UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re	:	**Chapter 11**
THE NORDAM GROUP, INC., *et al.*,	:	**Case No. 18– _____**
Debtors.[1]	:	**(Joint Administration Requested)**

MOTION OF DEBTORS FOR ENTRY OF ORDERS (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION SENIOR SECURED SUPERPRIORITY FINANCING AND (B) USE CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (III) GRANTING LIENS AND SUPERPRIORITY CLAIMS, (IV) MODIFYING THE AUTOMATIC STAY, (V) SCHEDULING A FINAL HEARING, AND (VI) GRANTING RELATED RELIEF

By this motion (this "**Motion**"), The NORDAM Group, Inc. ("**NORDAM**") and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**" or the "**Company**"), respectfully request entry of an interim order in the form attached hereto as **Exhibit A** (the "**Interim Order**"), and a final order (the "**Final Order**," and together with the Interim Order, collectively, the "**DIP Orders**"): (i) authorizing the Debtors to (a) enter into that certain *Senior Secured, Superpriority Debtor-In-Possession Credit Agreement*, a substantially final form of which is attached hereto as **Exhibit 1 to Exhibit A** (the "**DIP Credit Agreement**,"[2] and, together with any and all other

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are The NORDAM Group, Inc. (7803); Nacelle Manufacturing 1 LLC (3107); Nacelle Manufacturing 23 LLC (5528); PartPilot LLC (5261); and TNG DISC, Inc. (9726). The Debtors' corporate headquarters and service address is 6910 North Whirlpool Drive, Tulsa, Oklahoma 74117.

[2] The form of DIP Credit Agreement attached as **Exhibit 1** to **Exhibit A** is presented for informational purposes only and remains subject to ongoing review and material revision, by and among JPMorgan Chase Bank, N.A.

Loan Documents (as defined in the DIP Credit Agreement), the "**DIP Documents**") to incur DIP Facility (as defined below), including with respect to an interim borrowing of up to $25 million, and (b) use the Cash Collateral (as such term is defined in section 363(a) of the Bankruptcy Code); (ii) granting adequate protection as provided herein; (iii) scheduling a hearing to consider the relief requested herein on a final basis (the "**Final Hearing**"); and (iv) granting related relief.

In support of this Motion, the Debtors submit: (i) the declaration of John C. DiDonato of Huron Consulting Group LLC ("**Huron**"), the Debtors' Chief Restructuring Officer, attached hereto as **Exhibit B** (the "**DiDonato Declaration**"), (ii) the declaration of Ronen Bojmel of Guggenheim Securities, LLC ("**Guggenheim Securities**"), the Debtors' proposed investment banker, attached hereto as **Exhibit C** (the "**Bojmel Declaration**"), and (iii) the *Declaration of John C. DiDonato in Support of Debtors' Chapter 11 Petitions and First Day Relief*, filed contemporaneously herewith and incorporated herein by reference (the "**First Day Declaration**"). The Debtors' initial budget (the "**Initial Approved Budget**") reflecting the anticipated cash receipts and anticipated disbursements for each calendar week during the period from the Petition Date through and including the end of the thirteenth calendar week following the Petition Date is attached hereto as **Exhibit D**.

Preliminary Statement

1. By this Motion, the Debtors seek authorization to obtain postpetition financing (the "**DIP Financing**") and approval of their entry into a superpriority senior secured revolving credit facility in an aggregate principal amount of up to $45 million (the

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and NORDAM. The Debtors intend to file their DIP Credit Agreement in substantially final form prior to the Bankruptcy Court's hearing to consider the relief requested by the Motion on an interim basis.

"**DIP Facility**"), agented by JPMorgan Chase Bank, N.A. ("the "**DIP Agent**"), with the interim authority to draw up to $25 million under the proposed DIP Financing.

2. As described herein, and as fully reflected in the DIP Credit Agreement, the DIP Financing provides the Debtors with (i) reasonable pricing, (ii) necessary liquidity, and (iii) customary budget covenants. In addition, the Debtors' proposed DIP Financing permits the Debtors to use Cash Collateral with the consent of their prepetition secured creditors. The DIP Financing will provide sufficient liquidity to fund these chapter 11 cases and the Debtors' general corporate operations, including by permit the Debtors to send a strong message to their vendors, customers, and employees that their restructuring is well-capitalized and that the Debtors are well positioned for a successful reorganization. In addition to the foregoing reasons, several compelling reasons justify the relief requested herein:

- **Debtors' Estates Will Suffer Immediate and Irreparable Harm If Requested Relief is Not Granted:**
    - The Debtors are entering chapter 11 with limited cash on hand. Immediate access to DIP Financing is thereby critical to ensure the Debtors' smooth entry into chapter 11 and their ability to prudently operate their businesses during the pendency of these chapter 11 cases.
    - The Debtors believe the commencement of these chapter 11 cases will place increased demands on liquidity due to, among other things, the costs of administering these chapter 11 cases and the acceleration or elimination of trade terms.
    - The Debtors therefore submit that the requested relief is necessary to avoid the immediate and irreparable harm that would otherwise result if the Debtors are denied the vital liquidity that would be provided through their proposed interim borrowings.
- **Proposed DIP Financing Is Highly Attractive and Results From a Vigorous, Arm's Length Negotiations:**
    - The Debtors, with assistance from experienced financial and legal advisors, engaged with their prepetition secured lenders—who had long experience with the Debtors and familiarity with their businesses—to initially provide DIP financing.

- Negotiations with the proposed DIP Lenders were conducted at arm's length, iterative, and rigorous. The successful nature of this process is demonstrated by the terms of the DIP Facility. The Debtors believe the DIP Facility provides sufficient liquidity with customary budget-based restrictions, all at reasonable rates and for market fees.

- Importantly, the Debtors propose a limited, initial draw of $25 million on the terms as defined herein.

- Additionally, the Debtors, with the assistance of Guggenheim Securities—the proposed investment banker for the Debtors, intend to market the DIP Facility in the period between the interim and final hearings seeking more favorable terms; in essence, market checking the DIP Financing.

- **Proposed DIP Financing Will Send a Strong and Vital Message to the Market:**

  - The Debtors expect that vendors, customers, and their employees—both domestic and abroad—will be highly focused on whether these chapter 11 cases are appropriately funded to maximize the greatest possibility of success.

  - Access to DIP Financing will provide a clear message to the Debtors' customers, vendors, customers, and competitors that these chapter 11 cases are well-funded and that the Debtors have a strong likelihood of successfully reorganizing.

- **Proposed DIP Lenders Have Proceeded in Good Faith:**

  - The DIP Financing proposal was reviewed and analyzed by both the Debtors and their experienced professionals.

  - As further detailed in the DiDonato Declaration, the Debtors' vigorous negotiations with the DIP Lenders (as defined below) were at arm's length, with the assistance of the Debtors' advisors, the prospective DIP Lenders, and the prospective DIP Lenders' advisors.

Jurisdiction

3. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference from the United States District Court*, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and, pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure for the District of Delaware (the "**Local Rules**"), the Debtors consent to the entry of a final order by the

Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

4. By this Motion, the Debtors request the following relief as provided in the DIP Orders:

- **DIP Financing:** authority to enter into the DIP Credit Agreement and related documents providing for a $45 million DIP Facility that will be drawn up to $25 million on an interim basis and up to an additional $20 million on a final basis that, together, will provide the liquidity necessary to ensure the Debtors are able to continue operating their businesses without disruption during the pendency of these chapter 11 cases.

- **DIP Interest and Fees:** authority to pay:

  - an interest rate at the option of the Borrower, at one of the following rates: (i) the Alternate Base Rate + 3.00% per annum or (ii) the Adjusted LIBOR for a one-month interest period + 5.50% per annum;

  - default interest at 2.0% above the applicable rate; and

  - certain additional fees and expenses, including underwriting, upfront, and administration fees, respectively**,** as described in that certain *Fee Letter* by and among NORDAM and the DIP Agent (the "**Fee Letter**").[3]

- **DIP Liens and Claims:** authority to grant, in each case subject to the Carve-Out (as defined in the Interim Order):

  - a first priority, perfected priming security interest and lien on all prepetition and postpetition assets of each Debtor, not including any Excluded Assets[4] (the "**DIP Collateral**"); and

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[3] The Fee Letter will be provided to the Court, the Office of the United States Trustee for the District of Delaware (the "**U.S. Trustee**"), and any professionals retained by an official committee appointed in these chapter 11 cases, subject to the confidentiality provisions set forth therein.

[4] "**Excluded Assets**" means (i) any leasehold interest of a Debtor to the extent the granting of liens on such interest would, after giving effect to the Bankruptcy Code or this Interim Order, nonetheless result in the abandonment, invalidation or unenforceability of any right, title or interest under any lease governing such leasehold interest or a breach or termination of such lease pursuant to its terms; (ii) any escrow, fiduciary, or trust account (including

- superpriority claim over all other administrative expenses (aside from Excluded Assets).

- **Cash Collateral:** authority to use Cash Collateral within the meaning of section 363(a) and 363(c) of the Bankruptcy Code.

- **Adequate Protection:** approval of the form and manner of adequate protection to be provided to the Prepetition Secured Parties (as defined below), including:

  - replacement liens and superprioirty claims in favor of the Prepetition Secured Parties encumbering the Debtors' assets subject to the DIP Liens and DIP Superpriority Claims;

  - cash payment of interest at the non-default rate on account of obligations outstanding under the Debtors' Prepetition Credit Facility;

  - cash payment of the reasonable and documented costs and expenses of the Prepetition Secured Parties; and

  - additional lender protections in the form of: (a) 506(c) and 552(b) waivers (in each case subject to entry of the Final Order), (b) stipulations as to the liens and claims held by such parties, and (c) customary financial reporting.

- **Modification of the Automatic Stay**: modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the DIP Documents and the DIP Orders, with actions against the DIP Collateral requiring at least five business days' notice to the Debtors.

- **Immediate Effectiveness**: waiver of any applicable stay, including (to the extent applicable) under Bankruptcy Rule 6004, to provide for immediate effectiveness of the Interim Order.

- **Final Hearing**: scheduling a date for a hearing on this Motion to consider entry of the Final Order no later than 35 days after entry of the Interim Order.

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funds held in such accounts unless and until released or distributed to the Debtors), (iii) the Debtors' intellectual property that constitute "intent to use" trademarks, to the extent the assignment of the creation of a lien thereon would violate applicable non-bankruptcy law unless such violation is excused or permitted under applicable bankruptcy law, (iv) any amount in excess of 65% of the voting equity interest in any non-US subsidiary of a Debtor, (v) the Professional Fees Account (as defined below) (including funds held in the Professional Fees Account), (vi) Debtors' Avoidance Actions or the proceeds of Avoidance Actions, and (vii) the proceeds of any of the assets identified in the foregoing clauses (ii) or (v) unless and until released or distributed to the Debtors (provided that, (x) subject to entry of the Final Order, proceeds of Avoidance Actions shall not be an Excluded Asset (and shall be DIP Collateral) and (y) the DIP Collateral shall include the Professional Fee Account to the extent of any surplus, if any, in such account after satisfaction in full of all obligations of professionals benefiting from the Carve-Out) pursuant to a final order not subject to appeal.

Concise Statement Pursuant to Bankruptcy Rule 4001

5. Pursuant to Bankruptcy Rules 4001(b), (c) and (d), the following is a concise statement and summary of the proposed material terms of the DIP Documents and Orders:[5]

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
Borrower Fed. R. Bankr. P. 4001(c)(1)(B)	The NORDAM Group, Inc.	Interim Order, Introduction DIP Credit Agreement, Introduction
Guarantors Fed. R. Bankr. P. 4001(c)(1)(B)	Each Debtor aside from Borrower.	DIP Credit Agreement, Introduction
DIP Lenders Fed. R. Bankr. P. 4001(c)(1)(B)	A syndicate of banks, financial institutions, and other entities, including JPMorgan Chase Bank, N.A. arranged by the Arranger (collectively, the "**DIP Lenders**") as permitted in the DIP Credit Agreement.	Interim Order, Introduction
DIP Agent Fed. R. Bankr. P. 4001(c)(1)(B)	JPMorgan Chase Bank, N.A.	Interim Order, Introduction
Lead Arranger and Bookrunner Fed. R. Bankr. P. 4001(c)(1)(B)	JPMorgan Chase Bank, N.A., Bank of America, N.A., Compass Bank, Citibank, National Association, Mid-First Bank, Commerce Bank, and HSBC Bank USA, National Association	DIP Credit Agreement, Introduction
DIP Facility Fed. R. Bankr. P. 4001(c)(1)(B)	A $45 million senior secured revolving credit, of which up to $25 million will be borrowed on an interim draw	Interim Order, ¶ E
Borrowing Limits Fed. R. Bankr. P. 4001(c)(1)(B)	Initial draw on the DIP Facility: $25 million	Interim Order, ¶ 3
Budget Fed. R. Bankr. P. 4001(c)(1)(B)	The initial budget is attached as **Exhibit D**. The Debtors' compliance shall be tested every other Wednesday (starting with the Wednesday of the third full calendar week following the Petition Date).	Interim Order ¶ K
Use of DIP Proceeds and Cash Collateral Fed. R. Bankr. P. 4001(c)(1)(B)(ii);(c)(1)(B)	The proceeds from the DIP Facility and the Cash Collateral will be used to: • Fund the Debtors' bankruptcy cases	Interim Order ¶ G DIP Credit Agreement § 6.11

[5] This statement is qualified in its entirety by reference to the applicable provisions of the DIP Documents. To the extent there exists any inconsistency between this concise statement and the provisions of the DIP Documents or the DIP Orders, the provisions of the DIP Documents or the DIP Orders, as applicable, shall control.

[6] All capitalized terms listed in this table but not otherwise defined herein, shall have the meaning ascribed to such terms in the DIP Documents or the Interim DIP Order (as applicable).

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
	• provide for general corporate working capital and other general corporate needs purposes; • pay fees and expenses incurred with the transactions, as contemplated by the DIP Credit Agreement and the Interim Order; • pay permitted prepetition claim payments that are permitted by the Bankruptcy Court and permitted by the Approved Budget and adequate protection payments to the Prepetition Secured Parties; • pay professional fees in connection with the chapter 11 cases; and • pay obligations arising from or related to the Carve-Out.	
Payments on Prepetition Debt; Fed. R. Bankr. P. 4001(c)(B)	If the Debtors, any trustee, any examiner with enlarged powers, or any responsible officer subsequently appointed in these Chapter 11 Cases or any successor cases, shall obtain Alternative Financing pursuant to Bankruptcy Code sections 364(b), 364(c) or 364(d) or in violation of the DIP Loan Documents at any time prior to (i) the indefeasible repayment in full in cash of all DIP Obligations and Prepetition Obligations and (ii) the termination of the DIP Agent's and DIP Lenders' obligations to extend credit under the DIP Loan Documents, including subsequent to the confirmation of any plan with respect to the Debtors and the Debtors' estates, then all of the cash proceeds of such Alternative Financing shall immediately be turned over to the DIP Agent to be applied as set forth in the DIP Loan Documents and this Interim Order for the indefeasible repayment in full in cash of the DIP Obligations and, subject to entry of the Final Order, if such Alternative Financing is secured by liens on any DIP Collateral or by any Prepetition Collateral with liens that are senior or *pari passu* with the liens securing the Adequate Protection Obligations or the Prepetition Obligations, any Alternative Financing proceeds remaining after the repayment in full of the DIP Obligations shall be immediately turned over to the Prepetition Agent to be applied as set forth in the Prepetition Loan Documents and this Interim Order for the indefeasible repayment in full in cash of the Prepetition Obligations; provided that any such repayment of Prepetition Obligations shall be subject to disgorgement or such other remedies ordered by the Bankruptcy Court to the extent any of the Prepetition Obligations are subject to a successful Challenge Action that is commenced in accordance with this Interim Order; and provided further, nothing in this paragraph shall be deemed a consent by the Prepetition Secured Parties to the incurrence of any priming liens with respect to such Alternative Financing, or authorization for the Debtors to incur any Alternative Financing.	Interim Order ¶ 19
Cross Collateralization Fed. R. Bankr. P. 4001(c)(B) **Local Rule 4001-2(a)(i)(A)** Cross-collateralization	None, other than adequate protection.	Interim Order, ¶ 10

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
protection (other than replacement liens or other adequate protection) to the prepetition secured creditors		
Identity of Each Entity with Interest in Cash Collateral Fed. R. Bankr. P. 4001(b)(1)(B)(i)	The Prepetition Secured Parties have interest in the Cash Collateral.	N/A
Interest Rates Fed. R. Bankr. P. 4001(c)(1)(B)	The DIP Facility will accrue interest, at the option of the Borrower, at one of the following interest rates: • the Alternate Base Rate + 3.00% per annum or • the Adjusted LIBOR Rate for a one-month interest period + 5.50% per annum.	DIP Credit Agreement, "Applicable Margin" definition
Maturity Date Fed. R. Bankr. P. 4001(c)(1)(B);	The date that is 270 days after the Petition Date.	Interim Order, ¶ 11 DIP Credit Agreement, § 1.01 (definition of "Revolving Maturity Date" definition)
Termination Date Fed. R. Bankr. P. 4001(c)(1)(B)	The "**Termination Date**" means the earliest to occur of: • (i) 270 days after the entry of the Petition Date; • (ii) the acceleration of the DIP Obligations upon the occurrence of an Event of Default; • (iii) upon the sale of all or substantially all of the Debtors' assets; and • (iv) the date on which substantial consummation of a plan of reorganization filed in these chapter 11 cases that is confirmed pursuant to an order of the Bankruptcy Court has occurred.	DIP Credit Agreement, § 1.01 (definition of "Revolving Maturity Date" definition)
Financial Covenants Fed. R. Bankr. P. 4001(c)(1)(B)	Mandatory Commitment Reduction and Repayments The DIP Financing shall be repaid, without a corresponding reduction of the commitments, on a weekly basis with cash and cash equivalents of the Debtors in excess of $10,000,000 in the aggregate.	DIP Credit Agreement, § 2.05
Collateral and Priority Fed. R. Bankr. P. 4001(c)(1)(B)(i);	"**DIP Collateral**" refers to the security interest and liens and mortgages upon all property identified in (i), (ii), and (iii), below (in each case, other than Excluded Assets): (i) First Lien on Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, and subject and subordinate in all respects to the Carve-Out, a valid, binding, continuing, enforceable, fully-perfected first priority lien on, and security interest in, all Unencumbered Property, including without limitation, (i) any cash of the Debtors (wherever maintained but	Interim Order ¶ 6

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
	subject to the limitations on the Professional Fee Account set forth herein) and any investment of such cash, inventory, accounts receivable, other rights to payment whether arising before or on the Petition Date, contracts, properties, plants, equipment, general intangibles, documents, instruments, interests in leaseholds, real properties, patents, copyrights, trademarks, trade names, other intellectual property, equity interests, and any claims and causes of the Debtors; (ii) any commercial tort claims and causes of action of any of the Debtors and any claims or causes of action against any directors or officers of the Debtors as well as including any proceeds of, or property recovered in connection with, any successful claims and causes of action against any directors or officers of the Debtors; and (iii) the proceeds of all of the foregoing; provided that the Unencumbered Property shall exclude the Excluded Assets, to the extent set forth in the definition thereof; (ii) Liens Junior to Certain Existing Liens. Pursuant to section 364(c)(3) of the Bankruptcy Code, and subject and subordinate in all respects to the Carve-Out, a valid, binding, continuing, enforceable, fully-perfected junior lien on, and security interest in, all tangible and intangible prepetition and post-petition property in which any of the Debtors has an interest (other than the property described below in paragraph 6(a)(iii)) whether now existing or hereafter acquired and all proceeds thereof, that is subject to Non-Primed Liens which security interests and liens in favor of the DIP Agent and the other DIP Secured Parties shall be immediately junior to the Non-Primed Liens; (iii) Liens Priming the Liens of the Prepetition Secured Parties. Pursuant to section 364(d)(1) of the Bankruptcy Code, and subject and subordinate in all respects to the Carve-Out, a valid, binding, continuing, enforceable, fully-perfected first priority, senior priming lien on, and security interest in, all Prepetition Collateral. The DIP Liens on the Prepetition Collateral shall be senior in all respects to the security interests in, and liens on, the Prepetition Collateral of each of the Prepetition Secured Parties (including the Prepetition Lenders Adequate Protection Liens), and subject only to (A) the Carve-Out, (B) valid, perfected, and non-avoidable liens on Prepetition Collateral that are in existence on the Petition Date (other than the Prepetition Lenders' Liens), solely to the extent such liens are senior in priority to the Prepetition Lenders' Liens on Prepetition Collateral and (C) valid and non-avoidable liens on Prepetition Collateral that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code solely to the extent such liens are senior in priority to the Prepetition Lenders' Liens on Prepetition Collateral;	
	The DIP Liens and DIP Superpriority Claims shall be subject only to the Carve-Out. The DIP Liens and DIP Superpriority Claims shall not impair or subordinate any valid, perfected, non-avoidable liens and security interest of Bank of America N.A., in cash used to collateralize available credit under the Debtors' Purchase Cards (as defined in the Cash Management Motion).	Interim Order ¶ 6

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
	The Carve-Out shall not apply to the Purchase Cards (as defined in the Cash Management Motion) and shall not be secured by any cash collateral pledged in support thereof.	Interim Order ¶ 4(g)
Adequate Protection Fed. R. Bankr. P. 4001(b)(1)(B)(iv), (c)(1)(B)(ii)	With respect to the Prepetition Secured Parties: • reasonable and documented fees, costs and expenses of counsel and other advisors to the Prepetition Agent and counsel to any of the Prepetition Lenders; • accrued and unpaid post-petition interest on the outstanding amounts due and payable under the Prepetition Loan Documents at the applicable non-default rate set forth in the Prepetition Loan Documents; • replacement liens upon all DIP Collateral; and • superpriority administrative claims.	Interim Order, ¶¶ I, 10
Debtors' Stipulations Fed. R. Bankr. P. 4001(c)(1)(B)(iii), (viii) **Local Rule 4001-2(a)(i)(B)** Findings of fact that bind the state to the validity, perfection, or amount of the secured creditors' prepetition lien or waiver of claims against the secured creditor	Regarding DIP Loan Documents and DIP Secured Parties: In requesting postpetition financing up to an aggregate principal amount of $45,000,000 on a final basis and up to $25,000,000 on an interim basis (the "DIP Financing"), the Debtors acknowledge, represent, stipulate, and agree that: (a) none of the DIP Secured Parties under the DIP Credit Agreement and DIP Loan Documents are control persons or insiders of the Debtors by virtue of determining to make any loan, providing the DIP Financing or performing obligations under the DIP Loan Documents; (b) as of the date of entry of this Interim Order, there exist no claim or causes of action against any of the DIP Secured Parties with respect to, in connection with, related to, or arising from (i) the DIP Loan Documents or (ii) any other acts, failures to act or other occurrences since the Petition Date that may be asserted by the Debtors; and (c) the Debtors, on behalf of themselves and their respective estates, to the maximum extent permitted by applicable law, forever and irrevocably release, discharge, and acquit the DIP Releasees of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened as of the date hereof including, without limitation, all legal and equitable theories of recovery, arising under common law, statute or regulation or by contract, of every nature and description, arising before or after the Petition Date, including, but not limited to, arising out of, in connection with, or relating to the DIP Financing, the DIP Loan Documents, or the DIP Obligations and ancillary documentation, guarantees, security documentation and collateral documents executed in support of the foregoing or the transactions contemplated hereunder or thereunder including, without limitation, (i) any avoidance, reduction, set off, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), except with respect to the Carve-Out (as defined	Interim Order ¶¶ E, J

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
	below), so-called "lender liability," claims, counterclaims, cross-claims, recoupment, defenses, disallowance (whether equitable or otherwise), impairment, or any other challenges under the Bankruptcy Code or any other applicable domestic or foreign law or regulation by any person or entity, (ii) any and all claims and causes of action arising under the Bankruptcy Code, and (iii) any and all claims and causes of action with respect to the validity, priority, perfection or avoidability of the liens or claims of the DIP Secured Parties. The Debtors further waive and release any defense, right of counterclaim, right of setoff or deduction of the payment of the DIP Obligations that the Debtors now have or may claim to have against the DIP Releasees arising out of, connected with, or relating to any and all acts, omissions or events occurring prior to the entry of this Interim Order. <u>Regarding Prepetition Loan Documents and Prepetition Secured Parties</u>: Subject to the Challenge Period in favor of parties (other than the Debtors), the Debtors, on behalf of themselves and their respective estates, have agreed, stipulated and acknowledged that, as of the Petition Date: (a) the statements in the Debtors' stipulations regarding Prepetition Loan Documents and Prepetition Secured Parties are true and correct and the Debtors party to or otherwise obligated under the Prepetition Loan Documents (including each of the Guarantors as defined in the Prepetition Loan Documents) were truly and justly indebted and liable for the amounts specified in subsection (b) below on a joint and several basis to the Prepetition Secured Parties; (b) the Prepetition Secured Parties hold claims against the Debtors pursuant to the Prepetition Loan Documents in the aggregate principal amount of not less than $266,521,739.11 in Prepetition Obligations; (c) (i) the Prepetition Obligations are legal, valid, binding, enforceable and non-avoidable obligations against each of the Debtors, (ii) no portion of the Prepetition Obligations and no amounts paid at any time to the Prepetition Agent or the other Prepetition Secured Parties in respect of the Prepetition Obligations, the Prepetition Loan Documents, or the transactions contemplated thereby is subject to contest, attack, objection, recoupment, defense, setoff, counterclaim, avoidance, recharacterization, reclassification, reduction, disallowance, recovery or subordination or other challenge pursuant to the Bankruptcy Code or applicable nonbankruptcy law, and (iii) the Debtors do not have any claims, counterclaims, causes of action, defenses or setoff rights related to the Prepetition Obligations or the Prepetition Loan Documents, whether arising on or prior to the date hereof, under the Bankruptcy Code or applicable nonbankruptcy law against the Prepetition Agent, any other Prepetition Secured Parties, or any of the Prepetition Secured Parties' respective affiliates, subsidiaries, agents, officers,	

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
	directors, employees, attorneys, and advisors, each in their capacities as such; (d) the Prepetition Obligations are secured by Prepetition Lenders' Liens on the Prepetition Collateral; (e) the Prepetition Lenders' Liens are (i) legal, valid, binding, perfected, and enforceable and secure the full amount of the Prepetition Obligations (ii) not subject to avoidance, recharacterization, offset or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law or other challenge and (iii) after giving effect to this Interim Order and subject in all respects to the Carve-Out, subject and subordinate only to the DIP Liens (as defined below) and valid and unavoidable liens properly perfected prior to the Petition Date (or perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code) solely to the extent such liens are senior to the Prepetition Lenders' Liens; (f) none of the Prepetition Secured Parties are control persons or insiders of the Debtors or any of their affiliates by virtue of any of the actions taken with respect to, in connection with, related to, or arising from the Prepetition Loan Documents; (g) all of the Debtors' cash, including cash held in the Debtors' deposit accounts and all cash, wherever located (i) constituting Prepetition Collateral; (ii) constituting proceeds, products, rents, or profits of property of Prepetition Collateral; and (iii) subject to the Prepetition Secured Parties' rights of setoff, constitutes Cash Collateral (h) Subject to the Challenge Period in favor of parties (other than the Debtors) and entry of this Interim Order, the Debtors, on behalf of themselves and their respective estates, to the maximum extent permitted by law, forever and irrevocably release, discharge, and acquit the Prepetition Secured Party Releasees of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened as of the date hereof including, without limitation, all legal and equitable theories of recovery, arising under common law, statute or regulation or by contract, of every nature and description, arising before or on the Petition Date, including, but not limited to, arising out of, in connection with, or relating to the Prepetition Obligations, and ancillary documentation, guarantees, security documentation and collateral documents executed in support of the foregoing or the transactions contemplated hereunder or thereunder including, without limitation, (i) any avoidance, reduction, set off, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), except as permitted herein with respect to the Carve-Out, so-called "lender liability," claims, counterclaims, cross-claims, recoupment, defenses, disallowance (whether equitable or otherwise), impairment, or any	

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
	other challenges under the Bankruptcy Code or any other applicable domestic or foreign law or regulation by any person or entity, (ii) any and all claims and causes of action arising under the Bankruptcy Code, and (iii) any and all claims and causes of action with respect to the validity, priority, perfection or avoidability of the liens or claims of the Prepetition Secured Parties. The Debtors further waive and release any defense, right of counterclaim, right of setoff or deduction of the payment of the Prepetition Obligations that the Debtors now have or may claim to have against the Prepetition Secured Party Releasees arising out of, connected with, or relating to any and all acts, omissions or events occurring prior to the entry of this Interim Order; and (i) notwithstanding anything herein to the contrary, (i) the Debtors' rights to seek recharcterization of adequate protection as being applied to principal and/or seek a determination on the value of the Prepetition Collateral securing the Prepetition Obligations are fully reserved, and (ii) the Debtors make no stipulation, and reserve all rights, with respect to the Deferred Compensation Collateral, including liens asserted against the Deferred Compensation Collateral on account of the Prepetition Obligations.	
Material Conditions to Closing Fed. R. Bankr. P. 4001(c)(1)(B)	The material conditions to closing are reasonable and customary for facilities of this size, type, and purpose, and include, among others: • entry of an order of the bankruptcy court approving a cash management system for the Debtors reasonably satisfactory to the DIP Agent; • execution and delivery of a satisfactory DIP Documents; • receipt of a satisfactory Initial Approved Budget; • entry of the bankruptcy court of an interim order approving the DIP Facility and other arrangements described therein, in form and substance acceptable to the DIP Agent and the DIP Lenders, which shall include the consent to use Cash Collateral of the Prepetition Lenders; • payment or reimbursement of all accrued and unpaid interest, fees, costs and expenses (to the extent invoiced prior to the closing date) owed to any Prepetition Secured Party in respect of or arising in connection with the Existing Credit Agreement or other Prepetition Loan Documents; • DIP Lenders have received such documents and instruments, relating to the DIP Facility, as they may reasonably request; • payment of all fees, costs, expenses, charges, and disbursements of counsel and other advisors of the DIP Agent and all fees, costs, expenses, charges, and disbursements of counsel and other advisors to any of the DIP Lenders, to the extent invoiced prior to the closing date; • receipt by the DIP Agent of the DIP facility fee for the ratable account of the DIP Lenders; • "first day motions" and "first day orders" shall be in form and substance reasonably satisfactory to the DIP Agent and the Required Lenders (as defined in the DIP Credit Agreement)	DIP Credit Agreement, § 4.01

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
	• receipt of a true and complete copy of the executed and delivered agreement between the Borrower and the Chief Restructuring Officer in connection with the Chief Restructuring Officer's engagement as chief restructuring officer for the Loan Parties, in form and substance reasonably satisfactory to the Administrative Agent; and • since December 31, 2017 other than those events or circumstances customarily resulting from the commencement of the Debtors' bankruptcy cases, there shall not have occurred a material adverse change (x) in the business, assets, properties, liabilities (actual or contingent), operations or condition (financial or otherwise) of the Borrower and its Subsidiaries, taken as a whole or (y) in the facts and information regarding such entities represented to date.	
Indemnification Fed. R. Bankr. P. 4001(c)(1)(B)(ix)	The Loan Parties shall, on a joint and several basis, indemnify the Administrative Agent (and any sub-agent thereof), each Lender and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of the Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the 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, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation, arbitration 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 the Borrower or any other Loan Party, 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 (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such	DIP Credit Agreement, § 10.04

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
	Indemnitee or (y) result from a claim brought by the 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 Borrower 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.	
Events of Default Fed. R. Bankr. P. 4001(c)(1)(B)	The Events of Default are reasonable and customary for facilities of this size, type, and purpose, and include, among others: • the Debtors violate any material term of the Interim Order; • the Debtors' actual expenditures exceed or receipts are less than the amounts set forth in the Approved Budget for the applicable test period by more than the Approved Budget variance permitted by the DIP Credit Agreement (as tested and calculated under the DIP Credit Agreement), and the DIP Agent (acting at the direction of the Required Lenders) did not previously consent in writing to such variation from the Approved Budget, or did not subsequently waive in writing such unauthorized use of Cash Collateral; an Event of Default under and as defined in the DIP Loan Documents shall have occurred and is continuing (unless waived pursuant to the DIP Loan Documents); • the Debtors file or support a Challenge Action (defined below); provided that, for the avoidance of doubt, the foregoing shall not apply with respect to any action by the Debtors to determine the value of collateral securing the Prepetition Obligations; • entry of an order (or any Debtors files or affirmatively supports a motion or pleading seeking entry of an order): o converting any of the Debtors' bankruptcy cases to a case under chapter 7; o dismissing any of the Debtors' bankruptcy cases o reversing, vacating, staying, or otherwise amending, supplementing, or modifying this Interim Order or the Final Order, in each case without the consent of the affected DIP Lenders; or o invalidating, subordinating, or otherwise sustaining any Challenge Action to the Prepetition Lenders' Liens, the Prepetition Obligations, the Prepetition Lenders Adequate Protection Liens, or the Prepetition Lenders Adequate Protection Superpriority Claims granted to the Prepetition Secured Parties hereunder or under the Prepetition Loan Documents, as applicable; and • (i) an order shall be entered by the Bankruptcy Court confirming a plan of reorganization or liquidation in the Bankruptcy Cases (or an order shall be entered by the Bankruptcy Court approving a disclosure statement related to such plan) which does not (x) provide for the termination of all of the DIP Lenders' Commitments and payment in full in cash of all DIP Obligations and all Prepetition Obligations on the date of effectiveness of such plan and in each case in a	Interim Order, ¶ 12 DIP Credit Agreement, § 8.01

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
	manner satisfactory to the DIP Agent and the DIP Lenders on or before the effective date of such plan and (y) provide for the continuation of the DIP Liens and priorities in favor of the DIP Agent and the DIP Secured Parties until such effective date unless such plan of reorganization or liquidation otherwise is satisfactory in form and substance to the DIP Agent and the Required Lenders; provided that, for the avoidance of doubt, any such plan described in this clause (y) must provide for the payment in full in cash of all DIP Obligations on the effective date of such plan unless consented to in writing by all Lenders or (ii) any Loan Party (or by any party with the support of any Loan Parties) shall have filed or supports a plan of reorganization or liquidation that violates or will violate section 8.01(n)(i) of the DIP Credit Agreement in the Bankruptcy Cases.	
Milestones Fed. R. Bankr. P. 4001(c)(1)(B)(vi)	Prior to entry of the Final Order, the Debtors shall agree upon milestones reasonably satisfactory to the DIP Agent.	DIP Credit Agreement, § 6.23
Liens on Avoidance Actions Fed. R. Bankr. P. 4001(c)(1)(B)(xi) **Local Rule 4001-2(a)(i)(D)** Liens on Debtors' causes of action	Collateral does not include any claims and causes of action under sections 502(d), 544, 545, 547, 548, 559 (collectively, the "**Avoidance Actions**") but attaches to proceeds of Avoidance Actions upon entry of the Final Order.	Interim Order, ¶ 6(e)
Waiver or Modification of the Automatic Stay Fed. R. Bankr. P. 4001(c)(1)(B)(iv)	The automatic stay provisions of section 362 of the Bankruptcy Code hereby are vacated and modified without the need for any further order of the Bankruptcy Court to: (a) whether or not an Event of Default under and as defined in the DIP Loan Documents has occurred, (i) require proceeds from DIP Collateral and other collections received by the Debtors to be deposited in accordance with the requirements of the DIP Loan Documents, and to apply any amounts so deposited and other amounts paid to or received by the DIP Secured Parties under the DIP Loan Documents in accordance with any requirements of the DIP Loan Documents, and (ii) require mandatory prepayments in accordance with the requirements of the DIP Loan Documents, in each case, without further order of the Bankruptcy Court; (b) immediately upon the occurrence and during the continuation of an Event of Default under and as defined in the DIP Loan Documents, allow the DIP Agent (acting at the direction of the Required Lenders) to deliver a Termination Declaration. The Termination Declaration shall be given by written notice (including electronic mail) to the Termination Notice Parties. Upon the Termination Declaration Date, (x) unless such Event of Default is waived in writing (including via email) by the DIP Agent in its sole discretion (acting at the direction of the Required Lenders) or (y) cured by the Debtors (to the extent capable of being cured), the authority and approval of the Debtors to access or use the Financing or Prepetition Collateral (including Cash Collateral)	Interim Order, ¶ 17

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
	and the commitment of the DIP Secured Parties to provide such financing pursuant to this Interim Order shall automatically terminate, and all amounts outstanding under the DIP Loan Documents shall become immediately due and payable provided such termination shall be rescinded to the extent it is determined by the Bankruptcy Court during the five (5) Business Day period described in the immediately following sentence that no Event of Default occurred and is continuing. Unless the Debtors have obtained a Bankruptcy Court order within five (5) Business Days after the Termination Declaration Date staying the DIP Agent and the DIP Secured Parties, the DIP Agent and DIP Secured Parties are authorized to exercise any and all rights and remedies in accordance with the terms of the DIP Loan Documents, and to take all actions required or permitted by the DIP Loan Documents without necessity of further Bankruptcy Court orders; provided that the DIP Agent shall give not less than five (5) Business Days' prior written notice of the Termination Action Notice to the Termination Notice Parties with such Termination Action Notice being allowed to be provided concurrently or simultaneously with the Termination Declaration; and provided further during the foregoing five (5) Business Day period, the only issue that may be raised by any party in opposition to the exercise of rights and remedies shall be whether an Event of Default under and as defined in the DIP Loan Documents has in fact occurred and is continuing, and other than as set forth in the prior clause of this proviso, the Debtors hereby waive their right to seek any relief, whether under section 105 of the Bankruptcy Code or otherwise, that would in any way impair, limit or restrict, or delay the exercise or benefit of, the rights and remedies of the DIP Agent and the DIP Lenders under the DIP Loan Documents or this Interim Order provided such waiver shall not be binding on the Bankruptcy Court. Neither the DIP Agent's nor any DIP Lender's delay or failure to exercise rights and remedies under the DIP Loan Documents or this Interim Order shall constitute a waiver of such DIP Agent's or any DIP Lender's rights hereunder, thereunder or otherwise, unless any such waiver is pursuant to a written instrument executed in accordance with the terms of the applicable DIP Credit Agreement.	
Waiver or Modification of Applicability of Non-Bankruptcy Law Relating to the Perfection or Enforcement of a Lien Fed. R. Bankr. P. 4001(c)(1)(B)(vii)	T'he Debtors expect that all of the DIP Liens shall be effective and perfected upon entry of the Interim Order and without the necessity of the execution of mortgages or similar undertakings	Interim Order, ¶ 3
Section 506(c) Waiver Fed. R. Bankr. P. 4001(c)(1)(B)(x) **Local Rule 4001-2(a)(i)(C)**	Subject to a Final Order, the DIP Secured Parties and the Prepetition Secured Parties shall be entitled to a 506(c) waiver.	Interim Order, ¶ O

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
Waiver of estate rights with respect to section 506(c)		
Section 522(b) Waiver Fed. R. Bankr. P. 4001(c)(1)(B) **Local Rule 4001-2(a)(i)(H)** Provisions that seek to affect the Court's power to consider the equities of the case under 11 U.S.C. §552	Subject to a Final Order any "equities of the case" exception under 552(b) of the Bankruptcy Code shall not apply to any of the DIP Secured Parties and the Prepetition Secured Parties with respect to (i) proceeds, products, offspring or profits of any of the Prepetition Collateral or (ii) extension of the Prepetition Secured Lenders' Adequate Protection Liens or DIP Liens to cover proceeds of Prepetition Collateral.	Interim Order, ¶ O
Release, Waivers or Limitation on any Claim or Cause of Action Fed. R. Bankr. P. 4001(c)(1)(B)(viii)	The Debtors' Stipulations shall be binding upon all other parties in interest subject to the Challenge Period described in ¶ 31 of the Interim Order. (a) Notwithstanding anything to the contrary herein, in any of the DIP Loan Documents or in any prior order of this Court, the stipulations and admissions of the Debtors contained in this Interim Order with respect to the Prepetition Agent and the other Prepetition Secured Parties, shall be binding upon all other parties in interest unless a Challenge Party that successfully seeks and obtains standing (on a final basis) to do so has timely filed a Challenge Action by the Challenge Period; provided that any such period is subject to extension as may be specified by this Bankruptcy Court for cause shown, or (x) if the Prepetition Agent (acting at the direction of the Required Lenders) agrees in writing to such an extension with respect to any Claims and Defenses in respect of the Prepetition Obligations (i) challenging the validity, enforceability, priority or extent of the Prepetition Obligations or the liens on Prepetition Collateral securing the Prepetition Obligations or (ii) otherwise asserting or prosecuting any Avoidance Actions or any other Claims and Defenses against any of the Prepetition Secured Parties in connection with any matter related to the Prepetition Obligations or the Prepetition Collateral and (y) an order is entered and becomes final in favor of the Challenge Party sustaining any such Challenge Action duly made in accordance with the foregoing; provided, further, that, subject to the Challenge Period, as to the Debtors, all Claims and Defenses are hereby irrevocably waived, released and relinquished as of the Interim Order Entry Date. For the avoidance of doubt, the filing of a Challenge Action by one Challenge Party shall not extend the Challenge Period for any other Challenge Parties. (b) If a Challenge Action is not timely filed then: (x) the Challenge Party and any other party-in-interest and any and all successors-in-interest as to any of the foregoing, shall thereafter be forever barred from bringing any Challenge Action with respect thereto; (y) the stipulations and admissions contained in this Interim Order, shall be binding and preclusive on all parties-in-interest; and (z) the Prepetition Obligations, the Prepetition Lenders and the Prepetition Agent, and the liens on the	Interim Order, ¶ 31

SUMMARY OF DIP FACILITY [6]		
Term	**Summary**	**Reference**
	Prepetition Collateral granted to secure the Prepetition Obligations shall not be subject to any other or further challenge by any Challenge Party, and such Challenge Party shall be enjoined from seeking to exercise the rights of the Debtors' estates, including any successor thereto (including any estate representative or a chapter 7 or 11 trustee appointed or elected for any of the Debtors). Nothing in this Interim Order shall confer standing on any party in interest (including the Committee) to assert any Claims or Defenses or otherwise bring any cause of action, and such standing shall remain solely with the Debtors or their estates unless otherwise ordered by the Bankruptcy Court. (c) If any Challenge Action is timely filed, the stipulations and admissions contained in this Interim Order, including paragraphs J and 9 hereof, shall nonetheless remain binding and preclusive on all parties-in-interest, including the Committee, if any, except as to any such findings and admissions that were expressly and successfully challenged in such Challenge Action. In the event a Challenge Party timely files a Challenge Action, upon the subsequent expiration of the Challenge Period, such Challenge Party shall not be permitted to amend such Challenge Action to bring additional Challenge Actions not raised during the Challenge Period	

Highlighted Provisions Pursuant to Local Rule 4001-2

6. Pursuant to Local Rule 4001-2, the terms of the DIP Facility contain the following provisions. To the extent covered in the above summary chart and indicated as such, this table shall not repeat such provision:

HIGHLIGHTED PROVISIONS		
Term	**Summary**	**Reference**
Local Rule 4001-2(a)(ii) Summary of essential terms	See table above.	
Local Rule 4001-2(a)(i)(E) Provisions which deem prepetition secured debt to be postpetition debt or which use post-petition loans from a prepetition secured creditor to pay part or all of that secured creditors' prepetition debt	None.	N/A
Local Rule 4001-2(a)(i)(F) Provisions that provide disparate treatment for the professionals retained by a creditors' committee from those professionals retained	"**Carve-Out**" shall mean the sum, without duplication, of the following: (i) all fees required to be paid to the Clerk of the Bankruptcy Court and to the U.S. Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice	Interim Order ¶ 4

by the debtor with respect to a professional fee carve-out	set forth in (iii) below); (ii) fees and expenses up to $50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in (iii) below); (iii) to the extent allowed at any time, whether by interim or final compensation order, all Professional Fees incurred by Professional Persons appointed in the Cases pursuant to section 1103 of the Bankruptcy Code at any time before or on the first business day after delivery by the DIP Agent of a Carve-Out Trigger Notice (defined below), whether allowed by the Bankruptcy Court prior to or after delivery of a Carve-Out Trigger Notice and without regards to whether such fees and expenses are provided for in the Approved Budget; and (iv) the Post-Carve-Out Trigger Notice Cap.	
Local Rule 4001-2(a)(i)(G) Nonconsensual priming	The Debtors do not expect the Interim Order to provide for any non-consensual priming of any lien other than with respect to the Carve-Out.	Interim Order ¶ R, 4

Prepetition Capital Structure

7. As of the Petition Date, the Debtors' prepetition capital structure consisted of approximately $285.9 million in total funded debt, made up of: (a) a fully-drawn revolving credit facility in an outstanding principal amount of approximately $266.5 million and (b) an unsecured promissory note issued by three variable interest entities (such entities, the "**VIE Lenders**") beneficially owned by members of the Siegfried family in an outstanding principal amount of approximately $19.2 million.

