making any Loans under the Term DIP Facility to the Loan Parties; (iii) declare all Obligations to be immediately due and payable; (iv) freeze monies or balances in the Loan Parties' accounts; (v) immediately set-off any and all amounts in accounts maintained by the

Loan Parties with the Administrative Agent or the Lenders against the Obligations, or otherwise enforce any and all rights against the Collateral in the possession of any of the applicable Secured Parties, including, without limitation, disposition of the Collateral solely for application towards the Obligations; and (vi) take any other actions or exercise any other rights or remedies permitted under the Orders, the Loan Documents or applicable law to effect the repayment of the Obligations; provided, however, that prior to the exercise of any right in clauses (i), (iv), (v) or (vi) of this paragraph, the Administrative Agent shall be required to provide five (5) business days written notice to the Loan Parties and the Committee of the Administrative Agent's intent to exercise its rights and remedies; provided, further, that neither the Loan Parties, the Committee nor any other party-in-interest shall have the right to contest the enforcement of the remedies set forth in the Orders and the Loan Documents on any basis other than an assertion that an Event of Default has not occurred or has been cured within the cure periods expressly set forth in the applicable Loan Documents.

(b) Except as expressly provided above in this Section 10.2, to the maximum extent permitted by applicable law, presentment, demand, protest and all other notices of any kind are hereby expressly waived.

10.3 Application of Proceeds. The Lenders, the Administrative Agent and the Collateral Agent agree, as among such parties, as follows: subject to the terms of the Orders, after the occurrence and during the continuance of an Event of Default, all amounts collected or received by the Administrative Agent, the Collateral Agent or any Lender on account of amounts then due and outstanding under any of the Loan Documents shall, except as otherwise expressly provided herein, be applied as follows: first, to pay all reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees to the extent provided herein) due and owing hereunder of the Administrative Agent and the Collateral Agent in connection with this Agreement and enforcing the rights of the Agents and the Lenders under the Loan Documents (including all expenses of sale or other realization of or in respect of the Collateral and any sums advanced to the Collateral Agent or to preserve its security interest in the Collateral), second, to pay all reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees to the extent provided herein) due and owing hereunder of each of the Lenders in connection with enforcing such Lender's rights under the Loan Documents, third, to pay interest and fees on Loans then outstanding, fourth, to pay the principal of any Term Loan, and fifth, to pay all other amounts including surplus, if any, to whomever may be lawfully entitled to receive such surplus or other amounts. To the extent any amounts available for distribution pursuant to clause "third," "fourth" or "fifth" above are insufficient to pay all obligations described therein in full, such moneys shall be allocated pro rata among the applicable Secured Parties in proportion to the respective amounts described in the applicable clause at such time.

SECTION 11.
ADMINISTRATIVE AGENT

11.1 Appointment. The Lenders hereby irrevocably designate and appoint Cortland as Administrative Agent (for purposes of Sections 11 and 12.1, the term "Administrative Agent" also shall include Cortland in its capacity as Collateral Agent pursuant to the Term DIP Security Documents) to act as specified herein and in the other Loan Documents. Each Lender hereby irrevocably authorizes, and each holder of any Term DIP Note by the acceptance of such Term

DIP Note shall be deemed irrevocably to authorize, the Administrative Agent to take such action on its behalf under the provisions of this Agreement, the other Loan Documents and any other instruments and agreements referred to herein or therein and to exercise such powers and to perform such duties hereunder and thereunder as are specifically delegated to or required of the Administrative Agent by the terms hereof and thereof and such other powers as are reasonably incidental thereto. The Administrative Agent may perform any of its respective duties hereunder by or through its officers, directors, agents, employees or affiliates. The provisions of this Section 11 are solely for the benefit of the Administrative Agent and the Lenders, and the Borrowers shall not have any rights as third party beneficiaries of any such provisions (except as provided in Section 11.9).

11.2 Nature of Duties.

(a) The Administrative Agent shall not have any duties or responsibilities except those expressly set forth in this Agreement and in the other Loan Documents. Neither the Administrative Agent nor any of its officers, directors, agents, employees or affiliates shall be liable for any action taken or omitted by it or them hereunder or under any other Loan Document or in connection herewith or therewith (i) if such action or omission was taken at the direction of the Required Lenders, or (ii) unless caused by its or their gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision). The duties of the Administrative Agent shall be mechanical and administrative in nature; the Administrative Agent shall not have by reason of this Agreement or any other Loan Document a fiduciary relationship in respect of any Lender or the holder of any Term DIP Note; and nothing in this Agreement or in any other Loan Document, expressed or implied, is intended to or shall be so construed as to impose upon the Administrative Agent any obligations in respect of this Agreement or any other Loan Document except as expressly set forth herein or therein.

(b) Without limiting the generality of the foregoing, the Administrative Agent:

(i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the Automatic Stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(iii) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Borrower or any of their respective Affiliates that is

communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

11.3 Lack of Reliance on the Administrative Agent. Independently and without reliance upon the Administrative Agent, each Lender and the holder of each Term DIP Note, to the extent it deems appropriate, acknowledges that it has made and shall continue to make (i) its own independent investigation of the financial condition and affairs of Holdings and its Subsidiaries in connection with the making and the continuance of the Term Loans and the taking or not taking of any action in connection herewith and (ii) its own appraisal of the creditworthiness of Holdings and its Subsidiaries and, except as expressly provided in this Agreement, the Administrative Agent shall not have any duty or responsibility, either initially or on a continuing basis, to provide any Lender or the holder of any Term DIP Note with any credit or other information with respect thereto, whether coming into its possession before the making of the Term Loans or at any time or times thereafter. The Administrative Agent shall not be responsible to any Lender or the holder of any Term DIP Note for any recitals, statements, information, representations or warranties herein or in any document, certificate or other writing delivered in connection herewith or for the execution, effectiveness, genuineness, validity, enforceability, perfection, collectability, priority or sufficiency of this Agreement or any other Loan Document or the financial condition of Holdings or any of its Subsidiaries or be required to make any inquiry concerning either the performance or observance of any of the terms, provisions or conditions of this Agreement or any other Loan Document, or the financial condition of Holdings or any of its Subsidiaries or the existence or possible existence of any Default or Event of Default.

11.4 Certain Rights of the Administrative Agent. If the Administrative Agent requests instructions from the Required Lenders with respect to any act or action (including failure to act) in connection with this Agreement or any other Loan Document, the Administrative Agent shall be entitled to refrain from such act or taking such action unless and until the Administrative Agent shall have received instructions from the Required Lenders and shall be entitled to rely and shall be protected in relying on opinions and judgments of attorneys, accountants, experts and other professional advisors selected by it; and the Administrative Agent shall not incur liability to any party by reason of so refraining. Without limiting the foregoing, neither any Lender nor the holder of any Term DIP Note shall have any right of action whatsoever against the Administrative Agent as a result of the Administrative Agent acting or refraining from acting hereunder or under any other Loan Document in accordance with the instructions of the Required Lenders. The Administrative Agent shall not be required to take any action under any Loan Document, unless it is indemnified hereunder to its satisfaction.

11.5 Reliance. The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any note, writing, resolution, notice, statement, certificate, telex, teletype or telecopier message (or other electronic communication), cablegram, radiogram, order or other document or telephone message signed, sent or made by any Person that the Administrative Agent believed to be the proper Person, and, with respect to all legal matters pertaining to this Agreement and any other Loan Document and its duties hereunder and thereunder, upon advice of counsel selected by the Administrative Agent.

11.6 Indemnification. (a) To the extent the Administrative Agent (or any affiliate thereof) is not timely reimbursed and indemnified by the Borrowing Agent or any Loan Party, the Lenders will reimburse and indemnify the Administrative Agent (and any affiliate thereof), including without limitation in its capacity as Collateral Agent under the Loan Documents, in proportion to their respective "percentage" as used in determining the Required Lenders (determined as if there were no Defaulting Lenders) for and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, costs, expenses or disbursements of whatsoever kind or nature which may be imposed on, asserted against or incurred by the Administrative Agent (or any affiliate thereof) in performing its duties hereunder or under any other Loan Document or in any way relating to or arising out of this Agreement or any other Loan Document; provided that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's (or such affiliate's) gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision).

(b) To the extent that the Loan Parties fail to pay any amount required to be paid by them to the Administrative Agent or the Collateral Agent under Section 12.1, each Lender severally agrees to pay to the Administrative Agent or the Collateral Agent, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent or the Collateral Agent in its capacity as such. For purposes hereof, a Lender's "pro rata share" shall be determined based upon its outstanding Term Loans and unused Commitments at the time (in each case, determined as if no Lender were a Defaulting Lender).

(c) To the extent permitted by applicable law, no party hereto shall assert, and each hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan or the use of the proceeds thereof.

(d) The provisions of this Section 11.6 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Loans, the expiration of the Commitments, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Administrative Agent, the Collateral Agent any Lender. All amounts due under this Section 11.6 shall be payable on written demand therefor.

11.7 The Administrative Agent in its Individual Capacity. With respect to its obligation to make Term Loans under this Agreement, the Administrative Agent shall have the rights and powers specified herein for a "Lender" and may exercise the same rights and powers as though it were not performing the duties specified herein; and the term "Lender," "Required Lenders," "Majority Lender," "Additional Lender" or any similar terms shall, unless the context clearly indicates otherwise, include the Administrative Agent in its respective individual

capacities. The Administrative Agent and its affiliates may accept deposits from, lend money to, and generally engage in any kind of banking, investment banking, trust or other business with, or provide debt financing, equity capital or other services (including financial advisory services) to any Loan Party or any Affiliate of any Loan Party (or any Person engaged in a similar business with any Loan Party or any Affiliate thereof) as if they were not performing the duties specified herein, and may accept fees and other consideration from any Loan Party or any Affiliate of any Loan Party for services in connection with this Agreement and otherwise without having to account for the same to the Lenders.

11.8 Holders. The Administrative Agent may deem and treat the payee of any Term DIP Note as the owner thereof for all purposes hereof unless and until a written notice of the assignment, transfer or endorsement thereof, as the case may be, shall have been filed with the Administrative Agent and recorded in the Register. Any request, authority or consent of any Person who, at the time of making such request or giving such authority or consent, is the holder of any Term DIP Note shall be conclusive and binding on any subsequent holder, transferee, assignee or endorsee, as the case may be, of such Term DIP Note or of any Term DIP Note or Term DIP Notes issued in exchange therefor.

11.9 Resignation by the Administrative Agent.

(a) The Administrative Agent may resign from the performance of all its respective functions and duties hereunder and/or under the other Loan Documents at any time by giving 15 Business Days' prior written notice to the Lenders and the Borrowing Agent. Such resignation shall take effect upon the appointment of a successor Administrative Agent pursuant to clauses (b) and (c) below or as otherwise provided below.

(b) Upon any such notice of resignation by the Administrative Agent, the Required Lenders shall, in consultation with the Borrowing Agent, appoint a successor Administrative Agent hereunder or thereunder who shall be a commercial bank or trust company.

(c) If a successor Administrative Agent shall not have been so appointed within such 15 Business Day period, the Administrative Agent, in consultation with the Borrowing Agent, shall then appoint a successor Administrative Agent who shall serve as Administrative Agent hereunder or thereunder until such time, if any, as the Required Lenders appoint a successor Administrative Agent in accordance with clause (b) above.

(d) If no successor Administrative Agent has been appointed pursuant to clause (b) or (c) above by the 20th Business Day after the date such notice of resignation was given by the Administrative Agent, the Administrative Agent's resignation shall become effective and all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, and the Required Lenders shall thereafter perform all the duties of the Administrative Agent hereunder and/or under any other Loan Document until such time, if any, as the Required Lenders appoint a successor Administrative Agent in accordance with clause (b) above; provided that in the case of any original Collateral held by the Administrative Agent on behalf of the Lenders under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such original

Collateral until such time as a successor Administrative Agent is appointed pursuant to this Section 11.9.

(e) Upon a resignation of the Administrative Agent pursuant to this Section 11.9, the Administrative Agent shall remain indemnified to the extent provided in this Agreement and the other Loan Documents and the provisions of this Section 11 (and the analogous provisions of the other Loan Documents) shall continue in effect for the benefit of the Administrative Agent for all of its actions and inactions while serving as the Administrative Agent.

11.10 Collateral Matters.

(a) Each Lender authorizes and directs the Collateral Agent to enter into (x) the Term DIP Security Documents for the benefit of the Lenders and the other Secured Parties and (y) any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to the Term DIP Security Documents or to permit such Indebtedness to be secured by a valid, perfected lien (with such priority as may be designated by the Borrowing Agent or relevant Subsidiary, to the extent such priority is permitted by Section 8.1(b)). Each Lender hereby agrees, and each holder of any Term DIP Note by the acceptance thereof will be deemed to agree, that, except as otherwise set forth herein, any action taken by the Required Lenders in accordance with the provisions of this Agreement or the Term DIP Security Documents, and the exercise by the Required Lenders of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Lenders. The Collateral Agent is hereby authorized on behalf of all of the Lenders, without the necessity of any notice to or further consent from any Lender, from time to time prior to an Event of Default, to take any action with respect to any Collateral or Term DIP Security Documents which may be necessary to perfect and maintain perfected the security interest in and liens upon the Collateral granted pursuant to the Term DIP Security Documents and in the case of the ABL/DIP Loan Intercreditor, or any other Intercreditor Agreement to take all actions (and execute all documents) required or deemed advisable by it in accordance with the terms thereof.

(b) The Lenders hereby authorize the Collateral Agent, at its option and in its discretion, to release any Lien granted to or held by the Collateral Agent upon any Collateral (i) upon the occurrence of the Termination Date, (ii) constituting property being sold or otherwise disposed of (to Persons other than Holdings and its Subsidiaries) upon the sale or other disposition thereof in compliance with Section 8.4, (iii) if approved, authorized or ratified in writing by the Required Lenders (or all of the Lenders hereunder, to the extent required by Section 12.12) or (iv) as otherwise may be expressly provided in the relevant Term DIP Security Documents. Upon request by the Administrative Agent at any time, the Lenders will confirm in writing the Collateral Agent's authority to release particular types or items of Collateral pursuant to this Section 11.10.

(c) The Collateral Agent shall have no obligation whatsoever to the Lenders or to any other Person to assure that the Collateral exists or is owned by any Loan Party or is cared for, protected or insured or that the Liens granted to the Collateral Agent herein or pursuant hereto have been properly or sufficiently or lawfully created, perfected, protected or enforced or

are entitled to any particular priority, or to exercise or to continue exercising at all or in any manner or under any duty of care, disclosure or fidelity any of the rights, authorities and powers granted or available to the Collateral Agent in this Section 11.10 or in any of the Term DIP Security Documents, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, the Collateral Agent may act in any manner it may deem appropriate, in its reasonable discretion, given the Collateral Agent's own interest in the Collateral as one of the Lenders and that the Collateral Agent shall have no duty or liability whatsoever to the Lenders, except for its gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision).

(d) Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 11.10. In each case as specified in this Section 11.10, the Administrative Agent will, at the Borrowing Agent's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the security interest granted under the Term DIP Security Agreement and the other Loan Documents or to subordinate its interest in such item, or to release such Subsidiary Loan Party from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 11.10.

11.11 Delivery of Information. The Administrative Agent shall not be required to deliver to any Lender originals or copies of any documents, instruments, notices, communications or other information received by the Administrative Agent from any Loan Party, any Subsidiary, the Required Lenders, any Lender or any other Person under or in connection with this Agreement or any other Loan Document except (i) as specifically provided in this Agreement or any other Loan Document and (ii) as specifically requested from time to time in writing by any Lender with respect to a specific document, instrument, notice or other written communication received by and in the possession of the Administrative Agent at the time of receipt of such request and then only in accordance with such specific request.

11.12 Withholding. To the extent required by any applicable law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any withholding tax applicable to such payment. If the IRS or any other Governmental Authority asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender for any other reason, or the Administrative Agent has paid over to the IRS applicable withholding tax relating to a payment to a Lender but no deduction has been made from such payment, such Lender shall indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including any penalties or interest and together with any and all expenses incurred, unless such amounts have been indemnified by any Borrower, Guarantor or the relevant Lender.

11.13 [Reserved].

SECTION 12.
MISCELLANEOUS

12.1 Payment of Expenses, etc.

(a) Subject to entry of the Interim Order, the Borrowers, Holdings, and each Guarantor agree, jointly and severally, to pay all reasonable and documented (in summary form) out-of-pocket fees, costs, disbursements and expenses (i) incurred by (A) the Administrative Agent (including (and limited, in the case of counsel, to) all reasonable fees, costs, disbursements and expenses of the Agents' outside counsel, NRF, and (B) the Lenders (limited, in the case of counsel, financial advisors and other outside professional advisors to all reasonable fees, costs, disbursements and expenses of the Lender's counsel, K&S and Houlihan, as financial advisor to the Lenders, and (C) any other professional advisors retained by the Administrative Agent, or the Lenders or their respective counsel in connection with the negotiations, preparation, execution and delivery of the Loan Documents, including, without limitation, all due diligence, transportation, computer, duplication, messenger, audit, insurance, appraisal, valuation and consultant costs and expenses, and all search, filing and recording fees, incurred or sustained by the Administrative Agent and its counsel and professional advisors in connection with the Term DIP Facility, the Loan Documents or the transactions contemplated thereby, the administration of the Term DIP Facility and any amendment or waiver of any provision of the Loan Documents, (whether or not the transactions hereby or thereby contemplated shall be consummated) or (ii) incurred by the Administrative Agent, the Collateral Agent or any Lender in connection with the enforcement or protection of its rights in connection with this Agreement and the other Loan Documents or in connection with the Loans made, in each case, including the reasonable and documented fees, charges and disbursements of NRF and K&S, and, in connection with any such enforcement or protection, the fees, charges and disbursements of one firm of local counsel for the Administrative Agent, the Collateral Agent or any Lender and other professional advisors.

