IT IS SO ORDERED.

Dated: April 4, 2022

C. Kathryn Preston
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re:	)	Chapter 11
VOLUNTEER ENERGY SERVICES, INC.,	)	Case No. 22-50804
Debtor.[1]	)	Judge C. Kathryn Preston

INTERIM ORDER (I) AUTHORIZING THE DEBTOR TO (A) OBTAIN POSTPETITION FINANCING, (B) GRANT LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS TO THE POSTPETITION LENDER, AND (C) UTILIZE CASH COLLATERAL; (II) PROVIDING ADEQUATE PROTECTION TO THE PREPETITION SECURED PARTIES; (III) MODIFYING THE AUTOMATIC STAY; AND (IV) GRANTING RELATED RELIEF
[RELATED TO DOCKET NO. 35]

[1] The last four digits of the Debtor's federal tax identification are (2693), and the address of the Debtor's corporate headquarters is 790 Windmiller Drive, Pickerington, Ohio 43147.

Upon the motion (Doc. 35) (the "Motion")[2] of Volunteer Energy Services, Inc., as debtor and debtor in possession (the "Borrower" or "Debtor") in the above-captioned chapter 11 case (the "Chapter 11 Case"), pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d), and 507(b) of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 4001, 6003, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), Rules 2002-1, 4001-2, 4001-3, and 9013-1 of the Local Bankruptcy Rules (the "Local Rules") of the United States Bankruptcy Court for the Southern District of Ohio (this "Court"), and the provisions of *General Order 30-4* entered in this District, seeking entry of an interim order (this "Interim Order") and a final order (the "Final Order") granting the following relief to be provided on an interim basis until the date that a Final Order has been entered (such interim period being the "Interim Period"):

a. authorization and approval for the Debtor to obtain up to $5,000,000 in postpetition financing (the "DIP Facility") pursuant to and in accordance with the terms and conditions of a certain *Debtor-in-Possession Revolving Credit and Security Agreement* (as it may be amended, modified, supplemented, extended, restated, or replaced from time to time, the "DIP Credit Agreement"), substantially as filed with the Court and attached hereto as **Exhibit 2**, by and among the Debtor, PNC Bank, National Association, in its capacity as administrative agent, collateral agent, and issuer (in such capacities, the "DIP Agent") and the financial institutions party thereto from time to time (collectively, the "DIP Lender" and, together with the DIP Agent, sometimes collectively referred to as the "DIP Secured Parties"), which may, *inter alia*, be used for the following purposes:

   i. for general operating and working capital purposes in accordance with the DIP Financing Documents (as defined below) and as limited by the Approved Budget (as defined below);

   ii. for making adequate protection payments and other payments as provided in this Interim Order; and

   iii. for making payment of expenses provided in the Approved Budget as well as fees, costs, and other expenses as provided in this Interim Order.

[2] Capitalized terms used but not defined herein have the meanings ascribed to them in the Motion.

b. approval of and authorization and direction for the Debtor to (i) enter into, execute and perform under (a) the DIP Credit Agreement and (b) all security agreements, pledge agreements, notes, guarantees, mortgages, deeds of trust, control agreements, Uniform Commercial Code financing statements, certificates, reports, and other agreements, documents, and instruments either or both executed and/or delivered with or to the DIP Agent and/or the DIP Lender in connection with or related thereto (collectively, as amended, modified, supplemented, extended, restated, or replaced from time to time, the "DIP Financing Documents") and (ii) take and perform all other acts and steps as may be required or contemplated by or in connection with the DIP Financing Documents and this Interim Order;

c. granting to the DIP Agent, for itself and on behalf of the DIP Lender, first-priority, priming, valid, perfected and enforceable Liens (as defined in Bankruptcy Code section 101(37)) in and upon all of the DIP Collateral (as defined below), subject only to the Carve-Out (as defined below) and any Senior Liens (as defined below), to secure all existing and future obligations and liabilities of every kind or nature (including, without limitation, bank products and indemnity obligations) under or in connection with the DIP Financing Documents, whether due or to become due, absolute or contingent (collectively, the "Post-Petition Obligations"), as provided by and more fully defined in the DIP Financing Documents;

d. granting to the DIP Agent and the DIP Lender an allowed superpriority administrative expense claim status for the Post-Petition Obligations, subject only to the Carve-Out, in accordance with the terms of this Interim Order;

e. authorizing the Debtor's use in accordance with the terms of the DIP Financing Documents and as limited by the Approved Budget of "cash collateral" ("Cash Collateral") as such term is defined in Bankruptcy Code section 363 and shall include, without limitation, all cash and cash equivalents of the Debtor, whenever or wherever acquired, and the proceeds of all collateral pledged to the Pre-Petition ABL Agent (as defined below) and to the DIP Agent, all in accordance with the terms set forth herein;

f. granting adequate protection, including, without limitation, First Lien Adequate Protection Liens, First Lien Adequate Protection Claims, and First Lien Adequate Protection Payments (each as defined below) to (i) PNC Bank, National Association, in its capacity as administrative agent, collateral agent, and issuer, (in such capacities, the "Pre-Petition ABL Agent") under that certain *Amended & Restated Revolving Credit and Security Agreement*, dated as of June 30, 2016 (as amended, restated, amended and restated, modified, supplemented, or extended from time to time, the "Pre-Petition ABL Credit Agreement") by and among the Debtor, PNC Capital Markets LLC, as lead arranger, the Pre-Petition ABL Agent, and the financial institutions party thereto from time to time (collectively, the "Pre-Petition ABL Lender" and, together with the Pre-Petition ABL Agent, sometimes collectively referred to as the "Pre-Petition ABL Secured Parties") and

all security agreements, pledge agreements, notes, mortgages, guarantees, control agreements, collateral access agreements, subordination agreements, and related agreements and documents (collectively, with the Pre-Petition ABL Credit Agreement, as amended, modified, supplemented, extended, restated, or replaced from time to time, the "Pre-Petition ABL Financing Documents"), and (ii) the Pre-Petition ABL Lender, all such adequate protection with the priority set forth in this Interim Order and otherwise in accordance with the terms set forth in this Interim Order;

g. approving the application of collections and proceeds of all of the Pre-Petition ABL Collateral (as defined below) and DIP Collateral (as defined below) and the payment of Pre-Petition ABL Obligations (as defined below) and Post-Petition Obligations in the manner and on the terms set forth in this Interim Order (and, as applicable, by the Final Order);

h. solely upon entry of the Final Order, the waiver by the Debtor of (i) any right to surcharge the DIP Collateral and the Pre-Petition ABL Collateral pursuant to Bankruptcy Code section 506(c), (ii) any rights under the "equities of the case" exception in Bankruptcy Code section 552(b), and (iii) the equitable doctrine of "marshaling" or any similar doctrine with respect to the DIP Collateral and the Pre-Petition ABL Collateral;

i. modifying the automatic stay imposed by Bankruptcy Code section 362 to the extent hereinafter set forth and waiving the fourteen (14) day stay provisions of Bankruptcy Rule 4001(a)(3);

j. waiving any applicable stay (including under Bankruptcy Rule 6004) and providing for immediate effectiveness of this Interim Order; and

k. scheduling a final hearing on the Motion (the "Final Hearing") for entry of a Final Order authorizing the post-petition financing and use of cash collateral contemplated hereby on a final basis and granting such other relief as is requested in the Motion and approving the form of notice with respect to the Final Hearing.

Notice of the Motion, the relief requested therein, and the Interim Hearing (as defined below) ("Notice") having been served by the Debtor in accordance with Bankruptcy Rule 4001(c) on: (i) the United States Trustee for the Southern District of Ohio (the "U.S. Trustee"); (ii) counsel to the Pre-Petition ABL Agent and the DIP Agent; (iii) the holders of the 20 largest unsecured claims against the Debtor's estate; (iv) the offices of the attorneys general for Ohio, Pennsylvania, Michigan, Kentucky, and West Virginia; (v) the United States Attorney's Office for the Southern District of Ohio; (vi) the Internal Revenue Service; (vii) the state taxing

authorities of Ohio, Pennsylvania, Michigan, Kentucky, and West Virginia; (viii) the Public Utilities Commission of Ohio, Pennsylvania Public Utilities Commission, Kentucky Public Service Commission, and Michigan Public Service Commission; (ix) the U.S. Environmental Protection Agency; (x) the Federal Energy Regulatory Commission; (xi) any party that has requested notice pursuant to Bankruptcy Rule 2002; (xii) all parties known to the Debtor who hold any liens or security interests in the Debtor's assets, including those parties who have filed UCC-1 financing statements against the Debtor, or who, to the Debtor's knowledge, have asserted any liens on any of the Debtor's assets; (xiii) all landlords and warehousemen of the Debtor; (xiv) all guarantors of the Pre-Petition ABL Obligations; (xv) all creditors known to the Debtor to be holding a claim under Bankruptcy Code section 503(b)(9); (xvi) any other governmental bodies holding a claim against the Debtor; (xvii) any other parties claiming an interest in the Pre-Petition ABL Collateral; and (xviii) all other parties entitled to receive notice pursuant to the Bankruptcy Rules and the Local Rules (collectively, the "Noticed Parties").

The initial hearing on the Motion having been held by this Court on March 29, 2022 (the "Interim Hearing").

Based upon the record made by the Debtor at the Interim Hearing, including the Motion, the *Declaration of David Warner in Support of the Chapter 11 Petition and First Day Pleadings* (the "First Day Declaration"), the *Declaration of Thomas Buck in Support of Debtor's Motion for Entry of Interim and Final Orders (I) Authorizing the Debtor to (A) Obtain Postpetition Financing, (B) Grant Liens and Superpriority Administrative Expense Claims to the Postpetition Lender, and (C) Utilize Cash Collateral; (II) Providing Adequate Protection to the Prepetition Secured Parties; (III) Modifying the Automatic Stay; and (IV) Granting Related Relief* (the "Buck Declaration" and, together with the First Day Declaration, the "Supporting Declarations"),

and the filings and pleadings in the Chapter 11 Case, with all objections, if any, to the entry of the Interim Order having been withdrawn, resolved, or overruled, and after due deliberation and consideration, and good and sufficient cause appearing therefor:

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[3]

A. **Petition**. On March 25, 2022 (the "Petition Date"), the Debtor commenced the Chapter 11 Case by filing a petition for relief under chapter 11 of the Bankruptcy Code. The Debtor continues to operate its business and manage its property as a debtor in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No trustee or examiner has been appointed and no official committee of unsecured creditors (a "Committee"), or any other statutory committee has been appointed in the Chapter 11 Case.

B. **Jurisdiction and Venue**. The Court has jurisdiction over this Chapter 11 Case, the Motion, this Interim Order, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334 and the Standing Order of Reference entered in this District. The Motion is a "core" proceeding as defined in 28 U.S.C. §§ 157(b)(2)(A), (D), and (M). Venue of the Chapter 11 Case and the Motion in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

C. **Notice**. The Interim Hearing is being held pursuant to the authorization of Bankruptcy Rule 4001. Under the circumstances, the Notice given by the Debtor of the Motion, the Interim Hearing, and the relief sought herein to the Noticed Parties in accordance with

[3] Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

Bankruptcy Rule 4001(b) and (c) is proper, timely, and sufficient, and no other notice need be given.

D. **Debtor's Acknowledgments and Agreements**. Without prejudice to the rights of certain non-Debtor parties specifically set forth in Section VIII below, the Debtor admits, stipulates, acknowledges, and agrees that:

(1) Pre-Petition ABL Financing Documents. Prior to the commencement of the Chapter 11 Case, the Pre-Petition ABL Secured Parties made loans, advances and provided other financial accommodations pursuant to the Pre-Petition ABL Financing Documents to the Borrower. Richard A. Curnutte, Sr. (the "Guarantor") guaranteed the Pre-Petition ABL Obligations (as defined below) of the Borrower under the Pre-Petition ABL Credit Agreement as provided in that certain *Amended and Restated Secured Guaranty (Specific Debt)*, dated as of June 30, 2016, which was executed by the Guarantor.[4] The Pre-Petition ABL Obligations (as defined below) shall be deemed to have been automatically accelerated on the Petition Date as a result of the commencement of the Chapter 11 Case in accordance with the terms of the Pre-Petition ABL Financing Documents and all commitments of the Pre-Petition ABL Secured Parties have been terminated.

(2) Pre-Petition ABL Obligations.

(a) As of the Petition Date, the aggregate amount of all Obligations (as defined in the Pre-Petition ABL Credit Agreement) owing by Debtor to the Pre-Petition ABL Secured Parties under and in connection with the Pre-Petition ABL Financing Documents was not less than (a) $30,252,427.89, consisting of Advances outstanding under (and as defined in)

[4] The Guarantor shall execute a Reaffirmation of Guaranty in favor of the DIP Agent on the closing date of the DIP Credit Agreement reaffirming the guaranty and security interests granted by the Guarantor for the Pre-Petition ABL Obligations and Post-Petition Obligations.

the Pre-Petition ABL Credit Agreement, plus interest accrued and accruing thereon at the rate in effect on the Petition Date, plus (b) accrued and accruing fees, plus (c) all accrued and accruing costs and expenses (including attorneys' fees and legal expenses), plus (d) all accrued and accruing charges and obligations in respect of Cash Management Products and Services (as defined in the Pre-Petition ABL Credit Agreement), plus (e) any other charges and liabilities accrued, accruing, or chargeable, whether due or to become due, matured, or contingent, under the Pre-Petition ABL Credit Agreement (collectively, the "Pre-Petition ABL Obligations" and, together with the Post-Petition Obligations, the "ABL Obligations"). Without limiting the foregoing, the Pre-Petition ABL Obligations shall include all indemnification obligations of the Borrower to the Pre-Petition ABL Secured Parties arising under the Pre-Petition ABL Financing Documents, including, without limitation, the indemnitee and other protections provided to indemnitees under the obligations arising under the Pre-Petition ABL Credit Agreement which survive payment in full of the Pre-Petition ABL Obligations.