I. Prepetition Indebtedness

8. As of the Petition Date, the Debtors' prepetition capital structure consisted of approximately $285.9 million in total funded debt, made up of: (a) a fully-drawn revolving credit facility in an outstanding principal amount of approximately $266.5 million and (b) an unsecured promissory note issued by three variable interest entities (such entities the "**VIE Lenders**") beneficially owned by members of the Siegfried family in an outstanding amount principal amount of approximately $19.2 million.

A. Prepetition Revolving Credit Facility

9. On December 18, 2012, the Debtors entered into the *Fourth Amended and Restated Credit Agreement* (as amended, modified, or restated from time to time, the "**Prepetition Credit Agreement**"), between NORDAM as borrower, and the Prepetition Agent and other lenders party thereto (collectively, the "**Prepetition Lenders**"), pursuant to which the Lenders agreed to provide NORDAM with revolving credit loans and letters of credit, subject to a borrowing base availability (the "**Prepetition Credit Facility**"). The obligations under the Prepetition Credit Agreement are secured by a first priority lien on substantially all of the Debtors' property and assets, subject to certain exceptions and exclusions (collectively, the "**Prepetition Collateral**").

10. On September 22, 2017, NORDAM, the other Debtor entities (such entities, the "**Debtor Guarantors**"), and the Lenders entered into a fifth amendment to the Prepetition Credit Agreement (the "**Fifth Amendment**"). Pursuant to the Fifth Amendment, the Lenders agreed to increase the borrowing base of the Prepetition Credit Facility to approximately $266.5 million and to extend the maturity date of the Prepetition Credit Facility to June 18, 2018. In exchange, the Debtor Guarantors agreed to guarantee NORDAM's obligations under the Prepetition Credit Agreement.

11. As of the Petition Date, the Prepetition Credit Facility has matured in accordance with its terms and approximately $266.5 million in principal amount remains outstanding under the Prepetition Credit Facility.

B. Unsecured VIE Note

12. NORDAM, but none of the other Debtors, is party to that certain *Credit Agreement* dated April 4, 2018 (as amended, modified, or restated from time to time,

the "**VIE Credit Agreement**") with Cherokee Partners L.L.C., East Plant Investment L.L.C., and Eight Partners LLC (referred to collectively as the VIE Lenders). Pursuant to the VIE Credit Agreement and certain related transaction documents, the VIE Lenders agreed (a) to advance up to $20 million to NORDAM pursuant to a promissory note (the "**Unsecured VIE Note**") bearing annual payment in kind ("**PIK**") interest at the prime rate as published by *The Wall Street Journal* and that matured on June 18, 2018, and (b) that any obligations to the VIE Lenders are unsecured and subordinated to any obligations to the Lenders under the Prepetition Credit Agreement. As noted above, the VIE Lenders are beneficially owned by members of the Siegfried family. The VIE Lenders also own three buildings in or around Tulsa, Oklahoma that are leased by the VIE Lenders to the Debtors.

13. As of the Petition Date, approximately $19.2 million of principal and $264,000 in accrued PIK interest is due under the Unsecured VIE Note.

Debtors' Liquidity Needs and Marketing Efforts

I. Debtors Have an Immediate Need to Use Cash Collateral and Obtain DIP Financing

14. The Debtors are entering chapter 11 with limited cash on hand and require access to the DIP Financing and authority to use the Cash Collateral to ensure they have sufficient liquidity to operate their businesses and administer their estates during these chapter 11 cases. Prior to the Petition Date, the Debtors, in consultation with Huron, reviewed and analyzed its projected cash needs and prepared an Initial Approved Budget outlining the Debtors' postpetition cash need in the initial thirteen weeks of the chapter 11 cases. The DIP Facility will provide the Debtors with the liquidity necessary to, among other things, make payroll and satisfy their other working capital and general corporate purposes, including essential payments to vendors and service providers.

15. Absent authority to enter into and access the DIP Facility, even for a limited period of time, the Debtors will be unable to continue operating its businesses, resulting in a deterioration of value and immediate and irreparable harm to the Debtors' estates. Accordingly, immediate access to the DIP Facility is essential so the Debtors can assure their employees, customers, and vendors that the Debtors have sufficient capital to continue operating "business as usual" during the pendency of these chapter 11 cases. The Debtors believe that the Initial Approved Budget and its projections provide an accurate reflection of the Debtors' funding requirements over the identified period and are reasonable and appropriate under the circumstances.

II. Negotiation of DIP Financing

16. Over a period of approximately three weeks, the Debtors' vigorously negotiated the key terms of a proposed DIP Financing with their Prepetition Lenders. As further discussed in the DiDonato Declaration, throughout this iterative process, both the Debtors and the Prepetition Lenders were represented by experienced restructuring counsel and financial advisors, all participating in a hard-fought, arms' length negotiation process—as often found in commercial DIP financing negotiations. As described in the Bojmel Declaration, the DIP Facility's pricing is customary, usual, and on market terms and contains pricing terms that are consistent with comparable debtor-in-possession financings generally. Further, Guggenheim Securities intends to market the DIP Facility, post-petition, with the goal of finding superior terms; in essence, market testing the DIP Financing. In that vein, the Debtors, with the assistance of Guggenheim Securities began soliciting indications of interest from 19 alternative third-party lenders that routinely provide debtor-in-possession financing, executing confidentiality agreements with four parties from this group and facilitating the diligence process. The Debtors intend to continue this

marketing process on a postpetition basis. However, the Debtors believe their proposed DIP Financing is the best alternative available to their estates at this time.

17. Here, the DIP Lenders' proposal provides, among other things, (i) a reasonable rate, (ii) modest fees, (iii) customary budget covenants, and (iv) the necessary liquidity benefit. Moreover, the DIP Lenders' proposal promises speed and a related smooth entry into chapter 11 by reducing the risk of litigation at the outset of these chapter 11 cases.

Basis for Relief Requested

I. Debtors Should Be Authorized to Obtain Secured, Superpriority DIP Financing

A. Entry into the DIP Facility is an Exercise of the Debtors' Sound Business Judgment

18. Provided that an agreement to obtain secured credit does not run afoul of the provisions of, and policies underlying, the Bankruptcy Code, courts grant a debtor considerable deference in acting in accordance with its sound business judgment in obtaining such credit. *See e.g.*, *In re Trans World Airlines, Inc.*, 163 B.R. 964, 974 (Bankr. D. Del. 1994) (approving a postpetition loan and receivables facility "reflect[ed] sound and prudent business judgement"); *In re L.A. Dodgers LLC*, 457 B.R. 308, 313 (Bankr. D. Del. 2011) ("[C]ourts will almost always defer to the business judgment of a debtor in the selection of the lender."); *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 [of the Bankruptcy Code] is to be utilized on grounds that permit [a debtor's] 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."); *In re Farmland Indus., Inc.*, 294 B.R. 855, 881 (Bankr. W.D. Mo. 2003) (noting that approval of postpetition financing requires, *inter alia*, an exercise of "sound and reasonable business judgment.").

19. In determining whether the Debtors have exercised sound business judgment in selecting DIP Financing, 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). Here, the Debtors' determination to secure DIP Financing was a business decision guided by the Debtors' financial and restructuring needs. Specifically, the Debtors together with their advisors, determined that the Debtors will require immediate liquidity to smoothly transition into chapter 11 and additional liquidity through their restructuring process in order to continue operating "business as usual". Without the additional liquidity, the Debtors would be operating at a suboptimal level and unable to preserve nor maximize value, to the detriment of the Debtors' customers, creditors, employees, vendors, and other parties in interest.

20. Bankruptcy courts will not generally second-guess a debtor's business decisions when those decisions involve "a business judgment made in good faith, upon a reasonable basis, and within the scope of [its] authority under the [Bankruptcy] Code." *In re Curlew Valley Assocs.*, 14 B.R. 506, 513 (Bankr. D. Utah 1981) (footnote omitted). To determine whether the business judgment test is met, "the court 'is required to examine whether a reasonable business person would make a similar decision under similar circumstances.'" *In re Dura Auto. Sys. Inc*., Case No. 06-11202 (KJC), 2007 Bankr. LEXIS 2764, at *272 (Bankr. D. Del. Aug. 15, 2007) (citation omitted).

21. The Debtors, under the auspices of their independent Restructuring Committee, and with the assistance of their advisors, carefully reviewed the proposed DIP Financing and vigorously negotiated the salient terms with the Prepetition Lenders and their advisors. Keeping in mind the advantages and disadvantages of the offered proposal, the

Debtors ultimately decided that moving forward with the proposed DIP Financing was an appropriate step at this time. The Debtors also intend to continue testing their financing in the marketplace to determine whether an alternative financing package may be available to their estates. Regardless, the Debtors respectfully submit that the interim relief requested here is necessary to preserve the value of estate assets, and is an exercise of the Debtors' sound and reasonable business judgment.

B. Debtors Should be Authorized to Obtain Postpetition Financing on a Secured and Superpriority Basis

22. The Debtors satisfy the requirements for relief under section 364 of the Bankruptcy Code, which authorizes a debtor to obtain secured or superpriority financing under certain circumstances. Specifically, section 364(c) of the Bankruptcy Code provides that:

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

11 U.S.C. § 364(c).

23. To satisfy the requirements of section 364(c) of the Bankruptcy Code, a debtor need only demonstrate "by a good faith effort that credit was not available" to the debtor on an unsecured or administrative expense basis. *Bray v. Shenandoah Fed. Savs. & Loan Ass'n* (*In re Snowshoe Co.*), 789 F.2d 1085, 1088 (4th Cir. 1986) ("The statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable."); *see also Pearl-Phil GMT (Far East) Ltd. v. Caldor Corp.*, 266 B.R. 575, 584 (S.D.N.Y. 2001)

(superpriority administrative expenses authorized where debtor could not obtain credit as an administrative expense). When few lenders are likely to be able and willing to extend the necessary credit to a debtor, "it would be unrealistic and unnecessary to require [the debtor] to conduct 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 Savs. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 120 n. 4 (N.D. Ga. 1989); *see also Ames Dep't Stores*, 115 B.R. at 40 (approving financing facility and holding that the debtor made reasonable efforts to satisfy the standards of section 364(c) where it approached four lending institutions, was rejected by two, and selected the most favorable of the two offers it received).

24. The Debtors believe the proposed DIP Financing is the only available financing at this time. And after evaluating the proposed DIP Financing, the Debtors, determined that the DIP Lenders' proposal provided reasonable economic terms. Moreover, such a financing sends a clear message that these chapter 11 cases are being supported by the Debtors' incumbent lenders from the outset. Accordingly, for the foregoing reasons, the Debtors respectively submit that the Court should authorize the Debtors to provide the DIP Agent and the DIP Lenders superpriority liens and a superpriority administrative expense claim for any obligations arising under the DIP.

C. DIP Facility Provides for Consensual Priming and Cash Collateral Use

25. In addition to authorizing financing under section 364(c) of the Bankruptcy Code, courts may authorize a debtor to obtain postpetition credit secured by a lien that is senior or equal in priority to existing liens on the encumbered property, without the consent of the existing lien holders, if the debtor cannot otherwise obtain such credit and the interests of

existing lien holders are adequately protected. *See* 11 U.S.C. § 364(d)(1). Specifically, section 364(d)(1) of the Bankruptcy Code provides:

> (1) The court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if:
>
> (A) the trustee is unable to obtain such credit otherwise; and
>
> (B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.
>
> (2) In any hearing under this subsection, the trustee has the burden of proof on the issue of adequate protection.

11 U.S.C. § 364(d).

26. When determining whether to authorize a debtor to obtain credit secured by senior liens as authorized by section 364(d) of the Bankruptcy Code, courts focus on whether the transaction will enhance the value of the Debtors' assets. Courts consider a number of factors, including:

- whether the party subject to a priming lien has consented to such treatment;
- whether alternative financing is available on any other basis (*i.e.*, whether any better offers, bids, or timely proposals are before the court);
- whether the proposed financing is necessary to preserve estate assets and is necessary, essential and appropriate for continued operation of the debtors' business;
- whether the terms of the proposed financing are reasonable and adequate given the circumstances of both the debtors and proposed lender(s); and
- whether the proposed financing agreement was negotiated in good faith and at arms' length and entry therein is an exercise of sound and reasonable business judgment and in the best interest of the debtor's estate and its creditors.

See, e.g., *Ames Dep't Stores*, 115 B.R. at 37–39; *Bland v. Farmworker Creditors*, 308 B.R. 109, 113-14 (S.D. Ga. 2003); *Farmland Indus.*, 294 B.R. at 862–79, *In re Lyondell Chem. Co.*, Case No. 09-10023 (Bankr. S.D.N.Y. March 5, 2009); *Barbara K. Enters.*, 2008 WL 2439649 at *10. The DIP Financing satisfies these factors.

27. Most importantly, here, the priming is consensual. The DIP Lenders have affirmatively consented to the priming features of the DIP Facility and have actively participated in facilitating the proposed DIP Financing. Furthermore, the Debtors conducted arm's-length negotiations with the DIP Lenders regarding the terms of the DIP Documents and as stated in the Bojmel Declaration, the proposed DIP Financing provides for market terms under the circumstances. Absent access to the DIP Financing and use of the Cash Collateral, the Debtors will be unable to operate their businesses or prosecute their chapter 11 cases, which will threaten the Debtors' going concern value. Providing the Debtors with the liquidity necessary to preserve their going concern value through the pendency of these chapter 11 cases is in the best interest of their stakeholders.

28. First, the Debtors believe, after rigorous negotiations with the DIP Lenders, that the DIP Documents reflect the most favorable terms on which the DIP Lenders were willing to offer DIP Financing. The Debtors are not aware of any financing being available on equal or better terms from the DIP Lenders, without granting first priority liens in the Prepetition Collateral. But, as stated previously, the Debtors fully intend on marketing the current terms of the DIP Financing, after a small, interim draw, in order to pressure test the agreed-upon terms. This way, the Debtors are able to stabilize its businesses and communicate to the market that these chapter 11 cases are well-funded, while also marketing the DIP Financing to ensure that the current DIP Facility is the best option for the Debtors.

29. Second, the Debtors are especially vulnerable as they hit critical liquidity levels in the run up to the Petition Date; the Debtors are not left with many options. The commencement of these chapter 11 cases will only increase demands on that liquidity due to, among other things, the costs of administering these chapter 11 cases and the acceleration or elimination of trade terms. Immediate access to the DIP Facility is thus critically necessary to ensure a smooth transition into chapter 11 and enable the Debtors to prudently operate their businesses and, in turn, maximize value for all parties in interest, during the pendency of these chapter 11 cases. To this end, approval of the DIP Facility will enable the Debtors to send precisely that "business as usual" message to their customers, vendors, and business partners.

30. Third, as described in greater detail above and in the DiDonato Declaration, the Debtors and the DIP Lenders negotiated the DIP Documents in good faith and at arms' length, and the Debtors' entry into the DIP Documents represents a sound exercise of their business judgment. At this juncture, the Debtors believe the DIP Lender's proposal is the Debtors' most logical choice.

D. Prepetition Secured Parties Are Adequately Protected

31. A debtor may obtain postpetition credit "secured by a senior or equal lien on property of the estate that is subject to a lien only if "the debtor, among other things, provides "adequate protection" to those parties whose liens are primed. *See* 11 U.S.C. § 364(d)(1)(B). What constitutes adequate protection is decided on a case-by-case basis, and adequate protection may be provided in various forms, including payment of adequate protection fees, payment of interest, or granting of replacement liens or administrative claims. *See, e.g., In re Cont'l Airlines Inc.*, 154 B.R. 176, 180-181 (Bankr. D. Del. 1993); *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 Mosello*, 195 B.R. 277, 289

(Bankr. S.D.N.Y. 1996) ("the determination of adequate protection is a fact-specific inquiry . . . left to the vagaries of each case").

32. The Debtors and the proposed DIP Lenders propose granting to the Prepetition Secured Parties[7] adequate protection in accordance with the following, subject to the Carve-Out:

- cash payment of interest at the non-default rate on account of obligations outstanding under the Debtors' Prepetition Credit Facility;
- cash payment of the reasonable and documented costs and expenses of the Prepetition Secured Parties; and
- replacement liens and claims in favor of the Prepetition Secured Parties encumbering each of the Debtors' assets subject to the DIP Liens and Claims.

33. The Debtors submit that their provision of adequate protection to the Prepetition Secured Parties is fair and reasonable, is sufficient to satisfy the requirements of section 364(d)(1)(B) of the Bankruptcy Code.

II. Debtors Should be Authorized to Use Postpetition Collateral, Including Cash Collateral

34. Section 363 of the Bankruptcy Code places certain restrictions on a debtor's use of Cash Collateral. Specifically, section 363(c) provides, in pertinent part, that:

> The trustee may not use, sell, or lease cash collateral . . . unless
>
> (A) each entity that has an interest in such cash collateral consents; or
>
> (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section [363].

11 U.S.C. § 363(c)(2). Further, section 363(e) provides that "on request of an entity that has interest in property . . . proposed to be used, sold or leased, by the trustee, the court, with or without

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[7] "**Prepetition Secured Parties**" means collectively, the Prepetition Lenders and the Prepetition Agent.

a hearing, shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest." 11 U.S.C. § 363(e).

35. The Debtors submit that the requirements of sections 363(c)(2) and (e) are met here, and the Debtors should be authorized to use the Cash Collateral. As noted above, the Prepetition Secured Parties have consented to the use of Cash Collateral and the Debtors are providing the Prepetition Secured Parties with adequate protection, which (i) is fair and reasonable and (ii) adequately protects the Prepetition Secured Parties' interests in the Debtors' interests in the Prepetition Collateral. Accordingly, the Court should authorize the Debtors to use the Cash Collateral under section 363(c)(2) of the Bankruptcy Code.

III. DIP Fees Are Reasonable and Should be Approved

36. As described above, the Debtors have agreed, subject to Court approval, to pay certain fees to the DIP Lenders (collectively, the "**DIP Fees**") in exchange for their providing, agenting, and/or arranging the DIP Facility. As described in the Bojmel Declaration, the DIP Fees are customary and usual and in line with DIP Financing of this kind. As described above, the DIP Fees, 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 Facility available. The Debtors considered the DIP Fees when determining in their sound business judgment whether the DIP Documents constituted the best terms on which the Debtors could obtain sufficient DIP Financing necessary to continue their operations and prosecute their chapter 11 cases. The Debtors believe paying the DIP Fees in order to obtain such 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 DIP Fees.

IV. DIP Lenders Should be Deemed Good Faith Lenders

37. 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) 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, 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.

11 U.S.C. § 364(e).

38. Here, the Debtors believe the DIP Documents embody the most favorable terms on which the Debtors could obtain DIP Financing from the DIP Lenders. All rigorous negotiations regarding the provision of the DIP Facility were conducted in good faith and on an arm's length basis. The terms and conditions of the DIP Facility are fair and reasonable, and the proceeds of the DIP Facility 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 Facility other than as disclosed 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.

V. Scope of Carve-Out Is Appropriate

39. The DIP Liens are subject to the Carve-Out. Without the Carve-Out, the Debtors and other parties in interest may be deprived of certain rights and powers because the services for which professionals may be paid in these chapter 11 cases would be restricted.

See In re Ames Dep't Stores, Inc., 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (observing that courts insist on carve-outs for professionals representing parties in interest because "[a]bsent such protection, the collective rights and expectations of all parties-in-interest are sorely prejudiced"). The Carve-Out does not directly or indirectly deprive the Debtors' estates or other parties in interest of possible rights and powers. Additionally, the Carve-Out ensures that assets will be available for the payment of fees of the Clerk of the Bankruptcy Court or the Office of the United States Trustee for the District of Delaware and professional fees of the Debtors and an unsecured creditors committee, if one is appointed. Accordingly, the Carve-Out is necessary and appropriate, and should be approved.

VI. Automatic Stay Should Be Modified on a Limited Basis

40. The relief requested herein contemplates a modification of the automatic stay to permit the Debtors to grant the DIP Liens. Specifically, the DIP Facility contemplates modifying the automatic stay so as to (i) permit the creation and perfection of the DIP Liens and (ii) provide for the automatic vacation of such stay to permit the DIP Agent to enforce its rights with respect to the DIP Collateral in the event of an Event of Default under the DIP Facility, subject to five business day's written notice.

41. Stay modifications of this kind are ordinary and standard features for DIP Financing, and in the Debtors' business judgment, are reasonable and fair under the present circumstances. *See, e.g.*, *In re Magnum Hunter Res. Corp.*, No. 15-12533 (KG) (Bank. 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) (terminating automatic stay after occurrence of termination event); *IN re TMP Directional Mktg., LLC*, No. 11-13835 (MFW) (Bankr. D. Del. Jan. 17, 2012) (modifying automatic stay as necessary to effectuate the terms of the order); *In re*

Broadway 401 LLC, No 10-10070 (KJC) (Bankr. D. Del. Feb. 16, 2010) (same); *In re Haights Cross Commc'ns, Inc.*, No. 10-10062 (BLS) (Bankr. D. Del. Feb. 8, 2010) (same).

Immediate Relief Is Required to Avoid Immediate and Irreparable Harm

42. The Court may grant interim relief in respect of a motion filed pursuant to section 363(c) or 364 of the Bankruptcy Code where, as here, interim relief is "necessary to avoid immediate and irreparable harm to the estate pending a final hearing." Fed. R. Bankr. P. 4001(b)(2), (c)(2); 6003(b). The Debtors and their estates will suffer immediate and irreparable harm if the interim relief requested herein, including authorizing the Debtors to use the Cash Collateral and to incur the interim borrowings under the DIP Documents, is not granted promptly after the Petition Date.

43. The Debtors anticipate that the commencement of these chapter 11 cases will significantly and immediately increase the demands on their liquidity as a result of, among other things, the costs of administering these chapter 11 cases, implementing critical restructuring initiatives, and addressing key constituents' concerns regarding the Debtors' financial health and ability to continue operations in light of these chapter 11 cases. The Debtors' businesses are also highly susceptible to vendor contraction and customer de-risking. Accordingly, the Debtors have an immediate need for access to liquidity to, among other things, continue the operation of their business, maintain important relationships with customers and landlords, meet payroll, procure goods and services from vendors and suppliers, and otherwise satisfy their working capital and operational needs, all of which are required to preserve and maintain the Debtors' going concern value for the benefit of all parties in interest. For all of the reasons set forth above, prompt entry of the Interim Order is necessary to avert immediate and irreparable harm to the Debtors' estates and is consistent with, and warranted under, Bankruptcy Rules 4001(b)(2) and (c)(2).

Request for Final Hearing

44. Pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2), the Debtors request that the Court set a date, which is no later than 30 days after the entry of the Interim Order, to hold a hearing to consider entry of the Final Order and approval of the relief requested in this Motion on a final basis..

45. The Debtors also request authority to serve a copy of the signed Interim Order, which fixes the time and date for the filing of objections, if any, to entry of the Final Order, by first class mail upon the notice parties listed below, and further request that the Court deem service thereof sufficient notice of the hearing on the Final Order under Bankruptcy Rule 4001(c)(2).

Notice

46. Notice of this Motion will be provided to (a) the U.S. Trustee (b) the holders of the 30 largest unsecured claims against the Debtors on a consolidated basis; (c) JPMorgan Chase Bank, N.A., as Prepetition Agent and the DIP Agent; (d) Simpson Thacher & Bartlett LLP, as counsel to the Prepetition Agent and DIP Agent; (e) the VIE Lenders; (f) the Internal Revenue Service; (g) the United States Attorney's Office for the District of Delaware; (h) the Securities and Exchange Commission; (i) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (j) any parties known after reasonable inquiry to have asserted a lien against the Debtors' assets (collectively, the "**Notice Parties**").

47. As this Motion is seeking "first day" relief, the Debtors will serve copies of this Motion and any order entered in respect of this Motion as required by Local Rule 9013-1(m). The Debtors respectfully submit that no further notice is required.

No previous request for the relief sought herein has been made by the Debtors to this or any other court.

[Remainder of the Page Intentionally Left Blank.]

WHEREFORE the Debtors respectfully request entry of the DIP Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: July 22, 2018
Wilmington, Delaware

/s/ Daniel J. DeFranceschi

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Proposed Attorneys for Debtors
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Exhibit A

Interim Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re	:	**Chapter 11**
THE NORDAM GROUP, INC., *et al.*,	:	**Case No. 18– _____**
Debtors.[1]	:	**(Joint Administration Requested)**

INTERIM ORDER
(I) AUTHORIZING THE DEBTORS TO
(A) OBTAIN POSTPETITION SENIOR SECURED
SUPERPRIORITY FINANCING AND (B) USE CASH
COLLATERAL, (II) GRANTING ADEQUATE PROTECTION
TO PREPETITION SECURED PARTIES, (III) GRANTING LIENS
AND SUPERPRIOTIY CLAIMS, (IV) MODIFYING THE AUTOMATIC STAY,
(V) SCHEDULING A FINAL HEARING, AND (VI) GRANTING RELATED RELIEF

Upon the *Motion for Entry of Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims, (IV) Modifying The Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* (the "Motion") [Docket No. ___],[2] filed by The NORDAM Group, Inc. *et al.*, debtors and debtors in possession (the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), and upon the interim hearing on the Motion held on July ___, 2018 (the "Interim Hearing"), the representations of the parties made on the record at the Interim Hearing, and the agreement among JPMorgan Chase Bank, N.A., as Administrative Agent for the DIP Secured

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are The NORDAM Group, Inc. (7803); Nacelle Manufacturing 1 LLC (3107); Nacelle Manufacturing 23 LLC (5528); PartPilot LLC (5261); and TNG DISC, Inc. (9726). The Debtors' corporate headquarters and service address is 6910 North Whirlpool Drive, Tulsa, Oklahoma 74117.

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion or the DIP Loan Documents (as defined below), as applicable.

Parties and the Prepetition Secured Parties (each as defined below) ("JPMC") with respect to the entry of this interim order (this "Interim Order"), and based upon all the pleadings, including the DiDonato Declaration and Bojmel Declaration filed with the Bankruptcy Court and the entire record herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors and the Debtors' estates and creditors; and the Debtors having provided notice of the Motion and of the Interim Hearing pursuant to Bankruptcy Rule 4001(b); and it appearing that due and proper notice of the Motion and the Interim Hearing having been given under the circumstances; and upon the proceedings held before the Bankruptcy Court and after due deliberation and good and sufficient cause appearing therefor,

THE BANKRUPTCY COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A. Filing Date. On July ___, 2018 (the "Petition Date"), the above-captioned Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

B. Debtors in Possession. The Debtors continue to manage and operate their businesses and properties as debtors in possession pursuant to section 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Chapter 11 Cases.

C. Jurisdiction and Venue. The United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") has jurisdiction over the Chapter 11 Cases, the parties, and the Debtors' property pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(D). Venue of the Chapter 11 Cases and the Motion is proper under 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are sections 105, 361, 362, 363, 364, 365 and 507 of the Bankruptcy Code and Rules 2002, 4001, 6004, and 9014

of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and the Local Rules of the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Local Rules").

D. Committee Formation. No official committee of unsecured creditors ("Committee") has been appointed in the Chapter 11 Cases.

E. Debtors' Stipulations Regarding DIP Loan Documents and DIP Secured Parties. In requesting postpetition financing up to an aggregate principal amount of $45,000,000 on a final basis and up to $25,000,000 on an interim basis (the "DIP Financing"), the Debtors acknowledge, represent, stipulate, and agree that:

(a) none of (i) the lenders (each a "DIP Lender" and together, the "DIP Lenders"); or (ii) JPMC, as Administrative Agent (the "DIP Agent" and together with the DIP Lenders and their affiliates to the extent such affiliates hold Swap Contracts, Cash Management Obligations and Credit Card Documents under the DIP Loan Documents (as defined below) (each as defined in the DIP Loan Documents), the "DIP Secured Parties"), under that certain Senior Secured Superpriority Debtor in Possession Credit Agreement, dated as of ___, 2018 (substantially in the form attached hereto as **Exhibit A** and as may be amended, supplemented or otherwise modified from time to time, the "DIP Credit Agreement"), and such other agreements, documents, certificates and instruments delivered or executed from time to time in connection therewith, including the agreements related to the DIP Financing, (as each may be amended, supplemented or otherwise modified from time to time, and together with the DIP Credit Agreement, the "DIP Loan Documents"), are control persons or insiders of the Debtors by virtue of determining to make any loan, providing the DIP Financing or performing obligations under the DIP Loan Documents;

(b) as of the date of entry of this Interim Order, there exist no claim or

causes of action against any of the DIP Secured Parties with respect to, in connection with, related to, or arising from (i) the DIP Loan Documents or (ii) any other acts, failures to act or other occurrences since the Petition Date that may be asserted by the Debtors; and

(c) the Debtors, on behalf of themselves and their respective estates, to the maximum extent permitted by applicable law, forever and irrevocably release, discharge, and acquit the former, future or current DIP Agent and other DIP Secured Parties, affiliates of the DIP Agent and other DIP Secured Parties, and each of the DIP Secured Parties' and their respective former, current and future officers, employees, directors, agents, representatives, owners, members, partners, financial and other advisors and consultants, shareholders, managers, accountants, attorneys, affiliates, and predecessors and successors in interest, each in their capacities as such (collectively, the "DIP Releasees") of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened as of the date hereof including, without limitation, all legal and equitable theories of recovery, arising under common law, statute or regulation or by contract, of every nature and description, arising before or after the Petition Date, including, but not limited to, arising out of, in connection with, or relating to the DIP Financing, the DIP Loan Documents, or the amounts or other obligations owed under the DIP Loan Documents (together with all Obligations that become due and payable under the DIP Credit Agreement, the "DIP Obligations"), and ancillary documentation, guarantees, security documentation and collateral documents executed in support of the foregoing or the transactions contemplated hereunder or thereunder including, without

limitation, (i) any avoidance, reduction, set off, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), except with respect to the Carve-Out (as defined below), so-called "lender liability," claims, counterclaims, cross-claims, recoupment, defenses, disallowance (whether equitable or otherwise), impairment, or any other challenges under the Bankruptcy Code or any other applicable domestic or foreign law or regulation by any person or entity, (ii) any and all claims and causes of action arising under the Bankruptcy Code, and (iii) any and all claims and causes of action with respect to the validity, priority, perfection or avoidability of the liens or claims of the DIP Secured Parties. The Debtors further waive and release any defense, right of counterclaim, right of setoff or deduction of the payment of the DIP Obligations that the Debtors now have or may claim to have against the DIP Releasees arising out of, connected with, or relating to any and all acts, omissions or events occurring prior to the entry of this Interim Order.

F. Necessity of Financing. The Debtors believe that the DIP Financing is the only available financing at this time. A loan facility in the amount provided by the DIP Loan Documents is not available to the Debtors without granting the DIP Agent, for the benefit of the DIP Secured Parties, superpriority claims and priming liens and security interests, pursuant to sections 364(c)(1), (2), (3), and 364(d) of the Bankruptcy Code, as provided in this Interim Order and the DIP Loan Documents. After considering the advantages and disadvantages of the proposed DIP Financing, the Debtors have concluded, in the exercise of their prudent business judgment, that moving forward with the proposed DIP Financing is the best financing alternative reasonably available at this time. Additionally, the terms of the DIP Financing are fair and reasonable and reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties.

G. Purpose of Financing. The Debtors have an immediate need for the DIP Financing described in the Motion and as expressly provided in the DIP Loan Documents, to,

among other things, avoid the liquidation of these estates, and: (i) fund ongoing working capital requirements of the Debtors and to pay fees, costs, expenses and other administrative expenses relating to the Chapter 11 Cases, in each case, consistent with the Approved Budget subject to any Approved Budget variances permitted by the DIP Credit Agreement; (ii) pay costs, fees, and expenses associated with or payable under the DIP Financing under the terms of this Interim Order and the DIP Loan Documents; (iii) pay professional fees, expenses, and obligations benefitting from the Carve-Out; (iv) fund the Professional Fees Account; and (v) make the capital expenditures including permitted prepetition claim payments and other payments of postpetition payables as permitted under the DIP Loan Documents, in each case subject to the conditions as set forth herein and in the DIP Loan Documents and consistent in all material respects with the Approved Budget and any Approved Budget, as applicable, variances permitted by the DIP Credit Agreement; provided that, for the avoidance of doubt, the Debtors' use of the DIP Collateral (including Cash Collateral) to pay obligations benefiting from the Carve-Out shall not be limited or deemed limited by any Approved Budget. The access of the Debtors to sufficient working capital and liquidity through the use of Cash Collateral and other Prepetition Collateral, incurrence of new indebtedness under the DIP Loan Documents and other financial accommodations provided under the DIP Loan Documents are necessary and vital to avoid an immediate liquidation and for the preservation and maintenance of the going concern values of the Debtors and to a successful reorganization of the Debtors.

H. Prepetition Loan Documents. Prior to the Petition Date, the Debtors were parties to that certain Fourth Amended and Restated Credit Agreement, dated as of December 18, 2012 (as amended, supplemented and otherwise modified from time to time, the "Prepetition Credit Agreement," together with the related debt instruments and security

documents, the "Prepetition Loan Documents") with several lenders (the "Prepetition Lenders") and JPMC, as administrative agent (the "Prepetition Agent" and together with the Prepetition Lenders and the other Secured Parties under and as defined in the Prepetition Credit Agreement, the "Prepetition Secured Parties").

I. Adequate Protection. The Prepetition Secured Parties are entitled to receive adequate protection to the extent of any post-petition diminution in value as of the Petition Date, of their interests in the Prepetition Collateral (including Cash Collateral) if any, pursuant to sections 361, 362, 363 and 364 of the Bankruptcy Code (the "Adequate Protection Obligations"). Pursuant to sections 361, 363 and 507(b) of the Bankruptcy Code, as adequate protection, the Prepetition Secured Parties shall receive, *inter alia*, payment of their reasonable and documented attorneys' fees, postpetition replacement liens, accrued and unpaid interest at the non-default rate set forth in the Prepetition Credit Agreement, and superpriority adequate protection claims in accordance with the terms of this Interim Order.

J. Debtors' Stipulations Regarding Prepetition Loan Documents and Prepetition Secured Parties. Subject to the Challenge Period in favor of parties (other than the Debtors), the Debtors, on behalf of themselves and their respective estates, have agreed, stipulated and acknowledged that, as of the Petition Date, subject to the rights of third parties set forth in paragraph 31 below:

(a) the statements in Paragraph J of this Interim Order are true and correct and the Debtors party to or otherwise obligated under the Prepetition Loan Documents (including each of the Guarantors as defined in the Prepetition Loan Documents) were truly and justly indebted and liable for the amounts specified in subsection (b) below on a joint and several basis to the Prepetition Secured Parties;

(b) the Prepetition Secured Parties hold claims against the Debtors pursuant to the Prepetition Loan Documents in the aggregate principal amount of not less than $266,521,739.11, plus accrued but unpaid interest as of the Petition Date, and any fees, commissions and expenses (including fees and expenses of attorneys and outside consultants) related thereto and any other Obligations (as defined in the Prepetition Credit Agreement) that are due and owing (the "Prepetition Obligations");

(c) (i) the Prepetition Obligations are legal, valid, binding, enforceable and non-avoidable obligations against each of the Debtors, (ii) no portion of the Prepetition Obligations and no amounts paid at any time to the Prepetition Agent or the other Prepetition Secured Parties in respect of the Prepetition Obligations, the Prepetition Loan Documents, or the transactions contemplated thereby is subject to contest, attack, objection, recoupment, defense, setoff, counterclaim, avoidance, recharacterization, reclassification, reduction, disallowance, recovery or subordination or other challenge pursuant to the Bankruptcy Code or applicable nonbankruptcy law, and (iii) the Debtors do not have any claims, counterclaims, causes of action, defenses or setoff rights related to the Prepetition Obligations or the Prepetition Loan Documents, whether arising on or prior to the date hereof, under the Bankruptcy Code or applicable nonbankruptcy law against the Prepetition Agent, any other Prepetition Secured Parties, or any of the Prepetition Secured Parties' respective affiliates, subsidiaries, agents, officers, directors, employees, attorneys, and advisors, each in their capacities as such;

(d) the Prepetition Obligations are secured by first-priority, senior-secured liens (the "Prepetition Lenders' Liens") on the Debtors' assets and property, to the extent provided by the Prepetition Loan Documents, including the security agreement (as may be

amended, supplemented or otherwise modified from time to time) (collectively, the "Prepetition Collateral");

(e) the Prepetition Lenders' Liens are (i) legal, valid, binding, perfected, and enforceable and secure the full amount of the Prepetition Obligations (ii) not subject to avoidance, recharacterization, offset or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law or other challenge and (iii) after giving effect to this Interim Order and subject in all respects to the Carve-Out, subject and subordinate only to the DIP Liens (as defined below) and valid and unavoidable liens properly perfected prior to the Petition Date (or perfected after the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code) solely to the extent such liens are senior to the Prepetition Lenders' Liens;

(f) none of the Prepetition Secured Parties are control persons or insiders of the Debtors or any of their affiliates by virtue of any of the actions taken with respect to, in connection with, related to, or arising from the Prepetition Loan Documents;

(g) all of the Debtors' cash, including cash held in the Debtors' deposit accounts and all cash, wherever located (i) constituting Prepetition Collateral; (ii) constituting proceeds, products, rents, or profits of property of Prepetition Collateral; and (iii) subject to the Prepetition Secured Parties' rights of setoff, constitutes cash collateral of the Prepetition Secured Parties under section 363(a) of the Bankruptcy Code (collectively, the "Cash Collateral");

(h) Subject to the Challenge Period in favor of parties other than the Debtors, the Debtors upon the Interim Order Entry Date, on behalf of themselves and their respective estates, to the maximum extent permitted by law, forever and irrevocably release, discharge, and acquit the Prepetition Secured Parties, affiliates of the Prepetition Secured Parties, and each of the Prepetition Secured Parties' and their affiliates' respective former, current and

future officers, employees, directors, agents, representatives, owners, members, partners, financial and other advisors and consultants, shareholders, managers, accountants, attorneys, affiliates, and predecessors and successors in interest, each in their capacities as such (collectively, the "Prepetition Secured Party Releasees") of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened as of the date hereof including, without limitation, all legal and equitable theories of recovery, arising under common law, statute or regulation or by contract, of every nature and description, arising before or on the Petition Date, including, but not limited to, arising out of, in connection with, or relating to the Prepetition Obligations, and ancillary documentation, guarantees, security documentation and collateral documents executed in support of the foregoing or the transactions contemplated hereunder or thereunder including, without limitation, (i) any avoidance, reduction, set off, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), except as permitted herein with respect to the Carve-Out, so-called "lender liability," claims, counterclaims, cross-claims, recoupment, defenses, disallowance (whether equitable or otherwise), impairment, or any other challenges under the Bankruptcy Code or any other applicable domestic or foreign law or regulation by any person or entity, (ii) any and all claims and causes of action arising under the Bankruptcy Code, and (iii) any and all claims and causes of action with respect to the validity, priority, perfection or avoidability of the liens or claims of the Prepetition Secured Parties. The Debtors further waive and release any defense, right of counterclaim, right of setoff or deduction of the payment of the Prepetition Obligations that the

Debtors now have or may claim to have against the Prepetition Secured Party Releasees arising out of, connected with, or relating to any and all acts, omissions or events occurring prior to the entry of this Interim Order; and

(i) notwithstanding anything herein to the contrary, (i) the Debtors' rights to seek recharcterization of adequate protection payments as being applied to principal and/or seek a determination on the value of the Prepetition Collateral securing the Prepetition Obligations are fully reserved, and (ii) the Debtors make no stipulation, and reserve all rights, with respect to the assets of that certain NORDAM Deferred Compensation Plan effective June 30, 2017 (the "Deferred Compensation Collateral"), including liens asserted against the Deferred Compensation Collateral on account of the Prepetition Obligations.

K. Approved Budget. Attached hereto as **Exhibit B** is a copy of the initial approved budget (including the permitted variance provisions, the "Initial Approved Budget") setting forth the Debtors' anticipated cash receipts and expenditures for the 13-week period following entry of this Interim Order. The Initial Approved Budget may be modified and amended, and shall be updated, from time to time in accordance with the DIP Credit Agreement, and once approved by the DIP Agent in its reasonable discretion, shall supplement and replace the Approved Budget or Supplemental Approved Budget (as defined below), as applicable (each such updated budget that has been approved by the DIP Agent in its reasonable discretion, including the permitted variance provisions, a "Supplemental Approved Budget"). The Initial Approved Budget, as modified by all Supplemental Approved Budgets, shall constitute without duplication the "Approved Budget".

L. Good Cause. Based upon the record presented to the Bankruptcy Court by the Debtors, the ability of the Debtors to obtain sufficient working capital and liquidity under the

DIP Loan Documents and to use Prepetition Collateral (including Cash Collateral) is vital to the Debtors and the Debtors' estates and creditors. The Debtors reasonably believe that the liquidity to be provided under the DIP Loan Documents and use of Prepetition Collateral (including Cash Collateral) will enable the Debtors to continue to operate their businesses in the ordinary course and preserve and maximize the value of their businesses. Good cause has, therefore, been shown for the relief sought in the Motion.

M. Good Faith. The DIP Financing and the DIP Loan Documents, the adequate protection hereunder and the use of Prepetition Collateral (including Cash Collateral) have been negotiated in good faith and at arm's length among the Debtors, the DIP Secured Parties, the Prepetition Secured Parties, and their respective advisors, and all of the DIP Obligations and Prepetition Obligations shall be deemed to have been extended by each of the DIP Secured Parties and the Prepetition Secured Parties in accordance with the DIP Loan Documents and the Prepetition Loan Documents, respectively in good faith, as that term is used in section 364(e) of the Bankruptcy Code and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and the DIP Obligations, the Prepetition Obligations, the DIP Liens, the Prepetition Lenders' Liens, the DIP Superpriority Claims and the Prepetition Lenders' Adequate Protection Superpriority Claims shall be entitled to the full protection of section 364(e) of the Bankruptcy Code and the terms, conditions, benefits, and privileges of this Interim Order regardless of whether this Interim Order is subsequently reversed, vacated, modified, or otherwise is no longer in full force and effect or the Chapter 11 Cases are subsequently converted or dismissed.

N. Consideration. The Debtors will receive and have received fair consideration and reasonably equivalent value in exchange for access to the DIP Financing and all

other financial accommodations provided under the DIP Financing, the DIP Loan Documents, and this Interim Order. The terms of the DIP Financing pursuant to the DIP Loan Documents and the use of the Prepetition Collateral (including the Cash Collateral) pursuant to this Interim Order are fair and reasonable, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties, and constitute reasonably equivalent value and fair consideration.

O. Sections 506(c) and 552(b). The Prepetition Secured Parties and the DIP Secured Parties shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code. Because of (a) the DIP Secured Parties' agreement to subordinate the DIP Liens and the DIP Superpriority Claims to the payment of certain administrative expenses of the Debtors' estates pursuant to the Carve-Out; and (b) the Prepetition Secured Parties' agreement to subordinate the Prepetition Lenders' Liens, the Prepetition Lenders' Adequate Protection Liens and the Prepetition Lenders' Adequate Protection Superpriority Claims to the payment of certain administrative expenses of the Debtors' estates pursuant to the Carve-Out, both the DIP Secured Parties and the Prepetition Secured Parties are entitled to a waiver of any "equities of the case" claims under section 552(b) of the Bankruptcy Code subject to entry of an order granting the relief requested by the Motion on a final basis (the "Final Order") such that the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to any of the DIP Secured Parties and the Prepetition Secured Parties with respect to (i) proceeds, products, offspring or profits of any of the DIP Collateral or the Prepetition Collateral or (ii) extension of the Prepetition Secured Lenders' Adequate Protection Liens or DIP Liens to cover proceeds of the DIP Collateral or the Prepetition Collateral. Similarly, upon entry of the Final Order, the DIP Secured Parties and the Prepetition Secured Parties are entitled to a waiver of section 506(c) of the Bankruptcy Code.