(b) The Loan Parties agree, jointly and severally, to indemnify the Administrative Agent, the Collateral Agent, each Lender and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and to hold each Indemnitee harmless from, any and all actual losses, claims, damages, liabilities and related expenses, including reasonable counsel fees, charges and disbursements, incurred by or asserted against any Indemnitee arising out of, in any way connected with, or as a result of (i) the execution or delivery of this Agreement or any other Loan Document or any agreement or instrument contemplated thereby, the performance by the parties thereto of their respective obligations thereunder or the consummation of the Transactions and the other transactions contemplated thereby (including fundings under the Term DIP Facility), (ii) the use of the proceeds of the Loans, or (iii) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any Indemnitee is a party thereto (and regardless of whether such matter is initiated by a third party or by the Borrowers, any other Loan Party or any of their respective Affiliates), or (iv) any Release or actual or alleged presence of Materials of Environmental Concern on, at or under any property currently or formerly owned, leased or operated by the Borrowers or any of the Subsidiaries, or any Environmental Claims related in any way to the Borrowers or the Subsidiaries; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (A) are determined by a court of competent jurisdiction by final and nonappealable

judgment to have resulted primarily from the gross negligence or willful misconduct of such Indemnitee, or (B) resulted solely from a dispute solely among Indemnitees other than any claims against any Indemnitee in its capacity or in fulfilling its role as Administrative Agent or Collateral Agent. No Indemnitee shall have any liability (whether direct or indirect, in contract, tort or otherwise) to any Loan Party or any of its Related Parties for or in connection with the transactions contemplated hereby, except, with respect to any Indemnitee, to the extent such liability is found in a final non appealable judgment by a court of competent jurisdiction to have resulted solely from the gross negligence or willful misconduct of such Indemnified Party.

(c) To the extent that the Loan Parties fail to pay any amount required to be paid by them to the Administrative Agent or the Collateral Agent under paragraph (a) or (b) of this Section 12.1, each Lender severally agrees to pay to the Administrative Agent or the Collateral Agent, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent or the Collateral Agent in its capacity as such. For purposes hereof, a Lender's "pro rata share" shall be determined based upon its outstanding Term Loans and unused Term DIP Commitments at the time.

(d) To the extent permitted by applicable law, no party hereto shall assert, and each hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan or the use of the proceeds thereof.

(e) The provisions of this Section 12.1 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Loans, the expiration of the Term DIP Commitments, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Administrative Agent, the Collateral Agent or any Lender. All amounts due under this Section 12.1 shall be payable on written demand therefor.

12.2 Right of Setoff. In addition to any rights now or hereafter granted under applicable law or otherwise, and not by way of limitation of any such rights, upon the occurrence and during the continuance of an Event of Default, the Administrative Agent and each Lender is hereby authorized at any time or from time to time, without presentment, demand, protest or other notice of any kind to any Loan Party or to any other Person, any such notice being hereby expressly waived, to set off and to appropriate and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency, but excluding any deposits in Excluded Accounts) and any other Indebtedness at any time held or owing by the Administrative Agent or such Lender (including, without limitation, by branches and agencies of the Administrative Agent or such Lender wherever located) to or for the credit or the account of Holdings or any of its Subsidiaries against and on account of the Obligations and liabilities of the Loan Parties to the Administrative Agent or such Lender under this Agreement or under any of the other Loan Documents, including, without limitation, all interests in Obligations purchased

by such Lender pursuant to Section 12.4, and all other claims of any nature or description arising out of or connected with this Agreement or any other Loan Document, irrespective of whether or not the Administrative Agent or such Lender shall have made any demand hereunder and although said Obligations, liabilities or claims, or any of them, shall be contingent or unmatured. To the extent permitted by law, each Participant also shall be entitled to the benefits of this Section 12.2 as though it were a Lender; provided that such Participant agrees to be subject to Section 12.6(b) as though it were a Lender.

12.3 Notices.

(a) Except as otherwise expressly provided herein, all notices and other communications provided for hereunder shall be in writing (including telegraphic, telecopier or cable communication or other electronic communication) and mailed, telegraphed, telecopied, cabled or delivered: if to any Loan Party, at the address specified opposite its signature below or in the other relevant Loan Documents; if to any Lender, at its address specified on Schedule II; and if to the Administrative Agent, at the Notice Office; or, as to any Loan Party or the Administrative Agent, at such other address as shall be designated by such party in a written notice to the other parties hereto and, as to each Lender, at such other address as shall be designated by such Lender in a written notice to the Borrowing Agent and the Administrative Agent. All such notices and communications shall, when mailed, telegraphed, telecopied, or cabled or sent by overnight courier, be effective when deposited in the mails, delivered to the telegraph company, cable company or overnight courier, as the case may be, or sent by telecopier, except that notices and communications to the Administrative Agent and the Borrowing Agent shall not be effective until received by the Administrative Agent or such Borrower, as the case may be.

(b) Notices and other communications to the Lenders and the other Secured Parties hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Section 2 unless otherwise agreed by the Administrative Agent and the applicable Lender. Each of the Administrative Agent, Holdings and the Borrowing Agent may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

12.4 Benefit of Agreement; Assignments; Participations.

(a) (i) Assignments. The provisions of this Agreement, the other Loan Documents, and all Liens and DIP Liens and other rights and privileges created hereby or pursuant hereto or to any other Loan Document shall be binding upon each Debtor, the estate of each Debtor, and any trustee, other estate representative or any successor in interest of any Debtor in any Chapter 11 Case or any subsequent case commenced under Chapter 7 of the Bankruptcy Code, and shall not be subject to section 365 of the Bankruptcy Code. This Agreement and the other Loan Documents shall be binding upon, and inure to the benefit of, the successors of the Administrative Agent and the Lenders and their respective assigns, transferees and endorsees. The Liens and DIP Liens created by this Agreement and the other Loan Documents shall be and remain valid and perfected in the event of the substantive consolidation

or conversion of any Chapter 11 Case or any other bankruptcy case of any Debtor to a case under Chapter 7 of the Bankruptcy Code or in the event of dismissal of any Chapter 11 Case or the release of any Collateral from the jurisdiction of the Bankruptcy Court for any reason, without the necessity that the Administrative Agent file financing statements or otherwise perfect its Liens or DIP Liens under applicable law. No Loan Party may assign, transfer, hypothecate or otherwise convey its rights, benefits, obligations or duties hereunder or under any of the other Loan Documents without the prior express written consent of the Lenders. Any such purported assignment, transfer, hypothecation or other conveyance by any Loan Party without the prior express written consent of the Lenders shall be void. The terms and provisions of this Agreement are for the purpose of defining the relative rights and obligations of each Loan Party, the Administrative Agent and the Lenders with respect to the transactions contemplated hereby and no Person shall be a third party beneficiary of any of the terms and provisions of this Agreement or any of the other Loan Documents.

(b) Notwithstanding the foregoing provisions of this Section 12.4, nothing in this Section 12.4 is intended to or should be construed to limit the Borrower's right to prepay the Obligations as provided hereunder, including under Sections 2.4 and 4.2.

Subject to the conditions set forth in paragraphs (b)(ii) below, any Lender may assign to one or more Eligible Assignees (each, an "Assignee") all or a portion of its rights and obligations under this Agreement (including all or a portion of its Term DIP Commitments and the Term Loans at the time owing to it and the Term DIP Note or Term DIP Notes (if any) held by it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of the Required Lenders, except, in the case of any Lender, with respect to an assignment of any Term Loan or any Term DIP Commitment to a Lender or an Affiliate of a Lender; and

(i) Assignment Conditions. Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Term DIP Commitments or Term Loans under any Facility, the amount of the Term DIP Commitments or Term Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 (provided that simultaneous assignments to or by two or more Approved Funds shall be aggregated for purposes of determining such amount) unless the Required Lenders otherwise consent;

(B) the parties to each assignment shall execute and deliver to the Administrative Agent (i) an Assignment and Assumption via an electronic settlement system acceptable to the Administrative Agent (or, if previously agreed with the Administrative Agent, manually); and (ii) a joinder to the RSA simultaneously with such Assignment and Assumption; and

(C) the Assignee, if it is not already a Lender hereunder, shall deliver to the Administrative Agent an administrative questionnaire and the Internal

Revenue Service forms described in Section 4.4(b) (including the Non-Bank Certificate, as applicable) and any forms described in Section 4.4(c) (if applicable).

This Section 12.4(b) shall not prohibit any Lender from assigning all or any portion of its rights and obligations among separate facilities on a non-pro rata basis.

For the purposes of this Section 12.4, "Approved 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 or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

(ii) [Reserved].

(iii) [Reserved].

(iv) Novation. Subject to acceptance and recording thereof pursuant to Section 12.4(a)(vi) below, from and after the effective date specified in each Assignment and Assumption the Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.11, 2.12, 4.4 and 12.1).

(v) Acceptance and Register. Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an Assignee, the Assignee's completed administrative questionnaire (unless the Assignee shall already be a Lender hereunder) and all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the Patriot Act, together with (x) any processing and recordation fee (y) any written consents to such assignment required by Section 12.4, the Administrative Agent at the direction of the Required Lenders shall promptly accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of the Borrowing Agent or the Administrative Agent, sell participations in respect of Term Loans to one or more banks or other entities (other than any Sponsor, the Borrowers or any of Holdings or any Sponsor's or the Borrowers' Affiliates, or a natural person) (a "Participant") in all or a portion of such Lender's rights and obligations with respect thereto; provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrowing Agent, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such

Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (1) requires the consent of each Lender directly affected thereby pursuant to the second proviso of Section 12.12(a) and (2) directly affects such Participant. Each Lender that sells a participation shall, acting solely for U.S. federal income tax purposes as the non-fiduciary agent of the Borrowing Agent, maintain a register on which it enters the name and address of each Participant and the commitment of, and the principal amounts (and stated interest) of, each Participant's interest in the Term Loans or other obligations under the Loan Documents, including, in particular, the principal amounts and stated interest of each Participant's interest in any Loan or other obligations under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Term DIP Commitments, Term Loans or its other obligations under any Loan Document) except to the extent that the relevant parties, acting reasonably and in good faith, determine that such disclosure is necessary to establish that such Term DIP Commitment, Term Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. 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. Unless otherwise required by the IRS, any disclosure required by the foregoing sentence shall be made by the relevant Lender directly and solely to the IRS. The entries in the Participant Register shall be conclusive and binding 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.

(ii) The Borrowing Agent agrees that (x) each Participant shall be entitled to the benefits of Sections 2.11 and 2.12 (subject to the requirements of those sections) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 12.4(b) and (y) each Participant shall be entitled to the benefits of Section 4.4 (subject to the requirements and limitations therein, including the requirements under Section 4.4(b) (it being understood that the documentation required under Section 4.4(b) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 12.4(a). Notwithstanding the foregoing, no Participant shall be entitled to receive any greater payment under Section 2.11 or 4.4 than the applicable participating Lender would have been entitled to receive in respect of the amount of the participation transferred by such participating Lender to such Participant had no such participation occurred, except to the extent such entitlement to receive a greater payment results from a Change in Tax Law that occurs after the Participant acquired the applicable participation. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 12.2.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (but not to any Sponsor, the Borrowing Agent or any of Holdings' or any Sponsor's or the Borrowing Agent's Affiliates) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto or provide the respective pledgee or assignee any voting rights with respect to the pledged or assigned obligations.

(e) The Borrowing Agent, upon receipt of written notice from the relevant Lender, agrees to issue Term DIP Notes to any Lender requiring Term DIP Notes to facilitate transactions of the type described in Section 12.4.

(f) Each Lender, upon succeeding to an interest in Term DIP Commitments or Term Loans, as the case may be, represents and warrants as of the effective date of the applicable Assignment and Assumption that it is an Eligible Assignee.

(g) [Reserved].

12.5 No Waiver; Remedies Cumulative. No failure or delay on the part of the Administrative Agent, the Collateral Agent or any Lender in exercising any right, power or privilege hereunder or under any other Loan Document and no course of dealing between the Borrowing Agent or any other Loan Party and the Administrative Agent, the Collateral Agent or any Lender shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or under any other Loan Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. The rights, powers and remedies herein or in any other Loan Document expressly provided are cumulative and not exclusive of any rights, powers or remedies which the Administrative Agent, the Collateral Agent or any Lender would otherwise have. No notice to or demand on any Loan Party in any case shall entitle any Loan Party to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Administrative Agent, the Collateral Agent or any Lender to any other or further action in any circumstances without notice or demand.

12.6 Payments Pro Rata.

(a) Except as otherwise provided in this Agreement, the Administrative Agent agrees that promptly after its receipt of each payment from or on behalf of the Borrowing Agent in respect of any Obligations hereunder, the Administrative Agent shall distribute such payment to the Lenders entitled thereto (other than any Lender that has consented in writing to waive its pro rata share of any such payment) pro rata (or in accordance with the Term DIP Security Documents, as applicable) based upon their respective shares, if any, of the Obligations with respect to which such payment was received.

(b) Each of the Lenders agrees that, if it should receive any amount hereunder (whether by voluntary payment, by realization upon security, by the exercise of the right of setoff

or banker's lien, by counterclaim or cross action, by the enforcement of any right under the Loan Documents, or otherwise), which is applicable to the payment of the principal of, or interest on, the Term Loans or Fees, of a sum which with respect to the related sum or sums received by other Lenders is in a greater proportion than the total of such Obligation then owed and due to such Lender bears to the total of such Obligation then owed and due to all of the Lenders immediately prior to such receipt, then such Lender receiving such excess payment shall purchase for cash without recourse or warranty from the other Lenders an interest in the Obligations of the respective Loan Party to such Lenders in such amount as shall result in a proportional participation by all the Lenders in such amount; provided that if all or any portion of such excess amount is thereafter recovered from such Lenders, such purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest.

(c) Notwithstanding anything to the contrary contained herein, the provisions of the preceding Sections 12.6(a) and (b) shall be subject to the provisions of this Agreement which (i) require or permit, differing payments to be made to Non-Defaulting Lenders as opposed to Defaulting Lenders and (ii) permit disproportionate payments with respect to the Term Loans as, and to the extent provided herein.

12.7 Calculations; Computations.

(a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, except as otherwise specifically prescribed herein.

(b) If at any time any change in GAAP or in the application of GAAP would affect the computation of any financial ratio or financial term or definition set forth in any Loan Document and either the Borrowing Agent or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrowing Agent shall negotiate in good faith to amend (subject to the approval of the Required Lenders) such ratio or covenant to preserve the original intent thereof in light of such change in (or in the application of) GAAP; provided that, until so amended, the Borrowing Agent shall provide to the Administrative Agent financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between such ratio or financial covenant made before and after giving effect to such change in (or in the application of) GAAP as is reasonably necessary to demonstrate the compliance (or non-compliance) with such ratio.

(c) Notwithstanding anything to the contrary contained herein, (i) all financial statements shall be prepared without giving effect to any election under FASB ASC 825 (or any similar accounting principle) permitting a Person to value its financial liabilities at the fair value thereof or the application of FAS 133, FAS 150 or FAS 123r (to the extent that the pronouncements in FAS 123r result in recording an equity award as a liability on the consolidated balance sheet of Holdings and its Subsidiaries in the circumstance where, but for the application of the pronouncements, such award would have been classified as equity) and (ii) to the extent expressly provided herein, certain calculations shall be made on a pro forma basis. For the avoidance of doubt, notwithstanding any changes in GAAP after the Closing Date that would require lease obligations that would be treated as operating leases as of the Closing Date

to be classified and accounted for as Capital Lease Obligations or otherwise reflected on the consolidated balance sheet of Holdings and its Subsidiaries, such obligations shall continue to be excluded from the definition of Indebtedness.

(d) All computations of interest and other Fees hereunder shall be made on the basis of a year of 360 days (except for interest calculated by reference to the Prime Lending Rate, which shall be based on a year of 365 or 366 days, as applicable) for the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest or Fees are payable.

12.8 GOVERNING LAW; SUBMISSION TO JURISDICTION; VENUE; WAIVER OF JURY TRIAL.

(a) THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK (WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES) EXCEPT TO THE EXTENT GOVERNED BY THE BANKRUPTCY CODE. EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE BANKRUPTCY COURT AND THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, EXCEPT TO THE EXTENT THAT THE PROVISIONS OF THE BANKRUPTCY CODE ARE APPLICABLE AND SPECIFICALLY CONFLICT WITH THE FOREGOING, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH OF THE PARTIES HERETO HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER SUCH PERSON, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER SUCH PERSON. EACH OF THE PARTIES HERETO FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO SUCH PERSON AT ITS ADDRESS SET FORTH OPPOSITE ITS SIGNATURE BELOW, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH MAILING. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY OTHER LOAN DOCUMENT THAT SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE ADMINISTRATIVE AGENT, ANY LENDER OR THE HOLDER OF ANY TERM DIP NOTE TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO

COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST HOLDINGS, THE BORROWING AGENT OR ANY OTHER LOAN PARTY IN ANY OTHER JURISDICTION.

(b) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

(d) Notwithstanding any other provision of this Section 12.8, the Bankruptcy Court shall have exclusive jurisdiction over any action or dispute involving, relating to or arising out of this agreement or the other Loan Documents.

12.9 Counterparts. This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. A set of counterparts executed by all the parties hereto shall be lodged with the Borrowing Agent and the Administrative Agent. Delivery of an executed counterpart by facsimile or electronic transmission shall be as effective as delivery of an original executed counterpart. Delivery of an executed counterpart by facsimile or electronic transmission shall be as effective as delivery of an original executed counterpart.

12.10 Effectiveness. This Agreement shall become effective on the date (the "Closing Date") on which (a) Holdings, the Borrowing Agent, each Subsidiary Guarantor, the Administrative Agent and each of the Lenders shall have signed a counterpart hereof (whether the same or different counterparts) and shall have delivered the same to the Administrative Agent at the Notice Office or, in the case of the Lenders, shall have given to the Administrative Agent telephonic (confirmed in writing), written or telex notice (actually received) at such office that the same has been signed and mailed to it and (b) the conditions precedent set forth in Section 6.1 have been waived or satisfied. The Administrative Agent will give Holdings, the Borrowing Agent and each Lender prompt written notice of the occurrence of the Closing Date.