(b) The Pre-Petition ABL Obligations constitute allowed, legal, valid, binding, enforceable, and non-avoidable obligations of the Debtor, and are not subject to any offset, deduction, defense, counterclaim, avoidance, recovery, recharacterization, or subordination pursuant to the Bankruptcy Code or any other applicable law, and the Debtor does not possess and shall not assert any claim, counterclaim, setoff, deduction, or defense of any kind, nature, or description which would in any way impair, reduce, or affect the validity, enforceability, and non-avoidability of any of the Pre-Petition ABL Obligations.

(3) Pre-Petition ABL Collateral (for Pre-Petition ABL Obligations).

(a) As of the Petition Date, the Pre-Petition ABL Obligations were secured pursuant to the Pre-Petition ABL Financing Documents by valid, binding, perfected,

enforceable, and non-avoidable first-priority security interests and liens ("Pre-Petition ABL Liens") granted by Borrower to the Pre-Petition ABL Agent, for the benefit of itself and the Pre-Petition ABL Lender, upon the Collateral (as defined in the Pre-Petition ABL Credit Agreement, and hereafter, the "Pre-Petition ABL Collateral"), subject only to any valid, perfected, and unavoidable lien or security interest otherwise existing as of the Petition Date which are acknowledged to be senior in priority under the Pre-Petition ABL Credit Agreement (collectively, "Prior Permitted Liens" and each a "Prior Permitted Lien"). The Prior Permitted Liens together with (i) any valid, perfected, and unavoidable lien or security interest otherwise existing as of the Petition Date, which is senior in priority to the liens granted to the Pre-Petition ABL Secured Parties in the Pre-Petition ABL Collateral, and (ii) any valid and unavoidable lien or security interest, which is senior in priority to the liens granted to the Pre-Petition ABL Secured Parties in the Pre-Petition ABL Collateral that is validly perfected subsequent to the Petition Date as permitted by Bankruptcy Code section 546(b), shall be collectively referred to in this Interim Order as "Senior Liens".

(b) The Pre-Petition ABL Agent, on behalf of the Pre-Petition ABL Lender, has a valid, binding, and perfected nonavoidable and first-priority security interest in and lien on all of the Borrower's Cash Collateral, including all amounts on deposit in all of the Borrower's banking, checking, or other deposit accounts with each of the Pre-Petition ABL Secured Parties, whether as original collateral or proceeds of other Pre-Petition ABL Collateral, and all such Cash Collateral is part of the Pre-Petition ABL Collateral.

(c) The Debtor does not possess and will not assert any claim, counterclaim, setoff, deduction, or defense of any kind, nature, or description which would in any way impair, reduce, or affect the validity, enforceability and non-avoidability of any of the

Pre-Petition ABL Secured Parties' liens, claims, or security interests in the Pre-Petition ABL Collateral, which liens and security interests are not subject to subordination or avoidance pursuant to the Bankruptcy Code or any other applicable law.

E. **Adequate Protection**.

(1) Adequate Protection Obligations. The Debtor acknowledges and agrees that the Pre-Petition ABL Secured Parties are entitled to and being provided with adequate protection resulting from (1) the provisions of this Interim Order granting either or both first-priority and priming liens on the Pre-Petition ABL Collateral to the DIP Agent, for the benefit of the DIP Lender, with respect to the DIP Facility, (2) use of the Cash Collateral, (3) use, sale, lease, decrease, or depreciation or other diminution in value of the Pre-Petition ABL Collateral, (4) the subordination to the Carve-Out, and (5) the imposition of the automatic stay under Bankruptcy Code section 362(a) or otherwise pursuant to Bankruptcy Code sections 361(a), 363(c), 364(c), and 364(d)(1); and

(2) The amount of the aggregate diminution in value in the Pre-Petition ABL Secured Parties' interests in the Pre-Petition ABL Collateral resulting from (1) the provisions of this Interim Order granting first-priority and priming liens on the Pre-Petition ABL Collateral to the DIP Agent, for the benefit of the DIP Lender, (2) use of Cash Collateral, (3) use, sale, lease, decrease, or depreciation or other diminution in value of the Pre-Petition ABL Collateral, and (4) the imposition of the automatic stay under Bankruptcy Code section 362(a) or otherwise pursuant to Bankruptcy Code sections 361(a), 363(c), 364(c), and 364(d)(1) is collectively referred to in this Interim Order as "Adequate Protection Obligations." In exchange for such adequate protection, the Pre-Petition ABL Secured Parties have agreed to the Debtor's use of

Cash Collateral on the terms set forth in this Interim Order and to the imposition of the Carve-Out as set forth herein.

(3) Necessity for Adequate Protection. The adequate protection and other treatment agreed to be provided by the Debtor pursuant to Section IV below of this Interim Order is authorized by the Bankruptcy Code, will minimize disputes and litigation over use of the Cash Collateral, is consistent with the Debtor's need for a DIP Facility, and will facilitate the Debtor's ability to continue its business operations.

F. **Prior Liens**. Nothing herein contained is intended to (1) subordinate, invalidate, negate, avoid, or prejudice the holders of Senior Liens, (2) find or rule that any Senior Liens (or any other liens, excepting only the liens of the Pre-Petition ABL Agent in the Pre-Petition ABL Collateral, subject only to Section VIII below in the case of such liens) are valid, binding, perfected, enforceable, non-avoidable, or senior, or (3) prejudice the right of any party in interest, including, without limitation, the Debtor, any Committee, the Pre-Petition ABL Agent, or DIP Agent, from challenging the validity, enforceability, perfection, extent, or priority of any Senior Lien (or any other liens, excepting only the liens of the Pre-Petition ABL Agent in the Pre-Petition ABL Collateral, subject only to Section VIII below).

G. **Findings Regarding the Post-Petition Financing**.

(1) Request for Post-Petition Financing. Borrower has requested from the DIP Agent and the DIP Lender, and the DIP Agent and the DIP Lender are willing to extend, certain loans, advances, and other financial accommodations, as more particularly described, and subject to the terms and conditions set forth, in this Interim Order and the DIP Financing Documents.

(2) Need for Post-Petition Financing. The Debtor represents that the information in this paragraph regarding its financial condition and post-petition circumstances is accurate. The Debtor does not have sufficient available sources of working capital to pay necessary expenses while it pursues an orderly wind-down within the context of this Chapter 11 Case without the DIP Facility and the ability to use Cash Collateral as described in this Interim Order. The Debtor's ability to pay expenses is essential to preserve and maximize the value of its estate for the benefit of all stakeholders. The ability of the Debtor to obtain sufficient working capital and liquidity through the proposed DIP Facility and the use of Cash Collateral on the terms set forth in the DIP Financing Documents and this Interim Order is vital to the preservation and maximization of the value of the Debtor's estate and facilitate an orderly wind-down of its business. Accordingly, the Debtor has an immediate need to obtain funds from the DIP Facility and seek authorization to use Cash Collateral for the limited purposes set forth herein in order to, among other things, manage and preserve the assets of the Debtor's bankruptcy estate (as defined under Bankruptcy Code section 541, the "Estate") in order to maximize the recoveries to creditors of the Estate.

(3) No Credit Available on More Favorable Terms. Consistent with the Supporting Declarations, the Debtor is unable to procure financing in the form of unsecured credit allowable under Bankruptcy Code section 503(b)(1), as an administrative expense under Bankruptcy Code section 364(a) or (b), or in exchange for the grant of an administrative expense priority pursuant to Bankruptcy Code section 364(c)(1), without the grant of liens on all or substantially all of the Borrower's assets pursuant to Bankruptcy Code sections 364(c) and (d). The Debtor has been unable to procure the necessary financing on terms more favorable than the

financing offered by the DIP Agent and the DIP Lender pursuant to the DIP Financing Documents and this Interim Order.

(4) Budget. Based upon the record presented to the Court by the Debtor, (a) the Debtor has prepared and delivered the Budget (as defined in the DIP Credit Agreement (a copy of such Budget being annexed hereto as **Exhibit 1** (the "Approved Budget")), (b) the Approved Budget has been thoroughly reviewed by the Debtor and its management and advisors, and (c) the Approved Budget sets forth, among other things, the projected cash receipts and disbursements for the periods covered thereby. The Debtor believes in good faith that the Approved Budget is achievable and will allow the Debtor to operate in chapter 11 without the accrual of unpaid administrative expenses during the term of the Approved Budget. The Pre-Petition ABL Secured Parties and the DIP Secured Parties are relying upon the Debtor's compliance with the Approved Budget in determining to consent to the use of Cash Collateral for the limited purposes expressly set forth herein and to enter into (or as the case may be, consent to) the DIP Facility provided for herein.

(5) Business Judgment and Good Faith Pursuant to Section 364(e) and Section 363 (m). The Debtor represents that (a) the Debtor and each of the Pre-Petition ABL Secured Parties and the DIP Secured Parties have negotiated at arms' length and in good faith regarding the terms of the DIP Financing Documents, the DIP Facility, and the Debtor's use of Cash Collateral, respectively, all subject to the terms of this Interim Order and (b) the terms of the DIP Credit Agreement, the other DIP Financing Documents, and the DIP Facility are fair and reasonable, reflect the Borrower's exercise of prudent business judgment, and constitute reasonably equivalent value and fair consideration. Any credit extended under the terms of this Interim Order shall be deemed to have been extended in "good faith" (as that term is used in

Bankruptcy Code sections 364(e) and 363(m)) by the Pre-Petition ABL Secured Parties and the DIP Lender.

(6) No Objection. The Pre-Petition ABL Secured Parties have no objection to the DIP Facility and the use of Cash Collateral on the terms and conditions set forth in this Interim Order. 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 Pre-Petition ABL Secured Parties are or will be adequately protected with respect to any non-consensual use of Cash Collateral.

(7) Good Cause. The Debtor represents that the relief requested in the Motion is necessary, essential, and appropriate and is in the best interest of and will benefit the Debtor and its Estate, as its implementation will, among other things, provide the Debtor with the necessary liquidity to (a) minimize disruption to the Debtor's efforts for the orderly wind-down of its business, (b) preserve and maximize the value of the Debtor's Estate, and (c) avoid immediate and irreparable harm to the Debtor, its business, employees, and assets.

(8) Immediate Entry. Sufficient cause exists for immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(c)(2). No party appearing in the Chapter 11 Case has filed or made an objection to the relief sought in the Motion or the entry of this Interim Order, or any objections that were made (to the extent such objections have not been resolved or withdrawn) are hereby overruled.

Based upon the foregoing, and after due consideration and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that:

I. Authorization and Terms of Financing.

A. **Motion Granted**. The Motion is granted in accordance with Bankruptcy Rule 4001(c)(2) under the terms and conditions provided in this Interim Order.

B. **Authorization to Borrow**. The Borrower is hereby authorized and empowered to immediately borrow and obtain Advances under (and as defined in) the DIP Credit Agreement, and the Borrower is hereby authorized and empowered to incur indebtedness and obligations owing to the DIP Agent and the DIP Lender on the terms and subject to the conditions (including, without limitation, sublimits and availability restrictions) set forth in the DIP Financing Documents and this Interim Order, during the Interim Period up to the maximum amount of $5,000,000 subject, as applicable, to the Approved Budget (with any variances permitted thereto under the terms and conditions of the DIP Credit Agreement) and to entry of the Final Order.

C. **Financing Documents**.

(1) Authorization. The Borrower is hereby authorized and empowered to (a) enter into, execute, deliver, perform, and comply with all of the terms, conditions, and covenants of the DIP Financing Documents, including, without limitation, the DIP Credit Agreement, and all security and pledge agreements, (b) execute and deliver all certificates, reports, statements, and other agreements and documents required or contemplated by the DIP Financing Documents (including, without limitation, documents required for the Debtor's performance of its obligations under the DIP Financing Documents and creation and perfection of liens granted or contemplated therein), and (c) pay all obligations incurred under or described in (whether principal, interest, fees, costs, expenses, indemnities, or otherwise) and perform all other undertakings and acts required or contemplated by the DIP Financing Documents.

(2) Approval of Financing Documents. The DIP Financing Documents (and all certificates, reports, statements, and other agreements and documents), except to the extent such documents are inconsistent with this Interim Order, are approved to the extent necessary to implement the terms and provisions of this Interim Order.

(3) Amendment of DIP Financing Documents. The Debtor, the DIP Agent, and the DIP Lender are hereby authorized to approve and implement, in accordance with the terms of the DIP Financing Documents, any modification of the DIP Financing Documents*; provided*, *however*, that any material modification or amendment to the DIP Financing Documents shall be subject to providing notice of such material modification or amendment to counsel to any Committee and the U.S. Trustee, each of whom shall have three (3) business days from the date of such notice within which to object in writing to such modification or amendment unless the Committee and/or the U.S. Trustee agrees in writing to a shorter period. If any Committee or the U.S. Trustee timely objects to any material modification or amendment to the DIP Financing Documents, then such modification or amendment shall become effective upon the expiration of the aforementioned notice period and upon the Court's entry of an order approving such modification or amendment. If a timely objection is interposed, the Court shall resolve such objection prior to such modification or amendment becoming effective.

(4) Application of DIP Facility Proceeds. The advances under the DIP Facility shall be used in each case in a manner consistent with the terms and conditions of the DIP Financing Agreements, and in accordance with and as may be limited by the Approved Budget (subject to any variances thereto permitted under the terms and conditions of the DIP Credit Agreement), solely as follows, and, as applicable, subject to Section VIII below:

(a) to pay fees, costs, and expenses as provided in the DIP Financing Documents, including amounts incurred in connection with the preparation, negotiation, execution, and delivery of the DIP Credit Agreement and the other DIP Financing Documents;

(b) for general operating and working capital purposes, for the payment of fees, expenses, and costs incurred in connection with the Chapter 11 Case, and other proper corporate purposes of the Debtor not otherwise prohibited by the terms hereof for working capital, and other lawful corporate purposes of the Debtor;

(c) for making other payments as provided in this Interim Order; and

(d) to fund the Carve-Out Reserve Account (as defined below).