P. Immediate Entry of Interim Order. The Debtors requested immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). The permission granted herein to enter into the DIP Loan Documents and to obtain funds thereunder (and to use Cash Collateral) on an interim basis is necessary to avoid immediate and irreparable harm to the Debtors. Entry of this Interim Order is therefore in the best interests of the Debtors and the Debtors' estates and creditors as its implementation will, among other things, allow for the continued flow of supplies and services necessary to sustain the Debtors' existing businesses during the pendency of these Chapter 11 Cases.

Q. Notice. Notice of the Interim Hearing and the emergency relief requested in the Motion has been provided by the Debtors, whether by facsimile, overnight mail, hand delivery or electronic mail to (a) JPMC, as Prepetition Agent and DIP Agent; (b) counsel to the DIP Agent and the Prepetition Agent; (c) the 30 largest unsecured creditors of the Debtors on a consolidated basis; (d) the United States Trustee's Office for the District of Delaware (the "U.S. Trustee"); (e) the Securities and Exchange Commission; (f) the United States Attorney's Office for the District of Delaware; (g) the Internal Revenue Service; (h) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (i) any parties known after reasonable inquiry to have asserted a lien against the Debtors' assets. The Debtors have made reasonable efforts to afford the best notice possible under the circumstances, and such notice is sufficient to permit the interim relief set forth in this Interim Order.

R. Limited Consent. The consent of the Prepetition Secured Parties to the priming of the Prepetition Lenders' Liens by the DIP Liens is limited to the DIP Financing presently before this Bankruptcy Court, with JPMC as DIP Agent and the Prepetition Lenders as DIP Lenders, and shall not, and shall not be deemed to, extend to any other post-petition financing.

Furthermore, the consent of the Prepetition Secured Parties to the Debtors' use of Cash Collateral and the priming of their liens by the DIP Liens as provided in this Interim Order does not constitute, and shall not be construed as constituting, an acknowledgment or stipulation that their interests in their respective collateral are otherwise adequately protected. Nothing in this Interim Order, including, without limitation, any of the provisions herein with respect to adequate protection, shall constitute, or be deemed to constitute, a finding that the interests of the Prepetition Secured Parties are, could be or will be adequately protected with respect to any non-consensual use of Cash Collateral or non-consensual priming of their respective liens or security interests.

Based upon the foregoing findings, acknowledgements, and conclusions; and upon the record made before the Bankruptcy Court at the Interim Hearing; and good and sufficient cause appearing therefor:

IT IS HEREBY ORDERED:

1. Disposition. The relief requested in the Motion is granted on an interim basis and on the terms set forth herein. By the entry of this Interim Order, the Debtors are authorized to (a) enter into and perform their obligations under the DIP Credit Agreement and other DIP Loan Documents; and (b) subject to the terms of this Interim Order and the Approved Budget, use the Prepetition Secured Parties' Cash Collateral. Any objections to the Motion that have not previously been withdrawn, waived, settled, or resolved and all reservations of rights included therein are hereby denied and overruled on their merits. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052.

2. Effectiveness. Subject to the terms hereof, this Interim Order shall be immediately effective and enforceable *nunc pro tunc* to the Petition Date, upon the date this Interim

Order is signed by the Court and entered on the docket in the Chapter 11 Cases (the "Interim Order Entry Date"), and there shall be no stay of execution or effectiveness of this Interim Order.

3. Authorization of the Financing and DIP Loan Documents

(a) The Debtors are hereby authorized to execute and enter into the DIP Loan Documents and perform their obligations thereunder. The DIP Loan Documents and this Interim Order shall govern the financial and credit accommodations to be provided to the Debtors by the DIP Lenders in connection with the DIP Financing.

(b) The borrower under the DIP Credit Agreement is hereby authorized on an interim basis to borrow up to the aggregate principal amount of $25,000,000, all of which shall be used by the Debtors as expressly permitted by the DIP Loan Documents, the Approved Budget and any Approved Budget variances permitted by the DIP Credit Agreement.

(c) In furtherance of the foregoing and without further approval of this Bankruptcy Court, the Debtors are authorized and empowered to perform all acts, to make, execute and deliver all instruments and documents (including, without limitation, the execution or recordation of security agreements, mortgages and financing statements), and to pay all related fees and expenses, that the DIP Agent may reasonably determine is required or necessary for the Debtors' performance of their obligations under the DIP Financing, including, without limitation:

(i) the execution, delivery, and performance of the DIP Loan Documents, including, without limitation, the DIP Credit Agreement, any security and pledge agreements, and any mortgages contemplated thereby;

(ii) the execution, delivery and performance of one or more amendments, waivers, consents, or other modifications to and under the DIP Loan Documents, in

each case in such form as agreed among the Debtors and the required other parties as set forth in more detail in paragraph 13 below;

(iii) the non-refundable payment or reimbursement of the reasonable and documented fees, costs and expenses referred to in the DIP Loan Documents, including the fees of the DIP Agent and the DIP Lenders, and, subject to paragraph 7, costs and expenses payable under the DIP Loan Documents; and

(iv) the performance of all other acts required under or in connection with the DIP Loan Documents.

(d) All of the DIP Liens described herein shall be valid, enforceable, effective and perfected as of the Interim Order Entry Date and without the necessity of the execution of mortgages, security agreements, pledge agreements, financing statements, or other agreements.

(e) Upon the execution thereof, the DIP Loan Documents and DIP Obligations shall constitute valid, binding and non-avoidable obligations of the Debtors enforceable against each of their successors and assigns, and each person or entity party to the DIP Loan Documents in accordance with their respective terms and the terms of this Interim Order and shall survive conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code or the dismissal of the Chapter 11 Cases. No obligation, payment, transfer, or grant of security under the DIP Loan Documents or this Interim Order shall be stayed, restrained, voidable, avoidable, or recoverable under the Bankruptcy Code or under any applicable law (including under sections 502(d) or 548 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law), or subject to any avoidance, reduction, setoff, recoupment, offset,

recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, cross-claims, defenses, disallowance (whether equitable or otherwise), impairment, or any other challenges under the Bankruptcy Code or any other applicable foreign or domestic law or regulation by any person or entity.

4. Carve-Out.

(a) The Debtors' obligations to the DIP Secured Parties and the liens, security interests and superpriority claims granted herein and/or under the DIP Loan Documents, including the DIP Liens, the DIP Superpriority Claims, the Prepetition Lenders' Adequate Protection Liens and the Prepetition Lenders' Adequate Protection Superpriority Claims, shall be subject in all respects and subordinate to the Carve-Out. "Carve-Out" shall mean the sum, without duplication, of the following: (i) all fees required to be paid to the Clerk of the Bankruptcy Court and to the U.S. Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) fees and expenses up to $50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in (iii) below); (iii) to the extent allowed at any time, whether by interim or final compensation order, all unpaid fees and expenses (the "Professional Fees") incurred by persons or firms retained by the Loan Parties pursuant to section 327, 328 or 363 of the Bankruptcy Code (collectively, the "Debtor Professionals") and the Committee (the "Committee Professionals" and, together with the Debtor Professionals, the "Professional Persons") appointed in the Cases pursuant to section 1103 of the Bankruptcy Code at any time before or on the first business day after delivery by the DIP Agent of a Carve-Out Trigger Notice (defined below), whether allowed by the Bankruptcy Court prior to or after delivery of a Carve-Out Trigger Notice and without regards to whether such fees and expenses are provided for in the Approved Budget; and

(iv) Professional Fees incurred after the first Business Day following delivery by the DIP Agent of the Carve-Out Trigger Notice (including transaction fees or success fees earned or payable to a Professional Person), to the extent allowed at any time, whether by interim order, procedural order or otherwise in an aggregate amount not to exceed $2,000,000 with respect to Professionals Persons (the amount set forth in this clause (iv) being the "Post-Carve-Out Trigger Notice Cap"). For purposes of the foregoing, "Carve-Out Trigger Notice" shall mean a written notice delivered by email (or other electronic means) by the DIP Agent to the Loan Parties, their lead restructuring counsel, the U.S. Trustee, and lead counsel to the Committee (if any), which notice may be delivered following the occurrence and during the continuation of an Event of Default under the DIP Credit Agreement, stating that the Post-Carve-Out Trigger Notice Cap has been invoked.

(b) On the day on which a Carve-Out Trigger Notice is received by the Loan Parties, the Carve-Out Trigger Notice shall constitute a demand to the Loan Parties to utilize all cash on hand to transfer to a segregated account of the Debtors not subject to the control of the DIP Secured Parties or the Prepetition Secured Parties (the "Professional Fees Account") cash in an amount equal to all obligations benefitting from the Carve-Out. Following delivery of a Carve-Out Trigger Notice, the DIP Agent shall deposit into the Professional Fees Account any cash swept or foreclosed after delivery of the Carve-Out Trigger Notice (including cash received as a result of the sale or other disposition of any assets) until the Professional Fees Account has been fully funded in an amount equal to all obligations benefitting from the Carve-Out (less any amounts of payable from the Carve-Out that have been paid). Notwithstanding anything to the contrary in the DIP Documents or this Interim Order, following delivery of a Carve-Out Trigger Notice, the DIP Agent shall not sweep or foreclose on cash (including cash received as a result of

the sale or other disposition of any assets) of the Loan Parties until the Professional Fees Account has been fully funded in an amount equal to all obligations benefitting from the Carve-Out.

(c) Funds transferred to the Professional Fees Account shall be held in trust for the Professional Persons, including with respect to obligations arising out of the Carve-Out. Funds transferred to the Professional Fees Account shall not be subject to any liens or claims granted to the DIP Secured Parties herein or any liens or claims granted as adequate protection, shall not constitute DIP Collateral, and shall not constitute Cash Collateral; provided that the DIP Collateral shall include the Debtors' reversionary interest in funds held in the Professional Fees Account, if any, after all allowed Professional Fees that are subject to the Carve-Out have been paid in full pursuant to a final order not subject to appeal.

(d) Further notwithstanding anything to the contrary herein, (i) disbursements by the Loan Parties from the Professional Fees Account shall not constitute DIP Obligations, (ii) the failure of the Professional Fees Account to satisfy in full the Professional Fees shall not affect the priority of the Carve-Out and (iii) in no way shall the Carve-Out, Professional Fees Account, or an Approved Budget or any of the foregoing be construed as a cap or limitation on the amount of the Professional Fees due and payable by the Loan Parties or that may be allowed by the Bankruptcy Court at any time (whether by interim order, final order, or otherwise). No portion of the Carve-Out, any Cash Collateral, any other DIP Collateral, or any proceeds of the DIP Financing, including any disbursements set forth in the Approved Budget or obligations benefitting from the Carve-Out, shall be used for the payment of Professional Fees, disbursements, costs or expenses incurred by any person, including, without limitation, any Committee, in connection with challenging the DIP Agent's or the DIP Lenders' or Prepetition Agent or Prepetition Lenders' liens or claims (including the DIP Obligations and the Prepetition

Obligations), preventing, hindering or delaying any of the DIP Agent's or the DIP Lenders' or Prepetition Agent or Prepetition Lenders' enforcement or realization upon any of the DIP Collateral or the Prepetition Collateral, or initiating or prosecuting any claim or action against the DIP Agent or any DIP Lender or the Prepetition Agent or any Prepetition Lender other than with respect to seeking a determination that an Event of Default has not occurred or is not continuing and, with respect to the Prepetition Agent and Prepetition Lenders' liens and claims, the Investigation Budget Cap (as defined below); provided that, for the avoidance of doubt, the foregoing shall not apply with respect to any action by the Debtors to determine the value of collateral securing the Prepetition Obligations.

(e) Proceeds from the DIP Financing and/or Cash Collateral not to exceed $50,000 in the aggregate (the "Investigation Budget Cap") may be used on account of Professional Fees incurred by Committee Professionals in connection with the investigation of Avoidance Actions (as defined below) (but not the prosecution of such actions) on account of the Debtors' Prepetition Obligations (but not the DIP Obligations), which obligations will benefit from the Carve-Out in an amount not to exceed the Investigation Budget Cap to the extent unpaid as of delivery of a Carve-Out Trigger Notice.

(f) Nothing herein shall impair, or be construed to impair, the ability of any party to object to any of the fees, expenses, reimbursement or compensation of any professionals.

(g) For the avoidance of doubt and notwithstanding anything to the contrary herein or in the DIP Documents, the Carve-Out shall be senior to all liens and claims securing the DIP Obligations, any adequate protection liens, if any, and superpriority claims (whether granted to secure the DIP Obligations or as adequate protection), and any and all other liens or claims securing the DIP Obligations; provided that the Carve-Out shall not apply to the Purchase Cards

(as defined in the Cash Management Motion) and shall not be secured by any cash collateral pledged in support thereof.

5. DIP Lender Superpriority Claim. Subject in all respects to the Carve-Out, pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations shall constitute allowed senior administrative expense claims against the Debtors on a joint and several basis (without the need to file a proof of claim or request for payment) with priority over any and all other administrative expenses, adequate protection claims, diminution claims and all other claims against the Debtors, now existing or hereafter arising, of any kind or nature whatsoever, including all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all other administrative expenses or other claims arising under sections 105, 326, 328, 330, 331, 503(b), 506(c) (subject to entry of the Final Order), 507(a), 507(b), 546, 726, 1113, or 1114 of the Bankruptcy Code (the "DIP Superpriority Claims"), which allowed claims shall for purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code. The DIP Superpriority Claims shall be payable from and have recourse to all pre- and postpetition property of the Debtors and their estates and all proceeds thereof, excluding any Excluded Asset (as defined below), to the extent set forth in the definition thereof. Other than the Carve-Out, no administrative expenses or priority claims are, or will be, senior to, prior to, or *pari passu* with the DIP Superpriority Claims, or any of the DIP Obligations, or with any other claims of the DIP Agent or the DIP Lenders arising hereunder or under the other DIP Loan Documents, or otherwise in connection with the DIP Financing.

6. DIP Liens.

(a) Subject in all respects to the Carve-Out, as security for the DIP Obligations, effective and perfected as of the Interim Order Entry Date and without the necessity of the execution by the Debtors (or recordation or other filing) of any security agreement, control agreement, pledge agreement, financing statement, mortgage or other similar document, or the possession or control by the DIP Agent of any property, the following security interests and liens and mortgages upon all property identified in (i), (ii) and (iii) below (in each case, other than Excluded Assets) (collectively, the "DIP Collateral") are hereby granted to the DIP Agent, for its own benefit and for the benefit of the other DIP Secured Parties, subject only to the Carve-Out (all such liens, mortgages and security interests granted to the DIP Agent, for its benefit and for the benefit of the other DIP Secured Parties, pursuant to this Interim Order and the DIP Loan Documents, the "DIP Liens"):

(i) First Lien on Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, and subject and subordinate in all respects to the Carve-Out, a valid, binding, continuing, enforceable, fully-perfected first priority lien on, and security interest in, all tangible and intangible prepetition and post-petition property in which any of the Debtors has an interest, whether existing on or after the Petition Date or thereafter acquired, that is not subject to a valid, perfected, non-avoidable and enforceable lien in existence on or as of the Petition Date (collectively, the "Unencumbered Property"), including without limitation, (i) any cash of the Debtors (wherever maintained but subject to the limitations on the Professional Fee Account set forth herein) and any investment of such cash, inventory, accounts receivable, other rights to payment whether arising before or on the Petition Date, contracts, properties, plants, equipment, general intangibles, documents, instruments, interests in leaseholds, real properties,

patents, copyrights, trademarks, trade names, other intellectual property, equity interests, and any claims and causes of the Debtors; (ii) any commercial tort claims and causes of action of any of the Debtors and any claims or causes of action against any directors or officers of the Debtors as well as including any proceeds of, or property recovered in connection with, any successful claims and causes of action against any directors or officers of the Debtors; and (iii) the proceeds of all of the foregoing; provided that the Unencumbered Property shall exclude the Excluded Assets, to the extent set forth in the definition thereof;

(ii) Liens Junior to Certain Existing Liens. Pursuant to section 364(c)(3) of the Bankruptcy Code, and subject and subordinate in all respects to the Carve-Out, a valid, binding, continuing, enforceable, fully-perfected junior lien on, and security interest in, all tangible and intangible prepetition and post-petition property in which any of the Debtors has an interest (other than the property described below in paragraph 6(a)(iii)) whether now existing or hereafter acquired and all proceeds thereof, that is subject to valid, perfected and unavoidable liens in existence immediately prior to the Petition Date and to valid and unavoidable liens in existence immediately prior to the Petition Date that are perfected after the Petition Date as permitted by section 546(b) of the Bankruptcy Code (collectively, the "Non-Primed Liens"), which security interests and liens in favor of the DIP Agent and the other DIP Secured Parties shall be immediately junior to the Non-Primed Liens;

(iii) Liens Priming the Liens of the Prepetition Secured Parties. Pursuant to section 364(d)(1) of the Bankruptcy Code, and subject and subordinate in all respects to the Carve-Out, a valid, binding, continuing, enforceable, fully-perfected first priority, senior priming lien on, and security interest in, all Prepetition Collateral. The DIP Liens on the Prepetition Collateral shall be senior in all respects to the security interests in, and liens on, the

Prepetition Collateral of each of the Prepetition Secured Parties (including the Prepetition Lenders Adequate Protection Liens), and subject only to (A) the Carve-Out, (B) valid, perfected, and non-avoidable liens on Prepetition Collateral that are in existence on the Petition Date (other than the Prepetition Lenders' Liens), solely to the extent such liens are senior in priority to the Prepetition Lenders' Liens on Prepetition Collateral and (C) valid and non-avoidable liens on Prepetition Collateral that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code solely to the extent such liens are senior in priority to the Prepetition Lenders' Liens on Prepetition Collateral;

(iv) Liens Senior to Certain Other Liens. The DIP Liens shall not be subject or subordinate to (A) any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code or (B) any liens arising after the Petition Date including, without limitation, for adequate protection or liens granted under prior orders of the Bankruptcy Court, or any liens or security interests granted in favor of any federal, state, municipal, or other governmental unit, commission, board, or court for any liability of the Debtors.

(b) The DIP Liens shall be effective immediately upon the Interim Order Entry Date.

(c) The DIP Liens, the DIP Superpriority Claim, and other rights, benefits, and remedies granted under this Interim Order and the DIP Loan Documents shall continue to be valid and enforceable against any trustee appointed in the Chapter 11 Cases, in any superseding case under the Bankruptcy Code resulting from conversion of the Chapter 11 Cases (the "Superseding Cases") and/or following any dismissal or substantive consolidation of the Chapter 11 Cases, and such liens, security interests, and claims shall maintain their allowance,

perfection and priority as provided in this Interim Order until all the DIP Obligations have been indefeasibly paid in full in cash and completely satisfied and all of the commitments thereunder have been terminated in accordance with the DIP Loan Documents.

(d) Notwithstanding anything to the contrary herein, no liens or security interest granted in connection with the DIP Facility or as adequate protection or as otherwise granted in this Interim Order shall impair or subordinate any valid, perfected, non-avoidable liens and security interest of Bank of America N.A., in cash used to collateralize available credit under the Debtors' Purchase Cards (as defined in the Cash Management Motion) including both the ePayables and purchase card facilities in an aggregate amount not to exceed $1,000,000 at any time.

(e) Excluded Assets. Notwithstanding anything to the contrary in this Interim Order or the DIP Loan Documents, the DIP Collateral shall not include (i) any leasehold interest of a Debtor to the extent the granting of liens on such interest would, after giving effect to the Bankruptcy Code or this Interim Order, nonetheless result in the abandonment, invalidation or unenforceability of any right, title or interest under any lease governing such leasehold interest or a breach or termination of such lease pursuant to its terms; (ii) any escrow, fiduciary, or trust account (including funds held in such accounts unless and until released or distributed to the Debtors), (iii) the Debtors' intellectual property that constitute "intent to use" trademarks, to the extent the assignment of the creation of a lien thereon would violate applicable non-bankruptcy law unless such violation is excused or permitted under applicable bankruptcy law, (iv) any amount in excess of 65% of the voting equity interest in any non-US subsidiary of a Debtor, (v) the Professional Fees Account (as defined below) (including funds held in the Professional Fees Account), (vi) Debtors' claims and causes of action arising under chapter 5 of the Bankruptcy

Code (collectively, the "Avoidance Actions") or the proceeds of Avoidance Actions, and (vii) the proceeds of any of the assets identified in the foregoing clauses (ii) or (v) unless and until released or distributed to the Debtors; provided that, (x) subject to entry of the Final Order, proceeds of Avoidance Actions shall not be an Excluded Asset (and shall be DIP Collateral) and (y) the DIP Collateral shall include the Professional Fee Account to the extent of any surplus, if any, in such account after satisfaction in full of all obligations of professionals benefiting from the Carve-Out, pursuant to a final order not subject to appeal (the assets described in the foregoing clauses (i) through (vii), subject to the foregoing proviso, the "Excluded Assets").

7. Fees and Expenses of DIP Secured Parties. The payment of reasonable and documented fees and expenses described in this paragraph 7 and paragraph 10 shall be made by the Debtors, no later than ten (10) days after receipt (via electronic mail) by (i) the Debtors, (ii) counsel for the Debtors, (iii) the U.S. Trustee, and (iv) counsel for the Committee (if any) (collectively, the "Fee Notice Parties"), of a summary statement setting forth: (a) the applicable timekeepers, (b) the hours worked by such timekeepers (except for financial advisors compensated on other than an hourly basis), and (c) a reasonably detailed description of services provided and expenses incurred by such timekeepers, in connection with the Chapter 11 Cases. The Debtors shall indefeasibly pay or reimburse the DIP Secured Parties for their respective reasonable fees and out-of-pocket costs, expenses and charges (collectively, the "DIP Secured Party Professional Fees"), including, but not limited to, the reasonable fees, costs, and expenses of (x) Simpson Thacher & Bartlett LLP and Winstead PC, as counsel to DIP Agent, (y) CR3 Partners LLC, as financial advisor to the DIP Agent, (z) Duane Morris LLP, as local counsel to the DIP Agent, and any other advisors or professionals retained by any of the DIP Secured Parties. The Debtors and the Fee Notice Parties may object to the reasonableness of the fees, costs and

expenses included in any such professional fee invoice; provided that, any such objection shall be barred and deemed waived unless filed with the Bankruptcy Court and served on the applicable professional by 12:00 p.m., prevailing Eastern Time, on the date that is no later than ten (10) days after the objecting party's receipt of the applicable professional fee invoice. If such objection is timely received, the Debtors shall promptly pay the portion of such invoice not subject to such objection, and the Bankruptcy Court shall determine any such objection unless otherwise resolved by the applicable parties. Any hearing on an objection to payment of any fees, costs, and expenses of the DIP Secured Parties set forth in a professional fee invoice shall be limited to the reasonableness of the particular items or categories of the fees, costs, and expenses which are the subject of such objection and whether the DIP Secured Parties are entitled to such fees, costs and expenses under this Interim Order. For the avoidance of doubt, none of the fees, costs, and expenses of the DIP Secured Parties shall be subject to Bankruptcy Court approval or U.S. Trustee guidelines, and no recipient of any such payment shall be required to file with respect thereto any interim or final fee application with the Bankruptcy Court. All fees, costs and expenses payable under the DIP Loan Documents to the DIP Secured Parties shall be included and constitute part of the DIP Obligations and be secured by the DIP Liens. Notwithstanding anything to the contrary herein, the fees, costs, and expenses of the DIP Secured Parties under and in connection with negotiation and preparation of the DIP Loan Documents, including, without limitation, the reasonable and documented legal fees and expenses of any professionals retained by the DIP Secured Parties in accordance with the DIP Loan Documents, shall be earned, non-refundable and payable pursuant to the terms of the DIP Loan Documents out of the Interim Funding Loan and fully entitled to, and hereby granted, all protections of section 364(e) of the Bankruptcy Code. For the avoidance of doubt, the Debtors shall be responsible to pay, subject to the procedures

outlined in this paragraph, all reasonable and documented fees and expenses incurred by the DIP Agent and the other DIP Secured Parties in connection with any action taken in the Chapter 11 Cases including, but not limited to, acting as a stalking horse purchaser and/or credit bidding on any proposed sale of assets by the Debtors. Further, the $450,000 DIP Facility Fee (as described in the DIP Credit Agreement), which is deemed fully earned and nonrefundable on the Interim Order Entry Date, and shall be payable from the Interim Funding Loan pursuant to the terms of the DIP Loan Documents.

8. No Obligation to Extend Credit. The DIP Agent and the DIP Lenders shall have no obligation to make any loan or advance under the DIP Loan Documents, unless all of the conditions precedent listed in Section 4.01 of the DIP Credit Agreement have been satisfied in full or waived by the Required Lenders (as defined in the DIP Credit Agreement) in their sole discretion.

9. Cash Collateral. All of the Debtors' cash as of the Petition Date on deposit or maintained by the Debtors in any account or accounts with any Prepetition Secured Party and any cash proceeds of the disposition of any Prepetition Collateral, constitute proceeds of the Prepetition Collateral and, therefore, are Cash Collateral of the Prepetition Secured Parties within the meaning of section 363(a) of the Bankruptcy Code.

10. Prepetition Lenders Adequate Protection.

(a) Replacement Liens. Subject to the Carve-Out in all respects, to the extent there is a post-petition diminution in value as of the Petition Date, if any, of the interests of the Prepetition Secured Parties in the Prepetition Collateral (including Cash Collateral), resulting from the use, sale, or lease by the Debtors of the Prepetition Collateral (including Cash Collateral), the granting of the DIP Superpriority Claims, the granting of the DIP Liens, the subordination of

the Prepetition Lenders' Liens thereto and to the Carve-Out, and the imposition or enforcement of the automatic stay of section 362(a) of the Bankruptcy Code ("Diminution in Prepetition Lenders Collateral Value"), the Prepetition Agent, on behalf of itself and the Prepetition Secured Parties, is hereby granted, subject to the terms and conditions set forth below, pursuant to sections 361, 363(e), and 364 of the Bankruptcy Code, replacement Liens upon all of the DIP Collateral (such adequate protection replacement liens, the "Prepetition Lenders Adequate Protection Liens"), which Prepetition Lenders Adequate Protection Liens on such DIP Collateral shall be subject and subordinate only to the DIP Liens, Non-Primed Liens and the Carve-Out and shall be senior in priority to the Prepetition Lenders' Liens. The Prepetition Lenders' Liens, the Prepetition Lenders Adequate Protection Liens and the Prepetition Lenders' Adequate Protection Superpriority Claim (as defined below) (i) shall not be subject to sections 510, 549, 550, or 551 of the Bankruptcy Code or, subject to entry of the Final Order, section 506(c) of the Bankruptcy Code or the "equities of the case" exception of section 552 of the Bankruptcy Code; (ii) shall not be subordinate to, or *pari passu* with, (A) any lien that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code or otherwise or (B) any intercompany or affiliate liens or claims held by a Debtor against another Debtor; and (iii) shall be valid and enforceable against any trustee or any other estate representative appointed in these Chapter 11 Cases or any Superseding Cases, any Chapter 7 trustee appointed for any Debtor and/or upon the dismissal or substantive consolidation of the Chapter 11 Cases.

(b) Superpriority Claims. Subject to the Carve-Out in all respects, to the extent of any Diminution in Prepetition Lenders Collateral Value, the Prepetition Secured Parties are hereby further granted allowed superpriority administrative claims (such adequate protection superpriority claims, the "Prepetition Lenders Adequate Protection Superpriority

Claims"), pursuant to section 507(b) of the Bankruptcy Code, with priority over all administrative expense claims, priority claims and unsecured claims against the Debtors and their estates, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kind specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 726 (to the extent permitted by law), 1113, and 1114 and any other provision of the Bankruptcy Code, junior only to the DIP Superpriority Claims and the Carve-Out to the extent provided herein and in the DIP Loan Documents, and payable from and having recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof; provided, however, that the Prepetition Secured Parties shall not receive or retain any payments, property, or other amounts in respect of the Prepetition Lenders Adequate Protection Superpriority Claims unless and until all DIP Obligations have been paid in full in cash and the Prepetition Lenders Adequate Protection Superpriority Claims shall not be payable from any Excluded Asset, to the extent set forth in the definition thereof);

(c) Interest. All prepetition interest accrued under the Prepetition Loan Documents and unpaid through the Petition Date shall be paid by the Debtors no later than three (3) Business Days after the entry of this Interim Order. In addition, the Debtors are authorized and directed to pay, as adequate protection, to the Prepetition Agent all accrued and unpaid post-petition interest on the outstanding amounts due and payable under the Prepetition Loan Documents at the applicable non-default rate set forth in, and at the times specified by, the Prepetition Loan Documents, and to pay all other accrued and unpaid reasonable and documented fees, costs and disbursements owing to the Prepetition Agent or any other Prepetition Secured Party under the Prepetition Credit Agreement, as and when such interest, fees, costs and disbursements become due and payable (but for the commencement of the Chapter 11 Cases) in

accordance with the terms of the Prepetition Credit Agreement; provided that, default interest shall continue to accrue (but not be paid except pursuant to further order of the Bankruptcy Court) and the Prepetition Agent and the Prepetition Lenders reserve the right after a Termination Event (as defined below) to assert a claim for the payment of such additional interest without prejudice to the rights of the Debtors or any other party in interest to contest any such claim.

(d) Payment of Prepetition Secured Parties' Attorneys' Fees and Expenses. In addition to the above adequate protection, the Debtors shall pay or reimburse the reasonable and documented costs and expenses incurred by any of the Prepetition Secured Parties (whether incurred prior to the Petition Date or thereafter), including, but not limited to, the reasonable and documented fees, costs and expenses of counsel and other advisors to the Prepetition Agent and counsel to any of the Prepetition Lenders. Such reasonable and documented professional fees shall be subject to the process and procedures described in paragraph 7 hereof.

(e) Reservation of Rights. To the extent any portion of the Prepetition Obligations are determined to be unsecured, any party in interest's rights to seek a determination that adequate protection payments (as set forth in this paragraph 10) should be recharacterized as payment on account of the secured portion of the Prepetition Lenders' claims as of the Petition Date, are fully reserved.

(f) Right to Seek Additional Adequate Protection. Notwithstanding any other provision hereof, the grant of adequate protection to the Prepetition Secured Parties hereto is without prejudice to the right of the Prepetition Secured Parties to seek modification of the grant of adequate protection provided hereby so as to provide different or additional adequate protection, and without prejudice to the right of the Debtors' and any other party in interest's rights to contest such modification. Nothing herein shall be deemed to waive, modify or otherwise impair

the respective rights of the Prepetition Secured Parties under the Prepetition Loan Documents or under equity or law, and the Prepetition Secured Parties expressly reserve all of their respective rights and remedies whether now existing or hereafter arising under their Prepetition Loan Documents and/or equity or law in connection with all termination events and defaults and events of default under such agreements.

11. Termination of Debtors' Use of Cash Collateral. Unless further extended by written agreement among the Debtors and the DIP Agent (acting at the direction of the Required Lenders), the Debtors' right to use Cash Collateral shall expire and the Debtors shall immediately cease using the Cash Collateral on the earliest to occur of: (a) the date that is 270 days after the Petition Date (the "Outside Date"); or (b) the occurrence of a Termination Event (as hereinafter defined) that is not otherwise waived in writing by the DIP Agent (acting at the direction of the Required Lenders or all Lenders, as applicable).

12. Termination Events. Subject to a three Business Day grace period following delivery of written notice from the DIP Agent, in which the Debtors may cure (to the extent capable of being cured), the Debtors shall immediately cease using Cash Collateral upon the occurrence of any of these events (each a "Termination Event"):

(a) the Debtors violate any material term of this Interim Order;

(b) the Debtors' actual expenditures exceed or receipts are less than the amounts set forth in the Approved Budget for the applicable test period by more than the Approved Budget variance permitted by the DIP Credit Agreement (as tested and calculated under the DIP Credit Agreement), and the DIP Agent (acting at the direction of the Required Lenders) did not previously consent in writing to such variation from the Approved Budget, or did not subsequently waive in writing such unauthorized use of Cash Collateral;

(c) an Event of Default under and as defined in the DIP Loan Documents shall have occurred and is continuing (unless waived pursuant to the DIP Loan Documents);

(d) the Debtors file or support a Challenge Action (defined below); provided that, for the avoidance of doubt, the foregoing shall not apply with respect to any action by the Debtors to determine the value of collateral securing the Prepetition Obligations;

(e) the entry of an order (or any Debtors files or affirmatively supports a motion or pleading seeking entry of an order):

(i) converting any of the Debtors' bankruptcy cases to a case under chapter 7 of the Bankruptcy Code;

(ii) dismissing any of the Debtors' bankruptcy cases;

(iii) reversing, vacating, staying, or otherwise amending, supplementing, or modifying this Interim Order or the Final Order, in each case without the consent of the DIP Agent (at the direction of Required Lenders or all Lenders, as applicable); or

(iv) invalidating, subordinating, or otherwise sustaining any Challenge Action to the Prepetition Lenders' Liens, the Prepetition Obligations, the Prepetition Lenders Adequate Protection Liens, or the Prepetition Lenders Adequate Protection Superpriority Claims granted to the Prepetition Secured Parties hereunder or under the Prepetition Loan Documents, as applicable.

13. Amendments, Consents, Waivers, and Modifications. The Debtors, with the express written consent of the DIP Agent, acting at the direction of the Required Lenders or all DIP Lenders (as applicable and as set forth in the DIP Credit Agreement) may enter into any amendments, consents, waivers, or modifications to the DIP Loan Documents that are not

materially adverse to the Debtors without the need for further notice and hearing or any order of the Bankruptcy Court; provided, however, that, without the consent of the Bankruptcy Court on notice and a hearing, no such amendments, consents, waivers or modifications shall (i) shorten the Outside Date, (ii) increase the commitments thereunder or the rate of interest payable under the DIP Loan Documents (other than imposition of the default rate) or (iii) amend the Events of Default or covenants in the DIP Loan Documents to be materially more restrictive to the Debtors than those set forth in the form of DIP Credit Agreement as of the Interim Order Entry Date. No consent shall be implied by any other action, inaction, or acquiescence of any of the DIP Secured Parties. If the DIP Secured Parties or Prepetition Secured Parties advance funds, permit the use of Cash Collateral or provide other extensions of credit to the Debtors in excess of any financial covenants, availability formula, or other terms and conditions (including, without limitation, the Approved Budget), such advances and uses shall be entitled to the rights, priorities, benefits and protections provided by this Interim Order.

14. Perfection of DIP Liens and Prepetition Lenders Adequate Protection Liens.

(a) Both the DIP Agent and the Prepetition Agent are hereby authorized, but not required, to file or record financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, or take possession of or control over (including pursuant to a deposit account control agreement), or take any other action in order to validate and perfect the liens and security interests granted to them hereunder, in each case, without the necessity to pay any mortgage recording fee or similar fee or tax. In addition, to the extent that any filing and any other perfection actions described in the foregoing were taken by or in favor of the Prepetition Agent in respect of the Prepetition Obligations, such filings and actions shall serve to perfect the DIP Liens in favor of the DIP Agent, for the benefit

of the DIP Secured Parties, securing the DIP Obligations and, solely for purposes of perfecting the DIP Liens, the Prepetition Agent shall act as bailee for the DIP Agent. Whether or not (i) the DIP Agent on behalf of the DIP Secured Parties in its sole discretion; or (ii) the Prepetition Agent on behalf of the Prepetition Secured Parties, choose to file such financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments, or take possession of or control over, or otherwise confirm perfection of the liens and security interests granted to them hereunder, such liens and security interests shall be and hereby are deemed valid, perfected, allowed, enforceable, non-avoidable, and not subject to challenge, dispute or subordination, whether in these Chapter 11 Cases or any Superseding Case. The Debtors shall, if requested, execute and deliver to both the DIP Agent and the Prepetition Agent all such agreements, financing statements, instruments and other documents as the DIP Agent and the Prepetition Agent may reasonably request to more fully evidence, confirm, validate, perfect, preserve, and enforce both the DIP Liens and the Prepetition Lenders Adequate Protection Liens. All such documents will be deemed to have been recorded and filed as of the Petition Date.

(b) A certified copy of the Interim Order may be filed by the DIP Agent and the Prepetition Agent with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien, or similar instruments, and all filing offices are hereby directed to accept such certified copy of this Interim Order for filing and recording.

(c) Subject to entry of the Final Order and in each case to the maximum extent permitted under the Bankruptcy Code and other applicable law, any provision of any lease or other license, contract or other agreement that requires (i) the consent or approval of one or more landlords or other parties or (ii) the payment of any fees or obligations to any governmental entity, in order for any Debtor to pledge, grant, sell, assign, or otherwise transfer any such

leasehold interest, or the proceeds thereof, or other DIP Collateral related thereto, is hereby deemed to be inconsistent with the applicable provisions of the Bankruptcy Code, and any such provision shall have no force and effect with respect to the granting of the DIP Liens or the Prepetition Lenders Adequate Protection Liens on such leasehold interest or the proceeds of any assignment and/or sale thereof by any Debtor in favor of the DIP Secured Parties or Prepetition Secured Parties in accordance with the terms of the DIP Loan Documents or the Final Order.

15. CRO. Within three (3) Business Days after the Interim Order Entry Date, the Debtors shall appoint, retain and engage a Chief Restructuring Officer, or another comparable crisis management or restructuring firm reasonably satisfactory to the DIP Agent (acting at the direction of the Required Lenders) (it being understood that John DiDonato and Huron Consulting Group LLC are acceptable to the Required Lenders), to serve as Chief Restructuring Officer on terms and conditions reasonably acceptable to DIP Agent and the DIP Lenders, which will include, without limitation, assisting the Debtors in the management of their businesses, preparation of forecasts and projections, the formulation and implementation of strategic initiatives in connection with the Chapter 11 Cases, and the implementation and authorization of asset sales or dispositions, in each case reporting to the Restructuring Committee of the Debtors' board of directors. The Debtors hereby and will continue to authorize and instruct the Chief Restructuring Officer to (a) share with the DIP Agent, the DIP Lenders, the Prepetition Agent and the Prepetition Lenders all budgets, records, projections, financial information, reports and other information relating to the DIP Collateral, the financial condition, operations and the sale, marketing or reorganization process of the Debtors' businesses and assets as reasonably requested from time to time, except to the extent access to such information would compromise the Debtors' attorney-client privilege and (b) make himself or herself available to the DIP Agent and the DIP Lenders as reasonably

requested on reasonable notice by the DIP Agent, the DIP Lenders, the Prepetition Agent and the Prepetition Lenders. The Debtors will provide the Chief Restructuring Officer, complete access to all of the Debtors' books and records, all of the Debtors' premises and to the Debtors' management as and when deemed necessary by the Chief Restructuring Officer or the DIP Agent, the DIP Lenders, the Prepetition Agent or the Prepetition Lenders. In addition to existing orders of the Bankruptcy Court, the Chief Restructuring Officer shall have sole authority, in his or her reasonable business judgment, on behalf of the Debtors to make all decisions regarding day-to-day operations, cash management and disbursements and any asset dispositions, in each case reporting to the Restructuring Committee of the Debtors' board of directors. The foregoing sentence does not affect the Debtors' obligations under the Bankruptcy Code to seek necessary approvals from the Court or make disclosures to parties in interest in the Chapter 11 Cases.

16. Access to Collateral.

(a) The Debtors shall provide the DIP Secured Parties and the Prepetition Secured Parties and/or their respective agents, representatives, or professionals, with access to, and on-site inspections of, the Debtors' property and company records, as may be reasonably requested, during normal business hours, on no less than three (3) Business Days' advance notice to Debtors' counsel, and within seven (7) Business Days of the request being made to the Debtors' counsel, unless the parties agree otherwise on the actual inspection date; provided, that the DIP Agent and the Prepetition Agent, on behalf of the DIP Lenders and Prepetition Lenders respectively, shall not exercise such rights more often that two (2) times absent the occurrence and continuing of an Event of Default under the DIP Credit Agreement.

(b) Notwithstanding anything contained herein to the contrary, and without limiting any other rights or remedies of the DIP Secured Parties contained in this Interim

Order or the DIP Loan Documents, or otherwise available at law or in equity, and subject to the terms of the DIP Loan Documents, upon five (5) Business Days' written notice to the landlord, lienholder, licensor, or other third party owner of any leased or licensed premises or intellectual property that an Event of Default under and as defined in the DIP Loan Documents or a default by the Debtors of any of its material obligations under this Interim Order has occurred and is continuing, the DIP Agent (i) may, only subject to any separate agreement by and between the applicable landlord or licensor (the terms of which shall be reasonably acceptable to the parties thereto), enter upon any leased or licensed premises of the Debtors for the purpose of exercising any remedy with respect to DIP Collateral located thereon; and (ii) subject to applicable law, shall be entitled to all of the Debtors' rights and privileges as lessee or licensee under the applicable license and to use any and all trademarks, trade-names, copyrights, licenses, patents or any other similar assets of the Debtors, which are owned by or subject to a lien or license of any third party and which are used by the Debtors in their businesses, in either the case of subparagraph (i) or (ii) of this paragraph 16(b) without interference from lienholders or licensors thereunder. To the extent applicable law prohibits the forgoing access or use of rights, the DIP Agent shall have the right to an expedited hearing on five (5) Business Days' notice to obtain Bankruptcy Court authorization to obtain such access and/or use of such rights.

17. Automatic Stay Modified. The automatic stay provisions of section 362 of the Bankruptcy Code hereby are vacated and modified without the need for any further order of the Bankruptcy Court to:

(a) whether or not an Event of Default under and as defined in the DIP Loan Documents has occurred, (i) require proceeds from DIP Collateral and other collections received by the Debtors to be deposited in accordance with the requirements of the DIP Loan

Documents, and to apply any amounts so deposited and other amounts paid to or received by the DIP Secured Parties under the DIP Loan Documents in accordance with any requirements of the DIP Loan Documents, and (ii) require mandatory prepayments in accordance with the requirements of the DIP Loan Documents, in each case, without further order of the Bankruptcy Court; and

(b) immediately upon the occurrence and during the continuation of an Event of Default under and as defined in the DIP Loan Documents, allow the DIP Agent (acting at the direction of the Required Lenders) to deliver a written notice of its intention to declare an early termination of the Debtors' ability and rights to access or use proceeds of the DIP Financing and use of Cash Collateral (any such declaration, a "Termination Declaration"). The Termination Declaration shall be given by written notice (including electronic mail) to the (a) Debtors, (b) counsel to the Debtors, (c) the U.S. Trustee and, (d) the Committee (together, the "Termination Notice Parties") (the date any such Termination Declaration is delivered shall be referred to herein as the "Termination Declaration Date"). Upon the Termination Declaration Date, (x) unless such Event of Default is waived in writing (including via email) by the DIP Agent in its sole discretion (acting at the direction of the Required Lenders) or (y) cured by the Debtors (to the extent capable of being cured), the authority and approval of the Debtors to access or use the Financing or Prepetition Collateral (including Cash Collateral) and the commitment of the DIP Secured Parties to provide such financing pursuant to this Interim Order shall automatically terminate, and all amounts outstanding under the DIP Loan Documents shall become immediately due and payable provided such termination shall be rescinded to the extent it is determined by the Bankruptcy Court during the five (5) Business Day period described in the immediately following sentence that no Event of Default occurred and is continuing. Unless the Debtors have obtained a Bankruptcy Court

order within five (5) Business Days after the Termination Declaration Date staying the DIP Agent and the DIP Secured Parties, the DIP Agent and DIP Secured Parties are authorized to exercise any and all rights and remedies in accordance with the terms of the DIP Loan Documents, and to take all actions required or permitted by the DIP Loan Documents without necessity of further Bankruptcy Court orders; provided that the DIP Agent shall give not less than five (5) Business Days' prior written notice (including electronic mail) to the Termination Notice Parties of such action (the "Termination Action Notice"), with such Termination Action Notice being allowed to be provided concurrently or simultaneously with the Termination Declaration; and provided further during the foregoing five (5) Business Day period, the only issue that may be raised by any party in opposition to the exercise of rights and remedies shall be whether an Event of Default under and as defined in the DIP Loan Documents has in fact occurred and is continuing, and other than as set forth in the prior clause of this proviso, the Debtors hereby waive their right to seek any relief, whether under section 105 of the Bankruptcy Code or otherwise, that would in any way impair, limit or restrict, or delay the exercise or benefit of, the rights and remedies of the DIP Agent and the DIP Lenders under the DIP Loan Documents or this Interim Order provided such waiver shall not be binding on the Bankruptcy Court. Neither the DIP Agent's nor any DIP Lender's delay or failure to exercise rights and remedies under the DIP Loan Documents or this Interim Order shall constitute a waiver of such DIP Agent's or any DIP Lender's rights hereunder, thereunder or otherwise, unless any such waiver is pursuant to a written instrument executed in accordance with the terms of the applicable DIP Credit Agreement.