12.11 Headings Descriptive. The headings of the several sections and subsections of this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

12.12 Amendment or Waiver; etc.

(a) Neither this Agreement nor any other Loan Document nor any terms hereof or thereof may be changed, waived, discharged or terminated unless such change, waiver, discharge or termination is in writing signed by the respective Loan Parties party hereto or thereto (or in the case of this Agreement, Holdings and the Borrowing Agent and, to the extent relating to Section 9 that directly and adversely affects any other Loan Party, each such directly and adversely affected Loan Party), the Administrative Agent, and the Required Lenders (although additional parties may be added to (and annexes may be modified to reflect such additions), and Subsidiaries of the Borrowing Agent may be released from, the Guarantee and the Term DIP Security Documents in accordance with the provisions hereof and thereof without the consent of the other Loan Parties party thereto or the Required Lenders), provided that no such change, waiver, discharge or termination shall, without the consent of each Lender (other than, except with respect to following clause (i), a Defaulting Lender) (with Obligations being directly and adversely affected in the case of following clause (i)(y)) or whose Obligations are being extended in the case of following clause (i)(x)), (i)(x) extend the final scheduled maturity of any Term Loan or Term DIP Note, (y) or reduce the rate or extend the time of payment of interest or fees thereon (except in connection with the waiver of applicability of any post-default increase in interest rates), or reduce (or forgive) the principal amount thereof, (ii) release all or substantially all of the Collateral or Guarantors (except as expressly provided in the Loan Documents) under all the Term DIP Security Documents or this Agreement, respectively, (iii) amend, modify or waive any provision of this Section 12.12(a) (except for technical amendments with respect to additional extensions of credit pursuant to this Agreement which afford the protections to such additional extensions of credit of the type provided to the Term Loans on the Closing Date), (iv) pursue any action seeking to invalidate, modify, set aside, avoid or subordinate, in whole or in part, the Liens or the Prepetition First Lien Obligations (v) amend, modify, or permit the amendment or modification of the RSA in a manner that is adverse to the interests of the Lenders or the Loan Parties in any material respect, except as permitted under the terms thereof, or (vi) reduce the "majority" voting threshold specified in the definition of Required Lenders; provided further that no such change, waiver, discharge or termination shall (1) increase the Term DIP Commitments of any Lender over the amount thereof then in effect without the consent of such Lender (it being understood that waivers or modifications of conditions precedent, covenants, Defaults or Events of Default or of a mandatory reduction in the Total Term DIP Commitment or a mandatory repayment of Term Loans shall not constitute an increase of the Term DIP Commitment of any Lender, and that an increase in the available portion of any Term DIP Commitment of any Lender shall not constitute an increase of the Term DIP Commitment of such Lender), (2) without the consent of the Required Lenders and the Administrative Agent, amend, modify or waive any provision of Section 11 or any other provision as same relates to the rights or obligations of the Administrative Agent, (3) without the consent of the Collateral Agent at the direction of the Required Lenders, amend, modify or waive any provision relating to the rights or obligations of the Collateral Agent, (4) except to the extent otherwise provided in this Agreement or in cases where additional extensions of term loans are being afforded substantially the same treatment afforded to the Term Loans pursuant to this Agreement on the Closing Date, without the consent of the Majority Lenders of each Tranche which is being allocated a lesser prepayment, repayment or commitment reduction as a result of the actions described below, alter the required application of any prepayments or repayments (or commitment reduction), as between the various Tranches, pursuant to Section 4.1(a) or 4.2 (it being understood, however,

that (x) the Required Lenders may waive, in whole or in part, any such prepayment, repayment or commitment reduction, so long as the application, as amongst the various Tranches, of any such prepayment, repayment or commitment reduction which is still required to be made is not altered and (y) any conversion of any Tranche of Term Loans into another Tranche of Term Loans hereunder in like principal amount shall not be considered a "prepayment" or "repayment" for purposes of this clause (4)) or (5) without the consent of the Majority Lenders of the respective Tranche affected thereby, amend the definition of Majority Lenders (it being understood that, with the consent of the Required Lenders, additional extensions of credit pursuant to this Agreement may be included in the determination of the Majority Lenders on substantially the same basis as the extensions of Term Loans and Term DIP Commitments are included on the Closing Date).

(b) This Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrowing Agent (i) to add one or more additional credit facilities to this Agreement or to increase the amount of the existing facilities under this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the accrued interest and fees in respect thereof, (ii) to permit any such additional credit facility which is a term loan facility or any such increase in the Term DIP Facility to share ratably in prepayments with the Term Loans and (iii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

(c) [Reserved].

(d) Notwithstanding anything to the contrary contained in this Section 12.12, (x) Term DIP Security Documents (including any Additional Term DIP Security Documents) and related documents executed by Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be amended, supplemented and waived with the consent of the Administrative Agent at the direction of the Required Lenders and the Borrowing Agent without the need to obtain the consent of any other Person if such amendment, supplement or waiver is delivered in order (i) to comply with local law, the Bankruptcy Code, or advice of local counsel, (ii) to cure ambiguities, omissions, mistakes or defects or (iii) to cause such Term DIP Security Document or other document to be consistent with this Agreement and the other Loan Documents.

(e) Notwithstanding the foregoing, the Administrative Agent may amend an Intercreditor Agreement (or enter into a replacement thereof), Additional Term DIP Security Documents and/or replacement Term DIP Security Documents (including a collateral trust agreement) in connection with the incurrence of (a) any Indebtedness permitted under Section 8.1 to provide that a Representative acting on behalf of the holders of such Indebtedness shall become a party thereto and shall have rights to share in the Collateral on a pari passu basis (but without regard to the control of remedies) with the Obligations and (b) any Indebtedness permitted under Section 8.1 to provide that a Representative acting on behalf of the holders of such Indebtedness shall become a party thereto and shall have rights to share in the Collateral on a junior lien, subordinated basis to the Obligations and the obligations in respect of any Indebtedness described in clause (a) above.

12.13 Survival. All indemnities set forth herein including, without limitation, in Sections 2.11, 2.12, 4.4, 11.6, 11.12 and 12.1 and the representations and warranties set forth in Section 5 of this Agreement shall survive the execution, delivery and termination of this Agreement and the Term DIP Notes, or the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, and the making, repayment, satisfaction, or discharge of the Obligations.

12.14 Domicile of Term Loans. Each Lender may transfer and carry its Term Loans at, to or for the account of any office, Subsidiary or Affiliate of such Lender. Notwithstanding anything to the contrary contained herein, to the extent that a transfer of Term Loans pursuant to this Section 12.14 would, at the time of such transfer, result in increased costs under Section 2.11, 2.12 or 4.4 from those being charged by the respective Lender prior to such transfer, then the Borrowing Agent shall not be obligated to pay such increased costs (although the Borrowing Agent shall be obligated to pay any other increased costs of the type described above resulting from changes in any applicable law, treaty, government rule, regulation, guideline or order, or in the official interpretation thereof, after the date of the respective transfer).

12.15 Register. The Borrowing Agent hereby designates the Administrative Agent to serve as its non-fiduciary agent, solely for purposes of this Section 12.15 (and such agency being solely for tax purposes), to maintain a register (the "Register") on which it will record from time to time the name and address of each Lender, the Term DIP Commitments, the principal amounts of the Term Loans and any other obligations under the Loan Documents, and the amounts of stated interest due thereon, owing to each Lender pursuant the terms hereof and any Term DIP Note. Failure to make any such recordation, or any error in such recordation, shall not affect the Borrowing Agent's obligations in respect of such Term Loans or other obligations under the Loan Documents. With respect to any Lender, the transfer of the Term DIP Commitments of such Lender and the rights to the principal of, and interest on, any Term Loans and any other obligations under the Loan Documents owing to such Lender shall not be effective until such transfer is recorded on the Register maintained by the Administrative Agent and prior to such recordation all amounts owing to the transferor with respect to such Term DIP Commitments and Term Loans and other obligations under the Loan Documents shall remain owing to the transferor. The registration of assignment or transfer of all or part of any Term DIP Commitments, Term Loans or other obligations under the Loan Documents shall be recorded by the Administrative Agent on the Register upon and only upon the acceptance by the Administrative Agent of a properly executed and delivered Assignment and Assumption pursuant to Section 12.4. Upon such acceptance and recordation, the assignee specified therein shall be treated as a Lender for all purposes of this Agreement. Coincident with the delivery of such an Assignment and Assumption to the Administrative Agent for acceptance and registration of assignment or transfer of all or part of a Term Loan, or as soon thereafter as practicable, the assigning or transferor Lender shall surrender the Term DIP Note (if any) evidencing such Term Loan, and thereupon one or more new Term DIP Notes in the same aggregate principal amount shall be issued to the assignee or transferee Lender at the request of any such Lender. The Borrowing Agent agrees to indemnify the Administrative Agent from and against any and all losses, claims, damages and liabilities of whatsoever nature which may be imposed on, asserted against or incurred by the Administrative Agent in performing its duties under this Section 12.15 to the same extent that the Administrative Agent is otherwise indemnified pursuant to

Section 11.6. The Register shall be available for inspection by the Borrowing Agent and any Lender, at any reasonable time and from time to time upon reasonable prior notice, provided that the information contained in the Register which is shared with each Lender (other than the Administrative Agent and its affiliates) shall be limited to the entries with respect to such Lender including the Term DIP Commitment of, or principal amount of and stated interest on the Term Loans owing to such Lender. This Section shall be construed so that the Term DIP Loans and Term DIP Commitments are at all times maintained in "registered form" within the meanings of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related regulations (and any successor provisions).

12.16 Confidentiality.

(a) Subject to the provisions of clause (b) of this Section 12.16, each Lender agrees that it will use its reasonable efforts not to disclose without the prior consent of Holdings (other than to its employees, auditors, advisors, agents, representatives or counsel or to another Lender if such Lender or such Lender's holding or parent company in its reasonable discretion determines that any such party should have access to such information, provided such Persons shall be subject to the provisions of this Section 12.16 to the same extent as such Lender) any information with respect to Holdings or any of its Subsidiaries which is now or in the future furnished pursuant to this Agreement or any other Loan Document, provided that any Lender may disclose any such information (i) as has become generally available to the public other than by virtue of a breach of this Section 12.16(a) by the respective Lender, (ii) upon the request or demand of any regulatory authority having jurisdiction over such Lender or any of their affiliates (in which case the Lenders agree, to the extent practicable and not prohibited by applicable law, to inform you promptly thereof prior to disclosure (except with respect to any audit or examination conducted by bank accountants or any governmental bank regulatory authority exercising examination or regulatory authority or in cases where any governmental and/or regulatory authority had requested otherwise)), (iii) as may be required or appropriate in respect to any summons or subpoena or in connection with any litigation, (iv) in order to comply with any law, order, regulation or ruling applicable to such Lender, (v) to the Administrative Agent or the Collateral Agent, (vi) to any direct or indirect contractual counterparty in any swap, hedge or similar agreement (or to any such contractual counterparty's professional advisor), so long as such contractual counterparty (or such professional advisor) agrees to be bound by the provisions of this Section 12.16, (vii) to any prospective or actual transferee or Participant in connection with any contemplated transfer or participation of any of the Term DIP Notes or Term DIP Commitments or any interest therein by such Lender, provided that such prospective transferee agrees to be bound by the confidentiality provisions contained in this Section 12.16, (viii) on a confidential basis to any rating agency in connection with any rating of the Loan Parties or the Term DIP Facility, (ix) in connection with the exercise of remedies under this Agreement or any other Loan Document or any action or proceeding relating to the enforcement of rights under this Agreement or the other Loan Documents and (x) as required or necessary in connection with the Chapter 11 Cases.

(b) Each of Holdings and the Borrowing Agent hereby acknowledges and agrees that each Lender may share with any of its affiliates, and such affiliates may share with such Lender, any information related to Holdings or any of its Subsidiaries (including, without limitation, any non-public customer information regarding the creditworthiness of Holdings and

its Subsidiaries), provided such Persons shall be subject to the provisions of this Section 12.16 to the same extent as such Lender.

12.17 Patriot Act. Each Lender subject to the Patriot Act hereby notifies Holdings and the Borrowing Agent that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies Holdings, the Borrowing Agent and the other Loan Parties and other information that will allow such Lender to identify Holdings, the Borrowing Agent and the other Loan Parties in accordance with the Patriot Act.

12.18 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable law (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Term Loans or, if it exceeds such unpaid principal, refunded to the Borrowing Agent. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

12.19 [Reserved].

12.20 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party or any other obligor under any of the Credit Documents (including the exercise of any right of setoff, rights on account of any banker's lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, unless expressly provided for herein or in any other Loan Document, without the prior written consent of the Administrative Agent at the direction of the Required Lenders. The provisions of this Section 12.20 are for the sole benefit of the Lenders and shall not afford any right to, or constitute a defense available to, any Loan Party.

12.21 Other Liens on Collateral; Terms of Intercreditor Agreements; etc.

(i) EACH LENDER HERETO UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT LIENS SHALL BE CREATED ON THE COLLATERAL PURSUANT TO THE ABL DIP CREDIT AGREEMENT DOCUMENTS, WHICH LIENS (x) TO THE EXTENT CREATED WITH RESPECT TO ABL PRIORITY COLLATERAL, SHALL BE SENIOR TO THE LIENS CREATED UNDER THIS AGREEMENT AND THE LOAN DOCUMENTS (WITH THE LIENS SO CREATED HEREUNDER AND UNDER THE LOAN DOCUMENTS ON ABL PRIORITY COLLATERAL BEING SUBORDINATED TO SUCH LIENS PURSUANT TO THE TERMS OF THE INTERCREDITOR AGREEMENT) AND (Y) TO THE EXTENT CREATED WITH RESPECT TO TERM PRIORITY COLLATERAL, SHALL

BE REQUIRED TO BE SUBJECT TO THE SUBORDINATION PROVISIONS (TO THE EXTENT APPLICABLE) OF THE ABL/TERM LOAN INTERCREDITOR AGREEMENT. THE ABL/TERM LOAN INTERCREDITOR AGREEMENT ALSO HAS OTHER PROVISIONS WHICH ARE BINDING UPON THE LENDERS AND THE OTHER SECURED PARTIES PURSUANT TO THIS AGREEMENT. PURSUANT TO THE EXPRESS TERMS OF THE ABL/TERM LOAN INTERCREDITOR AGREEMENT, IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THE ABL/TERM LOAN INTERCREDITOR AGREEMENT AND ANY OF THE LOAN DOCUMENTS, THE PROVISIONS OF THE ABL/TERM LOAN INTERCREDITOR AGREEMENT SHALL GOVERN AND CONTROL.

(ii) EACH LENDER HERETO UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT LIENS SHALL BE CREATED ON THE COLLATERAL PURSUANT TO THE PREPETITION SECOND LIEN LOAN DOCUMENTS, WHICH LIENS TO THE EXTENT CREATED WITH RESPECT TO TERM PRIORITY COLLATERAL, SHALL BE JUNIOR TO THE LIENS CREATED UNDER THIS AGREEMENT AND THE LOAN DOCUMENTS (PURSUANT TO THE TERMS OF THE ABL/TERM LOAN INTERCREDITOR AGREEMENT). THE ABL/TERM LOAN INTERCREDITOR AGREEMENT ALSO HAS OTHER PROVISIONS WHICH ARE BINDING UPON THE LENDERS AND THE OTHER SECURED PARTIES PURSUANT TO THIS AGREEMENT. PURSUANT TO THE EXPRESS TERMS OF THE ABL/TERM LOAN INTERCREDITOR AGREEMENT, IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THE ABL/TERM LOAN INTERCREDITOR AGREEMENT AND ANY OF THE LOAN DOCUMENTS, THE PROVISIONS OF THE ABL/TERM LOAN INTERCREDITOR AGREEMENT SHALL GOVERN AND CONTROL.

(iii) THE PROVISIONS OF THIS SECTION 12.21 ARE NOT INTENDED TO SUMMARIZE ALL RELEVANT PROVISIONS OF (A) THE ABL/TERM LOAN INTERCREDITOR AGREEMENT, THE FORM OF WHICH IS ATTACHED AS AN EXHIBIT TO THIS AGREEMENT, (B) THE TERM LOAN INTERCREDITOR AGREEMENT OR (C) ANY OTHER INTERCREDITOR AGREEMENT, WHICH WILL BE IN THE FORM APPROVED BY THE ADMINISTRATIVE AGENT AS PERMITTED BY THIS AGREEMENT. REFERENCE MUST BE MADE TO THE ABL/TERM LOAN INTERCREDITOR AGREEMENT, TERM LOAN INTERCREDITOR AGREEMENT OR SUCH OTHER INTERCREDITOR AGREEMENT ITSELF TO UNDERSTAND ALL TERMS AND CONDITIONS THEREOF. EACH LENDER IS RESPONSIBLE FOR MAKING ITS OWN ANALYSIS AND REVIEW OF EACH OF THE ABL/TERM LOAN INTERCREDITOR AGREEMENT, THE TERM LOAN INTERCREDITOR AGREEMENT AND EACH OTHER INTERCREDITOR AGREEMENT AND THE TERMS AND PROVISIONS THEREOF, AND NONE OF THE ADMINISTRATIVE AGENT AND COLLATERAL AGENT (AND NONE OF THEIR RESPECTIVE AFFILIATES) MAKES ANY REPRESENTATION TO ANY LENDER AS TO THE SUFFICIENCY OR ADVISABILITY OF THE PROVISIONS CONTAINED IN THE ABL/TERM LOAN INTERCREDITOR AGREEMENT, THE TERM LOAN

INTERCREDITOR AGREEMENT OR ANY OTHER INTERCREDITOR AGREEMENT.