(5) Conditions Precedent. The DIP Lender shall have no obligation to make any loan or advance under the DIP Credit Agreement unless the conditions precedent to make such loan or extension of credit under the DIP Credit Agreement have been satisfied in full or waived in accordance with the DIP Credit Agreement.

D. **Payments and Application of Payments**. The Debtor is authorized to make all payments and transfers of property of the Debtor's Estate to the DIP Agent and the DIP Lender as provided, permitted, or required under the DIP Financing Documents and this Interim Order, which payments and transfers shall not be avoidable or recoverable from the DIP Lender under Bankruptcy Code sections 547, 548, 550, 553, or any other section thereof, or be subject to any other claim, charge, assessment, or other liability, whether by application of the Bankruptcy Code, other law, or otherwise. Without limiting the generality of the foregoing, the Borrower is authorized and directed, without further order of this Court, to (i) pay all principal, interest, fees, and indemnities, when due, under the DIP Financing Documents and (ii) pay or reimburse the DIP Agent and the DIP Lender, in accordance with the DIP Financing Documents, for all present

and future costs and expenses, including, without limitation, all reasonable and documented professional fees, consultant fees, and legal fees and expenses paid or incurred by the DIP Agent and the DIP Lender in connection with the financing transactions as provided in the DIP Financing Documents and this Interim Order, regardless of whether such amounts are in the Approved Budget, all of which shall be and are included as part of the principal amount of the Obligations under (and as defined in) the DIP Financing Documents and secured by the DIP Collateral (as defined below); *provided that* DIP Agent shall send a redacted summary invoice of such fees and expenses (subject in all respects to applicable privilege or work product doctrines) to the Debtor, the U.S. Trustee and, if appointed, the Committee or its counsel. Ten (10) days after delivery of such invoices in accordance with this paragraph, the Debtor shall pay such fees and costs, provided no objection has been raised within such ten (10) days, and to the extent there is an objection that is not consensually resolved, the Court may resolve the objection. No attorney or advisor to the DIP Agent or DIP Secured Parties shall be required to file an application seeking compensation for services or reimbursement of expenses with the Court.

E. **Interest and Fees**. The rate(s) of interest to be charged for the Advances under the DIP Facility pursuant to the DIP Credit Agreement shall be the rates set forth in the DIP Credit Agreement and shall be calculated in the manner and payable at the times set forth in the DIP Credit Agreement. The fees charged under the DIP Facility shall be those set forth in the DIP Credit Agreement and shall be unconditionally payable in the amounts and at the times set forth in the DIP Credit Agreement, which is absolutely and unconditionally earned upon execution of the DIP Credit Agreement and shall be non-refundable.

F. **Interim Period Application of Collections**. During the Interim Period, all cash, collections, and proceeds of the Pre-Petition ABL Collateral and DIP Collateral, including all

proceeds realized in connection with any and all asset sales, shall be immediately paid to the DIP Agent for application in reduction of the Pre-Petition ABL Obligations and the Post-Petition Obligations in accordance with the terms of the DIP Financing Documents and this Interim Order, in such order and manner determined by the DIP Agent, including, without limitation, applying all payments, proceeds, and other amounts either to the Pre-Petition ABL Obligations or to the Post-Petition Obligations in the DIP Agent's and Pre-Petition ABL Agent's sole and absolute discretion.

G. **Continuation of Pre-Petition Procedures**. All pre-petition practices and procedures for the payment and collection of proceeds of Pre-Petition ABL Collateral and DIP Collateral, as applicable, the turnover of cash, the delivery of property to the Pre-Petition ABL Secured Parties, and the funding pursuant to the Pre-Petition ABL Credit Agreement, including use of any lockbox or blocked depository bank account arrangements, will be unchanged, remain in place, and be identical under the DIP Financing Documents for the benefit of the DIP Agent and the DIP Lender and are hereby approved and shall continue without interruption after the commencement of the Chapter 11 Case, provided that the practices and procedures are otherwise consistent with the terms of the *Interim Order (I) Authorizing the Debtor to (A) Maintain and Operate Its Existing Cash Management System, (B) Honor Certain Prepetition Obligations, and (C) Maintain Existing Business Forms; and (II) Granting Related Relief*.

II. Collateralization and Superpriority Administrative Claim Status.

A. **Collateralization**.

(1) DIP Lien Grant. To secure the prompt payment and performance of any and all Post-Petition Obligations of the Borrower to the DIP Agent and the DIP Lender of whatever kind, nature, or description, absolute or contingent, now existing or hereafter arising, the DIP Agent, for the benefit of itself and the DIP Lender, shall have and is hereby granted,

effective *nunc pro tunc* as of the Petition Date, valid, binding, enforceable, continuing, non-avoidable, and perfected first-priority (subject only to any Senior Liens and the Carve-Out), security interests and liens in and upon (such security interests and liens collectively, "DIP Liens") all property and rights and interests in property of the Debtor of any kind or nature whatsoever in existence as of the Petition Date as well as thereafter created or acquired, and wherever located, including, without limitation, (a) all Pre-Petition ABL Collateral, (b) all Receivables[5] and all supporting obligations relating thereto; (c) all equipment and fixtures; (d) all general intangibles (including all payment intangibles and all software) and all supporting obligations related thereto; (e) all Inventory; (f) all Subsidiary Stock, securities, investment property, and financial assets; (g) all Real Property; (h) all Leasehold Interests; (*provided*, *however*, that as to a lien on all fee, leasehold, and other real property interests and the proceeds thereof: (i) with respect to non-residential real property leases, no liens or encumbrances shall be granted or extended to such leases under this Interim Order, except as permitted by the applicable lease or pursuant to applicable law, but if any such restriction applies, liens shall then be deemed to extend only to the economic value of proceeds of any sale or other disposition of, and any other proceeds or products of, such leasehold interests; and (ii) should any DIP Lender's internal regulatory or compliance requirements require the completion of either or both flood due diligence and obtaining evidence of applicable flood insurance with respect to any real property or leasehold interest, then until completion of such flood due diligence, the DIP Agent shall be deemed to have obtained a lien only on the economic value of, proceeds of any sale or other disposition of such real property interests), (i) all contract rights, rights of payment which have been earned under a contract rights, chattel paper (including electronic chattel paper and tangible

[5] All capitalized terms used in this definition of "DIP Collateral" but not otherwise defined herein shall have the meanings ascribed such terms in the DIP Credit Agreement.

chattel paper), commercial tort claims (whether now existing or hereafter arising and whether or not specifically identified), documents (including all warehouse receipts and bills of lading), deposit accounts, goods, instruments (including promissory notes), letters of credit (whether or not the respective letter of credit is evidenced by a writing) and letter-of-credit rights, cash, certificates of deposit, insurance proceeds (including hazard, flood and credit insurance), security agreements, eminent domain proceeds, condemnation proceeds, tort claim proceeds, and all supporting obligations, including, without limitation, all liquidation and other proceeds, refunds, and supporting obligations under any Hedge Liabilities; (j) upon (and subject to) entry of the Final Order, unless not included or otherwise provided in the Final Order, all causes of action whether pursuant to federal or applicable state law, and the proceeds thereof and property received thereby whether by judgment, settlement, or otherwise, and upon entry of the Final Order, unless not included or otherwise provided in the Final Order, all claims and causes of action under chapter 5 of the Bankruptcy Code or any other avoidance actions under the Bankruptcy Code or state law (collectively, "Avoidance Actions") of the Debtor or its Estate; (k) subject to Section V.D.(5) of this Interim Order, the Carve-Out Reserve Account and all funds on deposit in the Carve-Out Reserve Account and all other segregated or reserve accounts; (l) if not otherwise described, all of the property or rights in property identified as Collateral (as defined in the Pre-Petition ABL Credit Agreement and the DIP Credit Agreement), (m) all ledger sheets, ledger cards, files, correspondence, records, books of account, business papers, computers, computer software (owned by the Debtor or in which it has an interest), computer programs, tapes, disks and documents, including all of such property relating to the property described in clauses (a) through (l) of this definition; and (n) all proceeds and products of the property

described in clauses (a) through (m) of this definition, in whatever form (all of the foregoing being sometimes collectively referred to in this Interim Order as "DIP Collateral").

(2) Subject, in each instance, to the provisions of Section VII below, the DIP Liens shall be:

(a) Liens on Unencumbered Assets. Pursuant to Bankruptcy Code section 364(c)(2), continuing valid, perfected, enforceable, first-priority, and fully perfected liens on and security interests in all of the Debtor's right, title, and interest in, to, and under all DIP Collateral that is not otherwise encumbered by a validly perfected security interest or lien as of the Petition Date ("Unencumbered Property").

(b) Liens on Encumbered Assets. Pursuant to Bankruptcy Code section 364(c)(3), a continuing valid, enforceable, second priority, and fully perfected lien on and security interest (other than as set forth in clause (c) below) in all of the Debtor's right, title, and interest in, to, and under all DIP Collateral which is subject to, as of the Petition Date, a Senior Lien.

(c) Priming Liens on Encumbered Assets. Subject to any applicable Senior Liens, pursuant to Bankruptcy Code section 364(d), valid, enforceable, and fully perfected first-priority senior priming security interests in and senior priming liens upon all of the Debtor's right, title, and interest in, to, and under all DIP Collateral, including, without limitation, priming security interests and priming liens which are senior to (i) the security interests and liens held by the Pre-Petition ABL Agent, on behalf of the Pre-Petition ABL Secured Parties; and (ii) the Adequate Protection Liens (as defined below).

(d) Liens Senior to Certain Other Liens. Upon entry of the Final Order, unless not included or otherwise provided in the Final Order, the DIP Liens, and the First

Lien Adequate Protection Liens (as defined below) shall not be subject or subordinate to any lien or security interest that is avoided or preserved for the benefit of the Debtor or its Estate under Bankruptcy Code section 551.

(3) Post-Petition Lien Perfection. This Interim Order shall be sufficient and conclusive evidence of the priority, perfection, and validity of the post-petition liens and security interests granted herein, effective as of the Petition Date, without any further act and without regard to any other federal, state, or local requirements or law requiring notice, filing, registration, recording, or possession of the DIP Collateral, or other act to validate or perfect such security interest or lien, including, without limitation, control agreements with any financial institution(s) holding any deposit account of the Borrower or any guarantor (a "Perfection Act"). Notwithstanding the foregoing, if the DIP Agent, or the Pre-Petition ABL Agent (on account of its First Lien Adequate Protection Liens) shall, in their respective sole discretion, elect for any reason to file, record, or otherwise effectuate any Perfection Act, each of the DIP Agent and the Pre-Petition ABL Agent (with the prior written consent of the DIP Agent) is authorized to perform such act, and the Borrower is authorized to perform such acts to the extent necessary or required by the DIP Agent and/or the Pre-Petition ABL Agent, which act or acts shall be deemed to have been accomplished as of the Petition Date notwithstanding the date and time actually accomplished, and, in such event, the subject filing or recording office is authorized to accept, file, or record any document in regard to such act in accordance with applicable law. The DIP Agent and/or the Pre-Petition ABL Agent may choose to file, record, or present a certified copy of this Interim Order in the same manner as a Perfection Act, which shall be tantamount to a Perfection Act, and, in such event, the subject filing or recording office is authorized to accept, file, or record such certified copy of this Interim Order in accordance with applicable law.

Should the DIP Agent and/or Pre-Petition ABL Agent so choose and attempt to file, record, or perform a Perfection Act, no defect or failure in connection with such attempt shall in any way limit, waive, or alter the validity, enforceability, attachment, priority, or perfection of the DIP Liens or the First Lien Adequate Protection Liens granted herein by virtue of the entry of this Interim Order.

B. **Superpriority Administrative Expense**.

(1) For all Post-Petition Obligations, whether now existing or hereafter arising, subject only to the Carve-Out, the DIP Agent, for the benefit of itself and the DIP Lender, is granted an allowed superpriority administrative expense claim in the Borrower's Estate pursuant to Bankruptcy Code section 364(c)(1), having priority in right of payment over any and all other obligations, liabilities, and indebtedness of the Debtor, whether now in existence or hereafter incurred by the Debtor of every kind or nature, including any and all unsecured claims, administrative expenses, adequate protection claims, priority claims, or any other claims of the kind specified in, or ordered pursuant to, the Bankruptcy Code, including, without limitation, *inter alia*, Bankruptcy Code sections 105, 326, 328, 330, 331, 503(b), 507, 364(c)(1), 546(c), 726 or 1114 and, upon entry of the Final Order, sections 506(c) and 552(b) (the "DIP Superpriority Claim").

(2) Other than the Carve-Out, (a) effective upon entry of the Final Order with respect to rights preserved under Bankruptcy Code section 506(c), no costs or expenses of administration, including, without limitation, professional fees allowed and payable under Bankruptcy Code sections 328, 330, and 331, or otherwise, that have been or may be incurred in the Chapter 11 Case, or in any Successor Case (as hereinafter defined), and (b) no priority claims are, or will be, senior to, prior to, or on a parity with the DIP Superpriority Claim or the Post-Petition Obligations or with any other claims of the DIP Lender arising hereunder.