18. Subsequent Reversal or Modification. This Interim Order is entered pursuant to, *inter alia*, section 364 of the Bankruptcy Code, and Bankruptcy Rules 4001(b) and (c), granting the DIP Secured Parties and Prepetition Secured Parties all protections afforded by

section 364(e) of the Bankruptcy Code. If any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated or stayed, that action will not affect (i) the validity, priority or enforceability of any DIP Obligations, the DIP Liens, the DIP Superpriority Claims, the Adequate Protection Obligations, the Prepetition Lenders Adequate Protection Liens or the Prepetition Lenders' Adequate Protection Superpriority Claims incurred hereunder by any of the Debtors prior to the actual receipt of written notice by the DIP Agent and Prepetition Agent of the effective date of such reversal, modification, vacatur or stay, (ii) the payment of any fees or other amounts required under this Interim Order or the DIP Loan Documents, and/or (iii) the validity, priority and enforceability of any lien, claim, obligation, right, remedy or priority authorized or created under this Interim Order or pursuant to the DIP Loan Documents as of such date. Notwithstanding any such reversal, modification, vacatur or stay, any postpetition or adequate protection indebtedness, obligation or liability incurred by any of the Debtors prior to the date of receipt by the DIP Agent and the Prepetition Agent of written notice of the effective date of such action shall be governed in all respects by the original provisions of this Interim Order, and the DIP Secured Parties and the Prepetition Secured Parties shall be entitled to all of the rights, remedies, privileges and benefits granted herein and in the DIP Loan Documents, as applicable, with respect to all such indebtedness, obligations and liabilities.

19. Proceeds of Subsequent Financing. If the Debtors, any trustee, any examiner with enlarged powers, or any responsible officer subsequently appointed in these Chapter 11 Cases or any Superseding Case shall obtain credit or incur debt ("Alternative Financing") pursuant to Bankruptcy Code sections 364(b), 364(c) or 364(d) or in violation of the DIP Loan Documents at any time prior to (i) the indefeasible repayment in full in cash of all DIP Obligations and Prepetition Obligations and (ii) the termination of the DIP Agent's and DIP

Lenders' obligations to extend credit under the DIP Loan Documents, including subsequent to the confirmation of any plan with respect to the Debtors and the Debtors' estates, then all of the cash proceeds of such Alternative Financing shall immediately be turned over to the DIP Agent to be applied as set forth in the DIP Loan Documents and this Interim Order for the indefeasible repayment in full in cash of the DIP Obligations and, subject to entry of the Final Order, if such Alternative Financing is secured by any Liens (as defined in the DIP Credit Agreement) on any DIP Collateral or by any Prepetition Collateral that are senior to or *pari passu* with the Liens securing the Adequate Protection Obligations or the Prepetition Obligations, then any Alternative Financing proceeds remaining after the repayment in full in cash of the DIP Obligations shall be immediately turned over to the Prepetition Agent to be applied as set forth in the Prepetition Loan Documents and this Interim Order for the indefeasible repayment in full in cash of the Prepetition Obligations; provided that any such repayment of Prepetition Obligations shall be subject to disgorgement or such other remedies ordered by the Bankruptcy Court to the extent any of the Prepetition Obligations are subject to a successful Challenge Action that is commenced in accordance with this Interim Order; and provided further, nothing in this paragraph shall be deemed a consent by the Prepetition Secured Parties to the incurrence of any priming or *pari passu* Liens with respect to such Alternative Financing, or authorization for the Debtors to incur or seek to incur any Alternative Financing.

20. Restriction on Use of DIP Lenders' Funds and Cash Collateral. Notwithstanding anything herein to the contrary, no DIP Collateral, proceeds thereof, proceeds of the DIP Financing, Prepetition Collateral (including Cash Collateral) or any portion of the Carve-Out may be used by the Debtors, the Debtors' estates, the Committee, any trustee or examiner appointed in the Chapter 11 Cases or any chapter 7 trustee, or any other person, party or entity to,

in any jurisdiction anywhere in the world, directly or indirectly to: (a) request authorization to obtain postpetition financing (whether equity or debt) or other financial accommodations pursuant to section 364(c) or (d) of the Bankruptcy Code, or otherwise, unless such financing or financial accommodation (i) is from the DIP Secured Parties or (ii) is sufficient to indefeasibly pay all DIP Obligations and Prepetition Obligations (to the extent required under paragraph 19 above) in full in cash and such financing is immediately so used; (b) assert, join, commence, support, investigate, or prosecute any Claims and Defenses (as defined below) or any other action for any claim, counter-claim, action, cause of action, proceeding (including adversary proceedings), application, motion, objection, defense, or other contested matter seeking any order, judgment, determination, or similar relief against, or adverse to the interests of, in any capacity, any DIP Releasee or Prepetition Secured Party Releasee (each, a "Releasee"), with respect to any transaction, occurrence, omission, or action, including, without limitation, (i) any action arising under the Bankruptcy Code against any Releasee; (ii) any so-called "lender liability" claims and causes of action against any Releasee; (iii) any action with respect to the legality, enforceability, validity, amount, extent, perfection, or priority of the DIP Obligations, the Prepetition Obligations, the DIP Superpriority Claims, Prepetition Lenders Adequate Protection Superpriority Claims, the Adequate Protection Obligations, the DIP Loan Documents, the Prepetition Loan Documents or the legality, enforceability, validity, extent, perfection, or priority of the DIP Liens, the Prepetition Lenders' Adequate Protection Liens or the Prepetition Lenders' Liens; (iv) any action seeking to invalidate, set aside, avoid, reduce, set off, offset, recharacterize (other than with respect to the recharacterization of adequate protection payments, as set forth herein), subordinate (whether equitable, contractual, or otherwise), recoup against, disallow, impair, raise any defenses, cross-claims, or counter claims or raise any other challenges under the Bankruptcy Code or any other

applicable domestic or foreign law or regulation against or with respect to the DIP Liens, the Prepetition Lenders' Liens, the Prepetition Lenders' Adequate Protection Liens, the DIP Obligations, the Prepetition Obligations, the Adequate Protection Obligations, the DIP Superpriority Claims or the Prepetition Lenders Adequate Protection Superpriority Claims, in whole or in part; (v) appeal or otherwise challenge this Interim Order, the DIP Loan Documents, the Prepetition Loan Documents or any of the transactions contemplated herein or therein; and/or (vi) any action that has the effect of preventing, hindering, or delaying (whether directly or indirectly) the DIP Secured Parties' or the Prepetition Secured Parties' rights or remedies in respect of their respective liens on and security interests in the DIP Collateral or Prepetition Collateral or any of their rights, powers, or benefits hereunder or in the DIP Loan Documents or the Prepetition Loan Documents, whether executed prepetition or postpetition, anywhere in the world; (c) seek to modify any of the rights granted to the DIP Secured Parties or the Prepetition Secured Parties hereunder or under the DIP Loan Documents or the Prepetition Loan Documents and/or (d) pay any claim of a prepetition creditor except as approved by an order of this Court and as permitted under the DIP Loan Documents and the Prepetition Loan Documents in accordance with the Approved Budget; provided that, notwithstanding anything to the contrary herein, no more than the Investigation Budget Cap may be used by any Committee to investigate (but not prosecute) the validity, enforceability or priority of the Prepetition Obligations or the liens on the Prepetition Collateral securing the Prepetition Obligations or to investigate (but not prosecute) any Claims and Defenses against the Prepetition Secured Parties.

21. Maintenance of DIP Collateral. Until the indefeasible payment in full of all DIP Obligations and all Prepetition Obligations, the satisfaction of the DIP Superpriority Claims, and the termination of the DIP Agent's and the DIP Lenders' obligations to extend credit under

the DIP Loan Documents, the Debtors shall: (a) insure the DIP Collateral as required by the DIP Loan Documents or the Prepetition Loan Documents; and (b) maintain the cash management system in effect as of the Petition Date, as (i) modified by any order that may be entered by the Court which has been first agreed to by the Required Lenders (as defined in the DIP Credit Agreement) or (ii) otherwise required by the DIP Loan Documents.

22. Prohibition on Additional Liens. Except as expressly provided in the DIP Loan Documents or this Interim Order, the Debtors shall be enjoined and prohibited from, at any time during the Chapter 11 Cases until such time as the DIP Obligations and the Prepetition Obligations have been indefeasibly paid in full in cash, granting liens on or security interests in the DIP Collateral, the Prepetition Collateral, or any portion thereof to any other entities, pursuant to section 364(d) of the Bankruptcy Code or otherwise, which liens are senior to or *pari passu* with the DIP Liens and the Prepetition Lenders' Liens other than the Carve-Out, unless and until all DIP Obligations and Prepetition Obligations are indefeasibly paid in full in cash.

23. No Waiver. This Interim Order shall not be construed in any way as a waiver or relinquishment of any rights that any of the DIP Secured Parties or the Prepetition Secured Parties may have to bring or be heard on any matter brought before the Bankruptcy Court. Similarly, the failure of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, or the Prepetition Secured Parties to seek relief or otherwise exercise their rights and remedies under this Interim Order, the DIP Loan Documents, the Prepetition Loan Documents, or applicable law, as the case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise of the DIP Agent, the DIP Secured Parties, the Prepetition Agent, or the Prepetition Secured Parties.

24. Sale/Conversion/Dismissal/Plan.

(a) Entry of an order providing for either the sale of the ownership of the stock of the Debtors or the sale of all or substantially all of the assets of the Debtors under section 363 of the Bankruptcy Code shall be an Event of Default unless, in connection and concurrently with any such event, (i) the DIP Obligations are completely satisfied in full in cash and the commitments under the DIP Loan Documents are terminated; (ii) such sale is expressly permitted under the DIP Loan Documents; or (iii) the DIP Agent (acting at the direction of the Required Lenders) otherwise consents in writing. The form of any order authorizing such sale shall be in form and substance reasonably satisfactory to the DIP Agent (acting at the direction of the Required Lenders) with respect to the treatment of the DIP Obligations.

(b) If an order dismissing or converting the Chapter 11 Cases under sections 305 or 1112 of the Bankruptcy Code or otherwise, or an order appointing a chapter 11 trustee or an examiner with expanded powers, is at any time entered, unless otherwise agreed to in writing by the DIP Agent (acting at the direction of the Required Lenders), such order shall provide that, in each case subject to the Carve-Out and the Non-Primed Liens, (i) the DIP Liens, the Prepetition Lenders Adequate Protection Liens, the DIP Superpriority Claim, the Prepetition Lenders Adequate Protection Superpriority Claims, the DIP Obligations, the Prepetition Obligations, the Adequate Protection Obligations, the DIP Loan Documents and the Prepetition Loan Documents shall continue in full force and effect, remain binding on all parties-in-interest, and maintain their priorities as provided in this Interim Order until all DIP Obligations and Prepetition Obligations hereunder are indefeasibly paid in full in cash and completely satisfied and the commitments under the DIP Loan Documents and the Prepetition Loan Documents are terminated in accordance with their terms, (ii) to the extent permitted by applicable law, this

Bankruptcy Court shall retain jurisdiction, notwithstanding such dismissal, for purposes of enforcing the DIP Liens, the Prepetition Lenders Adequate Protection Liens, the DIP Superpriority Claims and the Prepetition Lenders Adequate Protection Superpriority Claims, and (iii) all postpetition indebtedness, obligation or liability incurred by the Debtors to the DIP Secured Parties and the Prepetition Secured Parties prior to the date of such order, including, without limitation, the DIP Obligations and Adequate Protection Obligations, shall be governed in all respects by the original provisions of this Interim Order unless the Final Order has been entered, in which case the Final Order shall govern, and the DIP Secured Parties and the Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges, and benefits granted herein and, with respect to the DIP Secured Parties, in the DIP Loan Documents with respect to all such indebtedness, obligation or liability.

25. Priority of Terms. To the extent of any conflict between or among (a) the express terms or provisions of any of the DIP Loan Documents, the Motion, any other order of this Court, or any other agreements, on the one hand, and (b) the terms and provisions of this Interim Order, on the other hand, unless such term or provision herein is phrased in terms of "as defined in" or "as more fully described in" the DIP Loan Documents or words of similar import, the terms and provisions of this Interim Order shall govern.

26. No Third Party Beneficiary. Except as explicitly set forth herein, no rights are created hereunder for the benefit of any third party, any creditor, equity holder or any direct, indirect or incidental beneficiary.

27. Rights Under Sections 363(k) and 1129(b). (a) Unless otherwise ordered by the Bankruptcy Court for cause, the DIP Agent shall have the right (on behalf of the DIP Secured Parties) to credit-bid the full amount of the DIP Obligations in any sale or disposition of

the DIP Collateral as provided for in section 363(k) of the Bankruptcy Code, in accordance with the terms of the DIP Loan Documents, without the need for further Bankruptcy Court order authorizing the same and whether such sale is effectuated through section 363(k) and/or section 1129(b) of the Bankruptcy Code or otherwise because, among other things, the denial of such rights would result in the DIP Obligations not receiving the indubitable equivalent of their claims and (b) the Prepetition Agent shall have the right (on behalf of the Prepetition Secured Parties) to credit-bid the full amount of the Prepetition Obligations in any sale or disposition of the Prepetition Collateral as provided for in section 363(k) of the Bankruptcy Code, in accordance with the terms of the Prepetition Loan Documents without the need for further Bankruptcy Court order authorizing the same and whether such sale is effectuated through section 363(k) and/or section 1129(b) of the Bankruptcy Code or otherwise because, among other things, the denial of such rights would result in the Prepetition Obligations not receiving the indubitable equivalent of their claims, unless and to the extent set forth in a final order approving a Challenge Action.

28. Preservation of Prepetition Priorities. Nothing in this Interim Order is intended to change or otherwise modify the prepetition priorities among prepetition secured creditors of the Debtors that are perfected under applicable law, including (i) any lien or recoupment rights to the extent such liens or rights are valid, enforceable, nonavoidable and perfected, and (ii) any claims of the lienholders or any other mechanic or materialmen to the extent their liens are valid, enforceable, non-avoidable and perfected, including as permitted by section 546(b) of the Bankruptcy Code, and nothing in this Interim Order, including the granting of Prepetition Lenders Adequate Protection Liens or DIP Liens, shall be deemed to have changed or modified any of such prepetition priorities, all of which are hereby expressly preserved to the extent perfected under applicable law.

29. Proofs of Claim. Notwithstanding anything to the contrary contained in any prior or subsequent order of the Bankruptcy Court, none of the DIP Agent, any of the DIP Lenders, the Prepetition Agent or any of the Prepetition Lenders shall be required to file proofs of claim or request for payment of an administrative expense in the Chapter 11 Cases for any claim allowed herein in relation to this Interim Order, any Final Order, the DIP Credit Agreement, the DIP Loan Documents or the Prepetition Loan Documents. Any order entered by the Court in relation to the establishment of a bar date for any claim (including administrative claims) in any of the Chapter 11 Cases shall not apply to (i) the DIP Agent or the DIP Lenders with respect to the DIP Obligations, or (ii) the Prepetition Agent or the Prepetition Lenders with respect to the Prepetition Obligations. Notwithstanding the foregoing, the DIP Agent (on behalf of itself and the applicable DIP Secured Parties) or the Prepetition Agent (on behalf of itself and the applicable Prepetition Secured Parties) are hereby authorized and entitled, in their sole discretion, but are not required, to file (and amend and/or supplement, as it sees fit) a single master proof of claim in the Debtors' lead chapter 11 case *In re The NORDAM Group, Inc.*, Case No. 18-[___] ( ) for any claims arising, respectively, under the DIP Loan Documents or the Prepetition Loan Documents and hereunder (each, a "Master Proof of Claim"). A Master Proof of Claim, if filed, shall not be required to identify whether any DIP Secured Party or Prepetition Secured Party, as applicable, acquired its claim from another party and the identity of any such party or be amended to reflect a change in the holders of the claims set forth therein or a reallocation among such holders of the claims asserted therein resulting from the transfer of all or any portion of such claims. The provisions of this paragraph 29 and a Master Proof of Claim are intended solely for the purpose of administrative convenience. A Master Proof of Claim, if filed, shall not be required to attach any instruments, agreements or other documents evidencing the obligations owing by each of the Debtors to the applicable

DIP Secured Parties or Prepetition Secured Parties, which instruments, agreements or other documents will be provided upon written request to counsel to the DIP Agent or the Prepetition Agent, as applicable.

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

31. Challenge and Litigation Periods.

(a) Notwithstanding anything to the contrary herein, in any of the DIP Loan Documents or in any prior order of this Court, the stipulations and admissions of the Debtors contained in this Interim Order with respect to the Prepetition Agent and the other Prepetition Secured Parties, including in paragraph J and 9 hereof, shall be binding upon all other parties in interest unless a party-in-interest (including a party in interest with requisite standing, the Committee, if any, or any chapter 7 or chapter 11 trustee appointed or elected for any of the Debtors) (a "Challenge Party") that successfully seeks and obtains standing (on a final basis) to do so has timely filed an adversary proceeding or contested matter (a "Challenge Action") by the later of (a) seventy-five (75) days after the Interim Order Entry Date and (b) sixty (60) days after the formation of the Committee (if any) (the "Challenge Period"); provided that any such period is subject to extension as may be specified by this Bankruptcy Court for cause shown, or (x) if the Prepetition Agent (acting at the direction of the Required Lenders) agrees in writing to such an extension with respect to any claims, counterclaims or causes of action, objections, contests or defenses (collectively, the "Claims and Defenses") in respect of the Prepetition Obligations (i) challenging the validity, enforceability, priority or extent of the Prepetition Obligations or the liens on Prepetition Collateral securing the Prepetition Obligations or (ii) otherwise asserting or prosecuting any Avoidance Actions or any other Claims and Defenses against any of the

Prepetition Secured Parties in connection with any matter related to the Prepetition Obligations or the Prepetition Collateral and (y) an order is entered and becomes final in favor of the Challenge Party sustaining any such Challenge Action duly made in accordance with the foregoing; provided, further, that, subject to this paragraph 31, as to the Debtors, all Claims and Defenses are hereby irrevocably waived, released and relinquished as of the Interim Order Entry Date. For the avoidance of doubt, the filing of a Challenge Action by one Challenge Party shall not extend the Challenge Period for any other Challenge Parties.

(b) If a Challenge Action is not timely filed then: (x) the Challenge Party and any other party-in-interest and any and all successors-in-interest as to any of the foregoing, shall thereafter be forever barred from bringing any Challenge Action with respect thereto; (y) the stipulations and admissions contained in this Interim Order, including paragraphs J and 9 hereof, shall be binding and preclusive on all parties-in-interest; and (z) the Prepetition Obligations, the Prepetition Lenders and the Prepetition Agent, and the liens on the Prepetition Collateral granted to secure the Prepetition Obligations shall not be subject to any other or further challenge by any Challenge Party, and such Challenge Party shall be enjoined from seeking to exercise the rights of the Debtors' estates, including any successor thereto (including any estate representative or a chapter 7 or 11 trustee appointed or elected for any of the Debtors). Nothing in this Interim Order shall confer standing on any party in interest (including the Committee) to assert any Claims or Defenses or otherwise bring any cause of action, and such standing shall remain solely with the Debtors or their estates unless otherwise ordered by the Bankruptcy Court.

(c) If any Challenge Action is timely filed, the stipulations and admissions contained in this Interim Order, including paragraphs J and 9 hereof, shall nonetheless remain binding and preclusive on all parties-in-interest, including the Committee, if any, except as

to any such findings and admissions that were expressly and successfully challenged in such Challenge Action. In the event a Challenge Party timely files a Challenge Action, upon the subsequent expiration of the Challenge Period, such Challenge Party shall not be permitted to amend such Challenge Action to bring additional Challenge Actions not raised during the Challenge Period.

32. No Consent. No action, inaction or acquiescence by the DIP Secured Parties or the Prepetition Secured Parties, including funding the Debtors' ongoing operations under this Interim Order, shall be deemed to be or shall be considered as evidence of any alleged consent by the DIP Secured Parties or the Prepetition Secured Parties to a charge against the DIP Collateral or the Prepetition Collateral pursuant to sections 506(c), 552(b) or 105(a) of the Bankruptcy Code.

33. No Marshaling or Equities of the Case. None of the DIP Secured Parties or the Prepetition Secured Parties shall be subject in any way whatsoever to the equitable doctrine of "marshaling" or any similar doctrine with respect to the DIP Collateral or the Prepetition Collateral. Subject to and effective upon entry of the Final Order, the "equities of the case" exception of section 552(b) of the Bankruptcy Code shall not apply to (a) the DIP Secured Parties with respect to the DIP Loan Documents and the DIP Collateral and (b) the Prepetition Secured Parties with respect to their secured claims in the Prepetition Collateral.

34. Waiver. Subject to entry of the Final Order, no person or entity shall be entitled, directly or indirectly, to, except as expressly provided by paragraph 4 of this Interim Order with respect to the Carve-Out, charge or recover from the DIP Collateral or Prepetition Collateral in any proceeding, including a case under Chapter 7 of the Bankruptcy Code, whether by operation of section 506(c) of Bankruptcy Code, sections 105 or 552(b) of the Bankruptcy Code, or any other legal or equitable doctrine (including without limitation, unjust enrichment) or otherwise until such

time as the DIP Obligations and Prepetition Obligations are paid in full in cash, or direct the exercise of remedies or seek (whether by order of this Bankruptcy Court or otherwise) to marshal or otherwise control the disposition of DIP Collateral or Prepetition Collateral after an Event of Default under and as defined in the DIP Loan Documents or material breach of this Interim Order.

35. Inconsistency. In the event of any inconsistency between the terms and conditions of the DIP Loan Documents and of this Interim Order, the provisions of this Interim Order shall govern and control. In the event of any inconsistency between the terms or conditions of this Interim Order and the terms or conditions of any other order entered by this Court in connection with the commencement of the Chapter 11 Cases, the provisions of this Interim Order shall govern and control.

36. Binding Effect Successors and Assigns. Subject only to paragraph 31, the DIP Loan Documents and the provisions of this Interim Order, including all findings herein, shall be binding upon all parties-in-interest in the Chapter 11 Cases, including, without limitation, the DIP Secured Parties, the Committee or trustee or examiner appointed in these Chapter 11 Cases, and the Debtors, and their respective successors and assigns (including any trustee or fiduciary hereinafter appointed as a legal representative of the Debtors or with respect to the property of the estate of the Debtors) whether in these Chapter 11 Cases, in any Superseding Cases, or upon any dismissal of any such chapter 11 or chapter 7 case and shall inure to the benefit of the DIP Secured Parties, the Prepetition Secured Parties and the Debtors, and their respective successors and assigns. In determining to make any loan (whether under the DIP Credit Agreement, a promissory note, or otherwise), permitting the use of Cash Collateral, or in exercising any rights or remedies as and when permitted pursuant to this Interim Order or the DIP Loan Documents, the DIP Secured Parties and Prepetition Secured Parties shall not solely by reason thereof (i) be deemed to be in

control of the operations of the Debtors, or (ii) owe any fiduciary duty to the Debtors, or their creditors, shareholders, or estates.

37. Survival. The provisions of this Interim Order and any actions taken pursuant to this Interim Order shall survive entry of any order which may be entered: (a) confirming any plan of reorganization in the Chapter 11 Cases; (b) converting the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code; (c) dismissing or substantively consolidating the Chapter 11 Cases or any Superseding Case; or (d) pursuant to which this Bankruptcy Court abstains from hearing the Chapter 11 Cases or any Superseding Case. The terms and provisions of this Interim Order, including the claims, liens, security interests, and other protections grated to the DIP Agent, the DIP Secured Parties, the Prepetition Agent, and the Prepetition Secured Parties pursuant to this Interim Order or the DIP Loan Documents, notwithstanding the entry of any such order, shall continue in the Chapter 11 Cases, any Superseding Case, or any subsequent proceedings involving the Debtors. The claims and liens granted herein to the DIP Secured Parties and the Prepetition Secured Parties shall maintain their priority as provided by this Interim Order until the DIP Obligations and the Prepetition Obligations are satisfied in full in cash.

38. No Duty to Monitor Compliance. The DIP Secured Parties and Prepetition Secured Parties shall not (i) have any obligation with respect to any Debtor's use of Cash Collateral or the use of proceeds of the DIP Financing; (ii) be obligated to ensure or monitor any Debtor's compliance with any financial covenants, formula, or other terms and conditions of any DIP Loan Document or (iii) be obligated to pay any expenses incurred or authorized to be incurred pursuant to the DIP Loan Documents.

39. No Direction of Application. Notwithstanding anything to the contrary contained in this Interim Order, and regardless of the manner in which payments on account of any DIP Obligations or Prepetition Obligations are characterized as between the Debtors, on the one hand, and the DIP Secured Parties and the Prepetition Secured Parties, on the other hand, the provisions of the DIP Loan Documents and the Prepetition Loan Documents shall continue to govern as between or among the DIP Secured Parties and the Prepetition Secured Parties the manner in which any such payments or receipts are applied, distributed or characterized.

40. Authorized Signatories. The signature of Steven Levesque or John DiDonato, each an officer of the Debtors (or their designee), appearing on any one or more of the DIP Loan Documents shall be sufficient to bind the Debtors. No board of directors, shareholder or other approval or resolutions shall be necessary or required to consummate any of the transactions contemplated in this Interim Order.

41. Adequate Notice. The notice given by the Debtors of the Interim Hearing was given in accordance with Bankruptcy Rules 2002 and 4001(c)(2) and the Bankruptcy Local Rules. Under the circumstances, no further notice of the request for the relief granted at the Interim Hearing is required. As soon as reasonably practicable, the Debtors shall serve copies of this Interim Order and notice of the Final Hearing to any person included on the master service list approved or established in this Chapter 11 Case. The Final Hearing Notice shall state that any party in interest objecting to the entry of the proposed Final Order shall file written objections with the Clerk of the Bankruptcy Court **no later than [ ], 2018 at 4:00 P.M. (prevailing Eastern Time)**, which objections shall be served so that the same are actually received on or before such date by the parties listed in paragraph 42 below**.**

42. Final Hearing Date. The Final Hearing to consider the entry of the Final Order approving the relief sought in the Motion shall be held on ____, 2018 at ____ __.M. (prevailing Eastern Time) before the Honorable ___ in the United States Bankruptcy Court for the District of Delaware (the "Final Hearing"). Objections, if any, to entry of the Final Order shall be in writing, filed with the Court and served on proposed counsel to: (i) the Debtors, (a) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Ryan Preston Dahl, ryan.dahl@weil.com, Jill Frizzley, jill.frizzley@weil.com, and Natasha Hwangpo, natasha.hwangpo@weil.com), and (b) Richards, Layton & Finger, P.A., One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801 (Attn: Daniel J. DeFranceschi, defranceschi@RLF.com, and Paul Heath, heath@rlf.com); (ii) the Prepetition Agent and the DIP Agent, Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, NY 10017 (Attn: Elisha D. Graff, egraff@stblaw.com and Nicholas Baker, nbaker@stblaw.com); (iii) the Committee, after the same has been appointed, or Committee counsel, if the same shall has been appointed; and (iv) the Office of the United States Trustee for the District of Delaware (Attn: Juliet Sarkessian), such that they are received **no later than ____, 2018 at 4:00 P.M. (prevailing Eastern Time)**.

43. Retention of Jurisdiction. This Bankruptcy Court has and will retain jurisdiction to enforce this Interim Order according to its terms.

Dated: _____, 2018
Wilmington, Delaware

_____
THE HONORABLE [ ]
UNITED STATES BANKRUPTCY JUDGE

Exhibit A

DIP Credit Agreement

J.P.Morgan

SENIOR SECURED, SUPER PRIORITY
DEBTOR-IN-POSSESSION CREDIT AGREEMENT

dated as of July [__], 2018

among

THE NORDAM GROUP, INC.
as the Borrower,

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent,

and

The Other Lenders Party Hereto

JPMORGAN CHASE BANK, N.A.,
BANK OF AMERICA, N.A.,
COMPASS BANK,
CITIBANK, NATIONAL ASSOCIATION,
MID-FIRST BANK,
COMMERCE BANK,
and

HSBC BANK USA, NATIONAL ASSOCIATION,
as Joint Lead Arrangers and Joint Book Managers

TABLE OF CONTENTS

Page

TABLE OF CONTENTS
(continued)

Page

TABLE OF CONTENTS
(continued)

Page

TABLE OF CONTENTS
(continued)

Page

SCHEDULES

TABLE OF CONTENTS
(continued)

Page

EXHIBITS

SENIOR SECURED, SUPER PRIORITY
DEBTOR-IN-POSSESSION CREDIT AGREEMENT

This SENIOR SECURED, SUPER PRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT (this "Agreement") is entered into as of July [___], 2018, among THE NORDAM GROUP, INC., a Delaware corporation as debtor and debtor-in-possession (the "Borrower"), each lender from time to time party hereto (collectively, the "Lenders" and individually, a "Lender"), and JPMORGAN CHASE BANK, N.A., as Administrative Agent.

RECITALS

WHEREAS, on July [22], 2018 (the "Petition Date"), (a) the Borrower, (b) PartPilot LLC, (c) Nacelle Manufacturing 1 LLC, (d) Nacelle Manufacturing 23 LLC, and (e) TNG DISC, Inc. (the Persons specified in the foregoing clauses (a) through (e), collectively, the "Debtors" and each individually, a "Debtor"), commenced Chapter 11 Case Nos. [_____] through [_____], as administratively consolidated at Chapter 11 Case No. [_____] (collectively, the "Bankruptcy Cases" and each individually, a "Bankruptcy Case") with the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court");

WHEREAS, the Debtors 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;

WHEREAS, prior to the Petition Date, the Lenders provided financing to the Borrower and other Loan Parties pursuant to that certain Fourth Amended and Restated Credit Agreement, dated as of December 18, 2012 (as amended, amended and restated, restated, supplemented or otherwise modified from time to time through the Petition Date, the "Pre-Petition Credit Agreement") that was executed by and entered among the Borrower, the lenders from time to time party thereto (the "Pre-Petition Lenders"), and JPMorgan Chase Bank, N.A., as administrative agent for the Pre-Petition Lenders (in such capacity, the "Pre-Petition Administrative Agent"), Swing Line Lender and L/C Issuer, and the other parties thereto;

WHEREAS, the Borrower has requested, and, upon the terms and conditions set forth in this Agreement, the Lenders have agreed to make available to the Borrower, a senior secured, super-priority credit facility in an aggregate principal amount of up to $45,000,000 in Revolving Loans;

WHEREAS, to provide security for the repayment of the Revolving Loans and other Credit Extensions pursuant hereto and payment of the other obligations of the Borrower and the other Loan Parties under the Loan Documents, the Borrower and the other Loan Parties have agreed to provide, subject in each case to the Carve-Out, the Administrative Agent and the Lenders with superpriority liens and claims as set forth in the Orders.

WHEREAS, the Borrower's and Guarantors' business is a mutual and collective enterprise and the Borrower and the Guarantors believe that the loans and other financial accommodations provided to the Borrower under this Agreement will enhance the aggregate borrowing powers of the Borrower and facilitate the administration of the Bankruptcy Cases and

their loan relationship with the Administrative Agent and the Lenders, all to the mutual advantage of the Borrower and the Guarantors;

WHEREAS, the Borrower acknowledges that it and the Guarantors will receive substantial direct and indirect benefits by reason of the making of loans and other financial accommodations to the Borrower as provided in this Agreement; and

WHEREAS, the Administrative Agent's and the Lenders' willingness to extend financial accommodations to the Borrower, as more fully set forth in this Agreement and the other Loan Documents, is done solely as an accommodation to the Borrower and the Guarantors and at the Borrower's and the Guarantors' request and in furtherance of the Borrower's and the Guarantors' mutual and collective enterprise.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged (these recitals being an integral part of this Agreement), the parties hereto hereby 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:

"ABR Borrowing" means a Borrowing comprised of ABR Loans.

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

"Accounts" means any "account", as such term is defined in the UCC, now owned or hereafter acquired by any Person, and, in any event, shall include, without limitation, each of the following, whether now owned or hereafter acquired by a Person: (a) all rights of such Person to payment of a monetary obligation, whether or not earned by performance, (i) for goods or other property that has been or is to be sold, leased, licensed, assigned or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, or (v) arising out of the use of a credit or charge card or information contained on or for use with the card, (b) all accounts receivable of such Person, (c) all rights of such Person to receive any payment of money or other form of consideration, (d) all security pledged, assigned, or granted to or held by such Person to secure any of the foregoing, (e) all guaranties of, or indemnifications with respect to, any of the foregoing, and (f) all rights of such Person as an unpaid seller of goods or services, including, but not limited to, all rights of stoppage in transit, replevin, reclamation, and resale.

"Actual Operating Disbursement Amount" means the sum of all disbursements, expenses and payments made by the Loan Parties during the relevant period of determination which corresponds to the disbursements, expenses and payments identified on a line-by-line basis described under the heading "Disbursements" in the Agreed Budget, as determined in a manner consistent with the Agreed Budget.

"Adjusted LIBOR Rate" means, with respect to any Eurodollar Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to (a) the LIBOR Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

"Administrative Agent" means JPMCB in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

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

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

"Affiliate" means, with respect to any Person, 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.

"Agent Indemnitee" has the meaning assigned to it in Section 10.04(c).

"Aggregate Receipts" means all cash or other collections received by the Debtors from operations in the ordinary course of business (including, under any Swap Contract) excluding proceeds of any Loans.

"Agreed Budget" means the budget prepared by the Borrower in the form of Exhibit H and initially furnished to the Administrative Agent on the Closing Date and which is approved by, and in form and substance satisfactory to, the Administrative Agent and the Required Lenders, in their sole discretion, as the same may be updated, modified or supplemented from time to time as provided in Section 6.15.

"Agreed Budget Variance Report" means a bi-weekly report (i) provided by the Borrower to the Administrative Agent (a) showing, in each case, by line item the Actual Operating Disbursement Amount of the Borrower and its Subsidiaries and any other line item set forth under "Disbursement" in the Agreed Budget for the last day of the Prior Two Weeks and the Cumulative Period and the Aggregate Receipts of the Borrower and its Subsidiaries for the last day of the Cumulative Period (as provided in Section 6.15(b), as applicable), noting therein all variances, on a line item and cumulative basis, from the amounts set forth for such period in the Agreed Budget, and shall include explanations for all material variances (including whether such variance is permanent in nature or timing related) and (b) an analysis demonstrating the Borrower is in compliance with the budget covenants set forth in Section 6.15(b), and (ii) certified by a Responsible Officer of the Borrower. The Agreed Budget Variance Report shall be in a form, and shall contain supporting information, satisfactory to the Administrative Agent and the Required Lenders in their sole discretion.

"Agreement" means this Senior Secured, Super Priority Debtor-in-Possession Credit Agreement, as it may be amended, modified or supplemented from time to time.

"Alternate Base Rate" means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus 0.50%, and (c) the Adjusted LIBOR Rate for a one-month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 2.50%, provided that, for the purpose of this definition, the Adjusted LIBOR Rate for any day shall be based on the LIBOR Screen Rate (or if the LIBOR Screen Rate is not available for such one month Interest Period, the Interpolated Rate) at approximately 11:00 a.m. London time on such day, subject to the interest rate floors set forth therein. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted LIBOR Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted LIBOR Rate, respectively. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 3.03 hereof, then the Alternate Base Rate shall be the greater of clause (a) and (b) above and shall be determined without reference to clause (c) above. For the avoidance of doubt, if the Alternate Base Rate as so determined would be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Anti-Corruption Laws" means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or any of its Subsidiaries from time to time concerning or relating to bribery or corruption.

"Applicable Margin" means the following percentages per annum:

Non-Usage Fee	**Applicable Margin for Eurodollar Loans**	**Applicable Margin for ABR Loans**
0.75%	5.50%	3.00%

"Applicable Parties" has the meaning assigned to it in Section 9.03(c).

"Applicable Percentage" means, with respect to each Lender at any time, the percentage (carried out to the ninth decimal place), the numerator of which is the amount of the Revolving Commitment of such Lender at such time and the denominator of which is the aggregate amount of the Revolving Commitment at such time; provided that if the commitment of each Lender to make Revolving Loans has been terminated pursuant to Section 8.02, 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.

"Approved Electronic Platform" has the meaning assigned to it in Section 9.03(a).

"Approved Fund" means any Fund 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.

"Arranger" means JPMorgan Chase Bank, N.A., Bank of America, N.A., Compass Bank, Citibank, National Association, Mid-First Bank, Commerce Bank, and HSBC Bank USA, National Association in their capacities as joint lead arrangers and book managers.

"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 Administrative Agent, in substantially the form of Exhibit A or any other form (including electronic records generated by the use of an electronic platform) approved by the Administrative Agent.

"Audited Financial Statements" means the audited consolidated balance sheet of the Borrower and its Subsidiaries for the fiscal year ended December 31, 2017, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year of the Borrower and its Subsidiaries, including the notes thereto.

"Avoidance Actions" means the claims and causes of actions of the Debtors arising under chapter 5 of the Bankruptcy Code.

"Avoidance Proceeds" has the meaning specified in the Orders.

"Bail-In Action" means 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" means, 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 Case" has the meaning specified in the Recitals to this Agreement.

"Bankruptcy Code" means the Bankruptcy Code in Title 11 of the United States Code, as amended, modified, succeeded or replaced from time to time.

"Bankruptcy Court" has the meaning specified in the Recitals to this Agreement.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Benefit Plan" means any of (a) an "employee benefit plan" (as defined in Section 3(3) of ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in Section 4975 of the Code to which Section 4975 of the Code applies, and (c) any Person whose assets include (for purposes of the Plan Asset Regulations or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

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

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

"Borrowing" means Revolving Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect.

"Budgeted Operating Disbursement Amount" means the sum of the line items contained in the Agreed Budget under the heading "Disbursements" during the relevant period of determination.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized or required to close under the Laws of, or are in fact closed in, the state where the Administrative Agent's Office is located, provided that when used in connection with any Eurodollar Loan, means any such day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

"Capital Expenditure" means, for any Person, the aggregate amount of all purchases or acquisitions by such Person of, and expenditures for additions to, items considered to be capital items, including, expenditures relating to property, plant, or equipment, which would be capitalized on such Person's balance sheet in accordance with GAAP, excluding amounts capitalized as inventory.

"Capital Lease Obligations" means, for any Person, the obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) real and/or personal property, which obligations are required to be classified and accounted for as a capital lease or a financing lease on a balance sheet of such Person under GAAP. For purposes of this Agreement, the amount of such Capital Lease Obligations shall be the capitalized amount thereof, determined in accordance with GAAP.

"Carve-Out" has the meaning assigned to such term in the Orders.

"Cash Collateral" has the meaning assigned to such term in the Orders.

"Cash Equivalents" means (i) obligations of the United States of America and agencies thereof and obligations guaranteed by the United States of America maturing within one year from the date of acquisition, (ii) certificates of deposit that are issued by any Lender, (iii) certificates of deposit issued by commercial banks organized under the Laws of the United States of America or any of its states that (a) have (x) combined capital, surplus, and undivided profits of at least $100,000,000, and (y) a rating from Moody's Investors Service, Inc., or Standard & Poors Rating Service, a division of McGraw/Hill, Inc. of at least P-1 and A-1, respectively, or (b) otherwise if those certificates of deposit are fully insured by the Federal Deposit Insurance Corporation, (iv) eurodollar investments with financial institutions that have (a) combined capital, surplus, and undivided profits of not less than U.S. $100,000,000, and (b) either commercial paper rated at least P-1 or A-1 by Moody's Investors Service, Inc., or Standard & Poors Rating Service, a division of McGraw/Hill, Inc., respectively, or if it does not have a commercial paper rating, a comparable bond rating of at least A or Baa-1 by Standard & Poors

Rating Service, a division of McGraw/Hill, Inc. or Moody's Investors Service, Inc., respectively; and (v) Investments, from existing cash or other liquid investments and not from the proceeds of Borrowings in (a) short-term commercial paper, bonds, and preferred stock issued by United States corporations that have a rating from Moody's Investors Service, Inc., or Standard & Poors Rating Service, a division of McGraw/Hill, Inc. of at least P-2 or A-2, respectively, and (b) preferred stock issued by utility companies having a rating from Moody's Investors Services, Inc., or Standard & Poors Rating Service, a division of McGraw/Hill, Inc. of at least Baa-2 or BBB, respectively.

"Cash Management Obligations" means, with respect to any Lender, any obligations owed to such Lender by the Borrower or any of its Subsidiaries which arise as a direct result of the deposit, collection and other cash management, treasury or deposit services provided by such Lender to the Borrower or any such Subsidiary, including without limitation all of the obligations of the Borrower or any of its Subsidiaries to such Lender for overdrafts, for returned checks and other returned items and for credit extended under, or as a result of, cash management, treasury and deposit agreements.

"Cash Management Order" means the order of the Bankruptcy Court entered in the Bankruptcy Cases after the "first day" hearing, together with all extensions, modifications and amendments thereto or any "second day" order, in form and substance reasonably satisfactory to the Administrative Agent, which among other matters authorizes the Borrower and the other Loan Parties to maintain their existing cash management and treasury arrangements (as set forth in the Pre-Petition Credit Agreement) or such other arrangements as shall be acceptable to the Administrative Agent in all material respects.

"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, implementation 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 that notwithstanding anything herein to the contrary, (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 or foreign 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:

(a) 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 (i) 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 and (ii) the Voting Trust and Milann Siegfried) 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 (such right, an

"option right"), whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of 30% or more of the equity securities of the Borrower entitled to vote for members of the board of directors or equivalent governing body of the Borrower on a fully diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right);

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

(c) the ownership of the Subsidiaries and/or Foreign Subsidiaries ceases to be as set forth on the attached Schedule 5.13 (or as disclosed in writing to the Administrative Agent after the date of this Agreement to reflect any changes to the Schedule as a result of transactions permitted by this Agreement); or

(d) the Voting Trust or Milann Siegfried (or the combination of the Voting Trust and Milann Siegfried) fail to own, directly or indirectly, beneficially or of record, with power to vote, at least 50.1 percent of the issued and outstanding Voting Equity Interests of the Borrower.

"Chief Restructuring Officer" has the meaning specified in Section 6.20(a).

"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.

"Collateral" means the "DIP Collateral" as defined in the Orders.

"Commitment" means, as to each Lender, its obligation to make Loans to the Borrower pursuant to Article II, 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 or other documentation or record (as such term is defined in Section 9-102(a)(70) of the New York Uniform Commercial Code) as provided in Section 10.06, 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.

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

"Connection Income Taxes" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or 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.

"Credit Extension" means a Revolving Borrowing.

"Cumulative Period" means the period from the beginning date covered by the then applicable Agreed Budget through the Sunday of the most recent week ended.

"Debt" means, at any time and without duplication, all (a) liabilities which should be classified on a balance sheet as liabilities, (b) liabilities secured (or which an obligee is then entitled, contingently or otherwise, to have secured) by a Lien on property, (c) liabilities that should be capitalized for financial reporting purposes, (d) guaranties, endorsements, and other contingent liabilities for another Person's Debt, (e) contingent liabilities in connection with letters of credit, and (f) Synthetic Lease Obligations.

"Debtor" has the meaning specified in the Recitals to this Agreement.

"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 when used with respect to Obligations, an interest rate equal to (a) the Alternate Base Rate plus (b) the Applicable Margin applicable to ABR Loans plus (c) 2% per annum; provided, however, that with respect to a Eurodollar 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.

"Defaulting Lender" means any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans or (ii) pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower, the Administrative Agent or any other Lender in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender's good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a Loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by the Administrative Agent or any other Lender, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Loans under this Agreement,

provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Secured Party's receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has, or has a direct or indirect parent company that has, become the subject of a Bail-In Action or a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Lender shall not be deemed a Defaulting Lender under this clause (d) resulting solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Lender by a Governmental Authority or instrumentality thereof, provided, further, that such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Lender.

"Deposit Accounts" has the meaning given to such term in the UCC.

"Disposition" or "Dispose" means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by any Person, 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, but excluding any Involuntary Disposition.

"Document" means any "document", as such term is defined in the UCC, now owned or hereafter acquired by a Person, including, without limitation, all documents of title and warehouse receipts of such Person.

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

"Domestic Subsidiary" means any Subsidiary that is organized under the laws of the United States, any state thereof or the District of Columbia.

"EEA Financial Institution" means (a) any institution 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 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" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means 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.