(iv) EACH SECURED PARTY, BY ITS EXECUTION AND DELIVERY OF THIS AGREEMENT OR THE ACCEPTING THE BENEFIT OF THE GUARANTEE AND SECURITY DOCUMENTS, HEREBY (I) CONFIRMS ITS AGREEMENT TO THE FOREGOING PROVISIONS OF THIS SECTION 12.21, (II) PURSUANT TO THE ABL/TERM LOAN INTERCREDITOR AGREEMENT AGREES TO BE BOUND BY THE TERMS OF THE ABL/TERM LOAN INTERCREDITOR AGREEMENT AS A "TERM SECURED PARTY", (III) PURSUANT TO THE TERM LOAN INTERCREDITOR AGREEMENT AGREES TO BE BOUND BY THE TERMS OF THE TERM LOAN INTERCREDITOR AGREEMENT AS A "TERM SECURED PARTY" AND (IV) PURSUANT TO THE APPLICABLE SECTION OF EACH OTHER INTERCREDITOR AGREEMENT, AGREES TO BE BOUND BY THE TERMS OF SUCH OTHER INTERCREDITOR AGREEMENT AS A "TERM SECURED PARTY" (OR EQUIVALENT TERM THEREIN).

12.22 Press Releases.

(a) Each Secured Party agrees that neither it nor its Affiliates will in the future issue any press releases or other public disclosure using the name of the Administrative Agent or its Affiliates or referring to this Agreement or the other Loan Documents without at least two (2) Business Days' prior notice to the Administrative Agent and without the prior written consent of the Administrative Agent at the direction of the Required Lenders (which consent shall not be unreasonably withheld, delayed or conditioned) unless (and only to the extent that) such Secured Party or Affiliate is required to do so under applicable law and then, in any event, to the extent reasonably possible under applicable law, such Secured Party or Affiliate will consult with the Administrative Agent before issuing such press release or other public disclosure.

(b) Each Loan Party consents to the publication by the Administrative Agent or any Lender of advertising material, including any "tombstone" or comparable advertising, on its website or in other marketing materials of Administrative Agent, relating to the financing transactions contemplated by this Agreement using any Loan Party's name, product photographs, logo, trademark or other insignia; provided that the Administrative Agent or such Lender shall provide a draft reasonably in advance (and in no event, less than two (2) Business Days' prior written notice, with copies thereof attached to such written notice) of any advertising material to the Borrowing Agent for review and comment prior to the publication thereof and the Administrative Agent and the Lenders agree not to release or publicize any such material or other information until it receives the Borrowing Agent's written consent (which consent shall not be unreasonably withheld, delayed or conditioned).

12.23 Borrowing Agent. Each member of the Borrower Group hereby irrevocably and unconditionally appoints the Company as Borrowing Agent hereunder and under the other Loan Documents to act as agent for each other member of the Borrower Group for all purposes of the Loan Documents. The Borrowing Agent agrees to act upon the express conditions contained in this Agreement and the other Loan Documents, as applicable. No fees shall be payable to the Borrowing Agent for acting as the Borrowing Agent. In performing its functions and duties

under this Agreement and the other Loan Documents, the Borrowing Agent shall act solely as an agent of the members of the Borrower Group. The Administrative Agent and each Lender shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the Borrowing Agent. The Administrative Agent and each Lender also may rely upon any statement made to them orally or by telephone and believed by them to have been made by the Borrowing Agent, and shall not incur any liability for relying thereon. Any oral or written statement, certificate, representation or commitment made, given or delivered by the Borrowing Agent under this Agreement or the other Loan Documents shall be deemed to have been approved by, made, given and delivered on behalf of, and shall bind the members of the Borrower Group, jointly and severally, as fully as if any member of the Borrower Group had made, given or delivered such statement, certificate, representation or commitment. The provisions of this Section 12.23 are solely for the benefit of the Borrowers, the Administrative Agent and Lenders, and no other Person shall have any rights as a third party beneficiary of any of such provisions. Any reference herein to "the Borrower" (unless otherwise noted to the contrary) shall be deemed to apply to the Borrowing Agent.

12.24 Acknowledgement and Consent to Bail-In of EEA Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

12.25 Exit Financing. The Administrative Agent and the Lenders agree that on the date of consummation of the Bankruptcy Plan, together with such modifications as may be agreed by the Administrative Agent and Required Lenders in their sole discretion, which plan shall have

been solicited and approved by Prepetition First Lien Lenders holding at least 66 2/3% in funded amount outstanding under the Prepetition First Lien Loan Documents, the Term DIP Facility shall be converted into a first-out senior secured exit term loan, in accordance with the terms of the RSA.

[Signature pages follow]

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

BORROWERS:

PAYLESS INC.,
a Delaware corporation, as a Borrower

By:_____
Name: W. Paul Jones
Title: Chief Executive Officer and President

PAYLESS FINANCE, INC.,
a Nevada corporation, as a Borrower

By:_____
Name: Michael C. Schwindle
Title: President

PAYLESS SHOESOURCE DISTRIBUTION, INC.,
a Kansas corporation, as a Borrower

By:_____
Name: Michael C. Schwindle
Title: Vice President

PAYLESS SHOESOURCE, INC.,
a Missouri corporation, as a Borrower

By:_____
Name: W. Paul Jones
Title: Chief Executive Officer and President

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

BORROWERS:

PAYLESS INC.,
a Delaware corporation, as a Borrower

By:_____
Name:
Title:

PAYLESS FINANCE, INC.,
a Nevada corporation, as a Borrower

By:_____
Name: Michael C. Schwindle
Title: President

PAYLESS SHOESOURCE DISTRIBUTION, INC.,
a Kansas corporation, as a Borrower

By:_____
Name: Michael C. Schwindle
Title: Vice President

PAYLESS SHOESOURCE, INC.,
a Missouri corporation, as a Borrower

By:_____
Name:
Title:

GUARANTORS:

WBG – PSS HOLDINGS LLC,
a Delaware limited liability company, as Guarantor

By:_____
Name: Michael C. Schwindle
Title: President

PSS CANADA, INC.,
a Kansas corporation, as Guarantor

By:_____
Name: Michael C. Schwindle
Title: President

PAYLESS GOLD VALUE CO, INC.,
a Colorado corporation, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: President

CLINCH, LLC,
a Delaware limited liability company, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: Chief Executive Officer

COLLECTIVE BRANDS SERVICES, INC.,
a Delaware corporation, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: President

COLLECTIVE LICENSING INTERNATIONAL, LLC,
a Delaware limited liability company, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: Chief Executive Officer and President

EASTBOROUGH, INC.,
a Kansas corporation, as a Subsidiary Guarantor

By:_____
Name:
Title:

PAYLESS NYC, INC.,
a Kansas corporation, as a Subsidiary Guarantor

By:_____
Name:
Title:

COLLECTIVE BRANDS SERVICES, INC.,
a Delaware corporation, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: President

COLLECTIVE LICENSING INTERNATIONAL, LLC,
a Delaware limited liability company, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: Chief Executive Officer and President

EASTBOROUGH, INC.,
a Kansas corporation, as a Subsidiary Guarantor

By:_____
Name: Gary C. Madsen
Title: Vice President and Treasurer

PAYLESS NYC, INC.,
a Kansas corporation, as a Subsidiary Guarantor

By:_____
Name: Gary C. Madsen
Title: Vice President and Treasurer

PAYLESS PURCHASING SERVICES, INC.,
a Kansas corporation, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: President

PAYLESS SHOESOURCE MERCHANDISING, INC.,
a Kansas corporation, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: Senior Vice President and Chief Financial Officer

PAYLESS SHOESOURCE WORLDWIDE, INC.,
a Kansas corporation, as a Subsidiary Guarantor

By:_____
Name:
Title:

PSS DELAWARE COMPANY 4, INC.,
a Delaware corporation, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: President

PAYLESS PURCHASING SERVICES, INC.,
a Kansas corporation, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: President

PAYLESS SHOESOURCE MERCHANDISING, INC.,
a Kansas corporation, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: Senior Vice President and Chief Financial Officer

PAYLESS SHOESOURCE WORLDWIDE, INC.,
a Kansas corporation, as a Subsidiary Guarantor

By:_____
Name: W. Paul Jones
Title: Chief Executive Officer and President

PSS DELAWARE COMPANY 4, INC.,
a Delaware corporation, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: President

SHOE SOURCING, INC.,
a Kansas corporation, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: Chairman and President

COLLECTIVE BRANDS FRANCHISING SERVICES, LLC,
a Kansas limited liability company, as a Subsidiary Guarantor

By: Payless ShoeSource Worldwide, Inc.
Its: Managing Member

By:_____
Name:
Title:

PAYLESS COLLECTIVE GP, LLC,
a Delaware limited liability company, as a Subsidiary Guarantor

By: Payless ShoeSource Worldwide, Inc.
Its: Managing Member

By:_____
Name:
Title:

PAYLESS INTERNATIONAL FRANCHISING, LLC,
a Kansas limited liability company, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: Vice President

SHOE SOURCING, INC.,
a Kansas corporation, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: Chairman and President

COLLECTIVE BRANDS FRANCHISING SERVICES, LLC,
a Kansas limited liability company, as a Subsidiary Guarantor

By: Payless ShoeSource Worldwide, Inc.
Its: Managing Member

By:_____
Name: W. Paul Jones
Title: Chief Executive Officer and President

PAYLESS COLLECTIVE GP, LLC,
a Delaware limited liability company, as a Subsidiary Guarantor

By: Payless ShoeSource Worldwide, Inc.
Its: Managing Member

By:_____
Name: W. Paul Jones
Title: Chief Executive Officer and President

PAYLESS INTERNATIONAL FRANCHISING, LLC,
a Kansas limited liability company, as a Subsidiary Guarantor

By:_____
Name: Michael C. Schwindle
Title: Vice President

COLLECTIVE LICENSING, LP,
a Delaware limited partnership, as a Subsidiary Guarantor

By: _____
Name: Michael C. Schwindle
Title: President

CORTLAND PRODUCTS CORP.,
as Administrative Agent

By: _____
Name: Emily Ergang Pappas
Title: Associate Counsel

LENDERS:

Alden Global Capital, LLC (on behalf of the funds managed, advised, or sub-advised by it),
as Lender

By:_____
Name: Heath Freeman
Title: President

AXAR MASTER FUND, LTD.
as Lender

By: Axar Capital Management LP, its investment manager

By:_____
Name: Andrew Axelrod
Title: Managing Partner

AUSTRALIANSUPER
BY: CREDIT SUISSE ASSET MANAGEMENT, LLC, AS SUB-ADVISOR TO BENTHAM ASSET MANAGEMENT PTY LTD. IN ITS CAPACITY AS AGENT OF AND INVESTMENT MANAGER FOR AUSTRALIANSUPER PTY LTD. IN ITS CAPACITY AS TRUSTEE OF AUSTRALIANSUPER

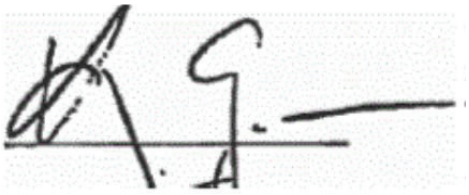
BENTHAM WHOLESALE SYNDICATED LOAN FUND
BY: CREDIT SUISSE ASSET MANAGEMENT, LLC, AS AGENT (SUB-ADVISOR) FOR CHALLENGER INVESTMENT SERVICES LIMITED, THE RESPONSIBLE ENTITY FOR BENTHAM WHOLESALE SYNDICATED LOAN FUND

CREDIT SUISSE FLOATING RATE HIGH INCOME FUND
By: Credit Suisse Asset Management, LLC, as investment manager

CREDIT SUISSE NOVA (LUX)
By: Credit Suisse Asset Management, LLC or Credit Suisse Asset Management Limited, each as Co-Investment Adviser to Credit Suisse Fund Management S.A., management company for Credit Suisse Nova (Lux)

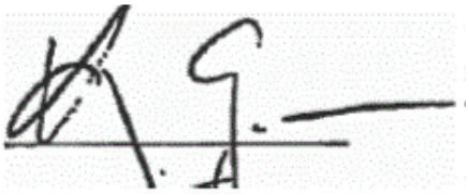
By: _____
Name: Thomas Flannery
Title: Authorized Signatory

A Voce CLO, Ltd.
By: Invesco Senior Secured Management, Inc. as Collateral Manager
as Lender



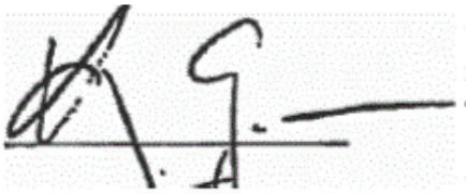
By:_____
Name: Kevin Egan
Title: Authorized Individual

American General Life Insurance Company
By: Invesco Senior Secured Management, Inc. as Investment Manager
as Lender



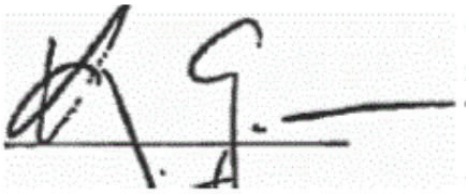
By:_____
Name: Kevin Egan
Title: Authorized Individual

The Variable Annuity Life Insurance Company
By: Invesco Senior Secured Management, Inc. as Investment Manager
as Lender



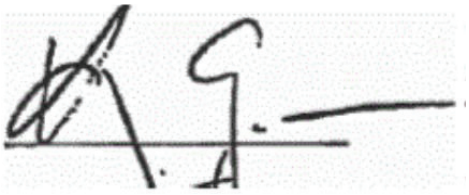
By:_____
Name: Kevin Egan
Title: Authorized Individual

American Home Assurance Company
By: Invesco Senior Secured Management, Inc. as Investment Manager
as Lender



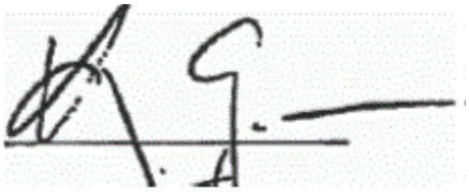
By:_____
Name: Kevin Egan
Title: Authorized Individual

Lexington Insurance Company
By: Invesco Senior Secured Management, Inc. as Investment Manager
as Lender



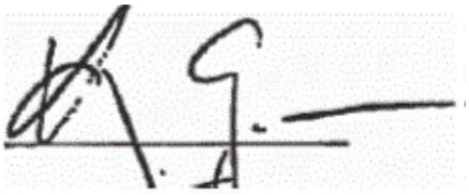
By:_____
Name: Kevin Egan
Title: Authorized Individual

National Union Fire Insurance Company of Pittsburgh, Pa.
By: Invesco Senior Secured Management, Inc. as Investment Manager
as Lender



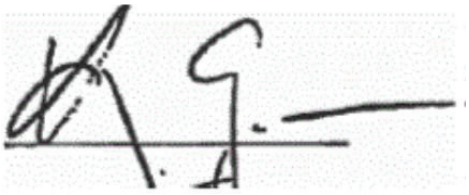
By:_____
Name: Kevin Egan
Title: Authorized Individual

Betony CLO, Ltd.
By: Invesco Senior Secured Management, Inc. as Collateral Manager
as Lender



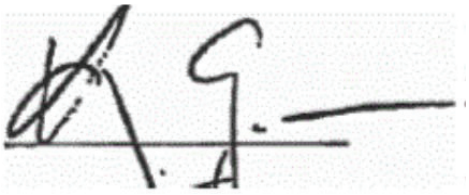
By:_____
Name: Kevin Egan
Title: Authorized Individual

Blue Hill CLO, Ltd.
By: Invesco Senior Secured Management, Inc. as Collateral Manager
as Lender



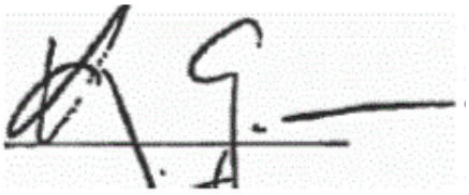
By:_____
Name: Kevin Egan
Title: Authorized Individual

BOC Pension Investment Fund
By: Invesco Senior Secured Management, Inc. as Attorney in Fact
as Lender



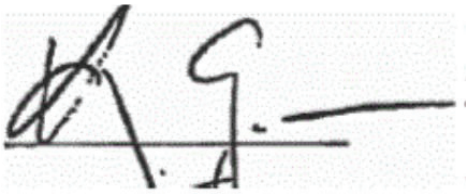
By:_____
Name: Kevin Egan
Title: Authorized Individual

Diversified Credit Portfolio Ltd.
By: Invesco Senior Secured Management, Inc. as Investment Adviser
as Lender



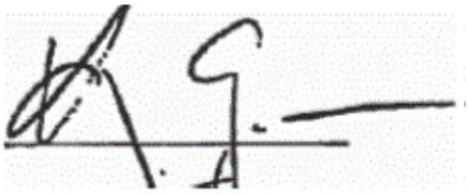
By:_____
Name: Kevin Egan
Title: Authorized Individual

Invesco Dynamic Credit Opportunities Fund
By: Invesco Senior Secured Management, Inc. as Sub-Adviser
as Lender



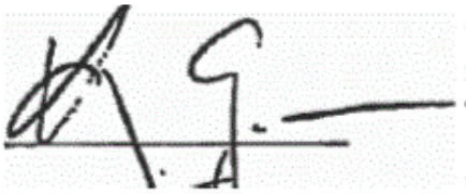
By:_____
Name: Kevin Egan
Title: Authorized Individual

Invesco Floating Rate Fund
By: Invesco Senior Secured Management, Inc. as Sub-Adviser
as Lender



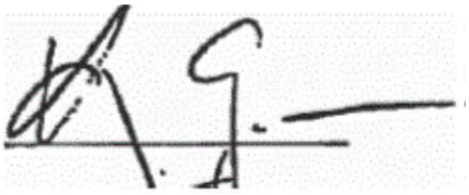
By:_____
Name: Kevin Egan
Title: Authorized Individual

Kaiser Foundation Hospitals
By: Invesco Senior Secured Management, Inc. as Investment Manager
as Lender



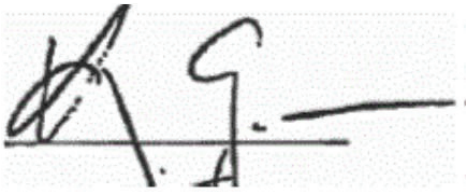
By:_____
Name: Kevin Egan
Title: Authorized Individual

Kaiser Permanente Group Trust
By: Invesco Senior Secured Management, Inc. as Investment Manager
as Lender