III. Authorization to Use Cash Collateral. Subject to the terms and conditions of this Interim Order, pursuant to Bankruptcy Code section 363(c)(2), the Debtor is authorized to use Cash Collateral in accordance with the DIP Financing Documents and as may be limited by the Approved Budget (subject to variances permitted under the terms and conditions of the DIP Credit Agreement). Except as otherwise provided herein, absent entry of the Final Order by the Court, the Debtor shall no longer be authorized to use Cash Collateral at the expiration of the Interim Period without the prior written approval of the DIP Agent; provided, however, that notwithstanding the Approved Budget, the Debtor shall be permitted to use up to $50,000 for the orderly transition of the Chapter 11 Case to a case under Chapter 7. Except for the sale of inventory in the ordinary course of the Debtor's business or as may be otherwise expressly permitted herein, or in any agency arrangement between the Debtor and a third party in connection with the liquidation of the DIP Collateral approved in writing by the DIP Agent and Pre-Petition ABL Agent, nothing in this Interim Order shall be deemed to authorize the use, sale, lease, encumbrance, or disposition of any assets of the Debtor or its Estate or the use of any Cash Collateral or other proceeds resulting therefrom.

IV. Adequate Protection for Pre-Petition ABL Secured Parties. As adequate protection for the interests of the Pre-Petition ABL Agent, for the benefit of itself and the Pre-Petition ABL Lender, on account of the Adequate Protection Obligations owed to the Pre-Petition ABL Secured Parties (the "First Lien Adequate Protection Obligations"), the Pre-Petition ABL Agent is being provided with adequate protection (collectively, the "First Lien Adequate Protection").

A. **First Lien Adequate Protection Liens**. Until the indefeasible discharge of the Pre-Petition ABL Obligations, the Pre-Petition ABL Agent, for itself and for the benefit of the Pre-Petition ABL Lender, is hereby granted valid, binding, enforceable, and perfected

replacement and additional security interests in and liens (the "First Lien Adequate Protection Liens") on all the Debtor's right, title, and interest in and to the DIP Collateral to the extent of the First Lien Adequate Protection Obligations, which liens shall be junior in all respects only to the DIP Liens, the Senior Liens, and the Carve Out.

(1) The First Lien Adequate Protection Liens shall be deemed to be fully perfected as of the Petition Date and, subject to Section VIII below, not subject to subordination or avoidance for any cause or purpose in the Chapter 11 Case.

(2) Except for the DIP Liens, the Senior Liens, and the Carve Out, the First Lien Adequate Protection Liens (i) shall not be made subject to or *pari passu* with any lien or security interest by any court order heretofore or hereafter entered in the Chapter 11 Case (unless with the consent of the Pre-Petition ABL Secured Parties); (ii) shall not be subject to Bankruptcy Code sections 506(c) (upon entry of the Final Order), 510, 549, or 550; and (iii) no lien or interest avoided and preserved for the benefit of the Estate pursuant to Bankruptcy Code section 551 shall be made *pari passu* with or senior to the First Lien Adequate Protection Liens.

B. **First Lien Adequate Protection Claims**. As further adequate protection, to the extent that the First Lien Adequate Protection Liens do not adequately protect the diminution in value of the Pre-Petition ABL Agent's interest in the Pre-Petition ABL Collateral, the Pre-Petition ABL Agent, for the benefit of the Pre-Petition ABL Lender, is hereby granted an allowed superpriority administrative expense claim (the "First Lien Adequate Protection Claim") against the Debtor's Estate under Bankruptcy Code sections 503 and 507(b), which shall, subject only to the DIP Superpriority Claim and the Carve-Out, have priority over all other administrative expense claims, priority claims, and unsecured claims against the Debtor or its Estate, which are now existing or hereafter arising, of any kind or nature whatsoever, including,

without limitation, administrative expenses and priority or other claims of the kinds specified in or ordered pursuant to Bankruptcy Code sections 105, 326, 328, 330, 331, 364, 365, 503(a), 503(b), 506(c) (upon entry of the Final Order), 507(a), 507(b), 546(c), 546(d), 726, 1113 and 1114.

C. **First Lien Adequate Protection Payments**.

(1) As further adequate protection, the Pre-Petition ABL Agent, for the benefit of the Pre-Petition ABL Lender, shall be entitled to interest on account of the outstanding Pre-Petition ABL Obligations at the rate set forth in the Pre-Petition ABL Financing Documents, which was in effect as of the Petition Date and which shall accrue and be payable at the times and in the manner set forth in the Pre-Petition ABL Financing Documents.

(2) As further adequate protection, and without limiting any rights of the Pre-Petition ABL Agent for the benefit of the Pre-Petition ABL Lender under Bankruptcy Code section 506(b), which are hereby preserved, the Debtor shall pay or reimburse the Pre-Petition ABL Agent (the "First Lien Adequate Protection Payments") for any and all of its reasonable fees, costs, expenses, and charges accrued and payable under the Pre-Petition ABL Financing Documents, including, without limitation, the fees and expenses of the Pre-Petition ABL Agent as provided in Section 6.1 of the Pre-Petition ABL Credit Agreement, whether accrued and unpaid pre-petition or accrued and unpaid post-petition, all without further notice, motion or application to, order of, or hearing before this Court; *provided that* the DIP Agent shall be permitted to include such fees and expenses in the Post-Petition Obligations and make an Advance for the purposes of effectuating such payment by the Debtor, following submission of a redacted summary invoice to the Debtor, the U.S. Trustee and, if appointed, a Committee or its counsel, of a written invoice (subject in all respects to applicable privilege or work product

doctrines). Ten (10) days after delivery of such invoices in accordance with this paragraph, the Debtor shall pay such fees and costs, provided no objection has been raised within such ten (10) days, and to the extent there is an objection that is not consensually resolved, the Court may resolve the objection. Such written invoices shall include the invoices of (i) Blank Rome LLP, counsel to the Pre-Petition ABL Agent, and (ii) any other professional, advisor, or agent reasonably retained by the Pre-Petition ABL Agent or its counsel in connection with the Pre-Petition ABL Financing Documents pursuant to the Chapter 11 Case; *provided that* none of such fees and expenses as adequate protection payments hereunder shall be subject to approval by the Court or the United States Trustee Guidelines unless an objection is interposed and cannot be resolved by the parties. No recipient of any such payment shall be required to file with respect thereto any interim or final fee application with the Court. Any and all fees charged under the Pre-Petition ABL Financing Documents shall be as set forth in the Pre-Petition ABL Financing Documents and shall be payable at the times set forth in the Pre-Petition ABL Financing Documents.

V. Carve Out.

A. **Carve-Out**. The DIP Liens, DIP Superpriority Claims, Adequate Protection Liens, Adequate Protection Claims, and any other liens or claims granted by this Interim Order or the Final Order shall be subject only to the right of payment of the following expenses (collectively, the "Carve-Out"), to the extent provided herein:

(1) statutory fees payable to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6) with respect to the Debtor (the "Statutory Fees"), including any interest payable thereon under 31 U.S.C. § 3717 (if any), and any fees payable to the Clerk of the Court;

(2) the allowed fees and expenses actually incurred by persons or firms retained by the Debtor or the Committee (if appointed) on or after the Petition Date and prior to

the Trigger Date (defined below), whose retention is approved by the Bankruptcy Court (whether prior to or after the Trigger Date) pursuant to Bankruptcy Code sections 327, 328, 363, or 1103 (each a "Professional" and collectively, the "Professionals"), and payable subject in all respects to the terms of this Interim Order, the Final Order, and any other interim or other compensation order entered by the Bankruptcy Court (the "Interim Compensation Procedures"), in an amount not to exceed the lesser of (A) the aggregate weekly amounts budgeted for each such Professional in accordance with the Approved Budget for the period preceding the Trigger Date (to the extent a Trigger Date occurs mid-week, pro-rated for such week) and (B) the actual allowed amount of such Professional Fees for each Professional incurred on or after the Petition Date up through and including the Trigger Date, subject to Section V.D.(3) of this Interim Order ("Allowed Professional Fees") (the "Carve-Out Cap"). "Trigger Date" shall mean the date of an Event of Default under the DIP Credit Agreement and delivery of a written notice (the "Carve-Out Trigger Notice") by the DIP Agent to the (i) U.S. Trustee, (ii) the Debtor and Debtor's counsel, and (iii) counsel for the Committee, if any. The Carve-Out Trigger Notice shall be deemed to have been given on the Termination Date (as defined in the DIP Credit Agreement). Subject to the terms of this Interim Order, the Carve-Out Cap shall not include any bonus, sale transaction fees, success fees, completion fees, substantial contribution fees, or any other fees of similar import of any of the Professionals and shall be allocated on a Professional-by-Professional basis based upon the amounts budgeted to be funded in advance for each Professional pursuant to the Approved Budget.

B. **Excluded Professional Fees**. Notwithstanding anything to the contrary in this Interim Order, neither the Carve-Out, nor the proceeds of any Advances under the DIP Credit Agreement or DIP Collateral shall be used to pay any Allowed Professional Fees or any other

fees or expenses incurred by any Professional in connection with any of the following: (a) an assertion or joinder in any claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination, or similar relief: (i) challenging the legality, validity, priority, perfection, or enforceability of the Pre-Petition ABL Obligations, the Post-Petition Obligations, or the Pre-Petition ABL Agent's or DIP Agent's respective liens on and security interests in any of the Pre-Petition ABL Collateral, or DIP Collateral, as applicable, (ii) seeking to invalidate, set aside, avoid, or subordinate, in whole or in part, the Pre-Petition ABL Obligations or Post-Petition Obligations or the Pre-Petition ABL Agent's or DIP Agent's respective liens on and security interests in the Pre-Petition ABL Collateral or the DIP Collateral, as applicable, or (iii) preventing, hindering, or delaying the Pre-Petition ABL Agent's or DIP Agent's respective assertion or enforcement of any lien, claim, right, or security interest or realization upon any Pre-Petition ABL Collateral or DIP Collateral, as applicable, in accordance with the terms and conditions of this Interim Order; (b) a request to use the Cash Collateral (as such term is defined in Bankruptcy Code section 363) without the prior written consent of the Pre-Petition ABL Agent and the DIP Agent, except to the extent expressly permitted herein; (c) a request for authorization to obtain debtor-in-possession financing or other financial accommodations pursuant to Bankruptcy Code section 364(c) or (d), other than from the DIP Secured Parties, without the prior written consent of the DIP Agent, unless such other debtor-in-possession financing or financial accommodation is used, in part, to indefeasibly pay and satisfy in full in cash all Pre-Petition ABL Obligations and Post-Petition Obligations owed respectively to the Pre-Petition ABL Secured Parties and DIP Secured Parties; (d) the commencement or prosecution of any action or proceeding of any claims, causes of action, or defenses against the Pre-Petition ABL Secured Parties or the DIP Secured Parties, or

any of their respective officers, directors, employees, agents, attorneys, affiliates, successors, or assigns, including, without limitation, any attempt to avoid any claim, lien, or interest of, or obtain any recovery from any of the Pre-Petition ABL Secured Parties or the DIP Secured Parties under chapter 5 of the Bankruptcy Code; *provided*, *however*, that, subject to the Carve-Out Cap, an amount not to exceed $25,000.00 in the aggregate of the indebtedness incurred pursuant to the DIP Facility may be used to pay the Allowed Professional Fees of a Committee to investigate (but not prosecute) claims against and possible objections with respect to the Pre-Petition ABL Obligations and the pre-petition liens and security interests of the Pre-Petition ABL Secured Parties (including, without limitation, issues regarding validity, perfection, priority, or enforceability of the secured claims of the Pre-Petition ABL Secured Parties) or for any other purpose in accordance with the Approved Budget other than for challenging the liens or claims of the DIP Secured Parties and the ABL Secured Parties.

C. **Carve-Out Reserve**. At the DIP Agent's sole discretion, the DIP Agent may at any time establish (and adjust) a reserve against the amount of Advances under the DIP Credit Agreement or other credit accommodations that would otherwise be made available to the Debtor in respect of the Carve-Out, *provided*, *however*, that the setting (or adjustment) of any such reserve shall not diminish the Carve-Out Cap. Nothing contained herein shall limit, modify, or restrict in any way the DIP Agent's rights to establish (and adjust) any other reserves in accordance with the DIP Financing Documents.

D. **Payment of Carve-Out**.

(1) The Debtor shall maintain a segregated account with McDermott Will & Emery LLP ("MWE") for the payment of Allowed Professional Fees (the "Carve-Out Reserve Account"), which account shall be funded by or on behalf of the Debtor in accordance with the

Approved Budget on a weekly basis, in advance, until the occurrence of a Trigger Date, provided that for this purpose borrowing availability must exist under the DIP Credit Agreement, and further provided that funds in the Carve-Out Reserve Account shall remain property of the Debtor's Estate subject to the DIP Liens and to the extent provided by applicable law but shall be subject to the distribution procedures in this paragraph. After the Trigger Date, the Carve-Out Reserve Account may continue to be funded, up to the Carve-Out Cap. From funds in the Carve-Out Reserve Account, MWE shall pay the Professionals the Allowed Professional Fees in compliance with the Interim Compensation Procedures and in the manner set forth in this Interim Order in accordance with the Approved Budget; *provided*, *however*, that, prior to payment in full of the Pre-Petition ABL Obligations, as applicable, and Post-Petition Obligations and termination of the Carve-Out, to the extent that Allowed Professional Fees that have accrued from the Petition Date through and including the Trigger Date are less than the amounts funded into the Carve-Out Reserve Account, the excess amounts in the Carve-Out Reserve Account shall be (a) *first*, applied to fund the Carve-Out Cap; (b) *second*, to fund any shortfall in the Payroll & Tax Amounts (as defined below); and (c) *third*, remitted to the DIP Agent to apply to reduce either or both the Pre-Petition ABL Obligations and the Post-Petition Obligations at DIP Agent's sole discretion. For the avoidance of doubt, (a) in making payments from the Carve-Out Reserve Account, MWE shall be entitled to conclusively rely upon written certifications of each Professional as to the amount due and owing to such Professional from the Carve-Out Reserve Account and in accordance with the Approved Budget and shall have no liability to any party based upon its reliance on such certifications; and (b) in no circumstances shall MWE be obligated to pay any Professional other than from funds held, from time to time, in the Carve-Out Reserve Account. Provided that the amounts DIP Agent is obligated to allocate to Professionals

as required in this Section V has been funded, all obligations of the DIP Secured Parties and Pre-Petition ABL Secured Parties with respect to the Carve-Out shall be terminated. Notwithstanding anything to the contrary contained in this Interim Order, the Carve-Out and all obligations of the DIP Secured Parties and Pre-Petition ABL Secured Parties with respect to the Carve-Out shall be terminated upon the payment in full and satisfaction of the Pre-Petition ABL Obligations and the Post-Petition Obligations.