"Eligible Assignee" means (a) a Lender; (b) an Affiliate of a Lender; (c) an Approved Fund; and (d) any other Person (other than a natural person) approved by (i) the Administrative Agent (each such approval not to be unreasonably withheld or delayed), (ii) unless an Event of Default has occurred and is continuing, the Borrower; provided that the Borrower's approval shall be required even if an Event of Default has occurred and is continuing if the assignee is an operating competitor or customer of the Borrower or any of its Subsidiaries; provided further that the Borrower shall be deemed to have given such any such approval unless it shall object thereto by written notice to the Administrative Agent within ten Business Days after receiving notice thereof; provided further that notwithstanding the foregoing, "Eligible Assignee" shall not include the Borrower or any of the Borrower's Affiliates or Subsidiaries and shall not include any Person that is a "Defaulting Lender".

"Environmental Laws" means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any 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, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower, any other Loan Party or any of their respective 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 of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"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.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the 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 Section 412 of the Code).

"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by the 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 Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a 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; or (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 Borrower or any ERISA Affiliate.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

"Euro" means the official currency of the European Union.

"Eurodollar Borrowing" means a Borrowing comprised of Eurodollar Loans.

"Eurodollar Loan" means a Loan that bears interest at a rate based on the Adjusted LIBOR Rate.

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

"Excluded Assets" means:

(i) any leasehold interest in real property to the extent the granting of Liens on such interest would, after giving effect to the Bankruptcy Code or the Orders, nonetheless result in the abandonment, invalidation or unenforceability of any right, title or interest under any lease governing such leasehold interest or a breach or termination of such lease pursuant to its terms;

(ii) any escrow, fiduciary, or trust account (including funds held in such accounts unless and until released or distributed to any Debtor);

(iii) the Debtors' intellectual property that constitute "intent to use" trademarks, to the extent the assignment of the creation of a lien thereon would violate applicable non-bankruptcy Law;

(iv) any amount in excess of 65% of the voting Equity Interests of any Foreign Subsidiary;

(v) the Professional Fees Account (including funds held in the Professional Fees Account); provided that, to the extent of any surplus, if any, in the Professional Fees Account after satisfaction in full of all obligations of professionals benefiting from the

Carve-Out pursuant to a final order not subject to appeal, such surplus shall not be an Excluded Asset;

(vi) any of the Avoidance Actions or Avoidance Proceeds; provided that subject to entry of the Final Order, Avoidance Proceeds shall not be an Excluded Asset; and

(vii) the proceeds of any of the assets identified in the foregoing clauses (ii) or (v) of this definition unless and until released or distributed to any of the Debtors.

"Excluded Disposition" means, with respect to any Loan Party, any Disposition permitted by clauses (a), (b), (c), (d), (e) and (g) of Section 7.05.

"Excluded Swap Obligation" means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) (a) by virtue of such Guarantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the Guarantee of such Guarantor or the grant of such security interest becomes or would become effective with respect to such Swap Obligation or (b) in the case of a Swap Obligation subject to a clearing requirement pursuant to Section 2(h) of the Commodity Exchange Act (or any successor provision thereto), because such Guarantor is a "financial entity," as defined in Section 2(h)(7)(C)(i) the Commodity Exchange Act (or any successor provision thereto), at the time the Guarantee of such Subsidiary Guarantor becomes or would become effective with respect to such related Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

"Excluded Taxes" means, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) Taxes imposed on or measured by its overall net income (however denominated), and franchise Taxes imposed on it (in lieu of net income Taxes), 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, (b) any branch profits Taxes imposed by the United States or any similar Tax imposed by any other jurisdiction in which the Borrower is located, (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 10.13), any U.S. federal 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 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 Borrower with respect to such withholding Tax pursuant to Section 3.01(a) and (d) any withholding Taxes imposed under FATCA.

"Executive Stock Unit Notes" means the unsecured negotiable promissory notes of the Borrower payable to Paul Kenneth Lackey and William L. Peacher, respectively, in the original aggregate stated principal amount of $4,053,844.28.

"Existing Accounts" has the meaning specified in Section 6.17.

"Extraordinary Receipts" means any collections or other payments or transfers in cash received by or paid to or for the account of the Borrower or any of its Subsidiaries not in the ordinary course of business, including but not limited to (a) the issuance by the Borrower or any of its Subsidiaries of any Equity Interests, or receipt by the Borrower or any of its Subsidiaries of any capital contribution, (b) the incurrence by the Borrower or any of its Subsidiaries of any Debt, other than Debt permitted under Section 7.03, (c) any Involuntary Disposition, (d) any tax refunds, pension plan reversions, proceeds of insurance, judgments, proceeds of judgments (or any other consideration of any kind in connection with any cause of action), payments in lieu of condemnation awards, indemnity payments, and any purchase price adjustments and (e) subject to entry of the Final Order, Avoidance Proceeds.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

"Federal Funds Rate" means, for any day, the rate calculated by the NYFRB based on such day's federal funds transactions by depositary institutions, (as determined in such manner as the NYFRB shall set forth on its public website from time to time), and published on the next succeeding Business Day by the NYFRB as the effective federal funds effective rate; provided that, if the Federal Funds Rate shall as so determined would be less than zero, such rate shall be deemed to zero for the purposes of this Agreement.

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

"Fee Letter" means the letter agreement, dated July [●], 2018 between the Borrower and the Administrative Agent.

"Final Order" means, collectively, the order of the Bankruptcy Court entered in the Bankruptcy Cases after a final hearing under Bankruptcy Rule 4001(c)(2) or such other procedures as approved by the Bankruptcy Court, which order shall be substantially in the form of the Interim Order and otherwise reasonably satisfactory in form and substance to the Administrative Agent and the Lenders, and from which no appeal or motion to reconsider has been timely filed, or if timely filed, such appeal or motion to reconsider has been dismissed or denied with no further appeal and the time for filing such appeal has passed (unless the Administrative Agent waives such requirement), together with all extensions, modifications, and

amendments thereto, in form and substance reasonably satisfactory to the Administrative Agent and Lenders.

"Foreign Lender" means any Lender that is not a U.S. Person.

"Foreign Subsidiary" means each Subsidiary of the Borrower which is organized under the laws of a jurisdiction other than the United States, any state thereof or the District of Columbia.

"Flood Laws" has the meaning assigned to such term in Section 9.09.

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

"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 activities.

"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.

"GE" means General Electric Aircraft Engine Services Limited.

"Governmental Authority" means the government of the United States or any other nation, or of any political subdivision thereof, whether state 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 (including any supra national bodies such as the European Union or the European Central Bank).

"Granting Lender" has the meaning specified in Section 10.06(h).

"Guarantee" means, as to any Person, any (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Debt 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 Debt or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Debt or other obligation of the payment or performance of such Debt 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 Debt or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Debt 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 Debt or other obligation of any other Person, whether or not such Debt or other obligation is

assumed by such Person (or any right, contingent or otherwise, of any holder of such Debt to obtain any such Lien). 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. The term "Guarantee" as a verb has a corresponding meaning.

"Guarantors" means each Domestic Subsidiary.

"Guaranty" means the Guaranty Agreement to be executed by the Guarantors, substantially in the form of Exhibit C.

"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.

"Impacted Interest Period" has the meaning assigned to such term in the definition of "LIBOR Rate."

"Impacted Lender" means a Defaulting Lender or a Lender as to which an entity that Controls the Lender has been deemed insolvent or become subject to a bankruptcy or other similar proceeding.

"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 the Borrower or any other Loan Party under any Loan Document, and (b) to the extent not otherwise described in (a) hereof, Other Taxes.

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

"Information" has the meaning specified in Section 10.07.

"Interest Payment Date" means the first Business Day of each month and the Revolving Maturity Date.

"Interest Period" means, as to each Eurodollar Borrowing, the period commencing on the date such Eurodollar Borrowing is disbursed or converted to or continued as a Eurodollar Borrowing and ending on the date one month thereafter; provided that:

(i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of a Eurodollar Borrowing only, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(ii) any Interest Period pertaining to a Eurodollar Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period; and

(iii) no Interest Period shall extend beyond the Revolving Maturity Date.

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

"Interim Order" means the order of the Bankruptcy Court entered in the Bankruptcy Cases after an interim hearing in form and substance satisfactory to the Administrative Agent and the Lenders, together with all extensions, modifications, and amendments thereto, in form and substance satisfactory to the Administrative Agent and Lenders, which, among other matters but not by way of limitation, authorizes, on an interim basis, the Borrower and the other Loan Parties to execute and perform under the terms of this Agreement and the other Loan Documents.

"Interpolated Rate" means, at any time, for any Interest Period, the rate per annum (rounded to the same number of decimal places as the LIBOR Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the LIBOR Screen Rate for the longest period (for which the LIBOR Screen Rate is available) that is shorter than the Impacted Interest Period and (b) the LIBOR Screen Rate for the shortest period (for which the LIBOR Screen Rate is available) that exceeds the Impacted Interest Period, in each case, at such time; provided that, if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Inventory" means any "inventory", as such term is defined in the UCC, now owned or hereafter acquired by a Person, and, in any event, shall include, without limitation, each of the following, whether now owned or hereafter acquired by a Person: (a) all goods and other personal property of such Person that (i) are leased by such Person as lessor, (ii) are held for sale or lease or to be furnished under any contract of service, or (iii) are furnished under a contract of service, (b) all raw materials, work-in-process, finished goods, inventory, supplies, and materials of such Person, (c) all wrapping, packaging, advertising, and shipping materials of such Person, (d) all goods that have been returned to, repossessed by, or stopped in transit by such Person, and (e) all Documents evidencing any of the foregoing.

"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 capital stock or other securities 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 participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Debt of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. 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.

"Involuntary Disposition" means any loss of, damage to or destruction of, or any condemnation or other taking for public use of, any property of any Borrower or any Subsidiary.

"IP Rights" has the meaning specified in Section 5.17.

"IRS" means the United States Internal Revenue Service.

"JPMCB" means JPMorgan Chase Bank, N.A. and its successors.

"Laws" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

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

"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 the Borrower and the Administrative Agent.

"LIBOR Rate" means, with respect to any Eurodollar Borrowing for any applicable Interest Period or for any ABR Borrowing, the LIBOR Screen Rate at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period; provided that, if the LIBOR Screen Rate shall not be available at such time for such Interest Period (an "Impacted Interest Period"), then the LIBOR Rate shall be the Interpolated Rate. Notwithstanding the above, to the extent that "LIBOR Rate" or "Adjusted LIBOR Rate" is used in connection with an ABR Borrowing, such rate shall be determined as modified by the definition of Alternate Base Rate.

"LIBOR Screen Rate" means, for any day and time, with respect to any Eurodollar Borrowing for any Interest Period or for any ABR Borrowing, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for Dollars) for a period equal in length to such Interest Period as displayed on such day and time on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion); provided that if the LIBOR Screen Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

"Lien" means any lien, mortgage, security interest, deposit arrangement, pledge, assignment, charge, title retention agreement, or encumbrance of any kind and any other arrangement for a creditor's claim to be satisfied from assets or proceeds prior to the claims of other creditors or the owners.

"Loan" means an extension of credit by a Lender to the Borrower under Article II in the form of a Revolving Loan.

"Loan Documents" means this Agreement, each Note, each Compliance Certificate, each Agreed Budget, each Agreed Budget Variance Report, the Fee Letter, the Guaranty, and the Security Documents.

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

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, assets, liabilities (actual or contingent) or condition (financial or otherwise) of the Borrower or the Borrower and its Subsidiaries taken as a whole ((i) other than (A) the filing of the Bankruptcy Cases and (B) those events or circumstances customarily resulting from the commencement of the Bankruptcy Cases and (ii) taking into account the effect of the automatic stay under the Bankruptcy Code); (b) a material impairment of the ability of any Loan Party to perform its obligations under any Loan Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party including without limitation to realize upon the Collateral.

"Milann Siegfried" means Milann Siegfried, an individual residing in Tulsa County, Oklahoma.

"Milestones" means the following milestones to be completed in each case in accordance with the applicable timing referred to below (or such later dates as may be approved in writing by the Administrative Agent and the Required Lenders):

(a) within five (5) days following the Petition Date, the Interim Order shall have been entered by the Bankruptcy Court;

(b) within thirty-five (35) days after entry of the Interim Order, the Final Order shall have been entered by the Bankruptcy Court;

(c) on or before the date that is six (6) months after the Petition Date, the Debtors shall have entered into arrangements with respect to the P&WC Contract, P&W800 Assets and the PW800 Program in a manner and with terms and conditions satisfactory to the Administrative Agent and the Lenders (it being understood that rejection of the P&WC Contract pursuant to Section 365 of the Bankruptcy Code shall be satisfactory to the Administrative Agent and the Lenders for purposes of this clause(c)); and

(d) such additional milestones set forth in the Milestones Supplemental Schedule which shall be deemed incorporated herein once approved by the Administrative Agent, the Required Lenders and the Borrower.

"Milestones Supplemental Schedule" means a schedule setting forth additional case milestones that are reasonably satisfactory to the Administrative Agent and the Required Lenders and which, upon such approval, shall be deemed incorporated as "Milestones" for all purposes of this Agreement.

"Mortgage" means each mortgage, deed of trust or similar instrument under which a Lien may be granted against real property, duly executed by one or more of the Loan Parties, covering the Real Property Collateral, in form and substance reasonably satisfactory to the Administrative Agent, as any of the foregoing may be amended, supplemented or modified from time to time.

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

"NEL" means NORDAM Europe Limited, a corporation registered and existing under the laws of England and Wales, and of whose capital stock shares GE holds 49 percent and NORUK holds 51 percent.

"Net Cash Proceeds" means:

(a) with respect to the sale of any asset by the Borrower or any Subsidiary, the excess, if any, of (i) the sum of cash and cash equivalents received in connection with such sale (including any cash received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) over (ii) the sum of (A) the principal amount of any Debt that is secured by such asset and that is required to be repaid in connection with the sale thereof (other than Debt under the Loan Documents), (B) the out-of-pocket expenses incurred by the Borrower or any Subsidiary in connection with such sale and (C) income taxes reasonably estimated to be actually payable within one year of the date of the relevant asset sale as a result of any gain recognized in connection herewith;

(b) with respect to the sale of any Equity Interest by the Borrower, the excess of (i) the sum of the cash and cash equivalents received in connection with such sale over (ii) the underwriting discounts and commissions, and other out-of-pocket expenses, incurred by the Borrower in connection with such sale; and

(c) with respect to any Involuntary Disposition, the sum of cash and cash equivalents received in connection with or as a result of such Involuntary Disposition, whether as insurance proceeds, condemnation awards or otherwise.

"NORUK" means NORDAM UK Limited, a company organized under the laws of England and Wales and a wholly-owned Subsidiary of the Borrower.

"Non-Usage Fee" has the meaning specified in Section 2.09(a).

"Notes" means the Revolving Loan Notes.

"NYFRB" means the Federal Reserve Bank of New York.

"NYFRB Rate" means, for any day, the greater of (a) the Federal Funds Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day(or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term "NYFRB Rate" means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by the Administrative Agent from a federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates as so determined would be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Obligations" means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to (i) any Loan, (ii) any Swap Contract of the Borrower or any Subsidiary to which a Lender or an Affiliate of a Lender is a party, provided such Lender was a party to this Agreement at the time such Swap Contract was entered into, or (iii) Cash Management Obligations, 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, expenses, costs, and fees that accrue before and after the Closing Date; provided, however, that the definition of "Obligations" shall not create any guarantee by any Guarantor of (or grant of security interest by any Guarantor to support, as applicable) any Excluded Swap Obligations of such Guarantor for purposes of determining any obligations of any Guarantor. Any reference in this Agreement or in any other Loan Document to the Obligations shall include all or any portion thereof and any extensions, modifications, renewals or alterations thereto.

"Order" means, as applicable, and as the context may require, the Interim Order or the Final Order, whichever is then applicable.

"Organization Documents" means, (a) with respect to any corporation, the certificate 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; and (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.

"Other Connection Taxes" means, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, Taxes imposed as a result of a present or former connection between such recipient and the jurisdiction imposing such Tax (other than connections arising from such recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

"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, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment.

"Outstanding Amount" means with respect to Revolving Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Revolving Loans occurring on such date.

"Overnight Bank Funding Rate" means, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions (as such composite rate shall be determined by the NYFRB as set forth on its public website from time to time) and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate.

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

"PBGC" means the Pension Benefit Guaranty Corporation.

"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 Borrower or any ERISA Affiliate or to which the 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 Investments" means, at any time, the Investments by the Loan Parties permitted to exist at such time pursuant to the terms of Section 7.02.

"Permitted Liens" has the meaning specified in Section 7.01.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, 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 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.

"P&W800 Assets" means assets of the Borrower or its Subsidiaries relating to the PW800 Program.

"P&WC Contract" means the Purchase Agreement for Nacelle Hardware Products, dated October 18, 2010, between the Borrower and Pratt & Whitney Canada Corp. as amended, amended and restated or otherwise modified prior to the Closing Date, and any related agreements or orders.

"Pre-Petition" means the time period ending immediately prior to the filing of the applicable Bankruptcy Cases.

"Pre-Petition Administrative Agent" has the meaning specified in the Recitals to this Agreement.

"Pre-Petition Credit Agreement" has the meaning specified in the Recitals to this Agreement.

"Pre-Petition Defaulting Lender" means a "Defaulting Lender" as defined in the Pre-Petition Credit Agreement.

"Pre-Petition Lenders" has the meaning specified in the Recitals to this Agreement.

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

"Pre-Petition Obligations" means all of the "Obligations" as defined in the Pre-Petition Credit Agreement.

"Pre-Petition Secured Parties" means, collectively, all "Secured Parties" under and as defined in the Pre-Petition Credit Agreement.

"Prime Rate" means the rate of interest last quoted by The Wall Street Journal as the "Prime Rate" in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

"Prior Two Weeks" means, as of any date of determination, the immediately preceding two weeks ended on a Sunday and commencing on the second prior Monday.

"PTE" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"PW800 Program" means the G500 and G600 aircraft programs covered by or related to the P&WC Contract.

"Real Property Collateral" means all interests in the real property located at (i) 6910 N. Whirlpool Drive, in Tulsa, Oklahoma and (ii) additional locations set forth on Schedule 5.08.

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

"Registered Public Accounting Firm" has the meaning specified in the Securities Laws and shall be independent of the Borrower 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, attorneys and advisors of such Person and of such Person's Affiliates.

"Report" means reports prepared by the Administrative Agent or another Person showing the results of appraisals, field examinations or audits pertaining to the Borrower's assets from information furnished by or on behalf of the Borrower, after the Administrative Agent has exercised its rights of inspection pursuant to this Agreement, which Reports may be distributed to the Lenders by the Administrative Agent.

"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.

"Request for Credit Extension" means with respect to a Revolving Borrowing or a conversion or continuation of Revolving Loans, a Revolving Loan Notice.

"Required Lenders" means, as of any date of determination, Lenders having more than 66.67% of the Revolving Commitments or, if the commitment of each Lender to make Loans has been terminated pursuant to Section 8.02, Lenders holding in the aggregate more than 66.67% of the Total Revolving Outstandings and representing more than half (50%) in number of the Lenders; provided that the Commitment of, and the portion of the Total Revolving Outstandings held or deemed held by, any Defaulting Lender and any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

"Responsible Officer" means the chief executive officer, president, chief financial officer, Chief Restructuring Officer, vice president, controller, treasurer or assistant treasurer of a Loan Party. 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, 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 Indebtedness" means Debt of the Borrower or any Subsidiary, the payment, prepayment, redemption, repurchase or defeasance of which is restricted under Section 7.12.

"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 the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to the Borrower's stockholders, partners or members (or the equivalent Person thereof).

"Restructuring Committee" means the special committee of directors composed of a majority of independent directors (not affiliated with or insiders of the Loan Parties or their affiliates) as authorized and empowered by the board resolutions adopted and approved on July 13, 2018 which provide such committee with exclusive decision-making authority for the Loan Parties with respect to the Bankruptcy Cases.

"Revolving Availability Period" means the period from and including the Closing Date to the earliest of (a) the Revolving Maturity Date, (b) the date of termination of the Revolving Commitment pursuant to Section 2.06, and (c) the date of termination of the commitment of each Lender to make Revolving Loans pursuant to Section 8.02.

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

"Revolving Commitment" means the aggregate Commitment of the Lenders to make Revolving Loans to the Borrower pursuant to Section 2.01, in an aggregate principal amount not in excess of $45,000,000, as reduced pursuant to Section 2.06.

"Revolving Loan" has the meaning specified in Section 2.01.

"Revolving Loan Note" means a promissory note made by the Borrower in favor of a Lender evidencing Revolving Loans made by such Lender, substantially in the form of Exhibit I.

"Revolving Loan Notice" means a notice of (a) a Revolving Borrowing, (b) a conversion of Revolving Loans from one Type to the other, or (c) a continuation of Revolving Loans, pursuant to Section 2.02(a), which, if in writing, shall be substantially in the form of Exhibit E.

"Revolving Maturity Date" means the earliest to occur of (a) the date that is 270 days after the Petition Date, (b) the acceleration of the Obligations pursuant to Section 8.02 upon the occurrence of an Event of Default, (c) the sale of all or substantially all of the Debtors' assets and (d) the substantial consummation (as defined in Section 1101 of the Bankruptcy Code) of a plan of reorganization filed in the Bankruptcy Cases that is confirmed pursuant to an order of the Bankruptcy Court.

"Rotables" means aircraft rotable equipment.

"Sarbanes-Oxley" means the Sarbanes-Oxley Act of 2002.

"Sanctions" means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty's Treasury of the United Kingdom or other relevant sanctions authority.

"Sanctioned Country" means, at any time, a country or territory which is itself the subject or target of any Sanctions (as of the Closing Date, Crimea, Cuba, Iran, North Korea, Sudan and Syria).

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, or by the United Nations Security Council, the European Union, any European Union member state, Her Majesty's Treasury of the

United Kingdom or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b), or (d) any Person otherwise the subject of any Sanctions.

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

"Secured Party" means each of, and "Secured Parties" means all of, (i) the Administrative Agent and (ii) the Lenders.

"Securities Laws" means 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 Public Company Accounting Oversight Board, as each of the foregoing may be amended and in effect on any applicable date hereunder.

"Security Documents" means the Orders and all security agreements, pledge agreements, mortgages, deeds of trust, and other agreements and documents, together with all related financing statements and stock powers, granting or creating a Lien on any real or personal property of the Borrower, any Subsidiaries of the Borrower or any other Persons in favor of (or assigned in favor of) the Administrative Agent for the benefit of the Secured Parties, in connection with this Agreement or any transaction contemplated hereby to secure the payment of any part of the Obligations or the performance of any Loan Party's other duties and obligations under the Loan Documents, as any of such documents may be amended, supplemented or restated from time to time.

"SPC" has the meaning specified in Section 10.06(h).

"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 percentage (including any marginal, special, emergency or supplemental reserves) established by the Federal Reserve Board to which the Administrative Agent is subject with respect to the Adjusted LIBOR Rate, for eurocurrency funding (currently referred to as "Eurocurrency liabilities" in Regulation D). Such reserve percentages shall include those imposed pursuant to Regulation D of the Federal Reserve Board. Eurodollar 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 Regulation D of the Federal Reserve Board 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.

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) 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 the Borrower.

"Super-Priority Claim" shall mean, in relation to the Loan Parties, a claim against the Loan Parties in the Bankruptcy Cases which is an administrative expense claim authorized and established by the Bankruptcy Court pursuant to Sections 364(c) and 507(b) of the Bankruptcy Code and having priority over any or all administrative expenses of the kind specified in Sections 503(b), 507(b) and 546(c) of the Bankruptcy Code.

"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 Obligation" means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act.

"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) of this definition, 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 of a Lender).

"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 creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the Debt of such Person (without regard to accounting treatment).

"Synthetic Purchase Agreement" means any swap, derivative or other agreement or combination of agreements pursuant to which the Borrower or its Subsidiaries is or may become

obligated to make (i) any payment in connection with a purchase by any third party from a Person other than the Borrower or its Subsidiaries of any Equity Interest in the Borrower or its Subsidiaries, any warrants, options or other rights to acquire any Equity Interests of the Borrower or its Subsidiaries, or any Restricted Indebtedness or (ii) any payment (other than on account of a permitted purchase by it of any Equity Interests in the Borrower or its Subsidiaries, any warrants, options or other rights to acquire any Equity Interests of the Borrower or its Subsidiaries, or any Restricted Indebtedness) the amount of which is determined by reference to the price or value at any time of any Equity Interest in the Borrower or its Subsidiaries, any warrants, options or other rights to acquire any Equity Interests of the Borrower or its Subsidiaries, or any Restricted Indebtedness; provided that no phantom stock or similar plan providing for payments only to current or former directors, officers or employees of the Borrower or its Subsidiaries (or their heirs or estates) shall be deemed to be a Synthetic Purchase Agreement.

"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.

"Total Revolving Outstandings" means the aggregate Outstanding Amount of all Revolving Loans.

"Total Revolving Outstandings Cap" means (x) during the period prior to entry of the Final Order, $25,000,000 in principal amount, and (y) on and after entry of the Final Order, $40,000,000 in principal amount; provided that, with respect to this clause (y) only, if consented to in writing by all of the Lenders, the Total Revolving Outstandings Cap shall mean the aggregate outstanding amount of Revolving Commitments.

"Type" when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBOR Rate or the Alternate Base Rate.

"UCC" means the Uniform Commercial Code of New York or, where applicable to specific Collateral, any other relevant state.

"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.

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

"U.S. Person" means a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"Voting Equity Interests" of any Person means Equity Interests of any class or classes having ordinary voting power for the election of at least a majority of the members of the board of directors, managing general partners or the equivalent governing body of such Person, irrespective of whether, at the time, Equity Interests of any other class or classes or such entity shall have or might have voting power by reason of the happening of any contingency.

"Voting Trust" means the voting trust established by that certain Siegfried Family Voting Trust Agreement dated as of May 8, 2003, by and between Raymond H. Siegfried, II, Trustee of the Ray H. Siegfried Revocable Trust, as the Depositor, Raymond Henry Siegfried, III, Theodore Hastings Siegfried, Meredith Regina Siegfried, and Kenneth Lackey, as the initial Trustees thereunder, and the Borrower. In accordance with the terms of the Voting Trust, Bailey Joseph Siegfried has succeeded Raymond Henry Siegfried, III as a Trustee.

"Write-Down and Conversion Powers" means, 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.

1.02 **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, supplemented or otherwise modified (subject to any restrictions on such amendments, 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, (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 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 amended, modified 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, 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) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

1.03 **Accounting Terms.**

(a) 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 in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein.

(b) 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 Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the 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 Borrower shall provide to the Administrative 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.

(c) Non-Consolidation of Variable Interest Entities. All references herein to consolidated financial statements of the Borrower and its Subsidiaries or to the determination of any amount for the Borrower and its Subsidiaries on a consolidated basis or any similar reference shall, in each case, be deemed to exclude each variable interest entity that the Borrower is required to consolidate pursuant to FASB ASC 810-10 as if such variable interest entity were a Subsidiary as defined herein.

(d) Capital Lease Obligations. Notwithstanding anything to the contrary contained in this Section 1.03 or in the definition of "Capital Lease Obligations," in the event of an accounting change requiring all leases to be capitalized, only those leases (assuming for purposes hereof that such leases were in existence on the Closing Date) that would constitute capital leases in conformity with GAAP on the Closing Date shall be considered capital leases, and all calculations and deliverables under this Agreement or any other Loan Document shall be made or delivered, as applicable, in accordance therewith.

1.04 **Rounding**. Any financial ratios required to be maintained by the Borrower 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 Central time (daylight or standard, as applicable).

1.06 **[Reserved.]**

1.07 **Treatment of Rotables**. Notwithstanding anything in this Agreement to the contrary, all Rotables shall, for purposes of the grant of any security interest in such Rotables, be (a) treated as "inventory", as such term is defined in the UCC, and (b) included in "Inventory" (as defined in the Security Agreement and in any other Security Document).

1.08 **[Reserved.]**

1.09 **Interest Rates**. The Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the rates in the definition of "LIBOR Rate" or with respect to any comparable or successor rate thereto, or replacement rate therefor.

ARTICLE II
THE COMMITMENTS AND CREDIT EXTENSIONS

2.01 **Revolving Loans**. Subject to the terms and conditions set forth herein and in the Orders, each Lender severally agrees to make loans (each such loan, a "Revolving Loan") to the Borrower from time to time, on any Business Day during the Revolving Availability Period, in an aggregate amount not to exceed at any time outstanding the amount of such Lender's Revolving Commitment; provided, however, that after giving effect to any Revolving Borrowing, (i) the Total Revolving Outstandings shall not exceed the Total Revolving Outstandings Cap, and (ii) the aggregate Outstanding Amount of the Revolving Loans of any Lender shall not exceed such Lender's Applicable Percentage of the Revolving Commitment as limited by the Total Revolving Outstandings Cap. Within the limits of the Revolving 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. Revolving Loans may be ABR Loans or Eurodollar Loans, as further provided herein.

2.02 **Borrowings, Conversions and Continuations of Loans.**

(a) Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Eurodollar Loans shall be made upon the Borrower's delivery of an irrevocable Revolving Loan Notice to the Administrative Agent, which notice shall be appropriately completed and signed by a Responsible Officer of the Borrower. Each such notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurodollar Loans or of any conversion of Eurodollar Loans to ABR Loans, and (ii) on the requested date of any Borrowing of ABR Loans. Each Borrowing of, conversion to or continuation of Eurodollar Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Except as provided in Sections 2.03(c) and 2.04(c), each Borrowing of or conversion to ABR Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Each Revolving Loan Notice shall specify (i) whether the Borrower is requesting a Borrowing, a conversion of Loans from one Type to the other, or a continuation of Eurodollar Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower

fails to specify a Type of Loan in a Revolving Loan Notice, or if the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made as, or converted to, ABR Loans. Any such automatic conversion to ABR Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Loans.

(b) Following receipt of a Revolving Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage of the applicable Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to ABR Loans described in the preceding subsection. In the case of a Revolving Borrowing, each Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the Revolving Loan Notice. 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 Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of JPMCB 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 Administrative Agent by the Borrower.

(c) Except as otherwise provided herein, a Eurodollar Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Loan. During the existence of a Default, no Loans may be requested as, converted to or continued as Eurodollar Loans without the consent of the Required Lenders.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Loans upon determination of such interest rate. At any time that ABR Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in the Prime Rate used in determining the Alternate Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not at any time be more than a total of five (5) Eurodollar Borrowings outstanding.

2.03 **[Reserved.]**

2.04 **[Reserved.]**

2.05 **Prepayments.**

(a) Voluntary Prepayments - Revolving Loans. The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Revolving Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Administrative Agent not later than 11:00 a.m. (A) three Business Days prior to any date of prepayment of Eurodollar Loans and (B) on the date of prepayment of ABR

Loans; (ii) any prepayment of Eurodollar Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof; and (iii) any prepayment of ABR 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. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and whether such Loan is a Revolving Loan. The Administrative 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 Borrower, the Borrower 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 Eurodollar 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 Revolving Loans of the Lenders in accordance with their respective Applicable Percentages of such Loan.

(b) [Reserved.]

(c) Mandatory Prepayments - Excess Outstandings and Excess Cash. Except as provided in Section 2.02, if for any reason the Total Revolving Outstandings at any time exceed the Total Revolving Outstandings Cap, the Borrower shall immediately prepay Revolving Loans in an aggregate amount equal to such excess. Subject to the terms of the Order, by 11 a.m. Central Time on the first Business Day of each week, the Borrower shall prepay Revolving Loans in an aggregate amount equal to 100% of the aggregate cash and Cash Equivalents of the Borrower and its Subsidiaries in excess of $10,000,000.

(d) Mandatory Prepayments - Asset Sales. Subject to the terms of the Order, immediately upon the occurrence of any Disposition of (i) any assets of the Borrower or its Subsidiaries not in the ordinary course of business, other than an Excluded Disposition, or (ii) any P&W800 Assets to the extent the proceeds thereof have not been applied in respect of the Pre-Petition Obligations, the Borrower shall make a mandatory prepayment to the Administrative Agent for the Lenders, such prepayment to be in the aggregate amount equal to 100% of the Net Cash Proceeds of such Disposition. Such prepayment shall be made concurrently with the closing of such sale of assets or as promptly as possible thereafter and shall be applied as provided in Section 2.05(f). Upon the Administrative Agent's request, the Borrower shall promptly deliver a detailed calculation of the Net Cash Proceeds received by any Loan Party in respect of any Disposition referred to in clause (i) or (ii) of this Section 2.05(d), in form and substance reasonably satisfactory to the Administrative Agent.

(e) Mandatory Prepayments—Extraordinary Receipts. Subject to the terms of the Order, immediately upon the receipt by any Loan Party of any Extraordinary Receipt, the Borrower shall make a mandatory prepayment in an amount equal to 100% of the Net Cash Proceeds of such Extraordinary Receipt. Upon the Administrative Agent's request, the Borrower shall promptly deliver a detailed calculation of the Net Cash Proceeds received by any Loan Party in respect of any Extraordinary Receipt hereunder, in form and substance reasonably satisfactory to the Administrative Agent.

(f) Repayment Application. Subject to the terms of the Order, any mandatory prepayment of Loans pursuant to Section 2.05(c) shall be applied to repay the Outstanding

Amount of the Loans and shall not be subject to any notice or minimum payment provisions. Any mandatory prepayment of Loans pursuant to Sections 2.05(d) or 2.05(e) shall (i) not be subject to any notice or minimum payment provisions and (ii) be applied (A) first, to interest to the date of such prepayment on the principal amount prepaid and any additional amounts required pursuant to Section 3.05, and (B) second, to the principal of the Loans (amounts applied in connection with prepayments of the Loans under this Section 2.05(f) arising as a result of Sections 2.05(d) and 2.05(e), shall permanently reduce the Revolving Commitments then in effect, with each reduction of the Revolving Commitments applied to the Commitment of each Lender according to its Applicable Percentage). Any amounts remaining after application in accordance with the foregoing shall be applied to the satisfaction of any outstanding Obligations (which payment shall be made ratably based upon the amount of such Obligations), and after all of the Obligations have been indefeasibly paid in full, the Revolving Commitments then in effect shall be permanently reduced by such remaining amounts (with each reduction of the Revolving Commitments applied to the Commitments of each Lender according to its Applicable Percentage) and such remaining amounts shall be applied as required by order of the Bankruptcy Court (including, without limitation, to the Pre-Petition Administrative Agent under the Pre-Petition Credit Agreement for application to the Pre-Petition Obligations thereunder in accordance with the terms thereof).

(g) Subject to the terms of the Order, each prepayment of the Loans under Section 2.05(a), (b), (c), (d) or (e) shall be accompanied by all interest then accrued and unpaid on the principal so prepaid, together with any additional amounts required pursuant to Section 3.05. Each such prepayment shall be applied to the Loans of the Lenders in accordance with their respective Applicable Percentages.

(h) Nothing contained in this Section 2.05 shall, or shall be deemed to, permit the Loan Parties to Dispose of any property or assets other than in accordance with the express terms and conditions of this Agreement.

2.06 **Termination or Reduction of Revolving Commitment**. The Borrower may, upon notice to the Administrative Agent, terminate the Revolving Commitment, or from time to time permanently reduce the Revolving Commitment; provided that (i) any such notice shall be received by the Administrative 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, and (iii) the Borrower shall not terminate or reduce the Revolving Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Outstandings would exceed the Revolving Commitment as limited by the Total Revolving Outstandings Cap. The Administrative Agent will promptly notify the Lenders of any such notice of termination or reduction of the Revolving Commitment. Any reduction of the Revolving Commitment shall be applied to the Revolving Commitment of each Lender according to its Applicable Percentage. All fees accrued until the effective date of any termination of the Revolving Commitment shall be paid on the effective date of such termination.

2.07 **Repayment of Loans.** The Borrower shall repay to the Lenders on the Revolving Maturity Date the aggregate principal amount of Revolving Loans outstanding on such date.

2.08 **Interest.**

(a) Subject to the provisions of Section 2.08(b), (i) each Eurodollar Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Adjusted LIBOR Rate for such Interest Period plus the Applicable Margin; and (ii) each ABR Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Alternate Base Rate plus the Applicable Margin.

(b) (i) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, 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.

(ii) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders, 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.

(iii) Upon the request of the Required Lenders, while any Event of Default exists, the Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iv) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) 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 subsections (i) and (j) of Section 2.03:

(a) Non-Usage Fee. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Applicable Percentage, a fee (the "Non-Usage Fee") equal to the Applicable Margin times the average daily amount by which the Revolving Commitment exceed the Outstanding Amount of Revolving Loans. The Non-Usage Fee shall accrue at all times during the Revolving 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 monthly in arrears on the first Business Day of each month, commencing with the first such date to occur after the Closing Date, and on the Revolving Maturity Date. The Non-Usage Fee shall be calculated monthly in arrears.

(b) [Reserved.]

(c) Other Fees. The Borrower shall pay to the Arranger and the Administrative Agent for their own respective accounts fees in the amounts and at the times specified 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; Retroactive Adjustments of Applicable Margin**. Subject to Section 10.09, all computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). 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 (in accordance with Section 2.12(a)), 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. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

2.11 **Evidence of Debt.** The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower 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 Borrower 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 Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. In the event of any conflict between the Register and any other accounts and records of the Administrative Agent in respect of such matters, the Register shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Revolving Loan Note which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Notes and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

2.12 **Payments Generally; Administrative Agent's Clawback.**

(a) General. All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 1:00 p.m. on the date specified herein. The Administrative 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 Administrative Agent after 1:00 p.m. shall be deemed received on the

next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower 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) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurodollar Loans (or, in the case of any Borrowing of ABR Loans, prior to 11:00 a.m. on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Borrowing of ABR Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on 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 Borrower to but excluding the date of payment to the Administrative 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 Administrative Agent in accordance with banking industry rules on interbank compensation and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to ABR Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent. Nothing in this Section 2.12(b) shall be deemed to relieve any Lender from liability for failure to perform its obligations hereunder.

(ii) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender, 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 Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this Section 2.12(b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative 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 Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative 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 Loans and to make payments pursuant to Section 10.04(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 10.04(c) 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 Loan, to purchase its participation or to make its payment under Section 10.04(c).

(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.

2.13 **Sharing of Payments by Lenders**. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the Loans made by it, resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Loans and accrued interest thereon greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them, 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 Borrower 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 Loans to any assignee or participant, other than to the Borrower 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 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 **Collateral**. The Obligations shall be secured to the extent set forth in the Orders by the Collateral. The Borrower shall execute and deliver, or cause to be executed and delivered, the documents the Administrative Agent, in its sole discretion, deems necessary or desirable to evidence and perfect its Liens in the Collateral.

2.15 **Super Priority Nature of Obligations and Administrative Agent's Liens**. The priority of the Administrative Agent's Liens on the Collateral, claims of the Secured Parties and other interests of the Secured Parties shall be as set forth in the Orders.

2.16 **Payment of Obligations**. Upon the occurrence of the Revolving Maturity Date, the Administrative Agent and Lenders shall be entitled to immediate payment of such Obligations without further notice, motion or application to, hearing before, or order from the Bankruptcy Court, but subject to the Orders.

ARTICLE III
TAXES, YIELD PROTECTION AND ILLEGALITY

3.01 **Withholding of Taxes; Gross-Up.**

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall be made free and clear of and without deduction or withholding for any Taxes, except as required by applicable Law. If any applicable Law (as determined in the good faith discretion of an applicable withholding agent) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower shall be increased as necessary so that after making all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable under this Section) the Administrative Agent or Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions or withholding been made.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of Section 3.01(a) above, the Borrower 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.

(c) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent and each Lender, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by the Administrative Agent or such Lender, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified 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 Borrower 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.

(d) Evidence of Payments. As soon as practicable after any payment of Taxes by the Borrower to a Governmental Authority pursuant to this Section, the Borrower shall deliver to the Administrative 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 Administrative Agent.

(e) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(e)(ii)(A), (ii)(B) and (ii)(D)) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), an executed copy of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative 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 reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, an executed copy of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) in the case of a Foreign Lender claiming that its extension of credit will generate U.S. effectively connected income, an executed copy of IRS Form W-8ECI;

(3) 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 substantially in the form of Exhibit K-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10-percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) an executed copy of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable; or

(4) to the extent a Foreign Lender is not the beneficial owner, an executed copy of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, a U.S. Tax Compliance Certificate substantially in the form of Exhibit K-2 or Exhibit K-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit K-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative 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 reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(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 Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower 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 Borrower or the Administrative Agent as may be necessary for the Borrower 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 clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. If the Administrative Agent or any Lender determines, in its sole discretion, that it has received a refund of any Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender, 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 Borrower, upon the request of the Administrative Agent or such Lender agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (f), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (f) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the Borrower or any other Person.

(g) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the

Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.06(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such 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 any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (g).

(h) Defined Terms. For purposes of this Section, the term "applicable Law" includes FATCA.

3.02 **[Reserved].**

3.03 **Alternate Rate of Interest.**

(a) If prior to the commencement of any Interest Period for a Eurodollar Borrowing:

(i) the Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBOR Rate or the LIBOR Rate, as applicable (including, without limitation, by means of an Interpolated Rate or because the LIBOR Screen Rate is not available or published on a current basis) for such Interest Period; or

(ii) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBOR Rate or the LIBOR Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders as provided in Section 10.02 as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (A) any Revolving Loan Notice that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and any such Eurodollar Borrowing shall be repaid or converted into an ABR Borrowing on the last day of the then current Interest Period applicable thereto, and (B) if any Revolving Loan Notice requests a Eurodollar Borrowing, such Borrowing shall be made as an ABR Borrowing.

(b) If any Lender determines that any requirement of law has made it unlawful, or if any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable lending office to make, maintain, fund or continue any Eurodollar Borrowing, 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 notice thereof by such Lender to the Borrower through the Administrative Agent, any obligations of

such Lender to make, maintain, fund or continue Eurodollar Loans or to convert ABR Borrowings to Eurodollar Borrowings will be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower will upon demand from such Lender (with a copy to the Administrative Agent), either prepay or convert all Eurodollar Borrowings of such Lender to ABR Borrowings, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Borrowings to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Loans. Upon any such prepayment or conversion, the Borrower will also pay accrued interest on the amount so prepaid or converted.

(c) If at any time the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (i) the circumstances set forth in Section 3.03(a)(i) have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in Section 3.03(a)(i) have not arisen but either (w) the supervisor for the administrator of the LIBOR Screen Rate has made a public statement that the administrator of the LIBOR Screen Rate is insolvent (and there is no successor administrator that will continue publication of the LIBOR Screen Rate), (x) the administrator of the LIBOR Screen Rate has made a public statement identifying a specific date after which the LIBOR Screen Rate will permanently or indefinitely cease to be published by it (and there is no successor administrator that will continue publication of the LIBOR Screen Rate), (y) the supervisor for the administrator of the LIBOR Screen Rate has made a public statement identifying a specific date after which the LIBOR Screen Rate will permanently or indefinitely cease to be published or (z) the supervisor for the administrator of the LIBOR Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which the LIBOR Screen Rate may no longer be used for determining interest rates for loans, then the Administrative Agent and the Borrower shall endeavor to establish an alternate rate of interest to the LIBOR Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable (but, for the avoidance of doubt, such related changes shall not include a reduction of the Applicable Margin). Notwithstanding anything to the contrary in Section 10.01, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five Business Days of the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Required Lenders stating that such Required Lenders object to such amendment. Until an alternate rate of interest shall be determined in accordance with this clause (c) (but, in the case of the circumstances described in clause (ii) of the first sentence of this Section 3.03(c), only to the extent the LIBOR Screen Rate for such Interest Period is not available or published at such time on a current basis), (x) any Revolving Loan Notice that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and any such Eurodollar Borrowing shall be repaid or converted into an ABR Borrowing on the last day of the then current Interest Period applicable thereto, and (y) if any Revolving Loan Notice requests a Eurodollar Borrowing, such Borrowing shall be made as an ABR Borrowing; provided that, if such alternate rate of interest shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

3.04 **Increased Costs; Reserves on Eurodollar 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;

(ii) subject any Lender to any Tax of any kind whatsoever with respect to this Agreement or any Eurodollar Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Indemnified Taxes covered by Section 3.01, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes); or

(iii) impose on any Lender or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Loans made by such Lender;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Loan (or of maintaining its obligation to make any such Loan) or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or any other amount) then, upon request of such Lender, the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender 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 to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or

reductions and of such Lender'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 nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

3.05 **Compensation for Losses**. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a ABR 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 Borrower (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 ABR Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a Eurodollar Loan on a day other than the last day of the Interest Period therefor as a result of a request by the 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 Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing. For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurodollar Loan made by it at the Adjusted LIBOR Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Loan was in fact so funded.