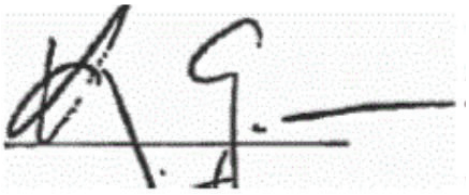
By:_____
Name: Kevin Egan
Title: Authorized Individual

Kapitalforeningen Investin Pro, US Leveraged Loans I
By: Invesco Senior Secured Management, Inc. as Collateral Manager
as Lender



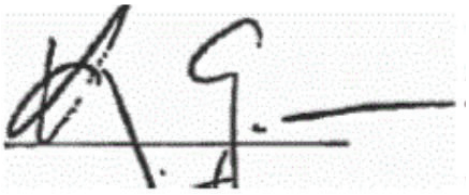
By:_____
Name: Kevin Egan
Title: Authorized Individual

Limerock CLO II, Ltd.
By: Invesco Senior Secured Management, Inc. as Collateral Manager
as Lender



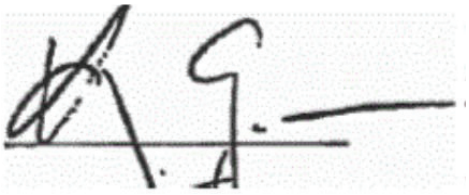
By:_____
Name: Kevin Egan
Title: Authorized Individual

Limerock CLO III, Ltd.
By: Invesco Senior Secured Management, Inc. as Collateral Manager
as Lender



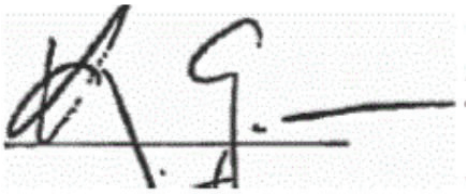
By:_____
Name: Kevin Egan
Title: Authorized Individual

Linde Pension Plan Trust
By: Invesco Senior Secured Management, Inc. as Investment Manager
as Lender



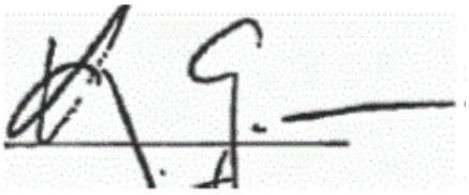
By:_____
Name: Kevin Egan
Title: Authorized Individual

Invesco BL Fund, Ltd.
By: Invesco Senior Secured Management, Inc. as Sub-advisor
as Lender



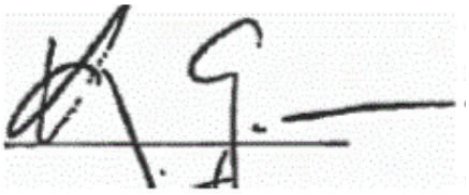
By:_____
Name: Kevin Egan
Title: Authorized Individual

Nomad CLO, Ltd.
By: Invesco Senior Secured Management, Inc. as Collateral Manager
as Lender



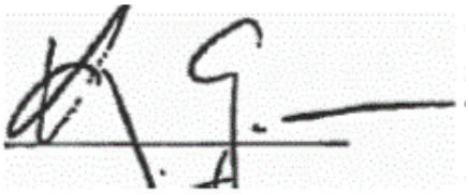
By:_____
Name: Kevin Egan
Title: Authorized Individual

North End CLO, Ltd
By: Invesco Senior Secured Management, Inc. as Investment Manager
as Lender



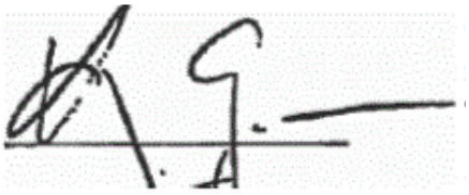
By:_____
Name: Kevin Egan
Title: Authorized Individual

The City of New York Group Trust
By: Invesco Senior Secured Management, Inc. as Investment Manager
as Lender



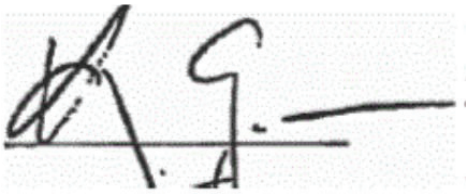
By:_____
Name: Kevin Egan
Title: Authorized Individual

Invesco Senior Income Trust
By: Invesco Senior Secured Management, Inc. as Sub-Adviser
as Lender



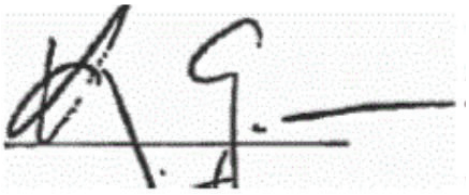
By:_____
Name: Kevin Egan
Title: Authorized Individual

Invesco Senior Loan Fund
By: Invesco Senior Secured Management, Inc. as Sub-Adviser
as Lender



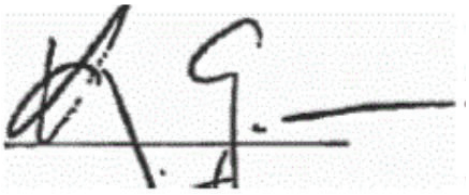
By:_____
Name: Kevin Egan
Title: Authorized Individual

Sentry Insurance a Mutual Company
By: Invesco Senior Secured Management, Inc. as Asset Manager
as Lender



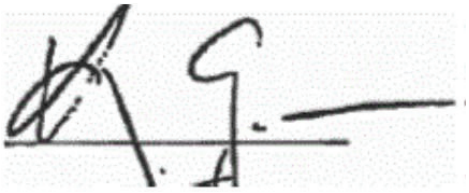
By:_____
Name: Kevin Egan
Title: Authorized Individual

Wasatch CLO Ltd
By: Invesco Senior Secured Management, Inc. as Portfolio Manager
as Lender



By:_____
Name: Kevin Egan
Title: Authorized Individual

Invesco Zodiac Funds - Invesco US Senior Loan Fund
By: Invesco Senior Secured Management, Inc. as Investment Manager
as Lender



By:_____
Name: Kevin Egan
Title: Authorized Individual

HAWKEYE CAPITAL MANAGEMENT LLC,
as Lender

By: _____
Name: Richard Rubin
Title: Managing Partner

BLACKSTONE / GSO LONG-SHORT CREDIT INCOME FUND, as Lender
BLACKSTONE / GSO SENIOR FLOATING RATE TERM FUND, as Lender
BLACKSTONE / GSO STRATEGIC CREDIT FUND, as Lender
By: GSO / Blackstone Debt Funds Management LLC, as investment adviser

By:_____
Name: MARISA BEENEY
Title: AUTHORIZED SIGNATORY

(Additional Lender Signature Pages on File with the Administrative Agent)

SCHEDULE I

Lenders and Term DIP Commitments

SCHEDULE II

Notice Addresses[1]

[1] Lenders' notice addresses.

SCHEDULE 5.16

Subsidiaries

Subsidiary's Name	Jurisdiction of Incorporation or Formation	Authorized Equity Interests	Record Owner (100% unless otherwise indicated)	Subsidiary Guarantor (Y/N)
Clinch, LLC	Delaware	N/A	Collective Licensing International, LLC	Yes
Collective Brands Cayman Finance, Limited	Cayman Islands	Ordinary Shares: 50,000	PSS Holding Corporation	No
Collective Brands Cayman Finance, Limited II	Cayman Islands	Ordinary Shares: 50,000	Collective Brands Cayman Finance, Limited	No
Collective Brands Cooperatief U.A.	Netherlands	N/A	PSS Holding Corporation (99.999800%) Collective Brands Logistics, Limited (,000200%)	No
Collective Brands Cooperatief U.A.	Netherlands	N/A	Collective Brands Cooperatief U.A.	No
Collective Brands Franchising Services, LLC	Kansas	N/A	Payless ShoeSource Worldwide, Inc.	Yes
Collective Brands Holdings, Limited	Hong Kong	N/A	Collective Brands Logistics, Limited	No
Collective Brands International Franchising, LLC	Kansas	N/A	Collective Franchising, Ltd.	No
Collective Brands International Holdings, Limited I	Cayman Islands	Ordinary Shares: 50,000	PSS International Holdings, Limited	No
Collective Brands International Holdings, Limited II	Cayman Islands	Ordinary Shares: 50,000	Collective Brands International Holdings, Limited I	No
Collective Brands Logistics, Limited	Hong Hong	N/A	Collective Brands International Holdings, Limited I	No
Collective Brands Services Vietnam Company Ltd.	Vietnam	Charter Capital: 50,000	Collective Brands Holdings, Limited	No
Collective Brands Services, Inc.	Delaware	Common Stock: 1,500	Payless Finance, Inc.	Yes
Collective Brands Services, Limited	Hong Kong	Shares: 1,000	Collective Brands International Holdings, Limited II	No
Collective Franchising, Ltd.	Cayman Islands	Ordinary Shares: 50,000	Payless ShoeSource Worldwide, Inc.	No
Collective Indonesia	Kansas	N/A	Collective Franchising, Ltd.	No

Subsidiary's Name	Jurisdiction of Incorporation or Formation	Authorized Equity Interests	**Record Owner (100% unless otherwise indicated)**	**Subsidiary Guarantor (Y/N)**
Franchising, LLC				
Collective Licensing International, LLC	Delaware	N/A	Collective Licensing, LP	Yes
Collective Licensing, LP	Delaware	N/A	Payless Collective GP, LLC (0.1%) Payless ShoeSource Worldwide, Inc. (99.9%)	Yes
Dynamic Assets Limited	Hong Kong	Shares: 1,570,000	PSS Holding Corporation One share owned by Collective Brands Services, Limited	No
Eastborough, Inc.	Kansas	Common Stock: 1,000	Payless Finance, Inc.	Yes
Import Solutions de Mexico S. de R.L. de C.V.	Mexico	N/A	Payless Finance, Inc. One share owned by Payless ShoeSource Worldwide, Inc.	No
LifeStyle Brands Corporation	Nova Scotia	Common Stock: 1,000,000	Collective Licensing, LP	No
Payless Asia Sourcing (Not a legal entity)	Joint Business Arrangement governed by the laws of China	N/A	Parties to the Joint Business Agreement: Payless Sourcing LLC (98%) Collective Brands Logistics, Limited (2%)	No
Payless CA Management Ltd.	British Virgin Islands	Shares: 50,000	PSS Latin America Holdings One share held by Payless ShoeSource, Inc. in trust	No
Payless CO Management LTD	British Virgin Islands	Shares: 50,000	Payless CA Management Ltd.	No
Payless Collective GP, LLC	Delaware	N/A	Payless ShoeSource Worldwide, Inc.	Yes
Payless Colombia (BVI) Holdings, Ltd.	British Virgin Islands	Class A Shares: 60,600 Class B1 Shares: 30,300 Class B2 Shares: 10,100	Payless CO Management LTD (60%) Patagonia Capital Limited (30%) Pataya Inc. (10%)	No
Payless Controladora S.A. de CV	Mexico	Ordinary Shares: 50,000	PSS Investment I, Inc. (50%) PSS Investment III,	No

Subsidiary's Name	Jurisdiction of Incorporation or Formation	Authorized Equity Interests	**Record Owner (100% unless otherwise indicated)**	**Subsidiary Guarantor (Y/N)**
			Inc. (50%)	
Payless Finance, Inc.	Nevada	Common Stock: 100	Payless, Inc.	Yes
Payless Gold Value CO, Inc.	Colorado	Common Stock: 1,000	Payless Finance, Inc.	Yes
Payless Inc.	Delaware	Common Stock: 1,000	WBG - PSS HOLDINGS LLC	Yes
Payless India Franchising, LLC	Kansas	N/A	Collective Franchising, Ltd.	No
Payless International Finance B.V.	Netherlands	Shares: 90,000	Collective Brands Coöperatief U.A.	No
Payless International Franchising, LLC	Kansas	N/A	Payless ShoeSource Worldwide, Inc.	Yes
Payless Netherlands Holding, LLC	Kansas	N/A	Payless ShoeSource Worldwide, Inc.	No
Payless NYC, Inc.	Kansas	Common Stock: 100	Payless ShoeSource, Inc.	Yes
Payless Purchasing Services, Inc.	Kansas	Common Stock: 1,000	Payless Finance, Inc.	Yes
Payless Servicios S.A. de CV	Mexico	Ordinary Shares: 50,000	Payless Controladora, S.A. de C.V.One share owned by PSS Investment I, Inc.	No
Payless Shoes Pty Ltd	Australia	Ordinary Shares: Unlimited	Collective Brands II Cooperatief U.A.	No
Payless ShoeSouce Internacional Servicios Tecnicos E Inspetoria de Calcados S/C LTDA	Brazil	Quotas: 100	Payless ShoeSource, Inc. (75%) PSS Investment I, Inc. (25%)	No
Payless ShoeSource (Barbados) SRL	Barbados	Common Quotas: Unlimited	Payless ShoeSource of St. Lucia, Ltd.	No
Payless ShoeSource (BVI) Holdings, Ltd.	British Virgin Islands	Class A Shares: 60,003 Class B Shares: 40,002	Payless CA Management Ltd. (60%) PLP S.A. (40%)	No
Payless ShoeSource (Panama) S.A.	Panama	Shares: 500	John B. Foster owns 250 shares in trust for Payless ShoeSource (BVI) Holdings, Ltd. Andres M. Sanchez owns 250 shares in trust for Payless ShoeSource (BVI) Holdings, Ltd.	No
Payless ShoeSource Andean Holdings	Cayman Islands	Class A Shares:	PSS Latin America Holdings (60%)	No

Subsidiary's Name	Jurisdiction of Incorporation or Formation	Authorized Equity Interests	**Record Owner (100% unless otherwise indicated)**	**Subsidiary Guarantor (Y/N)**
		160,000 Class B Shares: 240,000	South America Local Partners, S.A. (40%)	
Payless ShoeSource AU Holdings Pty Ltd	Australia	Ordinary Shares: Unlimited	Collective Brands II Cooperatief U.A.	No
Payless ShoeSource Canada GP Inc.	Canada	Common Stock: Unlimited	PSS ShoeSource Canada Inc.	No
Payless ShoeSource Canada Inc.	Canada	Common Stock: Unlimited	PSS Canada, Inc.	No
Payless ShoeSource Canada LP	Canada	General Partnership Units: 2 Limited Partnership Units: 61,641,098	Payless ShoeSource Canada GP Inc. (0.1%) Payless ShoeSource Canada Inc. (99.9%)	No
Payless ShoeSource de Guatemala LTDA	Guatemala	N/A	Payless ShoeSource (BVI) Holdings, Ltd. (99.98%) Payless ShoeSource, Limitada (.02%)	No
Payless ShoeSource de la Republica Dominicana, S.R.L.	Dominican Republic	Shares: 100,000	Payless ShoeSource (BVI) Holdings, Ltd. One share owned by Payless ShoeSource, Limitada	No
Payless ShoeSource Distribution, Inc.	Kansas	Common Shares: 100	Payless Finance, Inc.	Yes
Payless ShoeSource Dominica Ltd.	Dominica	Common Shares: 50,000	Payless ShoeSource of St. Lucia, Ltd.	No
Payless ShoeSource Ecuador CIA Ltda	Ecuador	Shares: 4,505,000	Payless ShoeSource Uruguay SRL One share owned by PSS Latin America Holdings	No
Payless ShoeSource Honduras S. de R.L.	Honduras	Capital: 9,329,800	Payless ShoeSource (BVI) Holdings, Ltd. One share owned by Payless ShoeSource, Limitada	No
Payless ShoeSource Jamaica Limited	Jamaica	Shares: 10,000,000	Payless ShoeSource of St. Lucia, Ltd.	No
Payless ShoeSource Limitada & Compania Limitada (Nicaragua)	Nicaragua	Quotas: 33,050,000	Payless ShoeSource (BVI) Holdings, Ltd. One share owned by Payless ShoeSource, Limitada	No
Payless ShoeSource Merchandising, Inc.	Kansas	Common Stock: 100	Payless Finance, Inc.	Yes

Subsidiary's Name	Jurisdiction of Incorporation or Formation	Authorized Equity Interests	**Record Owner (100% unless otherwise indicated)**	**Subsidiary Guarantor (Y/N)**
Payless ShoeSource of El Salvador, Ltda. de C.V.	El Salvador	N/A	Payless ShoeSource (BVI) Holdings, Ltd. (99.99%) Payless ShoeSource, Limitada (.01%)	No
Payless ShoeSource of Puerto Rico, Inc.	Puerto Rico	Common Stock: 1,000	Payless ShoeSource, Inc.	No
Payless ShoeSource of St. Lucia, Ltd.	St. Lucia	Ordinary Shares: 10,000,000	Payless ShoeSource (BVI) Holdings, Ltd.	No
Payless ShoeSource of Trinidad Unlimited	Trinidad & Tobago	Common Stock: 300,000	Payless ShoeSource of St. Lucia, Ltd.	No
Payless ShoeSource Overseas S.R.L.	Panama	Participations: 50,000	Payless ShoeSource (BVI) Holdings, Ltd. One share owned by Payless ShoeSource, Limitada	No
Payless ShoeSource Peru Holding, S.L.	Spain	Class A Shares: Unlimited Class B Shares: Unlimited Class C Shares: Unlimited	Collective Brands Cooperatief U.A. (60%) Bluestone Financial Inc. (40%) Bluestone Financial Inc. (1 Class C share)	No
Payless ShoeSource Peru S.R.L.	Peru	N/A	Payless ShoeSource Peru Holding, S.L. (99%) Collective Brands II Coöperatief U.A. (1%)	No
Payless ShoeSource PSS De Colombia S.A.S.	Colombia	Quotas: 60,524.010	Payless Colombia (BVI) Holdings, Ltd. One share owned by Payless CA Management Limited)	No
Payless ShoeSource S.A. de CV	Mexico	Ordinary Shares 50,000	Payless Controladora, S.A. de C.V. One share owned by PSS Investment I, Inc.	No
Payless ShoeSource Saipan, Inc.	Northern Mariana Islands	Common Stock: 20,000	Payless ShoeSource Worldwide, Inc.	No