(2) The Carve-Out Cap shall be reduced on a dollar-for-dollar basis by the amounts actually funded into the Carve-Out Reserve Account and/or the amounts actually paid on account of the Carve-Out. To the extent that, as of the Trigger Date, (i) the Carve-Out Reserve Account has not been funded in accordance with the Approved Budget or (ii) the Payroll & Tax Amounts (as defined below) have not been funded in an amount equal to the amounts set forth in the Approved Budget, the DIP Agent, on behalf of the DIP Lender, may remit the difference to the Carve-Out Reserve Account and/or the Payroll & Tax Amounts, as applicable, solely from collateral proceeds. Payment of any amounts on account of the Carve-Out, whether by or on behalf of the DIP Agent or any DIP Lender, shall not and shall not be deemed to reduce the Pre-Petition ABL Obligations or the Post-Petition Obligations, and shall not and shall not be deemed to subordinate any of the DIP Secured Parties' liens and security interests in the DIP Collateral or the DIP Superpriority Claim to any junior pre- or post-petition lien, interest, or claim in favor of any other party. No DIP Secured Party shall, under any circumstance, be responsible for the direct payment or reimbursement of any fees or disbursements of any Professionals incurred in connection with the Case or Successor Case (as defined below) under any chapter of the Bankruptcy Code, and nothing in this Section V shall be construed to obligate any DIP Secured Party, in any way, to pay compensation to or to reimburse expenses of any

Professional, or to ensure that the Debtor has sufficient funds to pay such compensation or reimbursement.

(3) Nothing herein shall be construed as a consent to the allowance of the fees and expenses of any Professional or shall affect the right of the Pre-Petition ABL Secured Parties, and/or the DIP Secured Parties to object to the allowance and payment of such fees and expenses. So long as no Event of Default (as defined below) has occurred or is continuing, the Debtor shall be permitted to pay fees and expenses allowed and payable pursuant to an order of the Court, including any order approving Interim Compensation Procedures, under Bankruptcy Code sections 330 and 331, as the same may be due and payable, solely to the extent set forth in the Approved Budget and not to exceed the amounts set forth in the Approved Budget, *provided that* (i) any such payment shall be subject to entry of a final order of the Court of each Professional's final application for allowance of such fees and expenses and (ii) unused amounts set forth in the Approved Budget, if any, may be carried forward until the Trigger Date and used to fund such item in any subsequent week; *provided, further*, that any amount set forth in the Approved Budget for the Professionals retained by the Debtor may be carried forward after the Trigger Date for Allowed Professional Fees incurred after the Trigger Date through and including the date of conversion of the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code.

(4) On the Trigger Date, the Debtor may utilize all cash on hand as of such date (i) to fund any amounts remaining into the Carve-Out Reserve Account; and (ii) to segregate and pay amounts to satisfy a reserve for the Payroll & Tax Amounts. The Debtor shall deposit and hold the Payroll & Tax Amounts in a segregated account in a manner reasonably acceptable to the DIP Agent in trust for the purposes specified in Section VII.E below.

(5) For the avoidance of doubt and notwithstanding anything to the contrary in this Interim Order, the DIP Financing Documents, or the Pre-Petition ABL Credit Agreement, the Carve-Out shall be senior to all liens and claims securing the DIP Facility, the Adequate Protection Obligations, the Pre-Petition ABL Obligations, and any and all other forms of adequate protection, liens, or claims securing the Post-Petition Obligations or the Pre-Petition ABL Obligations.

VI. Right to Credit Bid. Subject to entry of a Final Order, in connection with any sale of assets by any Debtor outside of the ordinary course of business, the Pre-Petition ABL Agent, on behalf of the Pre-Petition ABL Lender, and the DIP Agent, on behalf of the DIP Lender, as the case may be, shall be entitled to credit bid all or any part of the outstanding amount of the Pre-Petition ABL Obligations and/or Post-Petition Obligations, as applicable, in respect of any such sale.

VII. Default; Rights and Remedies; Relief from Stay.

A. **Events of Default**. The following shall constitute an "Event of Default" under this Interim Order:

(1) The occurrence of any Event of Default under and as defined in the DIP Credit Agreement.

(2) The failure of the Debtor to file within one (1) business day of the Petition Date an emergency motion (the "Transfer Motion") seeking the transfer of customers to providers of last resort (the "POLRs");

(3) The failure of the Debtor to obtain an expedited hearing (the "Transfer Motion Hearing") on the Transfer Motion within ten (10) days of the Petition Date;

(4) The failure of the Debtor to obtain entry of an Order (the "Transfer Motion Order") in form and substance acceptable to the DIP Agent in its sole and absolute

discretion approving the Transfer Motion within one (1) business day of the Transfer Motion Hearing;

(5) The failure of the Debtor to obtain entry of the Transfer Motion Order in form and substance acceptable to the DIP Agent in its sole and absolute discretion providing for the transfer of customers to the POLRs within ten (10) days of entry of the Transfer Motion Order;

(6) The Debtor sells, transfers, leases, encumbers, or otherwise disposes of any portion of the DIP Collateral without an order of this Court and the written consent of the DIP Agent, except for sales of the Debtor's inventory in the ordinary course of its business or as otherwise permitted in the DIP Credit Agreement;

(7) The Debtor, without the prior written consent of the DIP Agent (and no such consent shall be implied from any other action, inaction or acquiescence by the DIP Agent or any DIP Lender), (a) enter into any agreement to return any inventory to any of their creditors for application against any pre-petition indebtedness under any applicable provision of Bankruptcy Code section 546, or (b) consent to any creditor exercising any setoff against any of its pre-petition indebtedness based upon any such return pursuant to Bankruptcy Code section 553(b)(l) or otherwise; and

(8) The failure of the Debtor to obtain entry of a Final Order on or before twenty-three (23) days from the Petition Date, unless otherwise agreed in writing by the Pre-Petition ABL Agent and the DIP Agent.

B. **Rights and Remedies Upon Event of Default/Relief from Stay**.

(1) Upon the occurrence of and during the continuance of an Event of Default, and subject to clause (vi) of this Section VII.B.(1), without the necessity of seeking relief from

the automatic stay or any further order of the Court (i) the DIP Agent and DIP Lender shall no longer have any obligation to make any Advances (or otherwise extend credit) under the DIP Facility; (ii) all amounts outstanding under the DIP Financing Documents shall, at the option of the DIP Agent, be accelerated and become immediately due and payable; (iii) the DIP Agent and the Pre-Petition ABL Agent shall be entitled to immediately terminate the Debtor's right to use Cash Collateral, without further application or order of this Court, *provided*, *however*, that the Debtor shall have the right to use Cash Collateral to pay its weekly ordinary course payroll included in the Approved Budget through the date on which such Event of Default occurs, (iv) the Debtor shall be bound by all post-default restrictions, prohibitions, and other terms as provided in this Interim Order, the DIP Credit Agreement, the other DIP Financing Documents, and the Pre-Petition ABL Financing Documents, (v) the DIP Agent shall be entitled to charge the default rate of interest under the DIP Credit Agreement and (vi) upon entry of an order of the Court granting relief from the automatic stay imposed under Bankruptcy Code section 362(a) (which order shall be obtained in accordance with the procedures set forth under Section VII.C below), both the DIP Agent and the Pre-Petition ABL Agent shall be entitled to take any other act or exercise any other right or remedy as provided in this Interim Order, the DIP Financing Documents, the Pre-Petition ABL Financing Documents, or applicable law, including, without limitation, setting off any Post-Petition Obligations or Pre-Petition ABL Obligations with DIP Collateral, Pre-Petition ABL Collateral, or proceeds in the possession of any Pre-Petition ABL Secured Party or DIP Lender, and enforcing any and all rights and remedies with respect to the DIP Collateral or Pre-Petition ABL Collateral, as applicable.

(2) Upon the occurrence and during the continuance of an Event of Default, and upon entry of an order of the Court granting relief from the automatic stay imposed under

Bankruptcy Code section 362(a) (which order shall be obtained in accordance with the procedures set forth under Section VII.C below), the DIP Agent, for the benefit of itself and the DIP Lender, and the Pre-Petition ABL Agent, for the benefit of itself and the other Pre-Petition ABL Secured Parties, as applicable, shall be entitled to take any action and exercise all rights and remedies provided to them by this Interim Order, the DIP Financing Documents or the Pre-Petition ABL Financing Documents, or applicable law, unless otherwise ordered by this Court, as the DIP Agent or the Pre-Petition ABL Agent, as applicable, may deem appropriate in their sole discretion to, among other things, proceed against and realize upon the DIP Collateral (including the Pre-Petition ABL Collateral) or any other assets or properties of the Debtor's Estate upon which the DIP Agent, for the benefit of itself and the DIP Lender, and the Pre-Petition ABL Agent, for the benefit of itself and the other Pre-Petition ABL Secured Parties, has been or may hereafter be granted liens or security interests to obtain the full and indefeasible payment of all the Pre-Petition ABL Obligations and Post-Petition Obligations. Notwithstanding the foregoing or anything in Section VII.(B).(1) above, the DIP Agent may continue to apply proceeds received into the lockbox or collection accounts to reduce the Pre-Petition ABL Obligations or the Post-Petition Obligations in any order at the sole discretion of the DIP Agent.

(3) Additionally, upon the occurrence and during the continuance of an Event of Default and the exercise by the DIP Agent or the Pre-Petition ABL Agent of their respective rights and remedies under this Interim Order, the DIP Financing Documents, or Pre-Petition ABL Financing Documents, provided that the Debtor and the DIP Agent agree upon a mutually acceptable wind down budget, the Debtor shall cooperate with the DIP Agent in the exercise of rights and remedies and assist the DIP Agent in effecting any sale or other disposition of the DIP Collateral required by the DIP Agent, including any sale of DIP Collateral pursuant to

Bankruptcy Code section 363 or assumption and assignment of DIP Collateral consisting of contracts and leases pursuant to Bankruptcy Code section 365, in each case, upon such terms that are acceptable to the DIP Agent.

(4) Upon the occurrence and during the continuance of an Event of Default, and upon entry of an order of the Court granting relief from the automatic stay imposed under Bankruptcy Code section 362(a) (which order shall be obtained in accordance with the procedures set forth under Section VII.C below), in connection with a liquidation of any of the DIP Collateral, the DIP Agent (or any of its employees, agents, consultants, contractors, or other professionals) shall have the right, at the sole cost and expense of the Debtor, to: (i) enter upon, occupy, and use any real or personal property, fixtures, equipment, leasehold interests, or warehouse arrangements owned or leased by the Debtor; *provided*, *however*, the DIP Agent may only be permitted to do so in accordance with (a) existing rights under applicable non-bankruptcy law, including, without limitation, applicable leases, (b) any pre-petition (and, if applicable, post-petition) landlord waivers or consents, or (c) further order of the Court on motion and notice appropriate under the circumstances; and (ii) use any and all trademarks, tradenames, copyrights, licenses, patents, equipment, or any other similar assets of the Debtor, or assets which are owned by or subject to a lien of any third party and which are used by the Debtor in its business, subject to applicable non-bankruptcy law. The DIP Agent and the DIP Lender will be responsible for the payment of any applicable fees, rentals, royalties, or other amounts owing to such lessor, licensor, or owner of such property (other than the Debtor) for the period of time that the DIP Agent actually occupies any real property or uses the equipment or the intellectual property (but in no event for any accrued and unpaid fees, rentals, or other

amounts owing for any period prior to the date that the DIP Agent actually occupies or uses such assets or properties).

(5) The rights and remedies of the DIP Agent specified herein are cumulative and not exclusive of any rights or remedies that the DIP Agent and/or Pre-Petition ABL Agent may have under the DIP Financing Documents, Pre-Petition ABL Financing Documents, or otherwise and may be exercised in whole or in part in any order. The fourteen-day stay provisions of Bankruptcy Rules 6004(h) and 4001(a)(3) are hereby waived.

C. **Relief from Stay**. For the purpose of exercising rights, options, and remedies set forth in this Section VII for which relief from the automatic stay imposed by Bankruptcy Code section 362(a) is required, after the occurrence of an Event of Default, the Pre-Petition ABL Agent and the DIP Agent may file with the Court a motion for relief from the automatic stay (a "Motion for Relief from Stay") and may seek expedited hearing and disposition thereof. Debtor agrees not to object to a hearing on and/or disposition of the Motion for Relief on an expedited basis.

D. **Waiver Agreements**. Subject to entry of the Final Order, all rights, options, and remedies granted to the Pre-Petition ABL Agent or DIP Agent in either or both of any landlord or warehouseman's waiver and/or consent executed and delivered in connection with the Pre-Petition ABL Obligations and Pre-Petition ABL Credit Agreement, including the right to access any premises leased by the Debtor and access the Pre-Petition ABL Collateral, shall be deemed to be continuing, enforceable, and applicable to and binding upon the landlords and other parties to such waiver or consent agreements with respect to the Pre-Petition ABL Collateral and DIP Collateral.