3.06 **Designation of a Different Lending Office.** If any Lender requests compensation under Section 3.04, or the Borrower is 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 if any Lender gives a notice pursuant to Section 3.02, then such Lender shall use reasonable efforts to designate 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 judgment of such Lender, such designation or assignment (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 to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

3.07 **Survival**. All of the Borrower's obligations under this Article III shall survive termination of the Revolving Commitment and repayment of all other Obligations hereunder.

ARTICLE IV
CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

4.01 **Conditions of Initial Credit Extension**. The obligation of each Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

(a) The Administrative Agent shall have received the following, each of which shall be originals, electronically scanned copies or telecopies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, 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 Administrative Agent and each of the Lenders:

(i) counterparts of this Agreement from the Borrower;

(ii) Revolving Loan Notes executed by the Borrower in favor of each Lender requesting a Revolving Loan Note; and

(iii) counterparts of the Guaranty from each of the Guarantors.

(b) The Administrative Agent shall have received a true and complete copy of the executed and delivered agreement between the Borrower and the Chief Restructuring Officer in connection with the Chief Restructuring Officer's engagement as chief restructuring officer for the Loan Parties, in form and substance reasonably satisfactory to the Administrative Agent.

(c) The Interim Order shall have been entered by the Bankruptcy Court and shall be in full force and effect and shall not have been (i) stayed, vacated, reversed or rescinded, and any appeal of such order shall not have been timely filed and a stay of such order pending appeal shall not be presently effective or (ii) without the prior written consent of the Administrative Agent and the Lenders, given in their sole discretion, revised, amended or modified.

(d) Subject to Schedule 6.24, the Administrative Agent shall have received certificates of insurance and endorsements to insurance policies, and evidence of payment of all premiums, as required by Section 6.07.

(e) The Administrative Agent shall have received copies of UCC and Lien searches of (a) all properties of the Borrower and its Domestic Subsidiaries, (b) all Equity Interests of the Domestic Subsidiaries and (c) all Equity Interests of the Foreign Subsidiaries owned by the Borrower, each such search showing no Liens except Permitted Liens.

(f) The Administrative Agent shall have received copies of the Organization Documents of each Loan Party certified to be true and complete as of a recent date by the appropriate Governmental Authority of the state or other jurisdiction of its incorporation or organization, where applicable, and certified by a secretary or assistant secretary of such Loan Party to be true and correct as of the Closing Date;

(g) The Administrative Agent shall have received such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing 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.

(h) The Administrative Agent shall have received such documents and certifications as the Administrative 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 do so could not reasonably be expected to have a Material Adverse Effect;

(i) The Administrative Agent shall have received a certificate of a Responsible Officer of each Loan Party either (A) attaching copies of all consents, licenses and approvals 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, and such consents, licenses and approvals shall be in full force and effect, or (B) stating that no such consents, licenses or approvals are so required.

(j) The Administrative Agent shall have received a certificate signed by a Responsible Officer of the Borrower certifying (A) that the conditions specified in Sections 4.02(a) and (b) have been satisfied, and (B) that 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.

(k) Subject to Schedule 6.24, the Administrative Agent shall have received the following:

(i) duly executed account control agreements for all deposit accounts, commodity accounts and securities accounts of the Loan Parties (other than control agreements for payroll or disbursement accounts or any accounts with respect to which the Administrative Agent has control otherwise pursuant to the UCC (including as a result of being the applicable depositary bank)); and

(ii) stock certificates for all Equity Interests of each Domestic Subsidiary of the Borrower and stock certificates for all of the Equity Interests of the Foreign Subsidiaries owned directly by the Borrower or any Domestic Subsidiary, provided that, if the Borrower or any Domestic Subsidiary owns in excess of 65% of the aggregate outstanding voting Equity Interest of any Foreign Subsidiary, the Borrower or such Domestic Subsidiary shall not deliver more than 65% of the total aggregate outstanding voting Equity Interests of any such Foreign Subsidiary, and undated stock powers (duly executed in blank).

(l) [Reserved].

(m) The Borrower shall have paid to the Administrative Agent, for the ratable account of each Lender, a fee equal to 1.00% of the Revolving Commitment and all other fees required to be paid on or before the Closing Date.

(n) The Cash Management Order shall have been entered by the Bankruptcy Court and all other "First Day Orders" or other orders entered or to be entered at the time of the Petition Date shall be reasonably satisfactory in form and substance to the Administrative Agent and the Required Lenders in all respects.

(o) [Reserved.]

(p) The Borrower's payment of all fees, costs, expenses, charges and disbursements of counsel and other advisors to the Administrative Agent and all fees, costs, expenses, charges and disbursements of counsel and other advisors to any of the Lenders, in each case, 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 proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts among the Borrower, the Administrative Agent and the Lenders).

(q) Since December 31, 2017, other than those events or circumstances customarily resulting from the commencement of the Bankruptcy Cases, there shall not have occurred a material adverse change (x) in the business, assets, properties, liabilities (actual or contingent), operations or condition (financial or otherwise) of the Borrower and its Subsidiaries, taken as a whole or (y) in the facts and information regarding such entities represented to date.

(r) [Reserved.]

(s) (i) The Administrative Agent shall have received, (x) at least five (5) days prior to the Closing Date, all documentation and other information regarding the Borrowers requested in connection with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, to the extent requested in writing of the Borrowers at least ten (10) days prior to the Closing Date, and (y) a properly completed and signed IRS Form W-8 or W-9, as applicable, for each Loan Party, and (ii) to the extent the Borrower qualify as a "legal entity customer" under the Beneficial Ownership Regulation, at least five (5) days prior to the Closing Date, any Lender that has requested, in a written notice to the Borrower at least the (10) days prior to the Closing Date, a Beneficial Ownership Certification in relation to the Borrower shall have received such Beneficial Ownership Certification (provided that, upon the execution and delivery by such Lender of its signature page to this Agreement, the condition set forth in this clause (ii) shall be deemed to be satisfied).

(t) The payment or reimbursement of all accrued and unpaid interest, fees, costs and expenses (to the extent invoiced prior to the Closing Date) owed to any Pre-Petition Secured Party in respect of or arising in connection with the Pre-Petition Credit Agreement or other Pre-Petition Loan Documents.

Without limiting the generality of the provisions of Section 9.02, 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 Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

4.02 **Conditions to all Credit Extensions**. The obligation of each Lender to honor any Request for Credit Extension (other than a Revolving Loan Notice requesting only a conversion of Revolving Loans to the other Type, or a continuation of Eurodollar Loans) is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct 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 as of such earlier date.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) The purpose of each Credit Extension shall be consistent with, and for a purpose permitted under, the Agreed Budget in accordance with Section 6.15.

(e) No injunction, writ, restraining order, or other order of any nature (whether temporary, preliminary or permanent) restricting or prohibiting, directly or indirectly, any Credit Extension shall have been issued and remain in force by any Governmental Authority (including, without limitation, the Bankruptcy Court) against the Borrower, any other Loan Party, any Lender or any of their Affiliates, and such Credit Extension shall not violate any requirement of applicable Laws.

(f) Except as occasioned by the commencement of the Bankruptcy Cases and the actions and proceedings related thereto, no Material Adverse Effect shall have occurred.

(g) The Borrower shall have paid or reimbursed all fees, costs, charges, and expenses then due and payable as provided for herein or in any of the other Loan Documents.

(h) The Interim Order or, following the entry of the Final Order, the Final Order, shall be in full force and effect, and shall not have been (x) stayed, vacated, reversed or rescinded, and any appeal of such order shall not have been timely filed and a stay of such order pending appeal shall not be presently effective, and (y)(A) with respect to the Interim Order, without the prior written consent of the Administrative Agent and the Lenders, given in their sole discretion, revised, amended or modified or (B) with respect to the Final Order, without the prior written consent (not to be unreasonably withheld or delayed) of the Administrative Agent and the Lenders.

(i) Other than the Bankruptcy Cases, there shall exist no claim, action, suit, litigation, proceeding or investigation pending in any court or before any arbitrator or Governmental Authority that relates to the Obligations.

(j) For each Request for Credit Extension submitted by the Borrower after entry of the Final Order, the Milestones Supplemental Schedule shall have been delivered to the Administrative Agent in form and substance reasonably satisfactory to the Administrative Agent.

Each Request for Credit Extension (other than a Revolving Loan Notice requesting only a conversion of Revolving Loans to the other Type or a continuation of Eurodollar Loans) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a), (b) and (d) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

5.01 **Existence, Qualification and Power; Compliance with Laws**. The Borrower and each Subsidiary (a) is duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business as it is now being, or is contemplated by this Agreement, to be conducted and (ii) subject to the entry and effectiveness of the Orders, execute, deliver and perform its obligations under the Loan Documents to which it is a party, (c) is duly qualified and is licensed and 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, and (d) is in compliance with all Laws; except in each case referred to in Sections 5.01(b)(i), 5.01(c) or 5.01(d), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

5.02 **Authorization; No Contravention**. Subject to the entry of the Interim Order or Final Order, as applicable, the execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law. Except as allowed by the automatic stay or prohibited by the Bankruptcy Code, the Borrower and each Subsidiary is in compliance with all Contractual Obligations referred to in Section 5.02(b)(i), except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

5.03 **Governmental Authorization; Other Consents**. 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 the approval of the Bankruptcy Court in the Interim Order or the Final Order, as applicable.

5.04 **Binding Effect**. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. Upon entry of the Interim Order (and, as applicable, the Final Order), 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.

5.05 **No Material Adverse Effect Event**. Since the date of the Audited Financial Statements, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

5.06 **Litigation**. Except as specifically disclosed in Schedule 5.06, other than as may occur directly in connection with the entry of the Interim Order and the Final Order, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower after due and diligent investigation, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of its Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) either individually or in the aggregate, if determined adversely, could reasonably be expected to have a Material Adverse Effect.

5.07 **No Default**. No 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**. Each of the Borrower and each Subsidiary has good record and marketable title in fee simple to, or valid leasehold interests in, all real property 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. As of the Closing Date, Schedule 5.08 is a true, complete and correct list of all of the real property owned in fee or leased by the Borrower and the Guarantors. The property of the Borrower and its Subsidiaries is subject to no Liens, other than Permitted Liens.

5.09 **Environmental Compliance**. The Borrower and its Subsidiaries conduct in the ordinary course of business a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties, and as a result thereof the Borrower has reasonably concluded that such Environmental Laws and claims could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.10 **Insurance**. The properties of the Borrower and its Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of the Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or the applicable Subsidiary operates.

5.11 **Taxes**. The Borrower and its Subsidiaries have filed all U.S. federal, state and other material Tax returns and reports required to be filed, and have paid all U.S. federal, state and other material Taxes, assessments, fees and, except as prohibited by the Bankruptcy Code or any order of the Bankruptcy Court, other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed Tax assessment against the Borrower or any Subsidiary that would, if made, have a Material Adverse Effect. Neither any Loan Party nor any Subsidiary is party to any Tax sharing agreement.

5.12 **ERISA Compliance.**

(a) 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 best knowledge of the Borrower, nothing has occurred which would prevent, or cause the loss of, such qualification. The Borrower 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.

(b) There are no pending or, to the best knowledge of the 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) Except to the extent a Material Adverse Effect could not reasonably be expected to result therefrom: (i) no ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability; (iii) neither the Borrower 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 the Borrower 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 the Borrower nor any ERISA Affiliate has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA.

5.13 **Subsidiaries; Equity Interests**. As of the Closing Date, the Borrower has no Subsidiaries other than those specifically disclosed in Part (a) of Schedule 5.13, and all of the outstanding Equity Interests in such Subsidiaries have been validly issued, are fully paid and nonassessable and are owned by a Loan Party in the amounts specified on Part (a) of Schedule 5.13 free and clear of all Liens other than the Liens created pursuant to the Loan Documents and Liens in favor of the Pre-Petition Secured Parties granted pursuant to the Pre-Petition Loan Documents or the Orders. The Borrower has 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 Borrower have been validly issued, are fully paid and nonassessable and are owned of record and beneficially in the amounts specified on Part (c) of Schedule 5.13 free and clear of all Liens other than the Liens created pursuant to the Loan Documents and the Liens in favor of the Pre-Petition Secured Parties granted pursuant to the Pre-Petition Loan Documents or the Orders.

5.14 **Margin Regulations; Investment Company Act.**

(a) The Borrower is not engaged and will not engage, 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. Following the application of the proceeds of each Borrowing, not more than 25% of the value of the assets (either of the Borrower only or of the Borrower and its Subsidiaries on a consolidated basis) subject to the provisions of Section 7.01 or Section 7.05 or subject to any restriction contained in any agreement or instrument between the Borrower and any Lender or any Affiliate of any Lender relating to Debt and within the scope of Section 8.01(e) will be margin stock.

(b) None of the Borrower, any Person Controlling the Borrower, or any Subsidiary is required to be registered as an "investment company" under the Investment Company Act of 1940.

5.15 **Disclosure.**

(a) The Borrower has disclosed to the Administrative Agent and the Lenders all agreements, instruments and corporate or other restrictions to which it or any of its 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 Administrative 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, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

(b) As of the Closing Date, to the best knowledge of the Borrower, the information included in the Beneficial Ownership Certification provided on or prior to the Closing Date to any Lender in connection with this Agreement is true and correct in all respects.

5.16 **Compliance with Laws**. Each of the Borrower and each Subsidiary is in compliance 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.

5.17 **Intellectual Property; Licenses, Etc.** The Borrower and its Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, "IP Rights") that are reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person. To the best knowledge of the Borrower, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Borrower or any Subsidiary infringes upon any rights held by any other Person. No claim or litigation regarding any of the foregoing is pending or, to the best knowledge of the Borrower, threatened, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

5.18 **Common Enterprise**. The operations of the Borrower and its Subsidiaries require financing on a basis such that the credit supplied can be made available from time to time to the Borrower and various of its Subsidiaries, as required for the continued successful operation of the Borrower and its Subsidiaries as a whole. The Borrower has requested the Lender to make credit available hereunder primarily for the purposes set forth in Section 6.11 and generally for the purposes of financing the operations of the Borrower and its Subsidiaries. The Borrower and each of its Subsidiaries expects to derive benefit (and the Board of Directors (or other similar governing body) of the Borrower and each of its Subsidiaries has determined that such Subsidiary may reasonably be expected to derive benefit), directly or indirectly, from a portion of the credit extended by the Lenders hereunder, both in its separate capacity and as a member of the group of companies, since the successful operation and condition of the Borrower and each of its Subsidiaries is enhanced by the continued successful performance of the functions of the group as a whole. The Borrower acknowledges that, but for the agreement by each of the Guarantors to execute and deliver the Guaranty, the Administrative Agent and the Lenders would not have made available the credit facilities established hereby on the terms set forth herein.

5.19 **[Reserved.]**

5.20 **Taxpayer Identification Number; Organizational Numbers**. The Borrower's true and correct U.S. taxpayer identification number and the organizational number of each of the Loan Parties is set forth on Schedule 10.02.

5.21 **Anti-Corruption Laws and Sanctions**. The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower, its

Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Borrower, its Subsidiaries and their respective officers and directors and to the knowledge of the Borrower its employees and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in Borrower being designated as a Sanctioned Person. None of (a) the Borrower, any Subsidiary, any of their respective directors or officers or to the knowledge of the Borrower or such Subsidiary employees, or (b) to the knowledge of the Borrower, any agent of the Borrower or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No Borrowing, use of proceeds or other transaction contemplated by this Agreement will violate any Anti-Corruption Law or applicable Sanctions.

5.22 **EEA Financial Institution**. No Loan Party is an EEA Financial Institution.

5.23 **Collateral Documents; Nature of Obligations**. The provisions of the Interim Order, and as applicable the Final Order, are effective to create in favor of the Administrative Agent for the benefit of the Secured Parties and any other secured parties identified therein, a legal, valid and enforceable first priority Lien or security interest in all right, title and interest of the Loan Parties in the Collateral and all proceeds thereof. Pursuant to the terms of the Interim Order and, as applicable, 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 Obligations of the Loan Parties will constitute allowed administrative expense claims in the Bankruptcy Cases under Section 364(c) of the Bankruptcy Code, having priority over all administrative expense claims and unsecured claims against such Loan Parties now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expense claims of the kind specified in Sections 503(b) and 507(b) of the Bankruptcy Code and all superpriority administrative expense claims granted to any other Person, subject, as to priority, only to the Carve-Out.

5.24 **Investments**. None of the Loan Parties holds any Investments other than Permitted Investments.

5.25 **Broker's Fees**. Except as disclosed in writing to the Administrative Agent prior to the Closing Date, no Loan Party has any obligation to any Person in respect of any finder's, broker's, investment banking or other similar fee in connection with any of the transactions contemplated under the Loan Documents.

5.26 **Representations and Warranties from Other Loan Documents**. Each of the representations and warranties made by any of the Loan Parties in any of the other Loan Documents is true and correct in all material respects.

5.27 **Use of Proceeds**. The proceeds of the Loans will be used solely as provided pursuant to Section 6.11.

5.28 **Orders.**

(a) The Loan Parties are in compliance in all material respects with the terms and conditions of the Interim Order or the Final Order, as applicable.

(b) Each of the Interim Order (with respect to the period prior to the entry of the Final Order) or 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 and the Lenders, given in their respective sole discretion, amended or modified and no appeal of such order has been timely filed or, if timely filed, no stay pending such appeal is currently effective.

5.29 **Bankruptcy Cases.**

(a) The Bankruptcy Cases were commenced on the Petition Date in accordance with applicable Laws and proper notice thereof was given for (i) the motion seeking approval of the Loan Documents and the Interim Order and Final Order, (ii) the hearing for the entry of the Interim Order, and (iii) following the entry of the Interim Order, the hearing for the entry of the Final Order. The Borrower and the other Loan Parties shall give, on a timely basis as specified in the Interim Order or the Final Order, as applicable, all notices required to be given specified in the Interim Order or Final Order, as applicable.

(b) After the entry of the Interim Order, and pursuant to and to the extent permitted in the Interim Order and the Final Order, the Obligations will constitute allowed administrative expense claims in the Bankruptcy Cases having priority over all administrative expense claims and unsecured claims against the Loan Parties now existing or hereafter arising, of any kind whatsoever, including all administrative expense claims of the kind specified in Sections 105, 326, 330, 331, 503(b), 506(c), 507(a), 507(b), 546(c), 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 Carve Out and the priorities set forth in the Interim Order or Final Order, as applicable.

(c) After the entry of the Interim Order and pursuant to and to the extent provided in the Interim Order and the Final Order, the Obligations will be secured by a valid and perfected first priority Lien on all of the Collateral subject, as to priority, only to the Carve Out and Permitted Liens.

(d) [Reserved.]

(e) Notwithstanding the provisions of Section 362 of the Bankruptcy Code, and subject to the applicable provisions of the Interim Order or the Final Order, as the case may be, upon the maturity (whether by acceleration or otherwise) of any of the Obligations, the Administrative Agent and the Lenders shall be entitled to immediate payment of such Obligations and to enforce the remedies provided for hereunder or under applicable Laws, without further notice, motion or application to, hearing before, or order from, the Bankruptcy Court.

5.30 **Agreed Budget**. The initial Agreed Budget is attached to this Agreement as Exhibit H, which was furnished to the Administrative Agent on or prior to the Closing Date, and each subsequent Agreed Budget delivered in accordance with Section 6.15, has been prepared in good faith, with due care and based upon assumptions the Borrower believes to be reasonable assumptions on the date of delivery of the then-applicable Agreed Budget. To the knowledge of

the Borrower, as of the Closing Date, no facts exist that (individually or in the aggregate) would result in any material change in the Agreed Budget. The Borrower shall hereafter deliver to the Administrative Agent updates to the Agreed Budget in accordance with Section 6.15.

5.31 **No Disbursements in Respect of the PW800 Program or the P&WC Contract; Critical Vendor Payments**. Since the Closing Date, no administrative expenses have been incurred, no disbursements have been made, and no administrative expenses will be incurred or disbursements will be made, under or in support of the PW800 Program, P&W800 Assets, the P&WC Contract or any related agreements or orders other than those specific disbursements consented to in writing in advance by the Required Lenders. No later than 3:00 PM on the date that is at least one day prior to the Business Day of the proposed payment, starting on the Closing Date, the Debtors shall provide the financial advisor to the Administrative Agent a list of all Vendor Claims (as defined in the Debtors' critical vendor "first day" order) the Debtors propose to pay on such Business Day the name of the Vendor, the amount of proposed payment, the post-petition credit terms received from the Vendor and the Debtors' business justification for making such payment. With respect to any such Vendor Claims in connection with the PW800 Program, the P&W800 Assets or the P&WC Contract, unless the Administrative Agent objects to any of the anticipated payments by 3:00 PM the following day, the Debtors may pay such Vendor Claims identified for payment. During such 24-hour period, the financial advisor to the Administrative Agent shall provide an analysis and recommendation to the Lenders and shall approve such payment if objections thereto from Required Lenders are not received by 12:00 PM noon on such following day; provided, that the financial advisor to the Administrative Agent shall have the authority to approve any such payments of up to $10,000 to any Vendor without the prior approval of the Lenders. If, pursuant to the foregoing process, the Administrative Agent timely objects, then the Debtors may seek approval from the Bankruptcy Court to make such payment to the extent consistent with the Agreed Budget.

ARTICLE VI
AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder or any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, and 6.03) cause each Subsidiary to:

6.01 **Financial Statements**. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) as soon as available, but in any event within 120 days after the end of each fiscal year of the Borrower (commencing with the fiscal year ended December 31, 2018), a consolidated and consolidating balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated and consolidating statements of income or operations, consolidated shareholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, such consolidated statements to be audited and accompanied by a report and opinion of a Registered Public Accounting Firm of nationally recognized standing reasonably acceptable to the Required Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and applicable

Securities Laws and such consolidating statements to be certified by a Responsible Officer of the Borrower to the effect that such statements are fairly stated in all material respects when considered in relation to the consolidated financial statements of the Borrower and its Subsidiaries;

(b) as soon as available, but in any event within (i) 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (commencing with the fiscal quarter ended June 30, 2018) and (ii) 60 days after the end of the fourth fiscal quarter of each fiscal year (commencing with the fiscal quarter ended December 31, 2018), (x) a consolidated and consolidating balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated and consolidating statements of income or operations, consolidated shareholders' equity and cash flows for such fiscal quarter and for the portion of the Borrower's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, and (y) a consolidated and consolidating balance sheet of the Borrower and its Subsidiaries as at the end of the third calendar month of such fiscal quarter, and the related consolidated and consolidating statements of income or operations, consolidated shareholders' equity and cash flows for such calendar month and for the portion of the Borrower's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding calendar month of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail, such consolidated statements to be certified by a Responsible Officer of the Borrower as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes and such consolidating statements to be certified by a Responsible Officer of the Borrower to the effect that such statements are fairly stated in all material respects when considered in relation to the consolidated financial statements of the Borrower and its Subsidiaries; and

(c) as soon as available, and in any event within 30 days after the end of each calendar month (commencing with the calendar month ending June 30, 2018), an unaudited consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such calendar month and unaudited consolidated statements of income or operations and cash flows of the Borrower and its Subsidiaries for such calendar month and for the period from the beginning of the then current fiscal year to the end of such calendar month, all of such financial statements in reasonable detail and prepared in accordance with GAAP, subject to changes resulting from normal year-end adjustments and the absence of footnotes.

6.02 **Certificates; Other Information**. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders (provided, that the items referred to in Section 6.02(i) are only required to be delivered to the Administrative Agent for informational purposes only):

(a) weekly reporting of:

(i) an accounts receivable ledger in a form customarily available; and

(ii) aggregate bank and book cash balances, on a consolidating Loan Party basis;

(b) by no later than 4:00 p.m. every fourth Wednesday occurring after the Petition Date, beginning with Wednesday [August [●], 2018], an updated, modified or supplemented rolling 13-week detailed budget commencing with the following Monday (with such supporting detail as the Administrative Agent and its financial advisor may request); provided, that such updated, modified or supplemented budget shall become the "Agreed Budget" hereunder solely as provided pursuant to, and in accordance with, Section 6.15;

(c) not later than 4:00 p.m. on every other Wednesday of each week (commencing with the first Wednesday of the third full calendar week following the Petition Date) a compliance certificate, and such compliance certificate shall include such detail as is reasonably satisfactory to the Administrative Agent (a "Compliance Certificate"), signed by a Responsible Officer of the Borrower certifying that the Borrower is in compliance with the covenants contained in Section 6.15(b), together with (A) a cumulative comparison for the Cumulative Period of the Actual Operating Disbursement Amount (and each line item thereof) for such Cumulative Period to the Budgeted Operating Disbursement Amount (and each line item thereof) for such Cumulative Period, (B) a cumulative comparison for the Cumulative Period of the Aggregate Cash Receipts for such Cumulative Period to the Aggregate Cash Receipts set forth in the Agreed Budget for such Cumulative Period and (C) an Agreed Budget Variance Report, each of which shall be prepared by the Borrower through the last day of the Cumulative Period;

(d) promptly upon receipt of any material written expressions of interest with respect to asset Dispositions, notify the Administrative Agent and its financial advisor of the details thereof;

(e) promptly after any request by the Administrative Agent or its financial advisor, 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 the Borrower by independent accountants prepared in conjunction with any audit of the accounts or books of the Borrower or any Subsidiary and not otherwise required to be delivered pursuant to Sections 6.01(a) and 6.01(b);

(f) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication formally sent to the stockholders of the Borrower;

(g) promptly after the furnishing thereof, copies of any statement or report furnished to any holder of debt securities of any Loan Party or any Subsidiary thereof pursuant to the terms of any indenture, loan or credit or similar agreement and not otherwise required to be furnished to the Lenders pursuant to Section 6.01 or any other clause of this Section 6.02;

(h) promptly upon request by the Administrative Agent, current certificates of insurance evidencing maintenance of the insurance coverage required under Section 6.07;

(i) as soon as practicable in advance of the filing thereof in the Bankruptcy Court, all material filings related to the transactions contemplated by this Agreement and the other Loan Documents, any chapter 11 plan or related disclosure statement, and/or any Disposition;

(j) promptly, all pleadings, motions, applications, financial information and other papers and documents filed by any of the Loan Parties in the Bankruptcy Cases;

(k) as soon as practicable in advance of the delivery, all written reports delivered by any of the Loan Parties to any official or unofficial creditors' committee or their respective advisors in the Bankruptcy Cases;

(l) on the third (3rd) Business Day of each week, with respect to the prior week, an accounting of all monies deposited in, withdrawn from and the balances in, the Existing Accounts; and

(m) promptly, (x) such additional information regarding the business, financial or corporate affairs of the Borrower or any Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent (or any Lender through the Administrative Agent) may from time to time reasonably request and (y) information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation.

Documents required to be delivered pursuant to Sections 6.01(a) through (c) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the 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 Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent and each Lender (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative 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 Borrower 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 Borrower hereby acknowledges that the Administrative Agent and/or the Arranger will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting on an Approved Electronic Platform.

6.03 **Notices**. Promptly notify the Administrative Agent and each Lender:

(a) of the occurrence of any Default;

(b) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a Contractual Obligation of the Borrower or any Subsidiary; (ii) any dispute, litigation, investigation, proceeding or suspension between the Borrower or any Subsidiary and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting the Borrower or any Subsidiary, including pursuant to any applicable Environmental Laws;

(c) of any litigation, investigation or proceeding affecting any Loan Party (other than the Bankruptcy Cases) in which the damages, penalties, fines or other sanctions could reasonably be expected to exceed $500,000 (to the extent not covered by independent third-party insurance) or in which injunctive relief or similar relief is sought, which relief, if granted, could be reasonably expected to have a Material Adverse Effect;

(d) of the occurrence of any ERISA Event;

(e) of any material change in accounting policies or financial reporting practices by the Borrower or any Domestic Subsidiary;

(f) of any change in the information provided in the Beneficial Ownership Certification delivered to such Lender that would result in a change to the list of beneficial owners identified in such certification;

(g) of the dismissal of an investment bank to explore restructuring alternatives of the Debtors (the "Investment Bank") or any change to the acting Investment Bank; and

(h) of any change of the Chief Restructuring Officer or the Restructuring Committee.

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. 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**. To the extent permitted by the Bankruptcy Court and provided for in the Agreed Budget, pay and discharge as the same shall become due and payable, all its obligations and liabilities arising after the Petition Date, including (a) all Tax liabilities, assessments and governmental charges or levies upon it or its properties or assets arising after the Petition Date, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Borrower or such Subsidiary; and (b) all claims of materialmen, mechanics, carriers, warehousemen, landlords, processors and other like Persons, and all other Debt owed by it and perform and discharge in a timely manner all other obligations undertaken by it (in each instance under this Section 6.04(b) other than Pre-Petition Debt and all other Pre-Petition Obligations); provided, however, so long as a Loan Party has notified the Administrative Agent in writing,

such Loan Party need not pay any claim of materialmen, mechanics, carriers, warehousemen, landlords, processors and other like Persons that (i) it is contesting in good faith by appropriate proceedings diligently pursued, (ii) as to which such Loan Party, as the case may be, has established proper reserves for as provided in GAAP, and (iii) no Lien (other than a Permitted Lien) results from such non-payment.

6.05 **Preservation of Existence**. (a) Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization except in a transaction permitted by Section 7.04 or 7.05; (b) 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 including, without limitation, licenses and permits issued by the United States Federal Aviation Administration or foreign aeronautical authorities; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

6.06 **Maintenance of Properties**. (a) 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 excepted; (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; and (c) use the standard of care typical in the industry in the operation and maintenance of its facilities.

6.07 **Maintenance of Insurance**. Maintain with financially sound and reputable insurance companies not Affiliates of the Borrower, 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, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons. Each insurance policy covering Collateral shall name the Administrative Agent as loss payee, and each liability policy (except product liability policies) shall name the Administrative Agent as additional insured.

6.08 **Compliance with Laws**. (i) Comply in all material respects with the requirements of all Laws (including the Bankruptcy Code, the Orders and any other order of the Bankruptcy Court) and all orders, writs, injunctions and decrees applicable to it or to its business or property, 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 could not reasonably be expected to have a Material Adverse Effect, and (ii) maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

6.09 **Books and Records**. Maintain 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 Borrower or such Subsidiary, as the case may be.

6.10 **Inspection Rights**. Permit representatives and independent contractors of the Administrative Agent and each Lender (including, without limitation, financial advisors retained by or for the benefit of the Administrative Agent or the Lenders) to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, and to conduct field exams and appraisals of inventory, machinery and equipment; provided that, except if an Event of Default has occurred and is continuing, the Administrative Agent and Lenders shall conduct no more than two field exams and appraisals of inventory, machinery and equipment in each fiscal year of the Borrower, all at the expense of the Borrower and at any time during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided, however, that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective financial advisors, representatives or independent contractors) may do any of the foregoing at the expense of the Borrower and without advance notice.

6.11 **Use of Proceeds and Cash Collateral**. Use the proceeds of the Credit Extensions and Cash Collateral solely on or after the Closing Date, as provided herein and in the Agreed Budget (subject to (x) the permitted variances set forth in the covenants in Section 6.15(b) and (y) the Orders) (a) to fund the Bankruptcy Cases, (b) to finance the Borrower's working capital and other general corporate needs, including certain fees and expenses of professionals retained by the Borrower, subject to the Carve Out and not in contravention of any Law or of any Loan Document, and (c) to finance other Pre-Petition and pre-filing expenses that are approved by the Bankruptcy Court and permitted by the Agreed Budget; provided that, for the avoidance of doubt, the Debtors' use of the DIP Collateral (including Cash Collateral) to pay obligations benefiting from the Carve-Out shall not be limited or deemed limited by any Agreed Budget. No part of the proceeds of the Loans and other Credit Extensions under this Agreement and the other Loan Documents or Cash Collateral shall be used to prosecute, investigate or for proceedings to, contest the claims of the Secured Parties or Pre-Petition Secured Parties or the liens in favor of the Secured Parties or Pre-Petition Secured Parties that secure the Obligations or Pre-Petition Obligations, or prevent, hinder or delay any of the Administrative Agent's or the Secured Parties', or the Pre-Petition Agent or Pre-Petition Secured Parties' enforcement or realization upon any of the Collateral or collateral securing the Pre-Petition Obligations, other than with respect to seeking a determination of whether an Event of Default has not occurred or is not continuing; provided that no more than $50,000 in the aggregate of the proceeds of the Loans and other Credit Extensions under this Agreement and the other Loan Documents or Cash Collateral may be used by the creditors committee in connection with the investigation of Avoidance Actions (but not the prosecution of such actions) on account of the Pre-Petition Credit Agreement. No part of the proceeds of the Loans and other Credit Extensions under this Agreement and the other Loan Documents or Cash Collateral shall be used in connection with the PW800 Program, the P&W800 Assets or the P&WC Contract, unless consented to it in accordance with Section 5.31 or otherwise specifically consented to in writing in advance by the Lenders. No part of the proceeds of any Loan or Cash Collateral will be used, whether directly or indirectly, for any purpose that entails a violation of any of the regulations of the Federal Reserve Board, including Regulations T, U and X. The Borrower will not request any Borrowing, and the Borrower shall not use, and shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing or Cash Collateral (A) in furtherance of an offer, payment, promise to pay, or authorization of

the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, to the extent such activities, business or transaction would be prohibited by Sanctions if conducted by a corporation incorporated in the United States, Her Majesty's Treasury of the United Kingdom or in a European Union member state, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

6.12 **Further Assurances.**

(a) At any time or from time to time upon reasonable request by the Administrative Agent, the Borrower shall or shall cause any of the Borrower's Subsidiaries to execute 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 this Agreement and the other Loan Documents and to provide for payment of the Obligations in accordance with the terms of this Agreement and the other Loan Documents.

(b) The Borrower hereby authorizes the Administrative Agent to file one or more financing or continuation statements, and amendments thereto, and/or Mortgages relative to all or any part of the Real Property Collateral without the signature of the Borrower or any other Loan Party where permitted by law. A carbon, photographic or other reproduction of the security instruments or any financing statement covering the Mortgaged Property or any part thereof shall be sufficient as a financing statement where permitted by law.

6.13 **Additional Subsidiaries**. Within ten days after the time that any Person becomes a Domestic Subsidiary as a result of the creation of such Subsidiary or otherwise, (a) such Subsidiary shall execute a Guaranty and Security Agreement, to secure the Obligations, and (b) 100% of such Subsidiary's Equity Interests shall be pledged to secure the Obligations, and (c) the Lenders shall receive such board resolutions, officer's certificates, corporate and other documents and opinions of counsel as the Administrative Agent shall reasonably request in connection with the actions described in Sections 6.12(a) and 6.12(b). Within thirty days after the time that any Person becomes a Foreign Subsidiary owned directly by the Borrower or a Domestic Subsidiary as a result of the creation of such Subsidiary or otherwise, (a) 65% of such Subsidiary's voting Equity Interests and 100% of such Subsidiary's non-voting Equity Interests shall be pledged to secure the Obligations and (b) the Lenders shall receive such board resolutions, officer's certificates, corporate and other documents and opinions of counsel as the Administrative Agent shall reasonably request in connection with such pledge.

6.14 **Perfection of Pledge of Equity Interests in Foreign Subsidiaries**. If at any time the total assets of the Foreign Subsidiaries comprise 15% or more of the consolidated total assets of the Borrower and its Subsidiaries, the Borrower shall deliver to the Administrative Agent, (i) foreign pledge documents perfecting the Borrower's or the Domestic Subsidiaries' pledge of 65% of the voting Equity Interests and 100% of the non-voting Equity Interests in Foreign Subsidiaries owned directly by the Borrower or any Domestic Subsidiary in form and substance satisfactory to the Administrative Agent and (ii) such board resolutions, officers' certificates and opinions of foreign counsel as the Administrative Agent shall request in connection therewith, each in form and substance satisfactory to the Administrative Agent. The Borrower shall deliver

all of the foregoing documents to the Administrative Agent within 45 days after the Borrower's delivery to the Administrative Agent and the Lenders pursuant to Section 6.01 financial statements that demonstrate that the total assets of the Foreign Subsidiaries comprise 15% or more of the consolidated total assets of the Borrower and its Subsidiaries.

6.15 **Agreed Budget.**

(a) The use of Loans and other Credit Extensions by the Borrower under this Agreement and the other Loan Documents and the use of Cash Collateral shall be limited in accordance with the Agreed Budget (subject to variances permitted under Section 6.15(b)) and Section 6.11. The initial Agreed Budget shall be in the form of Exhibit H for the first thirteen (13) week period from the Petition Date, and such initial Agreed Budget shall be approved by, and in form and substance satisfactory to, the Administrative Agent and the Required Lenders in their sole discretion (it being acknowledged and agreed that the initial Agreed Budget attached hereto as Exhibit H is approved by and satisfactory to the Administrative Agent and the Required Lenders). Furthermore, the Agreed Budget shall be updated, modified or supplemented by the Borrower with the written consent of the Administrative Agent, and upon the request of the Administrative Agent from time to time, but in any event (unless otherwise agreed by the Administrative Agent) the Borrower shall propose an update, modification or supplement of the Agreed Budget as provided pursuant to Section 6.02(b), and each such updated, modified or supplemented budget shall be approved in writing (including by email) by, and shall be in form and substance satisfactory to, the Administrative Agent and the Required Lenders in their sole discretion and no such updated, modified or supplemented budget shall be effective until so approved and once so approved shall be deemed an Agreed Budget; provided, however, that in the event the Administrative Agent and the Required Lenders, on the one hand, and the Borrower, on the other hand, cannot agree as to an updated, modified or supplemented budget, the prior Agreed Budget shall continue in effect, with weekly details for any periods after the initial 13-period to be derived in a manner reasonably satisfactory to the Administrative Agent and the Required Lenders from the cash flow forecasts prepared by the Borrower, and such disagreement shall give rise to an Event of Default once the period covered by the prior Agreed Budget has ended. Each Agreed Budget delivered to the Administrative Agent shall be accompanied by such supporting documentation as reasonably requested by the Administrative Agent. Each Agreed Budget shall be prepared in good faith, with due care and based upon assumptions which the Borrower believes to be reasonable.

(b) (A) Commencing with the period from the Petition Date through the second Sunday thereafter and each two week period thereafter, the Borrower shall not permit (i) the Actual Operating Disbursement Amount for the Cumulative Period to exceed 110% of the Budgeted Operating Disbursement Amount for such Cumulative Period, (ii) any one line item set forth under "Disbursements" for the Cumulative Period to exceed 115% of such line item in the Agreed Budget for such Cumulative Period, (iii) the Actual Operating Disbursement Amount for the Prior Two Weeks to exceed 110% of the Budgeted Operating Disbursement Amount for such Prior Two Weeks, (iv) any one line item set forth under "Disbursements" for the Prior Two Weeks to exceed 115% of such line item in the Agreed Budget for such Prior Two Weeks and (B) the Aggregate Receipts for the Cumulative Period to be less than 90% of the Aggregate Receipts as set forth in the Agreed Budget for such Cumulative Period.

(c) The Administrative Agent and the Lenders (i) may assume that the Borrower will comply with the Agreed Budget, (ii) shall have no duty to monitor such compliance and (iii) shall not be obligated to pay (directly or indirectly from the Collateral) any unpaid expenses incurred or authorized to be incurred pursuant to any Agreed Budget. The line items in the Agreed Budget for payment of interest, expenses and other amounts to the Administrative Agent and the Lenders are estimates only, and the Borrower remains obligated to pay any and all Obligations in accordance with the terms of the Loan Documents and the applicable Order regardless of whether such amounts exceed such estimates. Nothing in any Agreed Budget shall constitute an amendment or other modification of any Loan Document or any of the borrowing restrictions or other lending limits set forth therein.

6.16 **PW800 and P&WC Contract Negotiations**. (a) The Loan Parties shall consider in good faith any reasonable, potential funding arrangements for the PW800 Program, (b) the Borrower upon request of the Administrative Agent shall provide the Administrative Agent (and the Administrative Agent shall in turn provide the Lenders) with prompt updates on discussions, negotiations and any other arrangements regarding the PW800 Program, the P&W800 Assets or P&WC Contract and (c) the Borrower shall consult with the Lenders and their advisors on negotiations and developments with respect to the PW800 Program, the P&W800 Assets or P&WC Contract.

6.17 **Deposit Accounts**. The Loan Parties shall maintain their Deposit Accounts that existed on the Petition Date and that are identified on Schedule 6.17 (the "Existing Accounts") in accordance with the cash management system as set forth in the Cash Management Order. Without the Administrative Agent's prior written consent, no Loan Party shall close any Existing Account or establish any new Deposit Accounts. Upon entry of the Order and the Cash Management Order (and except as otherwise provided in the Cash Management Order or the Order), the Borrower shall, and shall cause each other Loan Party to, comply with the terms of the Cash Management Order and the Order in all material respects.

6.18 **Agreement to Deliver Security Documents**. (i) Cause all of the Collateral (including, without limitation, all owned and leased real and personal property and assets of each Loan Party) to be subject at all times to first priority, perfected and, in the case of Real Property (whether leased or owned), [title insured] Liens in favor of the Administrative Agent to secure the Obligations pursuant to the terms and conditions hereof the Interim Order and the Final Order, and (ii) deliver such other documentation as the Administrative Agent may reasonably request in connection with the foregoing, including, without limitation, appropriate UCC-1 financing statements, mortgages, real estate title insurance policies, surveys, environmental reports, landlord's waivers, certified resolutions and other organizational and authorizing documents of such Person, all in form, content and scope reasonably satisfactory to the Administrative Agent.

6.19 **[Reserved.]**

6.20 **Retention of Chief Restructuring Officer.**

(a) Retain, at the Borrower's expense, John DiDonato of Huron Consulting Group as chief restructuring officer for the Loan Parties, or such other individual that is

acceptable to the Administrative Agent and the Required Lenders (the "Chief Restructuring Officer").

(b) The Chief Restructuring Officer shall (i) analyze and verify the Agreed Budget and other financial reports prepared for, and/or provided to, the Administrative Agent or the Lenders, (ii) have sole and complete disbursement authority for each Loan Party; provided, however, an employee of the Borrower (or any other applicable Loan Party), at the direction of the Chief Restructuring Officer, may physically write the checks or initiate the disbursement therefor, including the authority of the Chief Restructuring Officer to pay the Loan Parties' legal and professional advisory fees, (iii) review and approve in advance all disbursements made by any of the Loan Parties (including disbursements necessary to pay professional fees of any of the Loan Parties), (iv) have authority to make all decisions regarding day-to-day operations, (v) directly report, from time to time, to the Restructuring Committee and (vi) review and approve in advance all asset Dispositions outside of the ordinary course made by any of the Loan Parties.

(c) If the Borrower or any other Loan Party shall terminate its engagement with the Chief Restructuring Officer, the Loan Parties shall within three (3) Business Days of such termination, hire a replacement Chief Restructuring Officer reasonably acceptable to the Administrative Agent and the Required Lenders on terms reasonably acceptable to the Administrative Agent but including the requirements set forth in this Section 6.20. If the Borrower or any other Loan Party shall alter, modify, waive or consent to any of the terms of the Chief Restructuring Officer's engagement, then the Borrower shall promptly notify Administrative Agent and the Lenders of such alteration, and, if the altered terms of such engagement are not acceptable to the Administrative Agent and the Required Lenders, then such alteration shall result in the occurrence of an Event of Default. Each Loan Party, together with its attorneys, officers, directors, agents, employees and representatives, as appropriate, shall fully cooperate with the Chief Restructuring Officer in performing his/her services as contemplated hereunder and shall not interfere, directly or indirectly, with the Chief Restructuring Officer's performance of such services.

(d) The Borrower authorizes and directs the Chief Restructuring Officer to provide the Administrative Agent (or its agents or advisors) with copies of reports and other information or materials prepared or reviewed by such Chief Restructuring Officer as the Administrative Agent may reasonably request. In addition, in connection with Section 6.22, the Borrower and each Loan Party shall authorize and direct the Chief Restructuring Officer to participate on each such status calls.

(e) The Borrower shall, and shall cause each of the other Loan Parties to, fully cooperate with the Chief Restructuring Officer, including, without limitation, in connection with the preparation of the Agreed Budget and other reporting or information required to be delivered pursuant to this Agreement.