Subsidiary's Name	Jurisdiction of Incorporation or Formation	Authorized Equity Interests	**Record Owner (100% unless otherwise indicated)**	**Subsidiary Guarantor (Y/N)**
Payless ShoeSource Spain Licensing, S.L.	Spain	N/A	Payless International Finance B.V.	No
Payless ShoeSource Spain, S.L.	Spain	Quotas: 10,020	Payless ShoeSource Uruguay SRL	No
Payless ShoeSource St. Kitts Ltd.	St. Kitts	Shares: 50,000	Payless ShoeSource of St. Lucia, Ltd.	No
Payless ShoeSource Uruguay SRL	Uruguay	N/A	Payless ShoeSource Andean Holdings (99.93333%) PSS Latin America Holdings (0.066670%)	No
Payless ShoeSource Worldwide, Inc.	Kansas	Common Shares: 100	Payless Finance, Inc.	Yes
Payless ShoeSource, Inc.	Missouri	Common Stock: 10,000,000	Payless Finance, Inc.	Yes
Payless ShoeSource, Limitada	Costa Rica	Quotas: 10	Payless ShoeSource (BVI) Holdings, Ltd.	No
Payless Sourcing LLC	Delaware	N/A	PSS Holding Corporation	No
Payless SRL	Paraguay	Quotas: 5,000,000	Collective Brands Cooperatief U.A. One share owned by Oscar Brelles Mariño Dicen	No
PSS Canada, Inc.	Kansas	Common Stock: 200	Payless ShoeSource Worldwide, Inc. (99%) Payless Finance, Inc. (1%)	Yes
PSS Delaware Company 4, Inc.	Delaware	Common Stock: 1,500	Payless Finance, Inc.	Yes
PSS Holding Corporation	Cayman Islands	Ordinary Shares: 50,000	Collective Brands International Holdings, Limited II	No
PSS International Holdings, Limited	Cayman Islands	Ordinary Shares: 50,000	Payless ShoeSource Worldwide, Inc.	No
PSS Investment I, Inc.	Nevada	Common Stock: 100	Payless ShoeSource, Inc.	No
PSS Investment III, Inc.	Kansas	Common Stock: 100	Payless ShoeSource, Inc.	No
PSS Latin America Holdings	Cayman Islands	Ordinary Shares: 50,000	Collective Brands Cooperatief U.A.	No
PSS Uruguay SRL	Uruguay	Quotas: 100,000	Collective Brands Cooperatief U.A. One share owned by Collective Brands II Coöperatief U.A.	No

Subsidiary's Name	Jurisdiction of Incorporation or Formation	Authorized Equity Interests	**Record Owner (100% unless otherwise indicated)**	**Subsidiary Guarantor (Y/N)**
Shenzhen Footwear Consulting Company	China	N/A	Collective Brands Holdings, Limited	No
Shoe Sourcing, Inc.	Kansas	Common Stock: 1,000	Payless Finance, Inc.	Yes
Collective Brands II Cooperatief U.A.	Netherlands	N/A	PSS Holding Corporation (99.9%) Collective Brands Cayman Finance, Limited (.1%)	No

SCHEDULE 7.2(g)

Initial Budget[2]

[2] "Initial Budget" shall mean a 13-week operating budget setting forth all forecasted receipts and disbursements on a weekly basis for such 13-week period beginning as of the week of the Petition Date, broken down by week, including the anticipated weekly uses of the proceeds of the Term DIP Facility for such period, which shall include, among other things, available cash, cash flow, trade payables and ordinary course expenses, total expenses and capital expenditures, fees and expenses relating to the Term DIP Facility, fees and expenses related to the Chapter 11 Cases, and working capital and other general corporate needs, which forecast shall be in form and substance reasonably satisfactory to the Administrative Agent at the direction of the Required Lenders. Such Budget shall be in the form set forth in Schedule 7.2(g) hereto. Until supplemented pursuant to Section 7.2(g), the Initial Budget shall constitute a "DIP Budget".

SCHEDULE 7.5

Self-Insurance

None.

SCHEDULE 8.1(g)

Existing Indebtedness

Loan Party	Creditor	Facility Description	Amount Outstanding
Payless ShoeSource Worldwide, Inc.	Performance Team LLC (fka Performance Team Freight Systems, Inc.)	Capital Lease	$6,304,000
Payless ShoeSource Worldwise, Inc.	IBM Credit LLC	Capital Lease	$1,258,003
Payless ShoeSource Worldwise, Inc.	IBM Credit LLC	Capital Lease	$746,485
Payless ShoeSource Worldwise, Inc.	IBM Credit LLC	Capital Lease	$362,642
Payless ShoeSource Distribution, Inc.	TC Lit Palms	Capital Lease	$566,935

SCHEDULE 8.2(j)

Existing Liens

Liens securing the capital leases set forth on Schedule 8.2(g).

SCHEDULE 8.6(k)

Existing Investments

See Schedule 5.16.

The Intercompany Note.

SCHEDULE 8.8

Existing Affiliate Transactions

None.

EXHIBIT A

FORM OF
ASSIGNMENT AND ASSUMPTION AGREEMENT[1]

This Assignment and Assumption Agreement (this "Assignment") is dated as of the Effective Date set forth below and is entered into by and between [the][each] Assignor identified in item [1][2] below ([the] [each, an] "Assignor") and [the] [each] Assignee identified in item 2 below ([the] [each, an] "Assignee"). [It is understood and agreed that the rights and obligations of such [Assignees][and Assignors] hereunder are several and not joint.] Capitalized terms used herein but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, restated, supplemented and/or otherwise modified from time to time, the "Credit Agreement"). The Standard Terms and Conditions for Assignment and Assumption Agreement set forth in Annex 1 hereto (the "Standard Terms and Conditions") are hereby agreed to and incorporated herein by reference and made a part of this Assignment as if set forth herein in full.

For an agreed consideration, [the][each] Assignor hereby irrevocably sells and assigns to [the] [each] Assignee, and [the] [each] Assignee hereby irrevocably purchases and assumes from [the][each] Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below, the interest in and to all of [the][each] Assignor's rights and obligations under the Credit Agreement and any other documents or instruments delivered pursuant thereto that represents the amount and percentage interest identified below of all of the [respective] Assignor's outstanding rights and obligations under the respective Tranches identified below ([the] [each, an] "Assigned Interest"). [Each] [Such] sale and assignment is without recourse to [the][any] Assignor and, except as expressly provided in this Assignment, without representation or warranty by [the][any] Assignor.

1. [Assignor: _____

2. Assignor: _____]2

[1][3]. Credit Agreement: Superpriority Secured Debtor-In-Possession Term Loan and Guarantee Agreement, dated as of April 5, 2017, among WBG – PSS Holdings LLC ("Holdings"), Payless Inc. (the "Borrowing Agent"), the additional Borrowers referred to therein, the subsidiary guarantors from time to time party thereto, in each case a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code, the lenders from time to time party thereto,

---

[1] This Form of Assignment and Assumption Agreement should be used by Lenders for an assignment to a single Assignee or to funds managed by the same or related investment managers.

[2] If the form is used by a single Assignor and Assignee, items 1 and 2 should list the Assignor and the Assignee, respectively. In the case of an assignment to funds managed by the same or related investment managers or an assignment by multiple Assignors, the Assignors and the Assignee(s) should be listed in the table under bracketed item 2 below.

Cortland Products Corp., as Administrative Agent, and the other parties thereto.

[2. Assigned Interest:[3]

Assignor	Assignee	Tranche Assigned[4]	Aggregate Amount of Term DIP Commitment/ Term Loans under Relevant Tranche for all Lenders	Amount of Term DIP Commitment/ Term Loans under Relevant Tranche Assigned[5]
[Name of Assignor]	[Name of Assignee]	Term Loans	_____	_____
[Name of Assignor]	[Name of Assignee]	[Designate Tranche of Term Loans]	_____	_____

[4. Assigned Interest:[6]

Tranche Assigned	Aggregate Amount of Term DIP Commitment / Term Loans under Relevant Tranche for all Lenders	Amount of Term DIP Commitment / Term Loans under Relevant Tranche Assigned
Term Loans[7]	$_____	$_____
[Designate Tranche of Term Loans]	$_____	$_____

[3] Insert this chart if this Form of Assignment and Assumption Agreement is being used for assignments to funds managed by the same or related investment managers or for an assignment by multiple Assignors. Insert additional rows as needed.

[4] For complex multi-tranche assignments a separate chart for each tranche should be used for ease of reference.

[5] Minimum assigned amount must be $1,000,000 except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Term DIP Commitment or Term Loans under any Facility.

[6] Insert this chart if this Form of Assignment and Assumption Agreement is being used by a single Assignor for an assignment to a single Assignee.

[7] Insert rows for additional Tranches of Term Loans as needed.

Effective Date ____, ____.

Assignor[s] Information		**Assignee[s] Information**	
Payment Instructions:	_____	Payment Instructions:	_____
	_____		_____
	_____		_____
	Reference:___		Reference:___
Notice Instructions:	_____	Notice Instructions:	_____
	_____		_____
	_____		_____
	Reference:___		Reference:___

The terms set forth in this Assignment are hereby agreed to:

ASSIGNOR	ASSIGNEE
[NAME OF ASSIGNOR]	[NAME OF ASSIGNEE][8]
By:_____	By:_____
Name:	Name:
Title:	Title:

[8] Add additional signature blocks, as needed, if this Form of Assignment and Assumption Agreement is being used by funds managed by the same or related investment managers.

[Consented to and] Accepted[9]:

[REQUIRED LENDERS],

By:_____
Name:
Title:

[9] Insert only if assignment is being made to an Eligible Assignee pursuant to Section 12.4(a)(i) of the Credit Agreement, unless the assignment is to a Person that is already a Lender or an Affiliate of a Lender. Consent of the Required Lenders shall not be unreasonably withheld or delayed.

ANNEX 1 TO
EXHIBIT A

PAYLESS INC.

SUPERPRIORITY SECURED DEBTOR – IN – POSSESSION
TERM LOAN AND GUARANTEE AGREEMENT

STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT
AND ASSUMPTION AGREEMENT

1. Representations and Warranties.

1.1. Assignor. [The] [Each] Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of [the] [its] Assigned Interest, (ii) [the] [its] Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with any Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement, any other Loan Document or any other instrument or document delivered pursuant thereto (other than this Assignment) or any collateral thereunder, (iii) the financial condition of Holdings, any of its Subsidiaries or affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by Holdings, any of its Subsidiaries or affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. [The] [Each] Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it is an Eligible Assignee; (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement and, to the extent of [the][its] Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 7.1 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and to purchase [the][its] Assigned Interest on the basis of which it has made such analysis and decision and (v) if it is organized under the laws of a jurisdiction outside the United States, it has attached to this Assignment any tax documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by it; (b) agrees that it will, independently and without reliance upon the Administrative Agent, [the][each] Assignor, or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement; (c) appoints and authorizes each of the Administrative Agent and the Collateral Agent to take such action as agent on its behalf and to exercise such powers under the Credit Agreement and the other Loan Documents as are delegated to or otherwise conferred upon the

Administrative Agent or the Collateral Agent, as the case may be, by the terms thereof, together with such powers as are reasonably incidental thereto; (d) agrees that it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender; and (e) to the extent not already a Lender under the Credit Agreement, has delivered to the Administrative Agent an administrative questionnaire and the Internal Revenue Service forms described in Section 4.4(b) of the Credit Agreement and any forms described in Section 4.4(c) of the Credit Agreement (if applicable).

2. Payment. From and after the Effective Date, the Administrative Agent shall make all payments in respect of [the] [each] Assigned Interest (including payments of principal, interest, fees, commissions and other amounts) to [the][each] Assignor for amounts which have accrued to but excluding the Effective Date and to [the] [each] Assignee for amounts which have accrued from and after the Effective Date.

3. Effect of Assignment. Upon the delivery of a fully executed electronic copy hereof to the Administrative Agent, as of the Effective Date, (i) [the][each] Assignee shall be a party to the Credit Agreement and, to the extent provided in this Assignment, have the rights and obligations of a Lender thereunder and under the other Loan Documents and (ii) [the][each] Assignor shall, to the extent provided in this Assignment, relinquish its rights and be released from its obligations under the Credit Agreement and the other Loan Documents.

4. General Provisions. This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart of the Assignment. THIS ASSIGNMENT SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK (WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES).

* * *

EXHIBIT B

FORM OF
COMPLIANCE CERTIFICATE

Reference is made to the Superpriority Secured Debtor-In-Possession Term Loan and Guarantee Agreement, dated as of April 5, 2017 (as amended, restated, amended and restated, modified, supplemented and/or extended as of the date hereof, the "Credit Agreement"; capitalized terms used herein have the meanings attributed thereto in the Credit Agreement unless otherwise defined herein), among WBG – PSS Holdings LLC ("Holdings"), Payless Inc. (the "Borrowing Agent"), the other Borrowers party thereto, the Subsidiary Guarantors from time to time party thereto, in each case a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code, the lenders from time to time party thereto (each, a "Lender" and, collectively, the "Lenders"), and Cortland Products Corp., as Administrative Agent (the "Administrative Agent"). Pursuant to Section 7.2(b) of the Credit Agreement, the undersigned, solely in his/her capacity as an Authorized Officer and not in any individual capacity, certifies on the date hereof as follows:

1. Attached hereto as Exhibit A are:

[a Consolidated balance sheet of the Borrowers and its Subsidiaries as at the end of each Fiscal Year, and the related consolidated statements of income or operations, Shareholders' Equity and cash flows for such Fiscal Year, setting forth in each case (to the extent available, with respect to any Fiscal Year ending prior to, or a portion of which occurs prior to, the Closing Date) in comparative form the figures for the previous Fiscal Year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of a Registered Public Accounting Firm of nationally recognized standing reasonably acceptable to the Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards][10]

[a Consolidated balance sheet of the Borrowers and its Subsidiaries as at the end of such Fiscal Month, and the related consolidated statements of income or operations (which shall be limited to operating profit (including interest but excluding taxes)), and, to the extent prepared, cash flows for such Fiscal Month, and for the portion of the Borrowers' Fiscal Year then ended, setting forth in each case (to the extent available, with respect to any Fiscal Month or Fiscal Year ending prior to, or a portion of which occurs prior to, the Closing Date) in comparative form the figures for the corresponding Fiscal Month of the previous Fiscal Year and the corresponding portion of the previous Fiscal Year, all in reasonable detail, certified by an Authorized Officer of the Borrowers as fairly presenting, in all material respects, the financial condition, results of operations, and to the extent prepared, cash flows of the Borrowers and its Subsidiaries as of

[10] To be delivered as soon as available.

the end of such Fiscal Month, subject only to normal year-end audit adjustments and the absence of footnotes][11]

2. [Attached hereto as Exhibit B are the management operating reports of Borrowing Agent and its Subsidiaries as of the close of the fiscal month ended [●] and the elapsed portion of the fiscal year.][12]

3. [Attached hereto as Exhibit C is the DIP Budget as of [●].][13]

4. [Attached hereto as Exhibit D is the Variance Report as of [●].][14]

5. To the best of my knowledge, each of Holdings and its Subsidiaries has observed or performed all of its covenants and other agreements contained in the Credit Agreement and the other Loan Documents to which it is a party to be observed, performed or satisfied by it[, except as set forth on Exhibit E hereto][15]

6. To my knowledge no Event of Default has occurred and is continuing[, except as set forth on Exhibit F hereto][16].

7. Exhibit G hereto describes any change in the jurisdiction of organization of any Loan Party since [the Closing Date][the delivery of the immediately preceding previous Compliance Certificate].

8. Exhibit H hereto describes each event, condition or circumstances since the delivery of the immediately preceding previous Compliance Certificate requiring a mandatory prepayment under Section 4.2 of the Credit Agreement.

---

[11] To be delivered as soon as available and in any event within thirty (30) days after the end of the applicable Fiscal Months of each Fiscal Year of the Borrowers.

[12] To be delivered within 30 calendar days after the end of each fiscal month of each fiscal year.

[13] Following the delivery of the Initial Budget on the Closing Date, to be delivered every fourth Friday thereafter during the Chapter 11 Cases.

[14] To be delivered beginning on the fourth Friday following the Closing Date and every second Friday thereafter.

[15] Please describe in reasonable detail the reasons for and circumstances of any Default or Event of Default and any action taken or proposed to be taken with respect thereto on Exhibit E.

[16] Please describe in reasonable detail the reasons for and circumstances of any Default or Event of Default and any action taken or proposed to be taken with respect thereto on Exhibit F.

EXHIBIT A

Consolidated Balance Sheets

EXHIBIT B

Management Operating Reports

EXHIBIT C

DIP Budget

EXHIBIT D

Variance Report

EXHIBIT E

DISCLOSURE OF NON-PERFORMANCE OF COVENANTS/AGREEMENTS

EXHIBIT F

DISCLOSURE OF EVENT OF DEFAULT

EXHIBIT G

DISCLOSURE OF CHANGES IN THE JURISDICTION OF ORGANIZATION OF ANY LOAN PARTY

EXHIBIT H

MANDATORY PREPAYMENTS

EXHIBIT C

[RESERVED]

EXHIBIT D

FORM OF
GUARANTOR JOINDER AGREEMENT

THIS GUARANTOR JOINDER AGREEMENT (this "Joinder") is executed as of [DATE] by [NAME OF NEW SUBSIDIARY], a [corporation][limited liability company][partnership] (the "Joining Party"), and delivered to Cortland Products Corp., as Administrative Agent and as Collateral Agent, for the benefit of the Secured Parties and their respective successors and assigns under the Credit Agreement (as defined below). Except as otherwise defined herein, all capitalized terms used herein and defined in the Credit Agreement shall be used herein as therein defined.