E. **Payroll & Tax Amounts**. On the Trigger Date, the Debtor shall be permitted to use Cash Collateral to pay (i) sales and use taxes that relate to the Debtor's post-petition delivery of electricity and natural gas through the Trigger Date up to the amounts set forth in the Approved Budget (the "Tax Amount"), and (ii) its employees ordinary weekly payroll obligations and benefits incurred post-petition and accrued through the Trigger Date up to the amounts set forth in the Approved Budget (the "Payroll Amount" and together with Tax Amount, the "Payroll & Tax Amounts"). For the avoidance of doubt, the Tax Amount on account of March 2022 delivery of natural gas shall only be segregated upon Debtor's receipt of proceeds of the collected sales tax for such delivery. The Debtor shall deposit and hold the Payroll & Tax Amounts in a segregated account in a manner reasonably acceptable to the DIP Agent in trust for the purposes specified in this Section VII.E.

VIII. Challenges to Pre-Petition ABL Obligations.

A. The Debtor has admitted, stipulated, and agreed to the various stipulations and admissions contained in this Interim Order, including, without limitation, the stipulations and admissions included in paragraph D (Debtor's Acknowledgments and Agreements) of the Findings of Fact and Conclusions of Law (the "Paragraph D Stipulations"), which stipulations and admissions are and shall be binding upon the Debtor and any successors thereto in all circumstances. The stipulations and admissions contained in this Interim Order, including, without limitation, the Paragraph D Stipulations, shall also be binding upon the Debtor's Estate and all other parties in interest, including the Committee or any chapter 7 or chapter 11 trustee appointed or elected for the Debtor (a "Trustee"), for all purposes unless (a) (i) any party in interest other than the Committee, no later than the date that is seventy-five (75) days from entry of this Interim Order, and (ii) the Committee, no later than sixty (60) days from the appointment of the Committee (as applicable for clauses (i) and (ii), the "Initial Challenge Period") has

properly filed an adversary proceeding as required under the Bankruptcy Rules (x) challenging the amount, validity, enforceability, priority, or extent of the Pre-Petition ABL Obligations, the liens of the Pre-Petition ABL Agent on the Pre-Petition ABL Collateral securing the Pre-Petition ABL Obligations or (y) otherwise asserting any other claims, counterclaims, causes of action, objections, contests, or defenses against the Pre-Petition ABL Agent and/or any other Pre-Petition ABL Secured Party on behalf of the Debtor's Estate ((x) and (y), collectively, referred to herein as "Challenges"), and (b) the Court rules in favor of the plaintiff sustaining any such challenge or claim in any such duly filed adversary proceeding or contested matter; *provided that*, as to the Debtor, all such Challenges are hereby irrevocably waived and relinquished effective as of the Petition Date. If during the Initial Challenge Period, the Committee or other third party files a motion for standing with a draft complaint identifying and describing all Challenge(s) consistent with applicable law and rules of procedure, the Initial Challenge Period will be tolled for the Committee or other third party solely with respect to the Challenge(s) asserted in the draft complaint until three (3) business days from the entry of an order granting the motion for standing to prosecute such Challenge(s) described in the draft complaint and permitted by the Court, and the Challenge Period shall be extended for an additional sixty (60) days for any Chapter 7 trustee if the Chapter 11 Case is converted prior to the expiration of the Initial Challenge Period (the "Extended Challenge Period", together with the Initial Challenge Period, the "Challenge Period"). If standing is denied by the Court, the Challenge Period shall be deemed to have expired. If no such Challenge or motion for standing, as applicable, is timely filed prior to the expiration of the Initial Challenge Period, without further order of the Court: (1) the Debtor's stipulations, admissions, and releases contained in this Interim Order (including the Paragraph D Stipulations and the releases set forth in Section IX.(B) below) shall be binding

on all parties in interest, including the Debtor's Estate, the Committee (if appointed), and any subsequently appointed Trustee, case fiduciary, or successors and assigns; (2) the Pre-Petition ABL Obligations shall constitute allowed claims, not subject to counterclaim, setoff, subordination, recharacterization, defense, or avoidance, for all purposes in this Chapter 11 Case and any subsequent chapter 7 case; (3) the Pre-Petition ABL Agent's liens on the Pre-Petition ABL Collateral shall be deemed to have been, as of the Petition Date, and to be, legal, valid, binding, perfected, and with the priority specified in the Paragraph D Stipulations, not subject to defense, counterclaim, recharacterization, subordination, or avoidance; and (4) the Pre-Petition ABL Obligations, the Pre-Petition ABL Secured Parties' liens on the Pre-Petition ABL Collateral, as applicable; and the Pre-Petition ABL Secured Parties (and their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys, or advisors) shall not be subject to any other or further challenge by any Committee or any other party in interest, and any such Committee or party in interest shall be enjoined from seeking to exercise the rights of the Debtor's Estate, including, without limitation, any successor thereto (including, without limitation, any estate representative or a Trustee, whether such Trustee is appointed or elected prior to or following the expiration of the Initial Challenge Period); *provided that* if the Chapter 11 Case is converted to chapter 7 or a Trustee is appointed prior to the expiration of the Initial Challenge Period, any such estate representative or Trustee shall receive the full benefit of any remaining Initial Challenge Period, subject to the limitations described herein. If any Challenge or motion for standing, as applicable, is timely and properly filed prior to the expiration of the Initial Challenge Period, the releases, stipulations, and admissions contained in this Interim Order, including, without limitation, in the Paragraph D Stipulations, of this Interim Order, shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph)

on any Committee and any other person, including any Trustee appointed in the Chapter 11 Case or any subsequently converted bankruptcy case of the Debtor (collectively, the "Successor Case"), as applicable, except as to any such findings and admissions that were expressly challenged in the original complaint initiating the adversary proceeding. Nothing in this Interim Order vests or confers on any person, including any Committee, any Trustee, or any other party in interest, standing or authority to pursue any cause of action belonging to the Debtor or its Estate. This stipulation shall be binding upon the Debtor, its Estate, all parties in interest in the Chapter 11 Case, and their respective successors and assigns, including any Trustee or other fiduciary appointed in the Chapter 11 Case or Successor Case and shall inure to the benefit of the Pre-Petition ABL Secured Parties and the Debtor and their respective successors and assigns.

IX. Debtor's Waivers and Releases.

A. **Section 506(c) Claims and 552(b) Equities**. Effective upon the entry of a Final Order approving the Motion, no costs or expenses of administration which have been or may be incurred in the Chapter 11 Case or Successor Case at any time shall be charged against any of the Pre-Petition ABL Secured Parties or the DIP Secured Parties, their respective claims, or the DIP Collateral, or Pre-Petition ABL Collateral, as applicable, pursuant to Bankruptcy Code section 506(c) without the prior written consent of the DIP Agent (and no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Agent or any DIP Lender). Effective upon the entry of a Final Order, the Pre-Petition ABL Secured Parties and DIP Lender shall each be entitled to all of the rights and benefits of Bankruptcy Code section 552(b), and the "equities of the case" exception under Bankruptcy Code section 552(b) shall not apply to the Pre-Petition ABL Secured Parties and DIP Lender with respect to proceeds, products, offspring, or profits of any of the Pre-Petition ABL Collateral or DIP Collateral, as applicable.

B. **Release.**

(1) In consideration of and as a condition to the DIP Agent and the DIP Lender making Advances under the DIP Credit Agreement, consenting to use of Cash Collateral, and providing other credit and financial accommodations to the Debtor pursuant to the provisions of this Interim Order and the DIP Financing Documents, the Debtor, on behalf of itself, its successors and assigns, and the Debtor's Estate (collectively, "Releasors"), subject only to Section VIII above, hereby absolutely releases and forever discharges and acquits each Pre-Petition ABL Secured Party, and each of their respective successors, participants, and assigns, and their present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, and other representatives (the Pre-Petition ABL Agent, each Pre-Petition ABL Lender, and all such other parties being hereinafter referred to collectively as "Releasees") of and from any and all claims, demands, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages, and any and all other claims, counterclaims, cross claims, defenses, rights of set-off, demands, and liabilities whatsoever (individually, a "Pre-Petition ABL Released Claim" and, collectively, "Pre-Petition ABL Released Claims") of every kind, name, nature, and description, known or unknown, foreseen or unforeseen, matured or contingent, liquidated or unliquidated, primary or secondary, suspected or unsuspected, both at law and in equity, including, without limitation, any so-called "lender liability" claims or defenses, that any Releasor may now or hereafter own, hold, have, or claim to have against Releasees, or any of them for, upon, or by reason of any nature, cause, or thing whatsoever which arose or may have arisen at any time on or prior to the date of this Interim Order, in respect to the Debtor, the Pre-Petition ABL Obligations, the Pre-Petition ABL Financing Documents, and any Advances,

letters of credit, or other financial accommodations under the Pre-Petition ABL Financing Documents; ***provided that*** **such release shall not be effective until the earlier of, with respect to the Debtor, entry of the Final Order, and with respect to the Debtor's Estate, until the expiration of the Challenge Period**. In addition, upon entry of the Final Order and the indefeasible payment and satisfaction in full of all Obligations owed to the DIP Agent and the DIP Lender by the Debtor and termination of the rights and obligations arising under this Interim Order and the DIP Financing Documents (which payment and termination shall be on terms and conditions acceptable to the DIP Agent), the DIP Agent and the DIP Lender shall be automatically deemed absolutely and forever released and discharged from any and all obligations, liabilities, actions, duties, responsibilities, commitments, claims, and causes of action arising or occurring in connection with or related to the DIP Financing Documents or this Interim Order (whether known or unknown, direct or indirect, matured or contingent, foreseen or unforeseen, due or not due, primary or secondary, liquidated or unliquidated).

(2) Upon the entry of the Final Order, and subject to Section VIII with respect to all applicable parties other than the Debtor, each Releasor hereby absolutely, unconditionally and irrevocably, covenants and agrees with each Releasee that it will not sue (at law, in equity, in any regulatory proceeding, or otherwise) any Releasee on the basis of any Pre-Petition ABL Released Claim released and discharged by each Releasor pursuant to Section IX.(B).(1) above. If any Releasor violates the forgoing covenant, the Debtor agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by any Releasee as a result of such violation.

X. Other Rights and Obligations.

A. **No Modification or Stay of this Interim Order**. Based upon the record presented to the Court by the Debtor, notwithstanding (i) any stay, modification, amendment,

supplement, vacating, revocation, or reversal of this Interim Order, the DIP Financing Documents or any term hereunder or thereunder, (ii) the failure to obtain a Final Order pursuant to Bankruptcy Rule 4001(c)(2), or (iii) the dismissal or conversion of the Chapter 11 Case, the DIP Agent and the DIP Lender shall retain and be entitled to all of the rights, remedies, privileges, and benefits in favor of the DIP Agent and the DIP Lender pursuant to Bankruptcy Code section 364(e), this Interim Order, and the DIP Financing Documents.

B. **Power to Waive Rights; Duties to Third Parties**. The Pre-Petition ABL Secured Parties and DIP Lender shall have the right, in their respective sole discretion, to waive any of the terms, rights, and remedies provided or acknowledged in this Interim Order ("Lender Rights") with respect to each of them, as applicable, and shall have no obligation or duty to any other party with respect to the exercise or enforcement, or failure to exercise or enforce, any Lender Right(s). Any waiver by any of them of any Lender Rights shall apply solely to such party and to the Lender Right so waived and shall not be or constitute a continuing waiver. Any delay in or failure to exercise or enforce any Lender Right shall neither constitute a waiver of such Lender Right, nor cause or enable any other party to rely upon or in any way seek to assert as a defense to any obligation owed by the Debtor to any Pre-Petition ABL Secured Party or any DIP Lender.

C. **Reservation of Rights**. The terms, conditions, and provisions of this Interim Order are in addition to and without prejudice to the rights of the Pre-Petition ABL Secured Parties or the DIP Lender to pursue any and all rights and remedies under the Bankruptcy Code, the DIP Financing Documents, the Pre-Petition ABL Financing Documents, or any other applicable agreement or law, including, without limitation, rights to seek either or both adequate protection and additional or different adequate protection, to seek relief from the automatic stay,

to seek an injunction, to oppose any request for use of Cash Collateral other than in accordance with the terms of the DIP Financing Documents, to oppose the granting of any interest in the DIP Collateral or priority in favor of any other party, to object to any sale of assets, and to object to applications for either or both allowance and payment of compensation of Professionals or other parties seeking compensation or reimbursement from the Estate.

D. **Modification of the Automatic Stay**. The automatic stay under Bankruptcy Code section 362(a) is hereby modified as necessary to effectuate all of the terms and provisions of this Interim Order and the DIP Financing Documents, including, without limitation, the application of collections, authorization to make payments, granting of liens, and perfection of liens.

E. **Binding Effect**.

(1) The provisions of this Interim Order, the DIP Financing Documents, the DIP Superpriority Claim, DIP Liens, First Lien Adequate Protection Liens, First Lien Adequate Protection Claims, and any and all rights, remedies, privileges, and benefits in favor of the DIP Agent, the DIP Lender, or the Pre-Petition ABL Secured Parties, provided or acknowledged in this Interim Order, and any actions taken pursuant thereto, shall be effective immediately upon entry of this Interim Order pursuant to Bankruptcy Rules 6004(g) and 7062, shall continue in full force and effect, and shall survive entry of any such other order, including, without limitation, any order which may be entered confirming any plan of reorganization, converting the Chapter 11 Case to any other chapter under the Bankruptcy Code, or dismissing the Chapter 11 Case.

(2) Any order dismissing the Chapter 11 Case under Bankruptcy Code section 1112 or otherwise shall be deemed to provide (in accordance with Bankruptcy Code

sections 105 and 349) that (a) the DIP Agent's, the DIP Lender's, and the Pre-Petition ABL Secured Parties' respective liens on and security interests in the DIP Collateral shall continue in full force and effect notwithstanding such dismissal until the Obligations (as defined in the DIP Financing Documents or the Pre-Petition ABL Financing Documents, as applicable) owed to such parties, respectively, are indefeasibly paid and satisfied in full, and (b) this Court shall retain jurisdiction, to the extent permissible under applicable law, notwithstanding such dismissal, for the purposes of enforcing the DIP Superpriority Claim, DIP Liens, First Lien Adequate Protection Liens, and First Lien Adequate Protection Claims of the DIP Agent and the DIP Lender in the DIP Collateral.