6.21 **Additional Guarantors**. Notify the Administrative Agent at the time that any Person (other than a Foreign Subsidiary) becomes a debtor in the Bankruptcy Cases, and (a) promptly thereafter (and in any event within 5 days), seek an order of the Bankruptcy Court authorizing such Person to become a Guarantor hereunder and (b) immediately upon the entry of such order, (i) cause such Person to become a Guarantor by executing and delivering to the

Administrative Agent a counterpart of the Guaranty or a "Joinder Agreement" in the form attached to the Guaranty, and (ii) deliver to the Administrative Agent documents of the types referred to in clauses (f), (g) and (h) of Section 4.01, all in form, content and scope reasonably satisfactory to the Administrative Agent.

6.22 **Periodic Calls**. From time to time (but no more often than once per week) upon reasonable request of the Administrative Agent, conduct and participate in status calls with the Administrative Agent and Lenders (and their respective advisors) to discuss (i) the Agreed Budget or the Agreed Budget Variance Reports and/or any other reports or information delivered pursuant to Section 6.02 or Section 6.15 or otherwise, (ii) the financial operations and performance of the Loan Parties' business, or (iii) such other matters relating to the Loan Parties as the Administrative Agent (or its agents or advisors) shall reasonably request.

6.23 **Milestones Supplemental Schedule**. The Loan Parties shall negotiate in good faith with the Administrative Agent regarding additional case milestones reasonably satisfactory to the Administrative Agent to be set forth in the Milestones Supplemental Schedule, which shall be agreed by no later than the entry of the Final Order.

6.24 **Post-Closing Matters**. The Borrower shall, and shall cause its applicable Subsidiaries to, satisfy each requirement set forth in Schedule 6.24 on or before the date specified in Schedule 6.24 for such requirement (or such later date as may be agreed upon by the Administrative Agent in its reasonable discretion).

ARTICLE VII
NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder or any Loan or other Obligation hereunder shall remain unpaid or unsatisfied:

7.01 **Liens**. Subject to (x) the Orders and (y) Section 7.18, the Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired (including the Excluded Assets), other than the following (but only to the extent, (i) if created, incurred, assumed or suffered by a Loan Party on or after the Petition Date, such Liens are (A) with respect to clauses (a), (b) (to the extent set forth in the Orders), (c), (h) and (i), junior to the Liens of the Administrative Agent and the Lenders hereunder and junior to the adequate protection liens granted to the Pre-Petition Secured Parties in accordance with the Orders and (B) approved by the Bankruptcy Court with the prior written consent of the Administrative Agent and (ii) if created, incurred, assumed or suffered by a Loan Party before the Petition Date, such Liens (A) have the priority set forth in the Orders and (B) are valid, perfected, enforceable and unavoidable in accordance with applicable Law, collectively, "Permitted Liens"):

(a) Liens pursuant to any Loan Document;

(b) Liens existing on the Petition Date and listed on Schedule 7.01 and any continuations filed with respect thereto;

(c) Liens for Taxes not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(d) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person;

(e) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;

(f) deposits to secure the performance of bids, trade contracts and leases (other than Debt), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(g) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;

(h) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(f);

(i) additional Liens granted to the Pre-Petition Secured Parties pursuant to the Orders; and

(j) Liens granted to Bank of America, N.A. in connection with the Debtors' Purchase Card Program (as defined in the Cash Management Order) including both the ePayables and purchase card facilities in an aggregate amount not to exceed $1,000,000 at any time.

7.02 **Investments**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, make any Investments, except:

(a) Investments, other than those permitted by Sections 7.02(b) through (f), existing as of the Petition Date and listed on Schedule 7.02;

(b) Investments held by the Borrower or such Subsidiary in Cash Equivalents;

(c) Advances to officers, directors and employees of the Borrower and the Domestic Subsidiaries in an aggregate amount not to exceed $50,000 at any time outstanding, for travel, relocation and analogous ordinary business purposes;

(d) Investments of the Borrower in any Guarantor and Investments of any Guarantor in the Borrower or in another Guarantor, in each case, made in the ordinary course of business in accordance with past practice;

(e) 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 or in connection with trade receivables and overpayment of trade payables in the ordinary course of business, in each case to other than the Borrower, any Foreign Subsidiary or NEL, 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;

(f) Investments (excluding Dispositions permitted pursuant to Section 7.05(h) and equity Investments in Foreign Subsidiaries as of the Closing Date and set forth on Schedule 7.02) of the Borrower in Foreign Subsidiaries to permit the ordinary course operations of the business of the Debtors and their Subsidiaries; provided that such Investments, together with the aggregate amount of Debt permitted pursuant to Section 7.03(f) and the aggregate book value of assets disposed of in Dispositions permitted pursuant to Section 7.05(h), shall not exceed $5,000,000 in aggregate amount at any time;

(g) Investments permitted by Section 7.03 (other than Section 7.03(f));

(h) so long as there exists no Event of Default immediately before or after giving effect to such transaction, other Investments not to exceed $500,000 in the aggregate at any time outstanding;

(i) Investments otherwise permitted pursuant to the terms of this Agreement and provided for and disclosed in the Agreed Budget, provided that no such Investments shall be made if immediately prior to making such Investment, or after giving effect thereto, there shall exist an Event of Default which is continuing; and

(j) Investments made by any Debtor to any Foreign Subsidiary in connection with the Debtors' cash management system pursuant to the Cash Management Order.

7.03 **Debt**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, create, incur, assume or suffer to exist any Debt, except:

(a) Debt under the Loan Documents;

(b) Debt outstanding on the Petition Date and listed on Schedule 7.03;

(c) Guarantees of the Borrower or any Subsidiary in respect of Debt otherwise permitted hereunder of the Borrower or any other Guarantor;

(d) obligations (contingent or otherwise) of the Borrower or any Subsidiary existing or arising under any Swap Contract, provided that (i) 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 liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such

Person, and not for purposes of speculation or taking a "market view;" (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party and (iii) such Swap Contract is consented to by the Administrative Agent;

(e) Debt in respect of intercompany loans between and among any of the Borrower and any Guarantor, each of which such loans shall be evidenced by a promissory note, provided that obligations pursuant to such Debt are (i) subordinate to any Obligations under any of the Loan Documents in form and substance satisfactory to the Administrative Agent and (ii) created, incurred, assumed or suffered to exist in the ordinary course of business in accordance with past practices;

(f) Debt in respect of intercompany loans between the Borrower and Foreign Subsidiaries to permit the ordinary course operations of the business of the Debtors and their Subsidiaries, provided that (i) each such loan, together with the aggregate amount of Investments permitted pursuant to Section 7.02(f) and the aggregate book value of assets disposed of in Dispositions permitted pursuant to Section 7.05(h), shall not exceed $5,000,000 in aggregate amount at any time; and (ii) such loans to Foreign Subsidiaries and outstanding for more than 30 days are evidenced by a promissory note payable to the order of the Borrower which has been pledged to the Administrative Agent;

(g) trade accounts payable incurred in the ordinary course of business and not otherwise contrary to terms of this Agreement;

(h) obligations for wages, salaries, employee benefits and other employee compensation incurred in the ordinary course of business and consistent with past practice; provided, that such Debt shall only be permitted in connection with the Borrower's practice of paying such obligations one week in arrears and booking such obligations as a Debt on its books;

(i) accrued liabilities (including notes executed in the ordinary course of business to finance prepaid insurance premiums), deferred credit and loss contingencies that are classified as liabilities under GAAP;

(j) obligations for Taxes which are not past due (unless such past due taxes are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP);

(k) Debt owed to Bank of America, N.A. in connection with the Debtors' Purchase Card Program (as defined in the Cash Management Order) including both the ePayables and purchase card facilities in an aggregate amount not to exceed $1,000,000 at any time; and

(l) Debt in respect of intercompany loans between any Debtor and any Foreign Subsidiary in connection with the Debtors' cash management system pursuant to the Cash Management Order.

7.04 **Fundamental Changes**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except as permitted pursuant to Section 7.05.

7.05 **Dispositions**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of obsolete or worn out property, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions of Inventory and Rotables in the ordinary course of business;

(c) The sale, discount, or transfer of delinquent accounts receivable in the ordinary course of business for purposes of collection; provided that no Event of Default has occurred and is continuing at the time of each such Disposition or would result from such Disposition;

(d) Dispositions of equipment to the extent that (i) such equipment is exchanged for credit against the purchase price of similar replacement equipment or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement equipment;

(e) Dispositions of property by any Subsidiary to the Borrower or to a wholly-owned Subsidiary; provided that if the transferor of such property is a Guarantor, the transferee thereof must either be the Borrower or a Guarantor;

(f) Non-exclusive licenses of IP Rights in the ordinary course of business;

(g) Dispositions of other assets of the Borrower or any Subsidiary; provided that (i) at the time of such Dispositions, no Default shall exist or would result from such Disposition and (ii) the aggregate book value of all property Disposed of in reliance on this clause (g) shall not exceed $500,000;

(h) Dispositions of assets of the Borrower to Foreign Subsidiaries to permit the ordinary course operations of the business of the Debtors and their Subsidiaries; provided that the aggregate book value of assets disposed of in such Dispositions, together with the aggregate amount of Investments permitted pursuant to Section 7.02(f) and the aggregate amount of Debt permitted pursuant to Section 7.03(f), shall not exceed $5,000,000 in aggregate amount at any time; and

(i) transfers of certain assets to the Mexican Facility to permit the ordinary course operations of the business of the Debtors and their Subsidiaries; provided that the aggregate book value of Collateral located at the Mexican Facility at any one time, plus accumulated depreciation on property, plant and equipment that is Collateral located at the

Mexican Facility, shall not exceed $9,500,000 in aggregate amount during the term of this Agreement;

provided, however, that any Disposition pursuant to clauses (a) through (i) of this Section 7.05 shall be for fair market value, solely in Dollars, Pounds Sterling or Euros and in immediately available funds, and, except with respect to Dispositions in the ordinary course of business, shall be approved in advance by the Chief Restructuring Officer and the Restructuring Committee.

7.06 **Restricted Payments**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, or issue or sell any Equity Interests, except so long as no Default shall have occurred and be continuing at the time of such Restricted Payment, each Subsidiary may make Restricted Payments to the Borrower, any Guarantor and any other Person that owns Equity Interests in such Subsidiary, ratably according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made.

7.07 **Change in Nature of Business**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, engage in any material line of business substantially different from those lines of business conducted by the Borrower and its Subsidiaries on the Closing Date.

7.08 **Transactions with Affiliates**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than (i) on fair and reasonable terms substantially as favorable to the Borrower or such Subsidiary as would be obtainable by the Borrower or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate and (ii) any transaction permitted by Section 7.02(j); provided that the foregoing restriction shall not apply to transactions between or among the Borrower and any wholly-owned Subsidiary that is a Guarantor or between and among any wholly-owned Subsidiaries that are Guarantors.

7.09 **Burdensome Agreements**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, enter into any Contractual Obligation (other than this Agreement or any other Loan Document) that (a) limits the ability (i) of any Subsidiary to make Restricted Payments to the Borrower or any Guarantor or to otherwise transfer property to the Borrower or any Guarantor, (ii) of any Subsidiary to Guarantee the Debt of the Borrower or (iii) of the Borrower or any Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person; provided, however, that the restrictions above shall not (A) prohibit any negative pledge incurred or provided in favor of any holder of Debt permitted under Section 7.03(e) solely to the extent any such negative pledge relates to the property financed by or the subject of such Debt or Section 7.03(b), (B) apply to restrictions and conditions relating to the sale of a Subsidiary pending such sale, provided such restrictions or conditions apply only to the Subsidiary that is to be sold and such sale is permitted hereunder and (C) apply to customary provisions in leases and other contracts restricting the assignment thereof; or (b) requires the grant of a Lien to secure an obligation of such Person if a Lien is granted to secure another obligation of such Person.

7.10 **Use of Proceeds**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, use the proceeds of any Credit Extension or Cash Collateral, whether directly or indirectly, and whether immediately, incidentally or ultimately, to 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 Debt originally incurred for such purpose.

7.11 **Synthetic Repurchases**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, enter into, be a party to, or make any payment under, any Synthetic Purchase Agreement.

7.12 **Amendment and Prepayment of Other Debt**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly:

(a) Except in connection with a confirmed plan of reorganization in the Bankruptcy Cases, which is satisfactory to the Administrative Agent and the Required Lenders (or which provides for the payment in full in cash of all Obligations and all Pre-Petition Obligations on the date of effectiveness of such plan) amend or modify any of the terms of any Debt of any of the Loan Parties arising prior to or after the Petition Date, if such amendment or modification would add or change any terms in a manner adverse to the Loan Parties or the Lenders, or shorten the final maturity or average life to maturity or require any payment to be made sooner than originally scheduled or increase the interest rate applicable thereto; or

(b) Make any payment of any Debt or any claim arising prior to the Petition Date except as set forth in the Agreed Budget or make any voluntary, optional or other non-scheduled payment (the "buyout" price at the end of the term of any capital lease or synthetic lease being treated hereunder as scheduled), prepayment, redemption, acquisition for value, refund, refinance or exchange of any Debt of such Loan Party arising after the Petition Date (including, without limitation, any interest, premium or other amounts owing in respect thereof), in each case whether or not mandatory, except (i) with respect to Debt under the Loan Documents, or (ii) for payments made pursuant to the Interim Order or the Final Order and in each instance as set forth in the Agreed Budget or otherwise reasonably acceptable to the Administrative Agent.

7.13 **Transactions Affecting Collateral or Obligations**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, enter into any transaction or Contractual Obligation subsequent to the Petition Date which could be reasonably expected to have a Material Adverse Effect.

7.14 **Capital Expenditures**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, make Capital Expenditures unless provided for in the Agreed Budget.

7.15 **Organization Documents; Fiscal Year**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly: (a) amend, modify or change its Organization Documents in a manner adverse to the rights of the Lenders or (b) change its fiscal year.

7.16 **Deposit Accounts**. No Loan Party shall, at any time maintain any Deposit Account or any other bank account at any Bank (as such terms are defined in Article 9 of the UCC) other than as provided in Section 6.17.

7.17 **[Reserved.]**

7.18 **Chapter 11 Claims**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly, incur, create, assume, suffer to exist or permit any administrative expense, unsecured claim, or other Super-Priority Claim or Lien which is pari passu with or senior to (x) the claims or Liens, as the case may be, of the Administrative Agent and the other Secured Parties against the Loan Parties hereunder or (y) the Prepetition Lenders Adequate Protection Superpriority Claims or Prepetition Lenders Adequate Protection Liens (as defined in the Orders), or apply to the Bankruptcy Court for authority so to do, except for the Carve-Out and Liens permitted to be senior pursuant to Section 7.01, including without limitation, clause (j) thereof.

7.19 **Revision of Orders; Applications to Bankruptcy Court**. The Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly:

(a) seek, consent to or suffer to exist (or support any Person that seeks) any modification, stay, vacation, reversal or amendment of the Interim Order or the Final Order except for any modifications and amendments agreed to in writing by Administrative Agent and the Required Lenders; provided that, any waiver, consent or amendment of any Order that is materially and disproportionately adverse in any respect to any Lender relative to any other Lender shall require the written consent of such adversely and disproportionately affected Lender in addition to the Administrative Agent and the Required Lenders; or

(b) apply to the Bankruptcy Court for authority (or support any Person that seeks) to take any action prohibited by this Article VII (except to the extent such application and the taking of such action is conditioned upon the receiving the written consent of the Administrative Agent and the requisite applicable Lenders).

7.20 **Retention of Investment Bank**. The Borrower shall not fail to continue to retain the Investment Bank.

7.21 **Chief Restructuring Officer**. The Borrower shall not, and shall not permit any Subsidiary to, terminate its engagement with the Chief Restructuring Officer unless consented to by the Lenders.

7.22 **P&WC Contract**. The Debtors shall not enter into any arrangement (or file any pleading with the Bankruptcy Court seeking approval of any such arrangement) with respect to the P&WC Contract (including assumption of the P&WC Contract pursuant to Section 365 or 1129 of the Bankruptcy Code) in a manner or with terms or conditions that are not satisfactory to the Administrative Agent and the Lenders.

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 Borrower or any other Loan Party fails to pay when and as required to be paid herein, (i) any amount of principal of any Loan, or (ii) within two Business Days after the same becomes due, any interest on any Loan, or any fee due hereunder, or (iii) within three Business Days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. The Borrower or any Subsidiary, as applicable, fails to perform or observe any term, covenant or agreement contained in any of Section 6.01, 6.02, 6.03, 6.05, 6.10, 6.11, 6.15, 6.16, 6.17, 6.19, 6.20, 6.23, or 6.24 or Article VII, or any default exists under the Guaranty; or

(c) Other Defaults. The Borrower or any Subsidiary, as applicable, fails to perform or observe any other covenant or agreement (not specified in Sections 8.01(a) or 8.01(b)) contained in any Loan Document on its part to be performed or observed and such failure continues for 15 days; or

(d) Representations and Warranties. (i) Any information contained in any Compliance Certificate or Agreed Budget Variance Report was untrue or incorrect in any material respect when given or confirmed or (ii) any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower or any Subsidiary herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made; or

(e) Cross-Default. (i) The Borrower or any Subsidiary (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Debt or Guarantee (other than Debt hereunder and Debt under Swap Contracts) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than $1,000,000, unless such failure to perform or observe is a result of the Bankruptcy Cases, or (B) fails to observe or perform any other agreement or condition relating to any such Debt or Guarantee 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 Debt or the beneficiary or beneficiaries of such Guarantee (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 Debt to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Debt to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded, in each case, unless such failure to perform or observe is a result of the Bankruptcy Cases; or (ii) there occurs under any Swap Contract entered into after the Petition Date an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which the Borrower or any Subsidiary 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 the Borrower or any Subsidiary is an Affected

Party (as so defined) and, in either event, the Swap Termination Value owed by the Borrower or such Subsidiary as a result thereof is greater than $1,000,000; or

(f) Judgments. After the Petition Date, there is entered against the Borrower or any Subsidiary (i) a final judgment or order for the payment of money (excluding any "First Day Orders" or any order fixing the amount of any claim in the Bankruptcy Case) in an aggregate amount exceeding $2,000,000 (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 15 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(g) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of the Borrower under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of $1,000,000, or (ii) the Borrower 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 $1,000,000; or

(h) Invalidity of Loan Documents. 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 in cash of all the Obligations, ceases to be in full force and effect; or any Loan Party or any other Person contests in any manner the validity or enforceability of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any Loan Document; or

(i) Change of Control. There occurs any Change of Control; or

(j) Dissolution or Liquidation. Any Loan Party voluntarily or involuntarily dissolves or is dissolved, liquidates or is liquidated or files a motion with the Bankruptcy Court seeking (or supports any Person seeking) authorization to so dissolve or liquidate; or

(k) Final Order; Interim Order. The Bankruptcy Court fails to enter the Final Order within thirty-five (35) days after entry of the Interim Order, or the Bankruptcy Court reverses, vacates or stays the effectiveness of either the Interim Order or the Final Order; or

(l) Certain Orders. An order with respect to any of the Bankruptcy Cases shall be entered by the Bankruptcy Court (or any of the Loan Parties shall file an application or motion or pleading for entry of or in support of an order) (i) appointing a trustee under Section 1104 of the Bankruptcy Code, (ii) appointing an examiner with enlarged powers (beyond those set forth in Section 1106(a)(3) and (4) of the Bankruptcy Code) relating to the operation of the business under Section 1106(b) of the Bankruptcy Code, (iii) dismissing any of the Bankruptcy Cases or converting any of the Bankruptcy Cases to a Chapter 7 case, or (iv) providing for the

Disposition without the Administrative Agent's consent of all or substantially all of any of the Loan Parties' assets or any material business line of the Loan Parties either through a sale under Section 363 of the Bankruptcy Code, through a confirmed plan of reorganization in the Bankruptcy Cases or otherwise that does not result in payment in full in cash of all of the Obligations under this Agreement and all Pre-Petition Obligations at the closing of such sale or initial payment of the purchase price or effectiveness of such plan, as applicable; or

(m) Non-Compliance with the Final Order, the Interim Order and Other Orders. Any Loan Party fails or neglects to comply in any material respect with any provision of the Final Order or the Interim Order, as applicable, or the Cash Management Order; or

(n) Filing of Unapproved Plan. (i) An order shall be entered by the Bankruptcy Court confirming a plan of reorganization or liquidation in the Bankruptcy Cases (or an order shall be entered by the Bankruptcy Court approving a disclosure statement related to such plan) which does not (x) provide for the termination of all of the Lenders' Commitments and payment in full in cash of all Obligations and all Pre-Petition Obligations on the date of effectiveness of such plan and in each case in a manner satisfactory to the Administrative Agent and the Lenders on or before the effective date of such plan and (y) provide for the continuation of the Liens and priorities in favor of the Administrative Agent and the Secured Parties until such effective date unless such plan of reorganization or liquidation otherwise is satisfactory in form and substance to the Administrative Agent and the Required Lenders; provided that, for the avoidance of doubt, any such plan described in this clause (y) must provide for the payment in full in cash of all Obligations on the effective date of such plan unless consented to in writing by all Lenders or (ii) any Loan Party (or by any party with the support of any of the Loan Parties) shall have filed or supports a plan of reorganization or liquidation (or related disclosure statement) that violates or will violate Section 8.01(n)(i) in the Bankruptcy Cases; or

(o) Entry of Unapproved Order. An order with respect to any of the Bankruptcy Cases shall be entered by the Bankruptcy Court, or any of the Loan Parties have filed or support a motion or other pleading for entry of an order, (i) to revoke, reverse, stay, vacate, rescind or seek reconsideration of any provision of any Order, (ii) to modify, supplement or amend any provision of the Interim Order, the Final Order, the Cash Management Order or this Agreement without the prior written consent of the Administrative Agent and the affected Lenders or (iii) to permit any administrative expense or any claim (now existing or hereafter arising, of any kind or nature whatsoever) to have administrative priority as to any of the Loan Parties, equal or superior to the priority of the Lenders in respect of the Obligations or the Pre-Petition Lenders in respect of the Adequate Protection Obligations (as defined in the Orders), except for allowed administrative expenses having priority over the Obligations only to the extent of the Carve-Out, or (iv) to grant or permit the grant of a Lien on the Collateral (other than a Permitted Lien) or (v) to dismiss any of the Bankruptcy Cases which order does not contain a provision for termination of all of the Lenders' Commitments and payment in full in cash of all Obligations and Pre-Petition Obligations in a manner satisfactory to the Administrative Agent upon such dismissal; or

(p) Relief from the Automatic Stay. The Bankruptcy Court enters an order or orders granting relief from the automatic stay applicable under section 362 of the Bankruptcy

Code for any reason to any Person with respect to assets of any Loan Party where the aggregate value of the property subject to all such order or orders is greater than $2,000,000; or

(q) Unenforceability of the Interim Order, Final Order or Loan Documents. Any provision of the Interim Order, the Final Order, this Agreement or any other Loan Document shall for any reason cease to be valid or binding or enforceable against any of the Loan Parties, or any of the Loan Parties shall so state in writing; or any of the Loan Parties shall commence or join in any legal proceeding to contest in any manner that the Interim Order, the Final Order, this Agreement or any other Loan Document constitutes a valid and enforceable agreement or any of the Loan Parties shall commence or join in any legal proceeding to assert that it has no further obligation or liability under the Interim Order, the Final Order, this Agreement or any other Loan Document; or

(r) Motion against the Lenders or the Pre-Petition Secured Creditors. Any of the Loan Parties shall seek to, or shall support (whether by way of motion or other pleadings filed with the Bankruptcy Court or any other writing executed by any Loan Party or by oral argument) any other Person's motion to: (i) disallow in whole or in part any of the Obligations arising under this Agreement or any other Loan Document (or any such order is entered), (ii) disallow in whole or in part any of the Pre-Petition Obligations (or any such order is entered), (iii) challenge the validity and enforceability of the Liens or security interests granted or confirmed herein or in the Interim Order or the Final Order in favor of the Secured Parties, (iv) challenge the validity and enforceability of the Liens or security interests in favor of the Pre-Petition Secured Parties or (v) to investigate any of the matters described in the foregoing clauses (i) through (iv); provided that, the foregoing shall not apply with respect to any action of the Loan Parties to determine the value of the collateral securing the Pre-Petition Obligations; or

(s) Prohibited Payment. Any of the Loan Parties shall make any payment (as adequate protection or otherwise), or application for authority to pay, on account of any claim or Debt arising prior to the Petition Date other than those payments in respect of "adequate protection obligations" permitted pursuant to the terms of the Orders and payments authorized by the Bankruptcy Court in respect of (w) any such payments required and/or permitted in the "First Day Orders" or "Second Day Orders" reasonably satisfactory to the Administrative Agent and consistent with the Agreed Budget, (x) authorized by other orders entered by the Bankruptcy Court in amounts reasonably acceptable to the Administrative Agent and consistent with the Agreed Budget; provided that such payments shall be deemed satisfactory if the Administrative Agent does not object within five (5) Business Days after receipt of written notice thereof, (y) accrued payroll and related expenses as of the Petition Date or as described in and provided for in the Agreed Budget, and (z) not in excess of $1,000,000 in the aggregate for all such payments; or

(t) Other Bankruptcy Matters. (i) an order shall have been entered modifying the adequate protection obligations granted in any Order without the prior written consent of the Administrative Agent and each affected Lender, or (ii) an order shall have been entered by the Bankruptcy Court avoiding or requiring disgorgement by the Administrative Agent or any of the Lenders of any amounts received in respect of the Obligations (or in each case any of the Loan Parties shall seek to, or shall support (whether by way of motion or other pleadings filed with the

Bankruptcy Court or any other writing executed by any Loan Party or by oral argument) any other Person's motion to, have such an order entered); or

(u) Failure to Conduct Business. If any Loan Party is enjoined, restrained or in any way prevented by court order (other than an order of the Bankruptcy Court approved by the Required Lenders) from continuing to conduct all or any material part of its business affairs; or

(v) Failure to Satisfy Milestones. Any of the Milestones are not satisfied in accordance with the terms relating to such Milestone or the Milestones Supplemental Schedule is not finalized prior to the date of the entry of the Final Order in form and substance reasonably satisfactory to the Administrative Agent; or

(w) Restructuring Committee. The Restructuring Committee is disbanded, is not constituted with a majority of independent directors (not affiliated with or insiders of the Loan Parties or any of their affiliates) or does not have the authority as resolved by the Borrower's board of directors on July 13, 2018 which provide such committee with exclusive decision-making authority for the Loan Parties with respect to the Bankruptcy Cases; or

(x) Exclusivity. The Bankruptcy Court shall terminate or reduce the period pursuant to section 1121 of the Bankruptcy Code during which the Debtors have the exclusive right to file a plan of reorganization or solicit acceptance thereof, unless such termination or reduction is consented to by the Administrative Agent (or in each case any of the Loan Parties shall seek to, or shall support (whether by way of motion or other pleadings filed with the Bankruptcy Court or any other writing executed by any Loan Party or by oral argument) any other Person's motion to, have such an order entered).

8.02 **Remedies Upon Event of Default.**

(a) Notwithstanding the provisions of Section 362 of the Bankruptcy Code, but subject to the Orders, if any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of Required Lenders, take any or all of the following actions without further notice, application or motion, hearing before or order of the Bankruptcy Court:

(i) declare the commitment of each Lender to make Loans to be terminated, whereupon such commitments and obligation shall be terminated; provided that such termination shall be rescinded to the extent it is determined by the Bankruptcy Court during the five (5) Business Day period described in section 8.02(a)(v) that no Event of Default occurred and is continuing;

(ii) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document 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) terminate the use of Cash Collateral;

(iv) Subject to the proviso at the end of this Section 8.02(a), set-off against any outstanding Obligations amounts held for the account of the Loan Parties as cash collateral or in the accounts of any Loan Party maintained by or with the Administrative Agent, any Lender or their respective Affiliates; or

(v) take any other action or exercise on behalf of itself and the Lenders any other right and remedy available to it and the Lenders under the Loan Documents or otherwise available at law or in equity;

provided, that with respect to clauses (iv) and (v) of this Section 8.02(a), the Administrative Agent shall provide the Borrower (with a copy to counsel for any Official Creditors' Committee appointed in the Bankruptcy Cases (or to the Loan Parties' thirty (30) largest creditors in the event no such committee has been appointed or is in existence) and the United States Trustee for the District of Delaware with five (5) Business Days prior written notice.

(b) Upon the occurrence and during the continuance of an Event of Default, the automatic stay arising pursuant to Bankruptcy Code Section 362 shall be vacated and terminated in accordance with the Interim Order or the Final Order, as applicable, so as to permit the Administrative Agent and the Lenders full exercise of all of their rights and remedies based on the occurrence of an Event of Default, including, all of their rights and remedies with respect to the Collateral subject to the limitations set forth herein. With respect to the Administrative Agent's and Lenders' exercise of their rights and remedies, the Loan Parties agree and warrant as follows:

(i) the Loan Parties waive and, release, and shall be enjoined from attempting to contest, delay, or otherwise dispute the exercise by the Administrative Agent and the Lenders of their rights and remedies before the Bankruptcy Court or otherwise; except only as expressly stated in Section 8.02(b)(ii); and

(ii) when the Administrative Agent or the Lenders seek to enforce their rights and remedies based on an Event of Default, and if any Loan Party disputes that an Event of Default has occurred, a Loan Party will be entitled to file an emergency motion with the Bankruptcy Court disputing whether an Event of Default has occurred. Unless otherwise agreed in writing by Administrative Agent, any such motion shall be heard within five (5) Business Days after notice is delivered of the occurrence of the Event of Default, subject to the availability of the Bankruptcy Court. At the hearing on the emergency motion, the only issue that will be heard by the Bankruptcy Court will be whether an Event of Default has occurred and has not been cured, and, if an Event of Default has occurred and has not been cured, the Administrative Agent and the Lenders will be entitled to continue to exercise all of their rights and remedies without the necessity of any further notice or order. Furthermore, nothing herein shall be construed to impose or re-impose any stay or injunction of any kind against the Administrative Agent or the Lenders.

(c) If an Event of Default has occurred and is continuing: (i) the Administrative Agent shall have for the benefit the Secured Parties, in addition to all other rights of the Administrative Agent and the Lenders, the rights and remedies of a secured party under the UCC; (ii) the Administrative Agent may, at any time, take possession of the Collateral and

keep it on any Loan Party's premises, at no cost (including any charge pursuant to Section 506(c) of the Bankruptcy Code) to the Administrative Agent or any Lender, or remove any part of it to such other place or places as the Administrative Agent may desire, or the Borrower shall, upon the Administrative Agent's demand, at the Borrower's cost, assemble the Collateral and make it available to the Administrative Agent at a place or places reasonably convenient to the Administrative Agent; and (iii) the Administrative Agent may sell and deliver any Collateral at public or private sales, for cash, upon credit or otherwise, at such prices and upon such terms as the Administrative Agent deems advisable, in its reasonable discretion, and may, if the Administrative Agent deems it reasonable, postpone or adjourn any sale of the Collateral by an announcement at the time and place of sale or of such postponed or adjourned sale without giving a new notice of sale. Without in any way requiring notice to be given in the following manner, the Loan Parties agree that any notice by the Administrative Agent of sale, disposition or other intended action hereunder or in connection herewith, whether required by the UCC or otherwise, shall constitute reasonable notice to the Loan Parties if such notice is mailed by registered or certified mail, return receipt requested, postage prepaid, or is delivered personally against receipt to the Borrower, at least ten (10) Business Days prior to such action to the Borrower's address specified herein. If any Collateral is sold on terms other than payment in full at the time of sale, no credit shall be given against the Obligations until the Administrative Agent or the Lenders receive payment, and if the buyer defaults in payment, the Administrative Agent may resell the Collateral without further notice to the Loan Parties. In the event the Administrative Agent seeks to take possession of all or any portion of the Collateral by judicial process, the Loan Parties irrevocably waives: (A) the posting of any bond, surety or security with respect thereto which might otherwise be required; (B) any demand for possession prior to the commencement of any suit or action to recover the Collateral; and (C) any requirement that the Administrative Agent retain possession and not dispose of any Collateral until after trial or final judgment. The Loan Parties agree that the Administrative Agent has no obligation to preserve the Collateral or marshal any Collateral for the benefit of any Person. The Administrative Agent is hereby granted a license or other right to use, without charge, the Loan Parties' labels, patents, copyrights, name, trade secrets, trade names, trademarks, and advertising matter, or any similar property, in completing production of, advertising or selling any Collateral, and the Borrower's and the Guarantor's rights under all licenses and all franchise agreements shall inure to the Administrative Agent's benefit for such purpose. The proceeds of sale shall be applied first to all expenses of sale, including attorneys' fees, and then to the Obligations in accordance with Section 8.03. After the Obligations have been indefeasibly paid in full in cash and the Revolving Commitments terminated, the Administrative Agent will apply any excess proceeds of the Collateral in accordance with an order of the Bankruptcy Court. The Loan Parties shall remain liable for any deficiency.

8.03 **Application of Funds**. After the acceleration of the Obligations as provided for in Section 8.02(a), any amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations, except Obligations with respect to Swap Contracts, constituting accrued and unpaid interest on the Loans and other Obligations ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations, except Obligations with respect to Swap Contracts, constituting unpaid principal of the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fourth held by them; Fifth, to payment of remaining portion of the Obligations, except Obligations with respect to Swap Contracts, ratably among the Lenders and other applicable Secured Parties in proportion to the respective amounts described in this clause Fifth held by them;

Sixth, to the Administrative Agent for the account of each Lender and Affiliate of each Lender party to a Swap Contract in the amount of the Termination Value of each such Swap Contract, ratably among such Lenders and Affiliates of such Lenders in proportion to the respective amounts described in this clause Sixth held by them; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, as required by order of the Bankruptcy Court (including, without limitation, to the Pre-Petition Administrative Agent for application to the Pre-Petition Obligations in accordance with the terms of the Pre-Petition Credit Agreement and the other Pre-Petition Loan Documents).

The Loan Parties shall remain liable for any deficiency.

ARTICLE IX
ADMINISTRATIVE AGENT

9.01 **Authorization and Action.**

(a) Each Lender, on behalf of itself and any of its Affiliates that are Secured Parties hereby irrevocably appoints the entity named as Administrative Agent in the heading of this Agreement and its successors and assigns to serve as the administrative agent and collateral agent under the Loan Documents and each Lender authorizes the Administrative Agent to take such actions as agent on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to the Administrative Agent under such agreements and to exercise such powers as are reasonably incidental thereto. Without limiting the foregoing, each Lender hereby authorizes the Administrative Agent to execute and deliver, and to perform its obligations under, each of the Loan Documents to which the Administrative Agent is a party, to exercise all rights, powers and remedies that the Administrative Agent may have under such Loan Documents. For the avoidance of doubt, when this Agreement, any Loan Document, or any Order provides for certain actions or documents to require the consent of, or be satisfactory or

reasonably satisfactory to, the Administrative Agent, the Administrative Agent shall act in accordance with the directions of the Required Lenders.

(b) As to any matters provided for herein and in the other Loan Documents (including enforcement or collection) and whether or not expressly provided herein or in the other Loan Documents, the Administrative Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the written instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, pursuant to the terms in the Loan Documents), and, unless and until revoked in writing, such instructions shall be binding upon each Lender; provided, however, that the Administrative Agent shall not be required to take any action that (i) the Administrative Agent in good faith believes exposes it to liability unless the Administrative Agent receives an indemnification satisfactory to it from the Lenders with respect to such action or (ii) is contrary to this Agreement or any other Loan Document or applicable Law, including any action that may be in violation of the automatic stay under any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors; provided, further, that the Administrative Agent may seek clarification or direction from the Required Lenders prior to the exercise of any such instructed action and may refrain from acting until such clarification or direction has been provided. Except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower, any other Loan Party, any Subsidiary or any Affiliate of any of the foregoing that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. Nothing in this Agreement shall require the Administrative Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(c) In performing its functions and duties hereunder and under the other Loan Documents, the Administrative Agent is acting solely on behalf of the Lenders (except in limited circumstances expressly provided for herein relating to the maintenance of the Register), and its duties are entirely mechanical and administrative in nature. Without limiting the generality of the foregoing:

(i) the Administrative Agent does not assume and shall not be deemed to have assumed any obligation or duty or any other relationship as the agent, fiduciary or trustee of or for any Lender, any other Secured Party or holder of any other obligation other than as expressly set forth herein and in the other Loan Documents, regardless of whether a Default or an Event of Default has occurred and is continuing (and it is understood and agreed that the use of the term "agent" (or any similar term) herein or in any other Loan Document with reference to the Administrative Agent is not intended to connote any fiduciary duty or other implied (or express) obligations arising under agency doctrine of any applicable Law, and that such term is used as a matter of market custom and is intended to create or reflect only an administrative relationship between contracting parties); additionally, each Lender agrees that it will not assert

any claim against the Administrative Agent based on an alleged breach of fiduciary duty by the Administrative Agent in connection with this Agreement and the transactions contemplated hereby; and

(ii) nothing in this Agreement or any Loan Document shall require the Administrative Agent to account to any Lender for any sum or the profit element of any sum received by the Administrative Agent for its own account;

(d) The Administrative Agent may perform any 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 Administrative Agent. The Administrative Agent and any such sub-agent may perform any of their respective duties and exercise their respective rights and powers 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 Administrative Agent and any such sub-agent, and shall apply to their respective activities pursuant to this Agreement. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agent except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agent.

(e) None of any syndication agent, documentation agent or arranger shall have obligations or duties whatsoever in such capacity under this Agreement or any other Loan Document and shall incur no liability hereunder or thereunder in such capacity, but all such persons shall have the benefit of the indemnities provided for hereunder.

(f) The Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(i) to file and prove an administrative claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans 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 and the Administrative Agent (including any claim under Sections 2.08, 2.09, 3.01, 3.04 and 10.04) allowed in the Bankruptcy Cases or other applicable proceedings; and

(ii) 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, assignee, trustee, liquidator, sequestrator or other similar official in any such proceeding is hereby authorized by each Lender and each other Secured Party to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders or the other Secured Parties, to pay to the Administrative Agent any amount due to it, in its capacity as the Administrative Agent, under the Loan Documents (including under Section 10.04).

(g) The provisions of this Article are solely for the benefit of the Administrative Agent and the Lenders, and, except solely to the extent of the Borrower's rights to consent pursuant to and subject to the conditions set forth in this Article, none of the Borrower or any Subsidiary, or any of their respective Affiliates, shall have any rights as a third party beneficiary under any such provisions. Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Obligations provided under the Loan Documents, to have agreed to the provisions of this Article.

9.02 **Administrative Agent's Reliance, Indemnification, Etc.**

(a) Neither the Administrative Agent nor any of its Related Parties shall be (i) liable for any action taken or omitted to be taken by it under or in connection with this Agreement or the other Loan Documents (x) with the consent of or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents) or (y) in the absence of its own gross negligence or willful misconduct (such absence to be presumed unless otherwise determined by a court of competent jurisdiction by a final and nonappealable judgment) or (ii) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party to perform its obligations hereunder or thereunder.

(b) The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof (stating that it is a "notice of default") is given to the Administrative Agent by the Borrower or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default, (iv) the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to the Administrative Agent, or (vi) the creation, perfection or priority of Liens on the Collateral.

(c) Without limiting the foregoing, the Administrative Agent (i) may treat the payee of any promissory note as its holder until such promissory note has been assigned in accordance with Section 10.06, (ii) may rely on the Register to the extent set forth in Section 10.06(c), (iii) may consult with legal counsel (including counsel to the Borrower), independent public accountants and other experts selected by it, and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants

or experts, (iv) makes no warranty or representation to any Lender and shall not be responsible to any Lender for any statements, warranties or representations made by or on behalf of any Loan Party in connection with this Agreement or any other Loan Document, (v) in determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender sufficiently in advance of the making of such Loan and (vi) shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any notice, consent, certificate or other instrument or writing (which writing may be a fax, any electronic message, Internet or intranet website posting or other distribution) or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated by the proper party or parties (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

9.03 **Posting of Communications.**

(a) The Borrower agrees that the Administrative Agent may, but shall not be obligated to, make any Communications available to the Lenders by posting the Communications on IntraLinks™, DebtDomain, SyndTrak, ClearPar or any other electronic system chosen by the Administrative Agent to be its electronic transmission system (the "Approved Electronic Platform").

(b) Although the Approved Electronic Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by the Administrative Agent from time to time (including, as of the Closing Date, a user ID/password authorization system) and the Approved Electronic Platform is secured through a per-deal authorization method whereby each user may access the Approved Electronic Platform only on a deal-by-deal basis, each of the Lenders and the Borrower acknowledges and agrees that the distribution of material through an electronic medium is not necessarily secure, that the Administrative Agent is not responsible for approving or vetting the representatives or contacts of any Lender that are added to the Approved Electronic Platform, and that there are confidentiality and other risks associated with such distribution. Each of the Lenders and the Borrower hereby approves distribution of the Communications through the Approved Electronic Platform and understands and assumes the risks of such distribution.

(c) THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS ARE PROVIDED "AS IS" AND "AS AVAILABLE". THE APPLICABLE PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE APPROVED ELECTRONIC PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS. 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 THE APPLICABLE PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE APPROVED ELECTRONIC PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE

AGENT, ANY ARRANGER, ANY CO-DOCUMENTATION AGENT, ANY SYNDICATION AGENT OR ANY OF THEIR RESPECTIVE RELATED PARTIES (COLLECTIVELY, "APPLICABLE PARTIES") HAVE ANY LIABILITY TO ANY LOAN PARTY, ANY LENDER OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET OR THE APPROVED ELECTRONIC PLATFORM.

"Communications" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent or any Lender by means of electronic communications pursuant to this Section, including through an Approved Electronic Platform.

(d) Each Lender agrees that notice to it (as provided in the next sentence) specifying that Communications have been posted to the Approved Electronic Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender agrees (i) to notify the Administrative Agent in writing (which could be in the form of electronic communication) from time to time of such Lender's email address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such email address.

(e) Each of the Lenders and the Borrower agrees that the Administrative Agent may, but (except as may be required by applicable Law) shall not be obligated to, store the Communications on the Approved Electronic Platform in accordance with the Administrative Agent's generally applicable document retention procedures and policies.

(f) Nothing herein shall prejudice the right of the Administrative Agent or any Lender to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

9.04 **The Administrative Agent Individually**. With respect to its Commitment, and Loans, the Person serving as the Administrative Agent shall have and may exercise the same rights and powers hereunder and is subject to the same obligations and liabilities as and to the extent set forth herein for any other Lender. The terms "Lenders", "Required Lenders" and any similar terms shall, unless the context clearly otherwise indicates, include the Administrative Agent in its individual capacity as a Lender or as one of the Required Lenders, as applicable. The Person serving as the Administrative Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with, any Loan Party, any Subsidiary or any Affiliate of any of the foregoing as if such Person was not acting as the Administrative Agent and without any duty to account therefor to the Lenders.

9.05 **Successor Administrative Agent.**

(a) The Administrative Agent may resign at any time by giving 30 days' prior written notice thereof to the Lenders and the Borrower, whether or not a successor Administrative Agent has been appointed. Upon any such resignation, the Required Lenders shall have the right to appoint a successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the Required Lenders, and shall have accepted such appointment, within thirty (30) days after the retiring Administrative Agent's giving of notice of resignation, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent, which shall be a bank with an office in New York, New York or an Affiliate of any such bank. In either case, such appointment shall be subject to the prior written notice of the Borrower. Upon the acceptance of any appointment as Administrative Agent by a successor Administrative Agent, such successor Administrative Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Administrative Agent. Upon the acceptance of appointment as Administrative Agent by a successor Administrative Agent, the retiring Administrative Agent shall be discharged from its duties and obligations under this Agreement and the other Loan Documents. Prior to any retiring Administrative Agent's resignation hereunder as Administrative Agent, the retiring Administrative Agent shall take such action as may be reasonably necessary to assign to the successor Administrative Agent its rights as Administrative Agent under the Loan Documents.

(b) Notwithstanding paragraph (a) of this Section, in the event no successor Administrative Agent shall have been so appointed and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its intent to resign, the retiring Administrative Agent may give notice of the effectiveness of its resignation to the Lenders and the Borrower, whereupon, on the date of effectiveness of such resignation stated in such notice, (i) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents; provided that, solely for purposes of maintaining any security interest granted to the Administrative Agent under any Security Document for the benefit of the Secured Parties, the retiring Administrative Agent shall continue to be vested with such security interest as collateral agent for the benefit of the Secured Parties, and continue to be entitled to the rights set forth in such Security Document and Loan Document, and, in the case of any Collateral in the possession of the Administrative Agent, shall continue to hold such Collateral, in each case until such time as a successor Administrative Agent is appointed and accepts such appointment in accordance with this Section (it being understood and agreed that the retiring Administrative Agent shall have no duty or obligation to take any further action under any Security Document, including any action required to maintain the perfection of any such security interest), and (ii) the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; provided that (A) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (B) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall directly be given or made to each Lender. Following the effectiveness of the Administrative Agent's resignation from its capacity as such, the provisions of this Article, Section 3.01(c) and Section 10.04, as well as any exculpatory, reimbursement and indemnification provisions set forth in any other Loan Document, shall continue in effect for the benefit of such retiring Administrative Agent, its sub-

agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent and in respect of the matters referred to in the first proviso under this Section 9.05(b).