W I T N E S S E T H:

WHEREAS, WBG – PSS Holdings LLC, a Delaware limited liability company ("Holdings"), Payless Inc., a Delaware corporation (the "Borrowing Agent"), the other Borrowers party thereto, the Subsidiary Guarantors from time to time party thereto, in each case a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code, the lenders from time to time party thereto (the "Lenders"), Cortland Products Corp., as Administrative Agent (together with any successor Administrative Agent, the "Administrative Agent") and the other parties thereto, have entered into a Superpriority Secured Debtor-In-Possession Term Loan and Guarantee Agreement, dated as of April 5, 2017 (as amended, modified, restated and/or supplemented from time to time, the "Credit Agreement"), providing for the making of Term Loans to the Borrowers, all as contemplated therein;

WHEREAS, the Joining Party is a direct or indirect Domestic Subsidiary of Holdings and desires, or is required pursuant to Section 7.8 of the Credit Agreement, to become a Subsidiary Guarantor under the Credit Agreement; and

WHEREAS, the Joining Party will obtain benefits from the incurrence of Term Loans by the Borrowers pursuant to the Credit Agreement and, accordingly, desires to execute this Joinder in order to (i) satisfy the requirements described in the preceding recital and (ii) induce (x) the Lenders to continue to make Term Loans (if any) to the Borrowers pursuant to the Credit Agreement and (y) the Qualified Counterparties to continue to enter into Secured Swap Agreements and Lenders (or their Affiliates) to continue to enter into Secured Cash Management Agreements with the Borrowers and/or one or more other Loan Parties;

NOW, THEREFORE, in consideration of the foregoing and the other benefits accruing to the Joining Party, the receipt and sufficiency of which are hereby acknowledged, the Joining Party hereby makes the following representations and warranties to the Administrative Agent for the benefit of the Secured Parties and hereby covenants and agrees with the Administrative Agent for the benefit of the Secured Parties as follows:

1. By this Joinder, the Joining Party becomes a Subsidiary Guarantor for all purposes under the Credit Agreement.

2. The Joining Party agrees that, upon its execution hereof, it will become a Subsidiary Guarantor under the Credit Agreement with respect to all Guaranteed Obligations, and will be bound by all terms, conditions and duties applicable to a Subsidiary Guarantor under the Credit Agreement and the other Loan Documents. Without limitation of the foregoing, and in furtherance thereof, the Joining Party jointly and severally guarantees, as a primary obligor and not as a surety, to each Secured Party and their respective successors and permitted assigns, consistent with the terms of the Credit Agreement and the other Loan Documents to which a Subsidiary Guarantor is or becomes a party, the prompt payment in full when due and payable (whether at stated maturity, by required prepayment, declaration, demand, by acceleration or otherwise) of all Guaranteed Obligations (on the same basis as the other Subsidiary Guarantors under the Credit Agreement).

3. Without limiting the foregoing, the Joining Party hereby makes and undertakes, as the case may be, each covenant, representation and warranty made by each Subsidiary Guarantor pursuant to Section 9 of the Credit Agreement and agrees to be bound by each of the covenants, agreements and obligations of a Subsidiary Guarantor pursuant to the Credit Agreement and all other Loan Documents to which it is or becomes a party.

4. This Joinder shall be binding upon and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns, provided, however, the Joining Party may not assign any of its rights, obligations or interest hereunder or under any other Loan Document, except as otherwise permitted by the Loan Documents. **THIS JOINDER SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK (WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES), EXCEPT TO THE EXTENT THAT THE PROVISIONS OF THE BANKRUPTCY CODE ARE APPLICABLE AND SPECIFICALLY CONFLICT WITH THE FOREGOING.** Notwithstanding any other provision of this Section 4, the Bankruptcy Court shall have exclusive jurisdiction over any action or dispute involving, relating to or arising out of this Joinder or the other Loan Documents. This Joinder may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one instrument. In the event that any provision of this Joinder shall prove to be invalid or unenforceable, such provision shall be deemed to be severable from the other provisions of this Joinder which shall remain binding on all parties hereto.

5. From and after the execution and delivery hereof by the parties hereto, this Joinder shall constitute a "Loan Document" for all purposes of the Credit Agreement and the other Loan Documents.

6. The effective date of this Joinder is [_____], 20__.

[*Remainder of this page intentionally left blank; signature pages follow.*]

IN WITNESS WHEREOF, the undersigned has caused this Joinder to be executed and delivered by a duly authorized officer on the date first above written.

[NAME OF ADDITIONAL GUARANTOR]

By:_____
Name:
Title:

Address for notices:

_____
_____
_____

Accepted as of the date first above written:

CORTLAND PRODUCTS CORP.,
as Administrative Agent

By:_____
Name:
Title:

EXHIBIT E

FORM OF
SECURITY AGREEMENT

(Circulated Separately)

EXHIBIT F

FORM OF
NOTICE OF BORROWING

(Circulated Separately)

EXHIBIT G

FORM OF
TERM NOTE

$_____ New York, New York

_____ ___, _____

FOR VALUE RECEIVED, Payless Inc., a Delaware corporation, ("Payless" or the "Borrowing Agent"), along with Payless Finance, Inc., a Nevada corporation, Payless ShoeSource, Inc., a Missouri corporation, and Payless ShoeSource Distribution, Inc., a Kansas corporation, as borrowers hereunder, collectively, the "Borrowers" and each a "Borrower") in each case a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code, hereby promise to pay to [___] or its registered assigns (the "Lender"), in lawful money of the United States of America in immediately available funds, at the Payment Office (as defined in the Agreement referred to below) on the (the "Maturity Date") the unpaid principal amount of all [Initial DIP Borrowing] [insert relevant description if not Initial DIP Borrowing] (as defined in the Agreement) made by the Lender pursuant to the Agreement, payable at such times and in such amounts as are specified in the Agreement.

Each of the undersigned also promise to pay interest on the unpaid principal amount of each [Initial DIP Borrowing] [insert relevant description if not Initial DIP Borrowing] (as defined in the Agreement) made by the Lender in like money at said office from the date hereof until paid at the rates and at the times provided in Sections 2.9 and 2.10 of the Agreement.

This Note is one of the Term Notes referred to in [(i)] the Superpriority Secured Debtor-In-Possession Term Loan and Guarantee Agreement, dated as of April 5, 2017, among WBG – PSS Holdings LLC ("Holdings"), the Borrowing Agent, the other Borrowers party thereto, the Subsidiary Guarantors (as defined in the Agreement) from time to time party thereto, in each case a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code, the lenders from time to time party thereto (including the Lender), Cortland Products Corp., as Administrative Agent (as defined in the Agreement), and the other parties thereto (as amended, restated, modified and/or supplemented from time to time, the "Agreement") [and (ii) [insert description of Loan Modification Agreement or Refinancing Amendment, as applicable]] and is entitled to the benefits thereof and of the other Loan Documents (as defined in the Agreement). This Note is secured by the Security Documents (as defined in the Agreement) and is entitled to the benefits of the Guarantee (as defined in the Agreement). As provided in the Agreement, this Note is subject to voluntary prepayment and mandatory repayment prior to the Maturity Date, in whole or in part, and [Initial DIP Borrowing] [insert relevant description if not Initial DIP Borrowing] may be converted from one Type (as defined in the Agreement) into another Type to the extent provided in the Agreement and the other Loan Documents, as applicable.

In case an Event of Default (as defined in the Agreement) shall occur and be continuing, the principal of and accrued interest on this Note may be declared to be due and payable in the manner and with the effect provided in the Agreement.

Each of the undersigned hereby waives presentment, demand, protest or notice of any kind in connection with this Note.

THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK (WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES), EXCEPT TO THE EXTENT THAT THE PROVISIONS OF THE BANKRUPTCY CODE ARE APPLICABLE AND SPECIFICALLY CONFLICT WITH THE FOREGOING.

Provisions of Section 12.8 of the Agreement are incorporated to apply to this Note mutatis mutandis.

[PAYLESS INC.,
as Borrowing Agent]

By:_____
Name:
Title:

[PAYLESS FINANCE, INC.]

By:_____
Name
Title:

[PAYLESS SHOESOURCE, INC.]

By:_____
Name:
Title:

[PAYLESS SHOESOURCE DISTRIBUTION, INC.]

By:_____
Name
Title:

EXHIBIT H

FORM OF
NOTICE OF CONVERSION/CONTINUATION

[Date]

Cortland Products Corp., as Administrative
Agent (the "Administrative Agent") for the
Lenders party to the Credit
Agreement referred to below

225 W. Washington St., 21st Floor
Chicago, Illinois 60606
Attention: Eric Duncan and Legal Department
Telephone: 312-564-5100
Telecopier: 312-376-0751
Electronic Mail: Cortland_Successor_Agent@cortlandglobal.com
and legal@cortlandglobal.com

Ladies and Gentlemen:

The undersigned, Payless Inc. (the "Borrowing Agent"), a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code, refers to the Superpriority Secured Debtor-In-Possession Term Loan and Guarantee Agreement, dated as of April 5, 2017 (as amended, restated, modified and/or supplemented as of the date hereof, the "Credit Agreement", the capitalized terms defined therein being used herein as therein defined), among WBG – PSS Holdings LLC ("Holdings"), the Borrowing Agent, the other Borrowers party thereto, the Subsidiary Guarantors from time to time party thereto, in each case a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code, the lenders from time to time party thereto (each, a "Lender" and collectively, the "Lenders"), the other parties thereto and you, as Administrative Agent for such Lenders, and hereby gives you notice, irrevocably, pursuant to Section [2.7][2.10] of the Credit Agreement, that the undersigned hereby requests to [convert] [continue] the Borrowing of [Identify Tranche of Term Loans] referred to below, and in that connection sets forth below the information relating to such [conversion] [continuation] (the "Proposed [Conversion] [Continuation]") as required by Section [2.7][2.10] of the Credit Agreement:

(i) The Proposed [Conversion] [Continuation] relates to the Borrowing of [Identify Tranche of Term Loans] originally made on _____ _____, 201_ (the "Outstanding Borrowing") in the principal amount of $_____ and currently maintained as a Borrowing of [Base Rate Loans] [LIBOR Loans with an Interest Period ending on _____ ____, ____].

(ii) The Business Day of the Proposed [Conversion] [Continuation] is _____ __, ____.[1]

(iii) [The Outstanding Borrowing shall be [continued as a Borrowing of LIBOR Loans with an Interest Period of _____] converted into a Borrowing of [Base Rate Loans] [LIBOR Loans with an Interest Period of _____].][2]

[The undersigned hereby certifies that no Default or Event of Default has occurred and will be continuing on the date of the Proposed [Conversion] [Continuation] or will have occurred and be continuing on the date of the Proposed [Conversion] [Continuation].][3]

Very truly yours,

PAYLESS INC.
as Borrowing Agent

By:_____
Name:
Title:

[1] With respect to Base Rate Loans into LIBOR Loans, shall be a Business Day at least three Business Days after the date hereof; provided that such notice shall be deemed to have been given on a certain day only if given before 11:00 A.M. (New York City time) on such day. With respect to LIBOR Loans into Base Rate Loans, shall be at least one Business Day after the date hereof; provided that such notice shall be deemed to have been given on a certain day only if given before 11:00 A.M. (New York City time).

[2] In the event that either (x) only a portion of the outstanding Borrowing is to be so converted or continued or (u) the outstanding Borrowing is to be divided into separate Borrowings with different Interest Periods, the Borrowing Agent should make appropriate modifications to this clause to reflect same.

[3] In the case of a Proposed Conversion or Continuation, insert this sentence only in the event that the conversion is from a Base Rate Loan to a LIBOR Loan or in the case of a continuation of a LIBOR Loan.

EXHIBIT I

FORM OF
NON-BANK CERTIFICATE

Reference is hereby made to the Superpriority Secured Debtor-In-Possession Term Loan and Guarantee Agreement, dated as of April 5, 2017, among WBG – PSS Holdings LLC, a Delaware limited liability company ("Holdings"), a Delaware corporation (the "Borrowing Agent"), the other Borrowers party thereto, the Subsidiary Guarantors from time to time party thereto, in each case a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code, the lenders from time to time party thereto (the "Lenders"), Cortland Products Corp., as Administrative Agent, and the other parties thereto (together with any successor Administrative Agent, the "Administrative Agent"), (as amended, restated, modified and/or supplemented from time to time, the "Credit Agreement"). Capitalized terms used herein that are not defined herein shall have the meanings ascribed to them in the Credit Agreement. Pursuant to the provisions of Section 4.4(b) of the Credit Agreement, the undersigned hereby certifies that:

1. The undersigned (a) if it is not treated as a partnership for U.S. federal income tax purposes, is the sole record and beneficial owner of the obligations hereunder and under any Term Note or if the undersigned is a Participant, the participation (the "Obligations") in respect of which it is supplying this certificate, and (b) if it is treated as a partnership for U.S. federal income tax purposes, it is the sole record owner of the Obligations in respect of which it is supplying this certificate, and its partners/members are the sole beneficial owners of such Obligations. If the undersigned is a partnership for U.S. federal income tax purposes, references to "the undersigned" in the following paragraphs shall be deemed to apply instead to each of the undersigned's partners/members, except for paragraph 2 in which case "the undersigned" shall refer to both the partnership and each of its partners/members.

2. It is not a "bank" as such term is used in Section 881(c)(3)(A) of the Code.

3. It is not a "10 percent shareholder," within the meaning of Section 881(c)(3)(B) of the Code, of the Borrowers.

4. It is not a "controlled foreign corporation" related to the Borrowers within the meaning of Section 881(c)(3)(C) of the Code.

[NAME OF LENDER OR ADMINISTRATIVE AGENT]

By:_____
Name:
Title:

Date: _____, _____

EXHIBIT J

[RESERVED]

EXHIBIT K

[RESERVED]

EXHIBIT L

[RESERVED]

EXHIBIT M

FORM OF
INTERCOMPANY NOTE

FOR VALUE RECEIVED, each of the entities set forth on the signature pages hereto (together with their registered assigns, each a "Payor"), hereby severally, and not jointly, promises to pay to the order of each entity identified as a lender or Payee (together with their registered assigns, each a "Payee"), in lawful money of the United States of America in immediately available funds, at such location as Payee shall from time to time designate, the unpaid principal amount of all loans and advances made by Payee to or on behalf of the applicable Payor and such interest as the parties have determined and established on their respective books and records. Notwithstanding anything to the contrary contained herein, this Intercompany Note shall evidence all loans and advances from each Payee to each Payor, regardless of whether evidenced by another note, instrument or writing.

The principal balance of all loans and advances made by each Payee to each Payor, together with all accrued interest thereon, shall be due and payable in full on demand, unless otherwise agreed in writing by such Payor and Payee, as applicable. Each Payor may prepay all or any part of the principal or accrued interest at any time and from time to time, without premium or penalty. All partial prepayments shall be applied first to accrued and unpaid interest and then to the unpaid principal amount of the loans.

This Intercompany Note ("Intercompany Note") is subject to the terms of each of the Credit Agreements and is to be pledged by each Payee that is a Loan Party (as defined in the TL First Lien Credit Agreement and the TL Second Lien Credit Agreement, a "Prepetition Term Loan Party", as defined in the Superpriority Secured Debtor-In-Possession TL and Guarantee Agreement, a "DIP Term Loan Party", as defined in the ABL Prepetition Credit Agreement, a "Prepetition ABL Loan Party" and as defined in the ABL DIP Credit Agreement, a "DIP ABL Loan Party") pursuant to the applicable Security Agreement (as defined in each Credit Agreement). Each Payor hereby acknowledges and agrees that, upon the occurrence and during the continuance of an Event of Default (as defined in each Credit Agreement), each of the ABL Administrative Agent (defined below), the TL Administrative Agent (defined below), the Second Lien TL Administrative Agent (defined below), the DIP Term Loan Agent (defined below) and the DIP ABL Agent (defined below), as the case may be, may, subject to the terms of the (i) Financing Orders (as defined in the ABL DIP Credit Agreement), (ii) Intercreditor Agreement, dated as of March 11, 2014 among the ABL Administrative Agent, the TL Administrative Agent and the other parties thereto (as amended, restated, modified, or otherwise supplemented from time to time, the "ABL/TL Intercreditor Agreement") and (iii) Intercreditor Agreement dated as of March 11, 2014 among the TL Administrative Agent and the Second Lien TL Administrative Agent and the other parties thereto (as amended, restated, modified, or otherwise supplemented from time to time, the "Term Loan Intercreditor Agreement"), exercise all the rights and remedies provided in each such Security Agreement (as such term is defined in each Credit Agreement) to which it is a party with respect to this Intercompany Note.

Each Payee agrees that any and all claims of such Payee against any Payor that is a Loan Party or any endorser of the obligations of any Payor that is a Loan Party under this

Intercompany Note, or against any of their respective properties, shall be subordinate and subject in right of payment to the applicable Senior Indebtedness until all of the obligations (other than unasserted contingent indemnification obligations and unasserted expense reimbursement obligations) have been performed under the Credit Agreements and all Senior Indebtedness has been paid in full in immediately available funds, no Letters of Credit are outstanding and the Commitments have been terminated (in each case, as such terms are defined in the ABL Prepetition Credit Agreement and the ABL DIP Credit Agreement) under the ABL Prepetition Credit Agreement and the ABL DIP Credit Agreement; provided, that each Payor may make payments to the applicable Payee so long as such payments are permitted pursuant to each of the Credit Agreements.

This Intercompany Note shall be binding upon each Payor and its successors and assigns, and the terms and provisions of this Intercompany Note shall inure to the benefit of each Payee and their respective successors and assigns, including subsequent holders hereof. Notwithstanding anything to the contrary contained herein, in any other Loan Document (as defined in each Credit Agreement) or in any other promissory note or other instrument, (i) any and all promissory notes, instruments or other arrangements or agreements which create or evidence any loans or advances made at any time by any Payee to Holdings or any of its Subsidiaries (including, without limitation, those arrangements described on Schedule I attached hereto (as updated from time to time)) shall be subject to the terms and conditions of this Intercompany Note, (ii) this Intercompany Note replaces and supersedes any and all promissory notes or other instruments which create or evidence any loans or advances made on or before the date hereof by any Payee to Holdings or any of its Subsidiaries (other than any promissory note or other instrument that is described on Schedule I attached hereto (as updated from time to time)), and the existing intercompany note dated as of March 11, 2014 (the "Existing Intercompany Note"), which shall be null and void as of the effective date of this Intercompany Note, and (iii) this Intercompany Note shall not be deemed replaced, superseded or in any way modified by any promissory note or other instrument entered into on or after the date hereof which purports to create or evidence any loan or advance by any Payee to Holdings or any of its Subsidiaries unless such replacement or modification is not prohibited under each Credit Agreement and such promissory note is delivered to the TL Administrative Agent pursuant to Section 7.8 of the TL First Lien Credit Agreement (as defined below) and the Superpriority Secured Debtor-In-Possession TL and Guarantee Agreement (as defined below). Notwithstanding anything to the contrary contained herein or in the Existing Intercompany Note, each of the parties hereto hereby agrees that the arrangements described on Schedule I attached hereto (as updated from time to time) shall be deemed not to have been rendered null and void by and not superseded and replaced by, the Existing Intercompany Note, and that all such arrangements are in full force and effect as of the date hereof.