(3) In the event this Court modifies any of the provisions of this Interim Order or the DIP Financing Documents following a Final Hearing, this Interim Order shall remain in full force and effect except as expressly amended or modified at such Final Hearing.

(4) This Interim Order shall be binding upon the Debtor, its Estate, all parties in interest in the Chapter 11 Case, and their respective successors and assigns, including any Trustee or other fiduciary appointed in the Chapter 11 Case or any Successor Case of the Debtor and shall inure to the benefit of the Pre-Petition ABL Secured Parties, the DIP Lender, the Debtor, and their respective successors and assigns, subject to the rights of any Trustee pursuant to Section VIII above.

F. **Marshalling**. Subject to the entry of a Final Order, in no event shall the DIP Agent, the DIP Lender, or the Pre-Petition ABL Secured Parties be subject to the equitable

doctrine of "marshalling" or any similar doctrine with respect to the Pre-Petition ABL Collateral or the DIP Collateral.

G. **Proofs of Claim**. Notwithstanding the entry of an order establishing a bar date in this Chapter 11 Case, or the conversion of this Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code, the Pre-Petition ABL Secured Parties shall not be required to file proofs of claim in the Chapter 11 Case or Successor Case with respect to any of the Pre-Petition ABL Obligations, Adequate Protection Obligations, Adequate Protection Liens, Post-Petition Obligations, DIP Liens, DIP Superpriority Claim, or any other claims or liens granted hereunder or created hereby. The Pre-Petition ABL Agent, for the benefit of the other Pre-Petition ABL Secured Parties, is hereby authorized and entitled, in its sole and absolute discretion, but in no event is required, to file (and amend and/or supplement, as it sees fit) proofs of claim in the Chapter 11 Case on behalf of all of the Pre-Petition ABL Secured Parties in respect of the Pre-Petition ABL Obligations. Any proof of claim so filed shall be deemed to be in addition to and not in lieu of any other proof of claim that may be filed by any of the Pre-Petition ABL Secured Parties. Any order entered by the Court in relation to the establishment of a bar date in the Chapter 11 Case will so provide.

H. **Waiver of Bankruptcy Rule 6003(b), 6004(a), and 6004(h)**. The 21-day provision of Bankruptcy Rule 6003(b), the notice requirements of Bankruptcy Rule 6004(a), and the 14-day stay of 6004(h) are hereby waived.

I. **Order Controls**. Unless this Interim Order specifically provides otherwise, in the event of a conflict between (a) the terms and provisions of the DIP Financing Documents or

the Pre-Petition ABL Financing Documents, as applicable, and (b) the terms and provisions of this Interim Order, then in each case the terms and provisions of this Interim Order shall govern.

J. **No Third-Party Rights**. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder, or any direct, indirect, or incidental beneficiary.

K. **Objections Overruled**. All objections to the entry of this Interim Order are, to the extent not resolved or withdrawn, hereby overruled.

XI. Final Hearing and Response Dates. The Final Hearing on the Motion shall be held on **April 21, 2022, at 1:30 p.m. (Eastern Time)**. The Debtor shall promptly transmit copies of this Interim Order (which shall constitute adequate notice of the Final Hearing) to the Noticed Parties, and to any other party that has filed a request for notices with this Court and to any Committee after the same has been appointed, or Committee counsel, if the same shall have filed a request for notice. Any party in interest objecting to the relief sought at the Final Hearing shall file and serve written objections, which objections shall be served upon (a) the Debtor, Volunteer Energy Services, Inc., 790 Windmiller Drive, Pickerington, OH 43147, (Attn: David Warner); (b) proposed counsel for the Debtor, Isaac Wiles & Burkholder LLC, Two Miranova Place, Suite 700, Columbus, OH 43215 (Attn: David M. Whittaker and Philip K. Stovall), and McDermott Will & Emery LLP, One Vanderbilt Ave., New York, NY, 10017 (Attn: Darren Azman and Daniel Thomson); (c) counsel for the Pre-Petition ABL Agent and DIP Agent, Blank Rome LLP, 1201 Market Street, Suite 800, Wilmington, DE 19801 (Attn: Regina Stango Kelbon, Esq.) (Kelbon@BlankRome.com); (c) counsel to any Committee; and (d) the U.S. Trustee; and shall

be filed with the Clerk of the United States Bankruptcy Court for the Southern District of Ohio, in each case to allow actual receipt by the foregoing by no later than **April 17, 2022**.

SO ORDERED.

Copies to: Default List

Exhibit 1

Approved Budget

Volunteer Energy Services Liquidity Projection

	Projected	*Projected*	*Projected*	*Projected*
Week Ending	**4/2/2022**	**4/9/2022**	**4/16/2022**	**4/23/2022**
Revenue/Collections Account (PNC#9114)				
Energy - Utility/LDCs	950,182	-	-	-
Energy - Wholesale collections	-	-	-	-
Customer - GTS	-	-	-	-
Energy - Hedges settlements	599,924	-	100,076	-
Energy - Collateral return	-	-	-	-
Energy - Gas Cash Out	-	-	-	-
Other	-	-	-	-
Total Receipts	**1,550,105**	**-**	**100,076**	**-**
Disbursements				
Misc. Disbursements	-	-	-	-
Transfer to Operating Account #7644				
PNC Lockbox Sweep	(1,550,105)	-	(100,076)	-
Total Disbursements	**(1,550,105)**	**-**	**(100,076)**	**-**
Cash Flow	-	-	-	-
Beg. Balance	-	-	-	-
Ending Balance (Bank)	-	-	-	-
Operating/Checking Accounts (PNC #7644/5554)				
Receipts				
PNC Advances	2,860,614	111,269	96,214	2,031,089
Other Receipt	-	-	-	-
Disbursements				
Energy - Supplier	-	-	-	-
Energy - Pipeline/Transmission	-	-	-	-
Energy - ISO	-	-	-	-
Energy - Supplier (Local)	-	-	-	-
Energy - Utility/LDCs	-	-	-	-
Energy - Utility/LDCs Collateral posted	-	-	-	-
Energy - Surety Bond	-	-	-	-
Energy - Hedges / REC's	-	-	-	-
Broker/Channel Partners	-	-	-	-
Professionals - Non restructuring	(1,000)	(3,000)	(3,000)	(3,000)
SG&A - Payroll	(84,169)	(53,563)	(53,563)	(160,690)
SG&A - Payroll (benefits)	(96,967)	(15,288)	(10,233)	(60,233)
SG&A - Employee (Non-payroll, Expense reimbursemer	(5,000)	-	-	-
SG&A - Taxes	(1,271,770)	(25)	(25)	(1,770,025)
SG&A - Rent	-	-	-	-
SG&A - Legal	-	-	-	-
SG&A - Insurance	-	-	-	-
SG&A - Bank Fees	(6,000)	(6,000)	(6,000)	(6,000)
SG&A - IT	(20,625)	(16,875)	(6,875)	(51,875)
SG&A - EDI	(57,000)	(10,000)	(10,000)	(10,000)
SG&A - Marketing/Advertising	-	-	-	-
SG&A - Utilities	(500)	(500)	(500)	(500)
SG&A - Office Expense	(4,172)	(3,772)	(3,772)	(3,772)
Others - Unknown	(500)	(500)	(500)	(50,000)
PPP Loan payment	-	-	-	-
VESI - Internal Transfers				
Refunds-Polar Vortex	-	-	-	-
Refunds-Gas	(1,745)	(1,745)	(1,745)	(1,745)
Refunds-Sales Tax	-	-	-	-
Operating Disbursements	**(1,549,447)**	**(111,269)**	**(96,214)**	**(2,117,841)**
Transfer -To VESI Check Account # x5554	(81,909)	(33,175)	(23,175)	(117,675)
Transfer - From VESI Acc # xx7644	81,909	33,175	23,175	117,675
Transfer - VESI Polar Vortex Account # xx6102	-	-	-	-
Net Transfers	-	-	-	-
Restructuring Debtor	(1,236,167)	-	-	86,752
Restructuring Lender	-	-	-	-
Restructuring Committee	(25,000)	-	-	-
Restructuring UST	(50,000)	-	-	-
Total Disbursements	**(2,860,614)**	**(111,269)**	**(96,214)**	**(2,031,089)**
Cash Flow	**-**	**-**	**-**	**-**
Beg. Balance	-	-	-	-
Ending Balance (Bank)	**-**	**-**	**-**	**-**
check float				
Balance (Book)				
Pre-petition Loan Balance				
Beginning Loan Balance	30,172,167	29,174,481	29,174,481	29,074,405
Sweeps	(1,550,105)	-	(100,076)	-
Sweep (Adj)	250,000			
Draws				
Fees	5,000			5,000
Fees (Legal)				
Interest	297,419			
Ending Pre-Petition Loan Balance	**29,174,481**	**29,174,481**	**29,074,405**	**29,079,405**
DIP Loan Balance				
Beginning Loan Balance	-	2,615,614	2,730,001	2,826,214
Sweeps				
Sweep (Adj)	(250,000)	-	-	-
Draws	2,860,614	111,269	96,214	2,031,089
Fees	5,000	3,118		5,000
Fees (Legal)				
Interest				
Ending DIP Loan Balance	**2,615,614**	**2,730,001**	**2,826,214**	**4,862,303**
Combined Balance	**31,790,096**	**31,904,482**	**31,900,619**	**33,941,708**

(a) *Beginning loan balance as of 3/28 per PNC was $30,057,662.96. At filing it is estimated an over-advance of approximately $114k-$195k existed.*

(b) *Budget reflects $250k of post-petition collections applied to DIP Loan per authorization from PNC*

Volunteer: Professional Fee Rollforward

Week Ending			**4/2/2022**	**4/9/2022**	**4/16/2022**	**4/23/2022**
Mcdermott	Debtor	Debtor Counsel	545,000			
Isaac Wiles	Debtor	Debtor Local Counsel	73,333			
Regulatory Counsel	Debtor	Debtor Regulatory Advisor	14,834			
B. Riley Advisors	Debtor	Debtor Financial Advisor	310,000			
Officer and Director Counsel	Debtor	Officer and Director Counsel				
Claims Agent	Debtor	Claims Agent	293,000			
Ombudsman	Debtor	Customer Ombudsman				
UST Trustee	Debtor	UST Trustee Fees	50,000			
Committee	Committee	Committee Professionals	25,000			
Blank Rome	Senior Lender	Senior Lender Counsel				
Senior Lender Counsel (Special)	Debtor	Senior Lender Counsel (Special)				
Utility Deposit	TBD	TBD				
Total Incurred Fees			**1,311,167**	**-**	**-**	**-**

Paid Fees

Week			**4/2/2022**	**4/9/2022**	**4/16/2022**	**4/23/2022**
Mcdermott	Debtor	Debtor Counsel	545,000	-	-	-
Isaac Wiles	Debtor	Debtor Local Counsel	73,333	-	-	-
Regulatory Counsel	Debtor	Debtor Regulatory Advisor	14,834	-	-	-
B. Riley Advisors	Debtor	Debtor Financial Advisor	310,000	-	-	-
Officer and Director Counsel	Debtor	Officer and Director Counsel	-	-	-	-
Claims Agent	Debtor	Claims Agent	293,000	-	-	-
Ombudsman	Debtor	Customer Ombudsman				
UST Trustee	Debtor	UST Trustee Fees	50,000	-	-	-
Committee	Committee	Committee Professionals	25,000	-	-	-
Blank Rome	Senior Lender	Senior Lender Counsel	-	-	-	-
Senior Lender Counsel (Special)	Debtor	Senior Lender Counsel (Special)				
Utility Deposit	TBD	TBD				
Total Paid Fees			**1,311,167**	**-**	**-**	**-**

Quarterly True-Up

Week			**4/2/2022**	**4/9/2022**	**4/16/2022**	**4/23/2022**
Mcdermott	Debtor	Debtor Counsel				
Isaac Wiles	Debtor	Debtor Local Counsel				
Regulatory Counsel	Debtor	Debtor Regulatory Advisor				(11,752)
B. Riley Advisors	Debtor	Debtor Financial Advisor				(50,000)
Officer and Director Counsel	Debtor	Officer and Director Counsel				
Claims Agent	Debtor	Claims Agent				(25,000)
Ombudsman	Debtor	Customer Ombudsman				
UST Trustee	Debtor	UST Trustee Fees				
Committee	Committee	Committee Professionals				
Blank Rome	Senior Lender	Senior Lender Counsel				
Senior Lender Counsel (Special)	Debtor	Senior Lender Counsel (Special)				
Utility Deposit	TBD	TBD				
Quarterly True-Up			**-**	**-**	**-**	**(86,752)**

Incurred Unpaid

Week			**4/2/2022**	**4/9/2022**	**4/16/2022**	**4/23/2022**
Mcdermott	Debtor	Debtor Counsel	-	-	-	-
Isaac Wiles	Debtor	Debtor Local Counsel	-	-	-	-
Regulatory Counsel	Debtor	Debtor Regulatory Advisor	(11,752)	(11,752)	(11,752)	-
B. Riley Advisors	Debtor	Debtor Financial Advisor	(50,000)	(50,000)	(50,000)	0
Officer and Director Counsel	Debtor	Officer and Director Counsel	-	-	-	-
Claims Agent	Debtor	Claims Agent	(25,000)	(25,000)	(25,000)	-
Ombudsman	Debtor	Customer Ombudsman	-	-	-	-
UST Trustee	Debtor	UST Trustee Fees	-	-	-	-
Committee	Committee	Committee Professionals	-	-	-	-
Blank Rome	Senior Lender	Senior Lender Counsel	-	-	-	-
Senior Lender Counsel (Special)	Debtor	Senior Lender Counsel (Special)	-	-	-	-
Utility Deposit	TBD	TBD	-	-	-	-
Incurred Unpaid			**(86,752)**	**(86,752)**	**(86,752)**	**0**

Total Payments			**1,311,167**	**-**	**-**	**(86,752)**
Debtor Professional Fees			1,236,167	-	-	(86,752)
Senior LenderProfessional Fees			-	-	-	-
Committee Fees			25,000	-	-	-
UST Fees			50,000	-	-	-

Exhibit 2

DIP Credit Agreement

REVISED FILING VERSION

DEBTOR-IN-POSSESSION REVOLVING CREDIT

AND

SECURITY AGREEMENT

PNC BANK, NATIONAL ASSOCIATION

(AS LENDER, ADMINISTRATIVE AGENT, COLLATERAL AGENT AND ISSUER),

WITH

VOLUNTEER ENERGY SERVICES, INC.