9.06 **Acknowledgements of Lenders.**

(a) Each Lender represents that it is engaged in making, acquiring or holding commercial loans in the ordinary course of its business and that it has, independently and without reliance upon the Administrative Agent, any Arranger or any other Lender, or any of the Related Parties of any of the foregoing, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement as a Lender, and to make, acquire or hold Loans hereunder. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Arranger or any other Lender, or any of the Related Parties of any of the foregoing, and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Borrower and its Affiliates) 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.

(b) Each Lender, by delivering its signature page to this Agreement on the Closing Date, or delivering its signature page to an Assignment and Assumption or any other Loan Document pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Closing Date or the effective date of any such Assignment and Assumption or any other Loan document pursuant to which it shall have become a Lender hereunder.

(c) Each Lender hereby agrees that (i) it has requested a copy of each Report prepared by or on behalf of the Administrative Agent; (ii) the Administrative Agent (A) makes no representation or warranty, express or implied, as to the completeness or accuracy of any Report or any of the information contained therein or any inaccuracy or omission contained in or relating to a Report and (B) shall not be liable for any information contained in any Report; (iii) the Reports are not comprehensive audits or examinations, and that any Person performing any field 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 and that the Administrative Agent undertakes no obligation to update, correct or supplement the Reports; (iv) it will keep all Reports confidential and strictly for its internal use, not share the Report with any Loan Party or any other Person except as otherwise permitted pursuant to this Agreement; and (v) without limiting the generality of any other indemnification provision contained in this Agreement, (A) it will hold the Administrative Agent and any such other Person 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 extension of credit that the indemnifying Lender has made or may make to the Borrower, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a Loan or Loans; and (B) it will pay and protect, and indemnify, defend, and hold the Administrative Agent

and any such other Person preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including reasonable attorneys' fees) incurred by the Administrative Agent or any such other Person as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

9.07 **Collateral Matters.**

(a) Except with respect to the exercise of setoff rights in accordance with Section 10.08 or with respect to a Secured Party's right to file a proof of claim in an insolvency proceeding, no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce any Guarantee of the Obligations, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Administrative Agent on behalf of the Secured Parties in accordance with the terms thereof. In its capacity, the Administrative Agent is a "representative" of the Secured Parties within the meaning of the term "secured party" as defined in the UCC. In the event that any Collateral is hereafter pledged by any Person as collateral security for the Obligations, the Administrative Agent is hereby authorized to execute and deliver on behalf of the Secured Parties any Loan Documents necessary or appropriate to grant and perfect a Lien on such Collateral in favor of the Administrative Agent on behalf of the Secured Parties.

(b) In furtherance of the foregoing and not in limitation thereof, no arrangements in respect of Cash Management Obligations the obligations under which constitute Obligations and no Swap Contract the obligations under which constitute Obligations, will create (or be deemed to create) in favor of any Secured Party that is a party thereto any rights in connection with the management or release of any Collateral or of the obligations of any Loan Party under any Loan Document. By accepting the benefits of the Collateral, each Secured Party that is a party to any such arrangement in respect of Cash Management Obligations or Swap Contract, as applicable, shall be deemed to have appointed the Administrative Agent to serve as administrative agent and collateral agent under the Loan Documents and agreed to be bound by the Loan Documents as a Secured Party thereunder, subject to the limitations set forth in this paragraph.

(c) The Secured Parties irrevocably authorize the Administrative Agent, at its option and in its discretion in accordance with the direction of the Required Lenders, to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Sections 7.01(c) through 7.01(h). The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders or any other Secured Party for any failure to monitor or maintain any portion of the Collateral.

9.08 **Certain ERISA Matters.**

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender

party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, and each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of the Plan Asset Regulations) of one or more Benefit Plans in connection with the Loans or the Commitments,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, and the conditions for exemptive relief thereunder are and will continue to be satisfied in connection therewith,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, and each arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that:

(i) none of the Administrative Agent, or any Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto),

(ii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is independent (within the meaning of 29 CFR § 2510.3-21, as amended from time to time) and is a bank, an insurance carrier, an investment adviser, a broker-dealer or other person that holds, or has under management or control, total assets of at least $50 million, in each case as described in 29 CFR § 2510.3-21(c)(1)(i)(A)-(E),

(iii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies (including in respect of the Obligations),

(iv) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is a fiduciary under ERISA or the Code, or both, with respect to the Loans, the Commitments and this Agreement and is responsible for exercising independent judgment in evaluating the transactions hereunder, and

(v) no fee or other compensation is being paid directly to the Administrative Agent, or any Arranger or any their respective Affiliates for investment advice (as opposed to other services) in connection with the Loans, the Commitments or this Agreement.

(c) The Administrative Agent, and each Arranger hereby informs the Lenders that each such Person is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Commitments and this Agreement, (ii) may recognize a gain if it extended the Loans or the Commitments for an amount less than the amount being paid for an interest in the Loans or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

9.09 **Flood Laws**. JPMCB has adopted internal policies and procedures that address requirements placed on federally regulated lenders under the National Flood Insurance Reform Act of 1994 and related legislation (the "Flood Laws"). JPMCB, as administrative agent or collateral agent on a syndicated facility, will post on the applicable electronic platform (or otherwise distribute to each Lender in the syndicate) documents that it receives in connection with the Flood Laws. However, JPMCB reminds each Lender and Participant in the facility that, pursuant to the Flood Laws, each federally regulated Lender (whether acting as a Lender or

Participant in the facility) is responsible for assuring its own compliance with the flood insurance requirements.

ARTICLE X
MISCELLANEOUS

10.01 **Amendments, Etc**. Subject to Section 3.03(c), no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, 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) waive any condition set forth in Section 4.01(a) without the written consent of each Lender;

(b) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender;

(c) postpone any scheduled date fixed by this Agreement or any other Loan Document for any payment (it being understood that the mandatory prepayments under Section 2.05 do not provide for a scheduled date fixed for payment), of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby;

(d) reduce the principal of, or the rate of interest specified herein on, any Loan, or (subject to clause (iii) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document, without the written consent of each Lender directly affected thereby; provided, however, that only the consent of the Required Lenders shall be necessary (i) to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate or (ii) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or to reduce any fee payable hereunder;

(e) 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 each Lender;

(f) change any provision of this Section 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;

(g) release all or substantially all of the value of the Guaranty without the written consent of each Lender; or

(h) release all or substantially all of the Collateral in any transaction or series of related transactions without the written consent of each Lender, unless otherwise permitted by Section 9.07,

and, provided further, that (i) no amendment, waiver or consent that by its terms materially and adversely affects the rights or duties of a particular Lender disproportionally from the rights or duties of the other Lenders shall be effective unless in writing signed by such disproportionately and adversely affected Lender in addition to the Lenders required above to consent to such amendment, wavier or consent, (ii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; (iii) Section 10.06(h) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification; and (iv) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto. 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.

10.02 **Notices; Effectiveness; Electronic Communication.**

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 10.02(b)), 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 Borrower or the Administrative Agent, 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.

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 or Approved Electronic Platforms, as applicable, to the extent provided in Section 10.02(b), shall be effective as provided in such Section 10.02(b).

(b) Electronic Communications. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) or Approved Electronic Platforms, as applicable, or pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to

notices to any Lender pursuant to Article II if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications or Approved Electronic Platforms, as applicable, pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an 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) Change of Address, Etc. Each of the Borrower and the Administrative Agent may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Borrower and the Administrative Agent. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative 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.

(d) Reliance by Administrative Agent and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Revolving Loan Notices) purportedly given by or on behalf of the Borrower 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 Borrower shall indemnify the Administrative Agent, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

10.03 **No Waiver; Cumulative Remedies**. No failure by any Lender or the Administrative Agent 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 preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.04 **Expenses; Indemnity; Damage Waiver.**

(a) Costs and Expenses. The Loan Parties shall, on a joint and several basis, pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and the Lenders and their respective Affiliates (including the reasonable and documented fees, costs, expenses, charges and disbursements of counsel for the Administrative Agent and any Lender), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, approval, execution, delivery and administration of this Agreement, the other Loan Documents and any of the Orders or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated) and the preparation and review of pleadings, documents and reports related to the Bankruptcy Cases (and any successor cases relating thereto), attendance at meetings, court hearings or conferences relating to the Bankruptcy Cases (and any successor cases relating thereto), and general monitoring of the Bankruptcy Cases (and any successor cases relating thereto), (ii) all out-of-pocket expenses incurred by the Administrative Agent or any Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent or any Lender), and shall pay all legal fees and time charges for attorneys who may be employees of the Administrative Agent or any Lender, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans, and (iii) without limiting the generality of the foregoing, all reasonable fees and expenses of any financial advisory, appraisers or accounting firm retained by or for the benefit of the Administrative Agent. The Borrower's obligation to pay all such costs, expenses and charges includes, without limitation, any such costs, expenses and charges that accrue after any conversion of the Bankruptcy Cases to proceedings administered under Chapter 7 of the Bankruptcy Code.

(b) Indemnification by the Borrower. The Loan Parties shall, on a joint and several basis, indemnify the Administrative Agent (and any sub-agent thereof), each Lender and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of the Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the 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, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation, arbitration 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 the Borrower or any other Loan Party, 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 (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the 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 Borrower 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.

(c) Reimbursement by Lenders. Each Lender severally agrees to pay any amount required to be paid by any Loan Party under paragraph (a) or (b) of this Section 10.04 to the Administrative Agent (or any sub-agent thereof) and each Related Party of any of the foregoing Persons (each, an "Agent Indemnitee") (to the extent not reimbursed by the Loan Parties and without limiting the obligation of any Loan Party to do so), ratably according to their respective Applicable Percentage in effect on the date on which indemnification is sought under this Section (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such Applicable Percentage immediately prior to such date), from and against any and all losses, claims, damages, liabilities and related expenses, including the fees, charges and disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent Indemnitee in any way relating to or arising out of the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent Indemnitee under or in connection with any of the foregoing; 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 such Agent Indemnitee in its capacity as such; provided further that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from such Agent Indemnitee's gross negligence or willful misconduct.

(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 the use of the proceeds thereof. No Indemnitee referred to in Section 10.02(b) shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it 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.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section 10.04 shall survive the resignation of the Administrative Agent, the replacement of any Lender, the termination of the Revolving Commitments, the termination of this Agreement, and the payment, 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 Borrower is made to the Administrative Agent or any Lender, or the Administrative Agent or any Lender 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 the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any debtor relief law or otherwise, 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 severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative 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 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 neither the Borrower nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative 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 subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section, or (iv) to an SPC in accordance with the provisions of subsection (h) of this Section (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 Administrative Agent and the Lenders) 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 and the Loans at the time owing to it); provided that

(i) except 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, 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 Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $1,000,000, unless the Administrative Agent otherwise consents; 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) 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;

(iii) any assignment of a Revolving Commitment must be approved by the Administrative Agent, unless the Person that is the proposed assignee is itself a Lender (whether or not the proposed assignee would otherwise qualify as an Eligible Assignee); and

(iv) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of $3,500; provided, however, that the Administrative Agent may in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, 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 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to 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 subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative 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 owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, the Administrative 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. The Register shall be available for inspection by each of the Borrower at any reasonable time and from time to time upon reasonable prior notice. In addition, at any time that a request for a consent for a material or substantive change to the Loan Documents is pending, any Lender may request and receive from the Administrative Agent a copy of the Register.

(d) Participations. Any Lender may at any time, without the consent of, or notice to the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (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 Revolving Commitment and/or the 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, (iii) the Borrower, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and (iv) unless the Borrower has consented to such participation (which consent shall not be unreasonably withheld or delayed and which right to consent shall be only afforded to the Borrower if no Default has occurred and is in existence), a Participant shall have no right to approve any amendment, waiver or other modification to this 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, subject to clause (iv) of the immediately preceding paragraph, 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 the first proviso following subsection (h) of Section 10.01 that affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. 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 that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan 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. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01 or 3.04 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 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 Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, 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 and any other similar state laws based on the Uniform Electronic Transactions Act.

(h) Special Purpose Funding Vehicles. Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an "SPC") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof or, if it fails to do so, to make such payment to the Administrative Agent as is required under Section 2.12(b)(ii). Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Section 3.04), (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Revolving Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender.

In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee in the amount of $2,500, assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(i) [Reserved].

(j) Administrative Agent's Right to Replace Defaulting Lender. If any Lender becomes a Defaulting Lender hereunder, the Administrative Agent may notify such Defaulting Lender of the Administrative Agent's intention to obtain, at the Defaulting Lender's expense, a replacement Lender ("Replacement Lender") for such Defaulting Lender; provided, however, the provisions of this Section 10.06(j) shall not apply to the extent any Defaulting Lender ceases to be a Defaulting Lender within two (2) Business Days of receiving the Administrative Agent's notice that it intends to replace such Lender. In the event the Administrative Agent obtains a Replacement Lender within forty-five (45) days following notice of its intention to do so, the Defaulting Lender shall (i) sell and assign its Loans and Commitments to such Replacement Lender, at par, and (ii) pay to the Replacement Lender all up-front fees received by the Defaulting Lender when such replaced Lender became a Lender hereunder. In connection with the foregoing, each party hereto agrees that an assignment required pursuant to this Section 10.06(j) may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee (or to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and such parties are participants), and the replaced Lender need not be a party to the Assignment and Assumption in order for such assignment to be effective and shall be deemed to have consented to and be bound by the terms thereof. Upon any such assignment and payment and compliance with the other provisions of Section 10.06(b), such replaced Lender shall no longer constitute a "Lender" for purposes hereof; provided, any rights of such replaced Lender to indemnification hereunder shall survive as to such replaced Lender.

10.07 **Treatment of Certain Information; Confidentiality**. (i) Each of the Administrative Agent and the Lenders 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, including accountants, legal counsel and other advisors, and representatives (it being understood 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), (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 suit, 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 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 the Borrower and its obligations, (g) on a confidential basis to (1) any rating agency in connection with rating the Borrower or its Subsidiaries or the credit facilities provided hereunder or (2) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of identification numbers with respect to the credit facilities provided for herein, (h) with the consent of the Borrower or (i) 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 the Administrative Agent, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower.

For purposes of this Section, "Information" means all information received from the Borrower or any Subsidiary relating to the Borrower or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower or any Subsidiary and other than information pertaining to this Agreement routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry, provided that, in the case of information received from the Borrower 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 Administrative Agent and the Lenders acknowledges that (a) the Information may include material non-public information concerning the Borrower 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.

(ii) Except to the extent permitted by the Orders, each Loan Party hereby agrees to maintain the confidentiality of the Fee Letter, including, without limitation, the contents thereof in communications with third parties and otherwise and to take all reasonable actions to prevent the unauthorized use or disclosure of and to protect the confidentiality of such confidential information.

10.08 **Right of Setoff**. If an Event of Default shall have occurred and be continuing, each Lender 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 Administrative Agent, 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 or any such Affiliate to or

for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such Debt. The rights of each Lender and its respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender or their respective Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative 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 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 Loans or, if it exceeds such unpaid principal, refunded to the applicable Loan Party. 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.

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 the Administrative Agent and when the Administrative Agent 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 shall be effective as delivery of a manually executed counterpart of this Agreement.

10.11 **Survival of Representations and Warranties**. All representations and warranties made hereunder and in any other Loan Document or other 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 Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligations hereunder shall remain unpaid or unsatisfied.

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 **[Reserved.]**

10.14 **Governing Law; Jurisdiction; Etc.**

(a) GOVERNING LAW. EXCEPT TO THE EXTENT COVERED BY THE BANKRUPTCY CODE, THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS (AS OPPOSED TO THE CONFLICT OF LAWS) PROVISIONS OF THE STATE OF NEW YORK; PROVIDED, THAT THE ADMINISTRATIVE AGENT AND THE LENDERS SHALL RETAIN ALL RIGHTS ARISING UNDER FEDERAL LAW.

(b) SUBMISSION TO JURISDICTION. EXCEPT FOR MATTERS WITHIN THE EXCLUSIVE JURISDICTION OF THE BANKRUPTCY COURT, EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK SITTING IN THE BOROUGH OF MANHATTAN (OR IF SUCH COURT LACKS SUBJECT MATTER JURISDICTION, THE SUPREME COURT OF THE STATE OF NEW YORK SITTING IN THE BOROUGH OF MANHATTAN), AND ANY APPELLATE COURT FOR ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTION RELATING HERETO OR THERETO, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY (AND ANY SUCH CLAIMS, CROSS-CLAIMS OR THIRD PARTY CLAIMS BROUGHT AGAINST ANY SECURED PARTY OR ANY OF ITS RELATED PARTIES MAY ONLY) BE HEARD AND DETERMINED IN SUCH FEDERAL (TO THE EXTENT PERMITTED BY LAW) OR NEW YORK STATE COURT. 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. EXCEPT FOR MATTERS WITHIN THE EXCLUSIVE JURISDICTION OF THE BANKRUPTCY COURT, NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL EFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT OR ANY LENDER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AGAINST THE BORROWER, ANY LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION. EACH OF THE LOAN PARTIES, THE ADMINISTRATIVE AGENT AND

THE LENDERS IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF THIS AGREEMENT OR ANY DOCUMENT RELATED HERETO.

(c) WAIVER OF VENUE. THE BORROWER AND EACH OTHER LOAN PARTY 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 SECTION 10.14(b). EACH OF THE PARTIES HERETO HEREBY AGREES THAT SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK SHALL APPLY TO THE LOAN DOCUMENTS AND 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.

10.15 **Waiver of Jury Trial; Waiver of Special Damages**. 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. EACH LOAN PARTY HEREBY FURTHER (A) IRREVOCABLY WAIVE, TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW, ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY SUCH LITIGATION ANY "SPECIAL DAMAGES," AS DEFINED BELOW, (B) CERTIFY THAT NO PARTY HERETO NOR ANY REPRESENTATIVE OR AGENT OR COUNSEL FOR ANY PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, OR IMPLIED THAT SUCH PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS, AND (C) ACKNOWLEDGE THAT IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS CONTAINED IN THIS SECTION. AS USED IN THIS SECTION, "SPECIAL DAMAGES" INCLUDES ALL SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES (REGARDLESS OF HOW NAMED), BUT DOES NOT INCLUDE ANY PAYMENTS OR FUNDS WHICH ANY

PARTY HERETO HAS EXPRESSLY PROMISED TO PAY OR DELIVER TO ANY OTHER PARTY HERETO.

10.16 **USA PATRIOT Act Notice**. Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107 56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower in accordance with the Act.

10.17 **No Fiduciary Duty, etc**. The Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that no Secured Party will have any obligations except those obligations expressly set forth herein and in the other Loan Documents and each Secured Party is acting solely in the capacity of an arm's length contractual counterparty to the Borrower and other Loan Parties with respect to the Loan Documents and the transaction contemplated therein and not as a financial advisor or a fiduciary to, or an agent of, the Borrower, the Loan Parties, or any other Person. The Borrower agrees that it will not assert any claim against any Secured Party based on an alleged breach of fiduciary duty by such Secured Party in connection with this Agreement and the transactions contemplated hereby. Additionally, the Borrower acknowledges and agrees that no Secured Party is advising the Borrower or any Loan Party as to any legal, tax, investment, accounting, regulatory or any other matters in any jurisdiction. The Borrower shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and the Secured Parties shall have no responsibility or liability to the Borrower or Loan Parties with respect thereto.

The Borrower further acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Secured Party, together with its Affiliates, is a full service securities or banking firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, any Secured Party may provide investment banking and other financial services to, and/or acquire, hold or sell, for its own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of, the Borrower and Loan Parties and other companies with which the Borrower or Loan Parties may have commercial or other relationships. With respect to any securities and/or financial instruments so held by any Secured Party or any of its customers, all rights in respect of such securities and financial instruments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion.

In addition, the Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Secured Party and its affiliates may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which the Borrower or Loan Parties may have conflicting interests regarding the transactions described herein and otherwise. No Secured Party will use confidential information obtained from the Borrower or Loan Parties by virtue of the transactions contemplated by the Loan Documents or its other relationships with the Borrower in connection with the performance by

such Secured Party of services for other companies, and no Secured Party will furnish any such information to other companies. The Borrower also acknowledges that no Secured Party has any obligation to use in connection with the transactions contemplated by the Loan Documents, or to furnish to the Borrower or Loan Parties, confidential information obtained from other companies.

10.18 **ENTIRE AGREEMENT**. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES. If any provision in this Agreement or any other Loan Document conflicts with any provision in the Interim Order or Final Order, the provisions in the applicable Order shall govern and control.

10.19 **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 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 entity, 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.

10.20 **Time of the Essence**. Time is of the essence under this Agreement and each other Loan Document and in the performance of every term, covenant, condition and other obligation contained herein and therein.

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SIGNATURES APPEAR ON FOLLOWING PAGES.

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

THE NORDAM GROUP, INC.

By: _____
Name: John DiDonato
Title: Chief Restructuring Officer

JPMORGAN CHASE BANK, N.A.
as Administrative Agent and a Lender

By: _____
Name:
Title:

Exhibit B

Initial Approved Budget

The NORDAM Group, Inc.
Weekly Cash Flow Forecast

Week	1	2	3	4	5	6	7	8	9	10	11	12	13
Week Ending	**Jul 29**	**Aug 5**	**Aug 12**	**Aug 19**	**Aug 26**	**Sep 2**	**Sep 9**	**Sep 16**	**Sep 23**	**Sep 30**	**Oct 7**	**Oct 14**	**Oct 21**
Receipts													
Trade AR	7,230	6,823	6,021	7,339	7,151	9,434	7,284	9,078	7,056	9,509	9,474	7,529	7,179
Total Receipts	**7,230**	**6,823**	**6,021**	**7,339**	**7,151**	**9,434**	**7,284**	**9,078**	**7,056**	**9,509**	**9,474**	**7,529**	**7,179**
Expenditures													
Trade and Other Vendors	(9,075)	(8,491)	(6,933)	(5,881)	(6,638)	(6,605)	(5,546)	(4,891)	(4,975)	(4,352)	(4,025)	(4,031)	(5,181)
Payroll and Other Employee	(5,060)	(1,346)	(5,435)	(1,366)	(4,447)	(1,247)	(4,520)	(1,267)	(4,520)	(1,267)	(5,520)	(1,167)	(4,520)
Lease	-	(583)	(37)	-	-	(583)	(37)	-	-	-	(621)	-	-
Total Expenditures	**(14,135)**	**(10,420)**	**(12,406)**	**(7,247)**	**(11,086)**	**(8,435)**	**(10,103)**	**(6,158)**	**(9,495)**	**(5,618)**	**(10,165)**	**(5,197)**	**(9,701)**
Net Change - Operating	**(6,906)**	**(3,597)**	**(6,384)**	**92**	**(3,935)**	**998**	**(2,819)**	**2,920**	**(2,439)**	**3,891**	**(691)**	**2,332**	**(2,522)**
Professional Fees	(564)	(564)	(564)	(564)	(564)	(489)	(489)	(489)	(489)	(489)	(610)	(610)	(610)
Financing Fees	(450)	-	-	-	-	-	-	-	-	-	-	-	-
Interest - Pre / Adequate Protection	(347)	(347)	(347)	(347)	(347)	-	(347)	(347)	(347)	(347)	(347)	(347)	(347)
Interest - DIP	-	-	-	-	(89)	-	-	-	-	(208)	-	-	-
Net Change - Non Operating	**(1,361)**	**(911)**	**(911)**	**(911)**	**(1,000)**	**(489)**	**(837)**	**(837)**	**(837)**	**(1,045)**	**(957)**	**(957)**	**(957)**
DIP Revolver Limit	25,000	25,000	25,000	25,000	25,000	25,000	45,000	45,000	45,000	45,000	45,000	45,000	45,000
DIP Loan (Borrowing)/Repayment	(5,486)	(4,508)	(7,296)	(819)	(4,935)	509	(3,656)	2,083	(3,275)	2,846	(1,648)	1,374	(3,479)
Total Liquidity	**19,514**	**15,005**	**7,709**	**6,890**	**1,955**	**2,464**	**18,808**	**20,891**	**17,616**	**20,462**	**18,813**	**20,188**	**16,709**
DIP Balance	**(5,486)**	**(9,995)**	**(17,291)**	**(18,110)**	**(23,045)**	**(22,536)**	**(26,192)**	**(24,109)**	**(27,384)**	**(24,538)**	**(26,187)**	**(24,812)**	**(28,291)**

Exhibit B

DiDonato Declaration

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re	:	**Chapter 11**
THE NORDAM GROUP, INC., *et al.*,	:	**Case No. 18– _____**
Debtors.[1]	:	**(Joint Administration Requested)**

DECLARATION OF JOHN C. DIDONATO IN SUPPORT OF MOTION OF DEBTORS FOR ENTRY OF ORDERS (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND (B) USE CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (III) GRANTING LIENS AND SUPERPRIORITY CLAIMS, (IV) MODIFYING THE AUTOMATIC STAY, (V) SCHEDULING A FINAL HEARING, AND (VI) GRANTING RELATED RELIEF

I, John C. DiDonato, pursuant to section 1746 of title 28 of the United States Code, hereby declare under penalty of perjury that the following is true to the best of my knowledge, information, and belief:

1. I am a Managing Director at Huron Consulting Services LLC ("**Huron**"), and Practice Leader of the Business Advisory Practice with Huron. Huron maintains its principal place of business at 550 W. Van Buren Street, Chicago, Illinois 60607. I have been engaged as the Debtors' Chief Restructuring Officer ("**CRO**") in conjunction with the commencement of these chapter 11 cases. Prior to becoming CRO of NORDAM, I advised NORDAM in my capacity as Managing Director of Huron from April 2018 to July 2018. In my capacity as the Debtors'

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are The NORDAM Group, Inc. (7803); Nacelle Manufacturing 1 LLC (3107); Nacelle Manufacturing 23 LLC (5528); PartPilot LLC (5261); and TNG DISC, Inc. (9726). The Debtors' corporate headquarters and service address is 6910 North Whirlpool Drive, Tulsa Oklahoma.

CRO, working closely with the Debtors' management and other professionals to be retained by the Debtors in the above-captioned chapter 11 cases (the "**Chapter 11 Cases**"), I have become familiar with the Debtors' day-to-day operations, business and financial affairs, and books and records. The Debtors have proposed to retain Huron as their financial advisor in these chapter 11 cases and I am not being compensated specifically for this testimony other than through payments received by Huron as a professional proposed to be retained by the Debtors.

2. I submit this declaration (this "**Declaration**") in support of the *Motion of Debtors for Entry of Order (I) Authorizing Debtors to (A) Obtain Postpetition Senior Secured Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Granting Liens and Superpriority Claims, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* (the "**Motion**").[2] Except as otherwise indicated, all statements in this Declaration are based on (i) my personal knowledge of the Debtors' operations and finances, (ii) my review of relevant documents, (iii) information provided to me by Huron employees working under my supervision, (iv) information provided to me by, or discussions with, the members of the Debtors' management team or their other advisors and/or (v) my opinion based upon my experience as a restructuring professional. If called to testify, I could and would testify to each of the facts set forth herein on that basis.

Qualifications

3. Huron specializes in, among other things, bankruptcy and restructuring consulting, interim management and financial and operational consulting to financially troubled companies. Huron has extensive experience in providing restructuring services in and out of

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

chapter 11 proceedings and has an excellent reputation for the services it has rendered on behalf of debtors and creditors throughout the United States. Among many other examples, Huron has provided restructuring and turnaround advisory services to clients including Allen Systems Group; Revstone Industries, LLC; NUMMI; JW Aluminum Company, VASE Aero Services, Avon Automotive, Contech Castings, Hussey Copper, AUTOCAM, Bush Leasing,

4. In addition to serving as the Debtors CRO, I am a Managing Director of Huron based in New York, New York. I have more than 30 years of extensive chapter 11 experience and in providing restructuring management services. I have been involved in numerous cases involving reorganizations, operational restructurings, capital raising, buy and sell side advisories, and merger integrations. I have provided guidance to numerous financially-challenged entities maneuvering through both out-of-court and court-supervised restructurings. During my career, I have served in excess of 100 debtors, functioning for many as a chief restructuring strategist. My involvement in restructuring engagements, include, among others, Allen Systems Group, Inc., Revstone Industries, LLC, New United Motor Manufacturing, Inc. (NUMMI), Blue Water Automotive Systems, Dura Automotive Systems, INTERMET Corporation, Anchor Manufacturing Company, and Ward Products LLC. My expertise encompasses a wide range of industries, including automotive original equipment and aftermarket suppliers, aerospace suppliers, engineering and construction, metals, equipment leasing, logistics, distribution, transportation, and retail. I also possess extensive experience servicing debtors with complex capital structures. Moreover, throughout my crisis management career, I have raised replacement and exit financing in excess of $1.0 billion. Prior to joining Huron, I served as the President of Glass & Associates, having sold that firm to Huron in 2007. I graduated from Pennsylvania State University with a B.S. in Accounting.

5. In my engagement by the Debtors, I have, among other things, provided advice on strategic transaction alternatives, restructuring options, and financings. I have participated in negotiations between the Debtors and their creditors and other parties in interest. Members of my team and I have also assisted the Debtors in reviewing the terms, conditions, and the potential impact of various proposed transactions, as well as vigorously negotiating terms of the proposed DIP Financing.

Debtors' Need For DIP Financing and Use of Cash Collateral

6. As of the Petition Date, the Debtors have approximately $4.3 million in cash on hand and require immediate access to the DIP Financing and authority to use the Cash Collateral to ensure they have sufficient liquidity to operate their business and administer their estates during these Chapter 11 Cases. Prior to the Petition Date, the Debtors in consultation with Huron, reviewed and analyzed its projected cash needs and prepared a preliminary budget outlining the Debtors' postpetition cash need in the initial thirteen weeks of the Chapter 11 Cases. The DIP Facility will provide the Debtors with the liquidity necessary to, among other things, fund payroll and satisfy their other working capital and general corporate purposes, including essential payments to vendors—both domestic and abroad—many of which are unfamiliar with the chapter 11 process. Therefore, access to sufficient working capital and liquidity through the use of Cash Collateral and indebtedness under the DIP Loan Documents is necessary and vital to avoid a liquidation of these estates and for the preservation and maintenance of the going concern values and successful reorganization of the Debtors.

7. Absent authority to enter into and access the DIP Facility, even for a limited period of time, the Debtors will be unable to continue operating its businesses, resulting in a deterioration of value and immediate and irreparable harm to the Debtors' estates. Accordingly,

the Debtors and their advisors, including Huron, believe the Debtors require DIP Financing, in addition to access to Cash Collateral, to finance their operations and maintain sufficient liquidity cushion to continue operating "business as usual" during the pendency of these Chapter 11 Cases. I believe that the current Budget and its projections provide an accurate reflection of the Debtors' funding requirements over the identified period and are reasonable and appropriate under the circumstances.

8. Further, the Debtors have been under severe financial pressure from vendors and trade counterparties with respect to outstanding obligations due to those parties and, based on my experience with the Debtors and as a restructuring professional, I expect that this pressure, which impacts the Debtors' working capital and liquidity needs, will only increase following the commencement of these Chapter 11 Cases. Therefore, I believe it is important for the Debtors to send a clear message to their business partners, vendors, and trade counterparties that the Debtors will be well-capitalized during these Chapter 11 Cases from the outset. It is my opinion that any market perception that the Debtors are somehow undercapitalized or illiquid during these Chapter 11 Cases would have an immediate and irreparable impact on the Debtors by causing a crisis of confidence with a potential domino effect among vendors, customers, and trade counterparties that substantially outweighs the costs associated with the relief requested by the Motion.

Negotiations with Proposed DIP Lenders Were Vigorous and Arm's Length

9. During their negotiations on the Debtors' proposed financing, both the Debtors and the proposed DIP Lenders were represented by experienced restructuring advisors. Throughout this process, the Debtors engaged in vigorous, arms' length, and hard-fought negotiations with the proposed DIP Lenders, consistent in my experience with the commercial

back-and-forth arising from DIP Financing negotiations. I believe that the Debtors, with guidance and counsel from their advisors, and under the auspices of the Restructuring Committee, ultimately obtained a reasonable proposal from their prepetition lenders that meets the Debtors' liquidity needs at critical juncture and should be approved. Additionally, the Debtors will continue to actively market alternative financing to further determine whether better terms might be available in the marketplace.

[Remainder of the Page Intentionally Left Blank.]

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: July 22, 2018
Pittsburgh, Pennsylvania

John DiDonato
Chief Restructuring Officer
The NORDAM Group, Inc., *et al.*

Exhibit C

Bojmel Declaration

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re	:	**Chapter 11**
THE NORDAM GROUP, INC., *et al.*,	:	**Case No. 18– _____**
Debtors.[1]	:	**(Joint Administration Requested)**

DECLARATION OF RONEN BOJMEL IN SUPPORT OF MOTION OF DEBTORS FOR ENTRY OF ORDERS (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION SENIOR SECURED SUPERPRIORITY FINANCING AND (B) USE CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (III) GRANTING LIENS AND SUPERPRIORITY CLAIMS, (IV) MODIFYING THE AUTOMATIC STAY, (V) SCHEDULING A FINAL HEARING, AND (VI) GRANTING RELATED RELIEF

I, Ronen Bojmel, pursuant to section 1746 of title 28 of the United States Code, hereby declare under penalty of perjury that the following is true to the best of my knowledge, information, and belief:

1. I am a Senior Managing Director at Guggenheim Securities, LLC ("**Guggenheim Securities**"). Guggenheim Securities maintains its principal place of business at 330 Madison Avenue, New York, New York 10017. Guggenheim Securities is the proposed investment banker for the Debtors in these chapter 11 cases.

2. I submit this declaration (the "**Declaration**") in support of the *Motion of Debtors for Entry of Order (I) Authorizing the Debtors to (A) Obtain Postpetition Senior Secured*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are The NORDAM Group, Inc. (7803); Nacelle Manufacturing 1 LLC (3107); Nacelle Manufacturing 23 LLC (5528); PartPilot LLC (5261); and TNG DISC, Inc. (9726). The Debtors' corporate headquarters and service address is 6910 North Whirlpool Drive, Tulsa Oklahoma 74117.

Superpriority Financing and (B) Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured parties, (III) Granting Liens and Superpriority Claims, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief (the "**Motion**").[2]

3. Except as otherwise indicated, all statements in this Declaration are based on (i) my personal knowledge of the Debtors' operations and finances, (ii) my review of relevant documents, (iii) information provided to me by Guggenheim Securities employees working under my supervision, (iv) information provided to me by, or discussions with, the members of the Debtors' management team or their other advisors and/or (v) my opinion based upon my experience as a restructuring professional. If called to testify, I could and would testify to each of the facts set forth herein on that basis. I am not being compensated specifically for this testimony other than through payments received by Guggenheim Securities as a professional proposed to be retained by the Debtors.

Qualifications

4. Guggenheim Securities, a subsidiary of Guggenheim Partners, LLC, is a full-service independent investment banking firm providing financial advisory services, including with respect to mergers and acquisitions, capital raising, and restructuring advice, across a broad range of industries. Guggenheim Securities and its senior professionals have extensive experience with respect to the reorganization and restructuring of distressed companies, both out-of-court and in chapter 11 proceedings. Guggenheim Securities and its professionals are providing or have provided investment banking, financial advisory and other services in connection with the following recent cases, among others: *In re Charming Charlie Holdings Inc.* 17-12906 (CSS)

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

(Bankr. D. Del.); *In re Appvion, Inc.*, Case No. 17-12082 (KJC) (Bankr. D. Del.); *In re Payless Holdings LLC*, Case No. 17-42267 (Bankr. E.D. Mo.); *In re Limited Stores Co., LLC*, Case No. 17-10124 (KJC) (Bankr. D. Del.); *In re Essar Steel Minn. and ESML Holdings Inc.*, Case No. 16-11626 (BLS) (Bankr. D. Del.); *In re Juniper GTL LLC*, Case No. 16-31959 (Bankr. S.D. Tex.); *In re Pac. Sunwear of Cal., Inc.*, Case No. 16-10882 (LSS) (Bankr. D. Del.); *In re Hutcheson Med. Ctr., Inc.*, Case No. 14-42863 (Bankr. N.D. Ga.); *In re Cal Dive Int'l, Inc.*, Case No. 15-10458 (CSS) (Bankr. D. Del.); *In re SIGA Techs., Inc.*, Case No. 14-12623 (Bankr. S.D.N.Y. Mar. 19, 2015); *In re Energy Future Holdings Corp.*, Case No. 14-10979 (CSS) (Bankr. D. Del. Jan. 13, 2015).

5. I have experience handling complex financial and other restructuring matters for a variety of companies (distressed or otherwise, both in and out-of-court), in a wide spectrum of industries. My areas of expertise include, among other things, (a) advising on financial restructuring execution and strategies, (b) analyzing business plans and related financial projections, (c) liquidity management, and (d) sizing, structuring, raising and executing all aspects of financing transactions, including distressed and debtor-in-possession financings. I have over two decades of restructuring related investment banking experience across a wide range of industries.

6. I have been employed at Guggenheim Securities since October 2012 and prior to joining Guggenheim Securities, I was a Managing Director at Miller Buckfire & Co. for six years. Prior to joining Miller Buckfire & Co., I was a Vice President in the financial restructuring group at Dresdner Kleinwort Wasserstein and its predecessor, Wasserstein Perella.

7. On July 19, 2018, the Debtors engaged Guggenheim Securities as their investment banker. Since that time, members of my team and I have worked as quickly as possible

to familiarize ourselves with the Debtors' management and other professionals to be retained by the Debtors in the above-captioned chapter 11 cases (the "**Chapter 11 Cases**"). Similarly, in the short time between our engagement and the Petition Date, members of my team and I have studied the Debtors' historical background, business affairs, assets, and financial position.

The Debtors' Proposed Postpetition Financing

8. I believe the Debtors' proposed DIP Financing reflects customary and usual terms for debtor-in-possession financings of this type. In particular, based on over two decades of experience as a restructuring professional, I believe the pricing associated with the proposed DIP Financing reflects market terms given the circumstances of these Chapter 11 Cases. The Debtors, moreover, believe that their access to the proposed DIP Financing is crucial to value preservation by providing critical liquidity at the outset of these Chapter 11 Cases. The Debtors' proposed DIP Lenders required, as a condition of post-petition financing, senior liens on the Prepetition Collateral. I believe this provision is both customary and usual for financings of this type.

9. Importantly, the Debtors are currently seeking approval only of a limited interim draw of $25 million, which the Debtors, together with its professionals, determined is the minimum amount necessary to conduct "business as usual" while running a competitive post-petition DIP Financing marketing process. Essentially the Debtors will take this opportunity to market-test the currently proposed DIP Financing and the Prepetition Credit Facility, and in the Debtors' business judgement, may take advantage of any reasonable proposals with more favorable terms to fund operations. While negotiating the DIP Facilities with the Debtors' prepetition secured lenders, the Debtors, with the assistance of Guggenheim Securities, began soliciting indications of interest from 19 alternative third-party lenders that routinely provide

debtor-in-possession financing, to gauge their interest in providing a revolving credit facility or term loan to the Debtors. From this group, four parties have executed confidentiality agreements ("NDAs") and received access to non-public information, though a number of additional parties are expected to sign NDAs in the coming days. As of the Petition Date, none of these parties have provided a proposal for alternative financing, though the Debtors will continue to solicit proposals on a post-petition basis. The Debtors believe that the balance between the limited interim draw on the terms provided by the Lenders coupled with a competitive post-petition marketing process affords the Debtors a reasonable process to obtain favorable DIP Financing under the circumstances.

Fees Payable In Connection with the DIP Facilities Are Reasonable

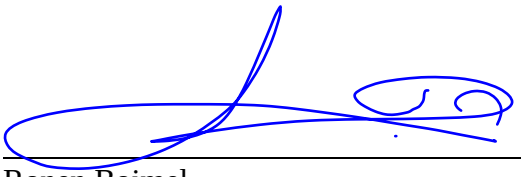
10. As noted in the Motion, in consideration of their proposed financing, the Debtors have agreed, subject to Court approval, to pay certain fees to the DIP Agent as set forth in further detail in the Fee Letter. Additionally, the DIP Facility will accrue interest at the rate of, at NORDAM Parent's discretion, (i) the Alternate Base Rate + 3.00% per annum, or (ii) the Adjusted LIBOR Rate for a one-month interest period + 5.50% per annum.

11. Based on my familiarity with the Debtors' capital structure and experience as a restructuring professional, I believe this pricing is customary and usual and consistent with comparable DIP Financings generally.

[Remainder of the Page Intentionally Left Blank.]

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: July 22, 2018
New York, New York



Ronen Bojmel
Senior Managing Director
Guggenheim Securities, LLC

Exhibit D

Initial Approved Budget

The NORDYAM Group, Inc.
Weekly Cash Flow Forecast

Week	1	2	3	4	5	6	7	8	9	10	11	12	13
Week Ending	**Jul 29**	**Aug 5**	**Aug 12**	**Aug 19**	**Aug 26**	**Sep 2**	**Sep 9**	**Sep 16**	**Sep 23**	**Sep 30**	**Oct 7**	**Oct 14**	**Oct 21**
Receipts													
Trade AR	7,230	6,823	6,021	7,339	7,151	9,434	7,284	9,078	7,056	9,509	9,474	7,529	7,179
Total Receipts	**7,230**	**6,823**	**6,021**	**7,339**	**7,151**	**9,434**	**7,284**	**9,078**	**7,056**	**9,509**	**9,474**	**7,529**	**7,179**
Expenditures													
Trade and Other Vendors	(9,075)	(8,491)	(6,933)	(5,881)	(6,638)	(6,605)	(5,546)	(4,891)	(4,975)	(4,352)	(4,025)	(4,031)	(5,181)
Payroll and Other Employee	(5,060)	(1,346)	(5,435)	(1,366)	(4,447)	(1,247)	(4,520)	(1,267)	(4,520)	(1,267)	(5,520)	(1,167)	(4,520)
Lease	-	(583)	(37)	-	-	(583)	(37)	-	-	-	(621)	-	-
Total Expenditures	**(14,135)**	**(10,420)**	**(12,406)**	**(7,247)**	**(11,086)**	**(8,435)**	**(10,103)**	**(6,158)**	**(9,495)**	**(5,618)**	**(10,165)**	**(5,197)**	**(9,701)**
Net Change - Operating	**(6,906)**	**(3,597)**	**(6,384)**	**92**	**(3,935)**	**998**	**(2,819)**	**2,920**	**(2,439)**	**3,891**	**(691)**	**2,332**	**(2,522)**
Professional Fees	(564)	(564)	(564)	(564)	(564)	(489)	(489)	(489)	(489)	(489)	(610)	(610)	(610)
Financing Fees	(450)	-	-	-	-	-	-	-	-	-	-	-	-
Interest - Pre / Adequate Protection	(347)	(347)	(347)	(347)	(347)	-	(347)	(347)	(347)	(347)	(347)	(347)	(347)
Interest - DIP	-	-	-	-	(89)	-	-	-	-	(208)	-	-	-
Net Change - Non Operating	**(1,361)**	**(911)**	**(911)**	**(911)**	**(1,000)**	**(489)**	**(837)**	**(837)**	**(837)**	**(1,045)**	**(957)**	**(957)**	**(957)**
DIP Revolver Limit	25,000	25,000	25,000	25,000	25,000	25,000	45,000	45,000	45,000	45,000	45,000	45,000	45,000
DIP Loan (Borrowing)/Repayment	(5,486)	(4,508)	(7,296)	(819)	(4,935)	509	(3,656)	2,083	(3,275)	2,846	(1,648)	1,374	(3,479)
Total Liquidity	**19,514**	**15,005**	**7,709**	**6,890**	**1,955**	**2,464**	**18,808**	**20,891**	**17,616**	**20,462**	**18,813**	**20,188**	**16,709**
DIP Balance	**(5,486)**	**(9,995)**	**(17,291)**	**(18,110)**	**(23,045)**	**(22,536)**	**(26,192)**	**(24,109)**	**(27,384)**	**(24,538)**	**(26,187)**	**(24,812)**	**(28,291)**