From time to time after the date hereof, additional subsidiaries of Holdings may become parties hereto (as Payor and/or Payee, as the case may be) by executing a counterpart signature page to this Intercompany Note (each additional Subsidiary, an "Additional Party"). Upon delivery of such counterpart signature page to the Payees, notice of which is hereby waived by the other Payors, each Additional Party shall be a Payor and/or a Payee, as the case may be, and shall be as fully a party hereto as if such Additional Party were an original signatory hereof. Each Payor expressly agrees that its obligations arising hereunder shall not be affected or

diminished by the addition or release of any other Payor or Payee hereunder. This Intercompany Note shall be fully effective as to any Payor or Payee that is or becomes a party hereto regardless of whether any other person becomes or fails to become or ceases to be a Payor or Payee hereunder.

As used herein, "Credit Agreement" shall mean each of (i) that certain First Lien Term Loan and Guarantee Agreement, dated as of March 11, 2014, among WBG – PSS Holdings LLC ("Holdings"), Payless Inc. (the "Borrowing Agent"), the other Borrowers party thereto (as such term is defined therein), the subsidiary guarantors from time to time party thereto, the lenders from time to time party thereto, Cortland Products Corp., as Administrative Agent (the "TL Administrative Agent"), and the other parties thereto (as amended, restated, refinanced, modified and/or supplemented from time to time, the "TL First Lien Credit Agreement"), (ii) that certain Second Lien Term Loan and Guarantee Agreement, dated as of March 11, 2014, among Holdings, the Borrowing Agent, the other Borrowers party thereto (as such term is defined therein), the subsidiary guarantors from time to time party thereto, the lenders from time to time party thereto, Morgan Stanley Senior Funding, Inc., as Administrative Agent (the "Second Lien TL Administrative Agent"), and the other parties thereto (as amended, restated, refinanced, modified and/or supplemented from time to time, the "TL Second Lien Credit Agreement"), (iii) that certain Credit Agreement, dated as of October 9, 2012, among Holdings, the Borrowing Agent, the other parties thereto from time to time as borrowers and guarantors, the lenders party thereto from time to time, Wells Fargo Bank, National Association, as agent (the "Prepetition ABL Administrative Agent"), and the other parties thereto (as amended, restated, refinanced, modified and/or supplemented from time to time, the "ABL Prepetition Credit Agreement"), and (iv) that certain Superpriority Secured Debtor-In-Possession Term Loan and Guarantee Agreement, dated as of April 5, 2017, among Holdings, the Borrowing Agent, the other Borrowers party thereto (as such term is defined therein), the subsidiary guarantors from time to time party thereto, in each case a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code, the lenders from time to time party thereto, Cortland Products Corp., as Administrative Agent, (the "DIP TL Administrative Agent"), and the other parties thereto (as amended, restated, refinanced, modified and/or supplemented from time to time, the "Superpriority Secured Debtor-In-Possession TL and Guarantee Agreement"), and (v) that certain Debtor-In-Possession Credit Agreement, dated as of April 5, 2017, among Holdings, the Borrowing Agent, the other parties thereto from time to time as borrowers and guarantors, in each case a debtor and debtor-in-possession under Chapter 11 of the Bankruptcy Code, the lenders party thereto from time to time, Wells Fargo Bank, National Association, as agent (the "DIP ABL Administrative Agent"), and the other parties thereto (as amended, restated, refinanced, modified and/or supplemented from time to time, the "ABL DIP Credit Agreement").

As used herein, "Senior Indebtedness" shall mean:

(i) all Obligations (as defined in the Superpriority Secured Debtor-In-Possession TL and Guarantee Agreement) (including, without limitation, (x) all interest accruing after the filing of a petition in bankruptcy, at the stated contract rate, regardless of whether allowed or allowable in the respective bankruptcy or other proceeding, and (y) Obligations which, but for the automatic stay under Section 362(a) of the Bankruptcy Code, would become due) and liabilities (including, without limitation, indemnities, fees and interest thereon that are due and

payable in accordance with the terms of the Superpriority Secured Debtor-In-Possession TL and Guarantee Agreement) of each DIP Term Loan Party (whether as obligor, guarantor or otherwise) to the Secured Parties under the Superpriority Secured Debtor-In-Possession TL and Guarantee Agreement (other than unasserted contingent indemnification obligations and unasserted expense reimbursement obligations), whether now existing or hereafter incurred under, arising out of or in connection with each Loan Document (as defined in the Superpriority Secured Debtor-In-Possession TL and Guarantee Agreement) (including, without limitation, all such obligations and liabilities of each DIP Term Loan Party under the Superpriority Secured Debtor-In-Possession TL and Guarantee Agreement (if a party thereto) and under any guarantee by it of obligations pursuant to the Superpriority Secured Debtor-In-Possession TL and Guarantee Agreement) and the due performance and compliance by each DIP Term Loan Party with the terms of each such Loan Document and related documents;

(ii) all Obligations (as defined in the ABL DIP Credit Agreement) (including, without limitation, (x) all interest accruing after the filing of a petition in bankruptcy, at the stated contract rate, regardless of whether allowed or allowable in the respective bankruptcy or other proceeding, and (y) Obligations which, but for the automatic stay under Section 362(a) of the Bankruptcy Code of the United States, would become due) and liabilities (including, without limitation, indemnities, fees and interest thereon that are due and payable in accordance with the terms of the ABL DIP Credit Agreement) of each DIP ABL Loan Party (whether as obligor, guarantor or otherwise) to the Credit Parties (as defined in the ABL DIP Credit Agreement) (other than unasserted contingent indemnification obligations and unasserted expense reimbursement obligations), whether now existing or hereafter incurred under, arising out of or in connection with each Loan Document (as defined in the ABL DIP Credit Agreement), Bank Products (as defined in the ABL DIP Credit Agreement) and any related agreements to which it is at any time a party (including, without limitation, all such obligations and liabilities of each DIP ABL Loan Party under the ABL DIP Credit Agreement (if a party thereto) and under any guarantee by it of obligations pursuant to the ABL DIP Credit Agreement) and the due performance and compliance by each DIP ABL Loan Party with the terms of each such Loan Document, Bank Products and related agreements;

(iii) all Obligations (as defined in the TL First Lien Credit Agreement) (including, without limitation, (x) all interest accruing after the filing of a petition in bankruptcy or any other act which constitutes a default or event of default pursuant to Section 10.1(f) of the TL First Lien Credit Agreement, at the stated contract rate, regardless of whether allowed or allowable in the respective bankruptcy or other proceeding, and (y) Obligations which, but for the automatic stay under Section 362(a) of the Bankruptcy Code, would become due) and liabilities (including, without limitation, indemnities, fees and interest thereon that are due and payable in accordance with the terms of the TL First Lien Credit Agreement) of each Prepetition Term Loan Party (whether as obligor, guarantor or otherwise) to the Secured Parties under the TL First Lien Credit Agreement (other than unasserted contingent indemnification obligations and unasserted expense reimbursement obligations), whether now existing or hereafter incurred under, arising out of or in connection with each Loan Document (as defined in the TL First Lien Credit Agreement), Secured Swap Agreement and Secured Cash Management Agreement to which it is at any time a party (including, without limitation, all such obligations and liabilities of each Prepetition Term Loan Party under the TL First Lien Credit Agreement (if a party thereto) and under any guarantee by it of obligations pursuant to the TL First Lien Credit Agreement) and the due

performance and compliance by each Prepetition Term Loan Party with the terms of each such Loan Document, Secured Swap Agreement and Secured Cash Management Agreement;

(iv) all Obligations (as defined in the ABL Prepetition Credit Agreement) (including, without limitation, (x) all interest accruing after the filing of a petition in bankruptcy or any other act which constitutes a default or event of default pursuant to Section 8.01(f) or (g) of the ABL Prepetition Credit Agreement,, at the stated contract rate, regardless of whether allowed or allowable in the respective bankruptcy or other proceeding, and (y) Obligations which, but for the automatic stay under Section 362(a) of the Bankruptcy Code of the United States, would become due) and liabilities (including, without limitation, indemnities, fees and interest thereon that are due and payable in accordance with the terms of the ABL Prepetition Credit Agreement) of each Prepetition ABL Loan Party (whether as obligor, guarantor or otherwise) to the Credit Parties (as defined in the ABL Prepetition Credit Agreement) (other than unasserted contingent indemnification obligations and unasserted expense reimbursement obligations), whether now existing or hereafter incurred under, arising out of or in connection with each Loan Document (as defined in the ABL Prepetition Credit Agreement), Bank Products (as defined in the ABL Prepetition Credit Agreement) and any related agreements to which it is at any time a party (including, without limitation, all such obligations and liabilities of each Prepetition ABL Loan Party under the ABL Prepetition Credit Agreement (if a party thereto) and under any guarantee by it of obligations pursuant to the ABL Prepetition Credit Agreement) and the due performance and compliance by each Prepetition ABL Loan Party with the terms of each such Loan Document, Bank Products and related agreements; and

(v) subject to the Term Loan Intercreditor Agreement, all Obligations (as defined in the TL Second Lien Credit Agreement (including, without limitation, (x) all interest accruing after the filing of a petition in bankruptcy or any other act which constitutes a default or event of default pursuant to Section 10.1(f) of the TL Second Lien Credit Agreement, at the stated contract rate, regardless of whether allowed or allowable in the respective bankruptcy or other proceeding, and (y) Obligations which, but for the automatic stay under Section 362(a) of the Bankruptcy Code, would become due) and liabilities (including, without limitation, indemnities, fees and interest thereon that are due and payable in accordance with the terms of the TL Second Lien Credit Agreement) of each Prepetition Term Loan Party (whether as obligor, guarantor or otherwise) to the Secured Parties under the TL Second Lien Credit Agreement (other than unasserted contingent indemnification obligations and unasserted expense reimbursement obligations), whether now existing or hereafter incurred under, arising out of or in connection with each Loan Document (as defined in the TL Second Lien Credit Agreement).

All payments under this Intercompany Note shall be made without offset, counterclaim or deduction of any kind. No failure to exercise, and no delay in exercising, any rights hereunder on the part of the holder hereof shall operate as a waiver of such rights.

This Intercompany Note may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Intercompany Note by telecopy or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Intercompany Note.

THIS INTERCOMPANY NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES), EXCEPT TO THE EXTENT THAT THE PROVISIONS OF THE BANKRUPTCY CODE ARE APPLICABLE AND SPECIFICALLY CONFLICT WITH THE FOREGOING.

[Signature Page Follows]

This Intercompany Note is dated as of _____ ___, _____.

[SIGNATURE BLOCKS FOR HOLDINGS AND ITS SUBSIDIARIES TO BE INSERTED]

ACKNOWLEDGMENT

This Intercompany Note and all of the rights of each Payee that is a Loan Party (as defined in the Superpriority Secured Debtor-In-Possession TL and Guarantee Agreement, a "DIP Term Loan Party", as defined in the ABL DIP Credit Agreement, a "DIP ABL Loan Party", as defined in the TL First Lien Credit Agreement and the TL Second Lien Credit Agreement, a "Prepetition Term Loan Party" and as defined in the ABL Prepetition Credit Agreement, a "Prepetition ABL Loan Party") hereunder have been collaterally assigned to (i) in the case of each DIP Term Loan Party, Cortland Products Corp., as TL Administrative Agent, pursuant to the terms of the Security Agreement (as defined in the Superpriority Secured Debtor-In-Possession TL and Guarantee Agreement by, among others, certain Payees and TL Administrative Agent), (ii) in the case of each DIP ABL Loan Party, Wells Fargo Bank, National Association, as ABL Administrative Agent, pursuant to the terms of the Security Agreement (as defined in the ABL DIP Credit Agreement by, among others, certain Payees and ABL Administrative Agent) subject to the terms of the ABL/TL Intercreditor Agreement, (iii) in the case of each Prepetition Term Loan Party, (x) Cortland Products Corp., as TL Administrative Agent, as TL Administrative Agent, pursuant to the terms of the Security Agreement (as defined in the TL First Lien Credit Agreement by, among others, certain Payees and TL Administrative Agent) and (y) Morgan Stanley Senior Funding, Inc. as Second Lien TL Administrative Agent, pursuant to the terms of the Security Agreement (as defined in the TL Second Lien Credit Agreement by, among others, certain Payees and Second Lien TL Administrative Agent), and (iv) in the case of each Prepetition ABL Loan Party, Wells Fargo Bank, National Association, as ABL Administrative Agent, pursuant to the terms of the Security Agreement (as defined in the ABL DIP Credit Agreement by, among others, certain Payees and ABL Administrative Agent) subject in each case to the terms of the ABL/TL Intercreditor Agreement and the Term Loan Intercreditor Agreement, as applicable.

[Signature Page Follows]

[SIGNATURE BLOCKS FOR HOLDINGS AND ITS SUBSIDIARIES TO BE INSERTED]

Schedule I

Existing Intercompany Loan Arrangements

Lender	Borrower	USD	Date
Payless Finance, Inc.	Payless Inc.	462,858,463.00	4/10/2010
Payless Finance, Inc.	Payless ShoeSource, Inc.	7,000,000.00	2/20/2014
Collective Licensing, LP	Lifestyle Brands Corporation	2,812,843.21	2/6/2006
Payless ShoeSource Canada Inc.	Payless Finance, Inc.	98,817,001.69	10/9/2012
Collective Brands Cayman Finance, Limited	Collective Brands II Cooperatief UA	60,073,356.73	10/9/2012
Collective Brands II Cooperatief UA	Payless ShoeSource Canada Inc.	59,223,581.33	10/9/2012
Collective Brands Cooperatief UA	Payless Finance, Inc.	11,635,159.00	2 loans dated 12/22/2011 and 7/26/2011
Payless ShoeSource Overseas SRL	Payless ShoeSource (BVI) Holdings, Ltd	8,022,445.87	4/17/2012
Payless ShoeSource de Guatemala Limitada	Payless ShoeSource Overseas SRL	6,768,156.99	3/20/2013
Payless ShoeSource Overseas SRL	Payless ShoeSource of Trinidad Unlimited	5,750,000.00	2 loans dated 1/26/2017 and 1/6/2017
Payless Shoesource of El Salvador Ltda de CV	Payless ShoeSource Overseas SRL	4,051,131.28	4/11/2012
Payless ShoeSource of Honduras S de RL	Payless ShoeSource Overseas SRL	3,274,921.51	3/29/2012
Payless ShoeSource Limitada Y Compania Limitada (Nic)	Payless ShoeSource Overseas SRL	3,059,212.81	3/29/2012
Payless Asia Sourcing	Collective Brands Services, Limited - HK	2,744,431.03	12/18/2014
Payless International Finance BV	Payless Finance, Inc.	2,500,000.00	5/20/2016
Payless CA Management, Limited	Payless Asia Sourcing	2,350,000.00	2/21/2017
Payless ShoeSource Limitada Y Compania Limitada (Nic)	Payless ShoeSource (BVI) Holdings, Ltd	2,012,220.56	6/18/2009
Payless ShoeSource, Ltda (Costa Rica)	Payless ShoeSource Overseas SRL	1,567,908.41	3/21/2012
Payless ShoeSource Overseas SRL	Payless ShoeSource Jamaica, LLC	1,500,000.00	11/16/2016
Payless ShoeSource of St Lucia Ltd	Payless ShoeSource (Barbados) SRL	1,300,000.00	2/9/2012
Payless ShoeSource of St Lucia Ltd	Payless ShoeSource of Trinidad Unlimited	1,000,000.00	6/1/2016
Payless ShoeSource (Barbados) SRL	Payless ShoeSource (Barbados) SRL-St Lucia	746,565.69	3 loans dated 12/31/2015 10/30/2015 9/1/2014
Payless ShoeSource Limitada Y	Payless ShoeSource (BVI) Holdings,	500,000.00	4/19/2010

Lender	Borrower	USD	Date
Compania Limitada (Nic)	Ltd		
Payless ShoeSource of St Lucia Ltd	Payless ShoeSource (Barbados) SRL-Grenada	427,842.11	9/15/2014
Payless ShoeSource (Barbados) SRL	Payless ShoeSource (Barbados) SRL-St Vincent	337,701.12	2 loans dated 12/31/2015 10/01/2014
Payless ShoeSource de La Republica Dominicana SA	Payless ShoeSource Overseas SRL	322,997.33	3/29/2012
Payless ShoeSource of St Lucia Ltd	Payless ShoeSource (Barbados) SRL-St Lucia	229,025.67	10/15/2014
Payless ShoeSource of St Lucia Ltd	Payless ShoeSource (Barbados) SRL-Antigua	200,484.56	10/15/2014
Payless ShoeSource (Barbados) SRL	Payless ShoeSource (Barbados) SRL-Grenada	200,246.22	3 loans dated 1/31/2015 3/27/2015 3/13/2015
Payless ShoeSource Overseas SRL	Payless ShoeSource de La Republica Dominicana SA	190,264.53	10/4/2012
Payless ShoeSource (Barbados) SRL	Payless ShoeSource (Barbados) SRL-Antigua	184,155.65	2 loans dated 12/31/2015 10/01/2014
Payless ShoeSource of St Lucia Ltd	Payless ShoeSource (Barbados) SRL-St Vincent	47,794.39	10/14/2014

EXHIBIT N

PERFECTION CERTIFICATE

(Circulated Separately)