(AS DEBTOR)

APRIL 4, 2022

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LIST OF EXHIBITS AND SCHEDULES

REVISED FILING VERSION

DEBTOR-IN-POSSESSION REVOLVING CREDIT

AND

SECURITY AGREEMENT

Pursuant to Sections 364(c) and (d) of the Bankruptcy Code, this Debtor-In-Possession Revolving Credit and Security Agreement, dated as of March 31, 2022, among VOLUNTEER ENERGY SERVICES, INC., an Ohio corporation (the "Debtor"), the financial institutions which are now or which hereafter become a party hereto (collectively, "Lenders" and individually a "Lender") and PNC BANK, NATIONAL ASSOCIATION ("PNC"), as Issuer (as hereinafter defined), administrative agent and collateral agent for Lenders (PNC, in such capacity, "Agent").

RECITALS

A. On March 25, 2022 (the "Petition Date"), Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code, which petition is identified as Bankruptcy Case No. 22-50804 (the "Case") before the United States Bankruptcy Court for the Southern District of Ohio (Eastern Division) (together any other court having jurisdiction over the Case, the "Bankruptcy Court"). Debtor remains in possession of its assets and is operating its business as a debtor-in-possession under Chapter 11 of the Bankruptcy Code.

B. Pursuant to that certain Amended and Restated Revolving Credit and Security Agreement dated as of June 30, 2016 (as has been amended, supplemented and modified through the date hereof, the "Pre-Petition Credit Agreement"), by and among the Debtor, the financial institutions party thereto as lenders as of the Petition Date (collectively, in such capacity, the "Pre-Petition Lenders"), PNC Capital Markets LLC as the lead arranger thereunder and PNC, as agent for Pre-Petition Lenders (in such capacity, "Pre-Petition Agent"), Pre-Petition Agent and Pre-Petition Lenders made certain credit facilities and advances of credit available to Debtor prior to the Petition Date on the terms and conditions set forth therein, which credit facilities and advances of credit and all other Pre-Petition Obligations (as defined below) thereunder are unconditionally guaranteed by the Guarantor and secured by Liens on substantially all the assets of the Debtor and the Guarantor.

C. Debtor has requested that during the Case, Agent and the Lenders make advances and other financial accommodations available to Debtor of up to the Maximum Revolving Advance Amount specified herein on a senior secured, superpriority basis, pursuant to, inter alia, Sections 364(c) and (d) of the Bankruptcy Code.

D. Agent and the Lenders are willing to provide advances and other financial accommodations to Debtor on a senior secured, superpriority basis on the terms and subject to the conditions of this Agreement, so long as such post-petition credit obligations are (i) secured by Liens on all of the assets, property and interests, real and personal, tangible and intangible, of the Debtor, whether now owned or hereafter acquired, which Liens are superior to all other Liens

pursuant to Sections 364(c) and (d) of the Bankruptcy Code (other than the Senior Liens (as defined in the Interim Order) and the Carve-Out); (ii) given priority over any administrative expenses of the kind specified in the Bankruptcy Code, including without limitation, under Sections 105, 326, 328, 330, 331, 364(c)(1), 365, 503, 506(c) (upon entry of the Final Order), 507, 546(c), 726, 1113 or 1114 of the Bankruptcy Code, subject, as to priority, only to the Carve-Out, as provided in the Interim Order and the Final Order; (iii) secured by Liens on all of the assets, property and interests, real and personal, tangible and intangible, of the Debtor, whether now owned or hereafter acquired, which Liens are superior to all other Liens; and (iv) guaranteed by the Guarantor pursuant to the terms set forth in the Reaffirmation to Guaranty.

IN CONSIDERATION of the foregoing recitals, which are incorporated herein by this reference, the mutual covenants and undertakings herein contained, Debtor (acting for itself and as debtor-in-possession), Lenders and Agent hereby agree as follows:

I. DEFINITIONS.

1.1 Accounting Terms. As used in this Agreement, the Other Documents or any certificate, report or other document made or delivered pursuant to this Agreement, accounting terms not defined in Section 1.2 or elsewhere in this Agreement and accounting terms partly defined in Section 1.2 to the extent not defined, shall have the respective meanings given to them under GAAP consistently applied. If there occurs after the Closing Date any change in GAAP that affects in any respect the calculation of any covenant contained in this Agreement or the definition of any term defined under GAAP used in such calculations, Agent, Lenders and Debtor shall negotiate in good faith to amend the provisions of this Agreement that relate to the calculation of such covenants with the intent of having the respective positions of Agent, Lenders and Debtor after such change in GAAP conform as nearly as possible to their respective positions as of the Closing Date, provided, that, until any such amendments have been agreed upon, the covenants in this Agreement shall be calculated as if no such change in GAAP had occurred and Debtor shall provide additional financial statements or supplements thereto, attachments to Compliance Certificates and/or calculations regarding financial covenants as Agent may reasonably require in order to provide the appropriate financial information required hereunder with respect to Debtor both reflecting any applicable changes in GAAP and as necessary to demonstrate compliance with the financial covenants before giving effect to the applicable changes in GAAP.

1.2 General Terms. For purposes of this Agreement the following terms shall have the following meanings:

"Accountants" shall have the meaning set forth in Section 9.7 hereof.

"ACH Line" shall mean an automated clearinghouse line of credit with PNC.

"Advance Rates" shall mean, collectively, the Receivables Advance Rate and the Inventory Advance Rate.

"Advances" shall mean and include the Revolving Advances and Letters of Credit.

"AEP Ohio" means collectively or individually as the context may require, AEP Ohio Transmission Company, Inc., an Ohio corporation and Ohio Power Company, an Ohio corporation.

"Affected Lender" shall have the meaning set forth in Section 3.11 hereof.

"Affiliate" of any Person shall mean (a) any Person which, directly or indirectly, is in control of, is controlled by, or is under common control with such Person, or (b) any Person who is a director, manager, member, managing member, general partner or officer (i) of such Person, (ii) of any Subsidiary of such Person or (iii) of any Person described in clause (a) above. For purposes of this definition, control of a Person shall mean the power, direct or indirect, (x) to vote 5% or more of the Equity Interests having ordinary voting power for the election of directors of such Person or other Persons performing similar functions for any such Person, or (y) to direct or cause the direction of the management and policies of such Person whether by ownership of Equity Interests, contract or otherwise.

"Agent" shall have the meaning set forth in the preamble to this Agreement and shall include its successors and assigns.

"Aggregation\Pooling Service Agreement" shall mean an agreement between a certified natural Gas remarketer and a local distribution company providing for the local distribution company's transporting and the remarketer's supplying, Gas to customers.

"Agreement" shall mean this Debtor-In-Possession Revolving Credit and Security Agreement, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"Allowed Professional Fees" shall have the meaning given to the term "Allowed Professional Fees" in the Final Order, or, prior to the entry of the Final Order, the Interim Order.

"Alternate Base Rate" shall mean, for any day, a rate per annum equal to the highest of (a) the Base Rate in effect on such day, (b) the sum of the Overnight Bank Funding Rate in effect on such day plus one half of one percent (0.5%), and (c) the sum of Daily Simple SOFR in effect on such day plus one percent (1.0%), so long as Daily Simple SOFR is offered, ascertainable and not unlawful; provided, however if the Alternate Base Rate as determined above would be less than zero, then such rate shall be deemed to be zero. Any change in the Alternate Base Rate (or any component thereof) shall take effect at the opening of business on the day such change occurs.

"Alternate Source" shall have the meaning set forth in the definition of Overnight Bank Funding Rate.

"Anti-Terrorism Laws" shall mean any Laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering or bribery, and any regulation, order, or directive promulgated, issued or enforced pursuant to such Laws, all as amended, supplemented or replaced from time to time.

"Applicable Law" shall mean all laws, rules and regulations applicable to the Person, conduct, transaction, covenant, Other Document or contract in question, including all applicable

common law and equitable principles, all provisions of all applicable state, federal and foreign constitutions, statutes, rules, regulations, treaties, directives and orders of any Governmental Body, and all orders, judgments and decrees of all courts and arbitrators.

"Applicable Margin" shall mean an amount equal to five percent (5.00%) for Revolving Advances consisting of Domestic Rate Loans.

"Approved 363 Sale" shall mean any sale of the Debtor's assets or business pursuant to Section 363 of the Bankruptcy Code approved by the Agent pursuant to appropriate orders of the Bankruptcy Court that are approved by and acceptable to Agent.

"Approved Bankruptcy Sale" shall mean, collectively, any Approved 363 Sale.

"Authorized Officer" means the chief executive officer, president, vice president, chief financial officer, chief accounting officer, secretary or treasurer.

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (y) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark pursuant to this Agreement, in each case, as of such date.

"Avoidance Actions" means all claims and causes of action of the Debtor or its estate under Chapter 5 of the Bankruptcy Code or any other avoidance actions under the Bankruptcy Code, and all proceeds thereof.

"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 Bail-In Legislation Schedule.

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

"Bankruptcy Code" means the United States Bankruptcy Code (11 U.S.C. §§ 101, *et seq.*).

"Bankruptcy Court" shall have the meaning set forth in the recitals hereto.

"Base Contract for Sale and Purchase of Natural Gas" shall mean the Base Contract for Sale and Purchase of Natural Gas (including the related General terms and Conditions thereof) as promulgated by the North American Energy Standards Board, Inc.

"Base Rate" shall mean the base commercial lending rate of PNC as publicly announced to be in effect from time to time, such rate to be adjusted automatically, without notice, on the effective date of any change in such rate. This rate of interest is determined from time to time by PNC as a means of pricing some loans to its customers and is neither tied to any external rate of interest or index nor does it necessarily reflect the lowest rate of interest actually charged by PNC to any particular class or category of customers of PNC.

"Benchmark" means, initially, Daily Simple SOFR; provided that if a Benchmark Transition Event has occurred with respect to Daily Simple SOFR or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate.

"Benchmark Replacement" means, with respect to any Benchmark Transition Event, the sum of: (a) the alternate benchmark rate that has been selected by the Agent and the Debtor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for Dollar-denominated syndicated credit facilities at such time and (b) the related Benchmark Replacement Adjustment; provided that, if such Benchmark Replacement as so determined would be less than the SOFR Floor, such Benchmark Replacement will be deemed to be the SOFR Floor for the purposes of this Agreement and the Other Documents.

"Benchmark Replacement Adjustment" means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Agent and the Debtor giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities at such time.

"Benchmark Replacement Date" means the earliest to occur of the following events with respect to the then-current Benchmark:

(a) in the case of clause (a) or (b) of the definition of "Benchmark Transition Event," the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(b) in the case of clause (c) of the definition of "Benchmark Transition Event," the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such

Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (a) or (b) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

"Benchmark Transition Event" means the occurrence of one or more of the following events with respect to the then-current Benchmark:

(a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt, a "Benchmark Transition Event" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

"Beneficial Owner" shall mean, for the Debtor, each of the following: (a) each individual, if any, who, directly or indirectly, owns 25% or more of the Debtor's Equity Interests; and (b) a single individual with significant responsibility to control, manage, or direct the Debtor

"Blocked Accounts" shall have the meaning set forth in Section 4.16(h) hereof, and shall include, without limitation, each Cash Concentration Account.

"Blocked Account Bank" shall have the meaning set forth in Section 4.16(h) hereof.

"Blocked Person" shall have the meaning set forth in Section 5.24(b) hereof.

"Budget" shall mean the four-week budget for the Debtor delivered to and approved by Agent on or before the Closing Date and attached hereto as Exhibit A, (the "Initial Budget") setting forth Debtor's cash flow forecast in reasonable detail satisfactory to Agent with line item detail approved by Agent on or before the Closing Date, including receipts, and disbursements, as well as projected borrowings hereunder for the four-week period commencing with the week in which the Closing Date shall occur, as such budget shall be updated from time to time in accordance with and subject to approval of Agent as set forth in Section 9.21 hereof.

"Business Day" shall mean any day other than Saturday or Sunday or a legal holiday on which commercial banks are authorized or required by law to be closed for business in East Brunswick, New Jersey.

"Capital Expenditures" shall mean expenditures made or liabilities incurred for the acquisition of any fixed assets or improvements (or of any replacements or substitutions thereof or additions thereto) which have a useful life of more than one year, and which, in accordance with GAAP, would be classified as capital expenditures. Capital Expenditures shall include the total principal portion of Capitalized Lease Obligations.

"Capitalized Lease Obligation" shall mean any Indebtedness of the Debtor represented by obligations under a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

"Carve-Out" shall have the meaning given to the term "Carve-Out" in the Final Order, or, prior to the entry of the Final Order, the Interim Order.

"Carve-Out Reserve" shall have the meaning set forth in the Interim Order, or, after the entry of the Final Order, in the Final Order.

"Carve-Out Reserve Account" shall have the meaning set forth in the Interim Order, or, after the entry of the Final Order, in the Final Order.

"Case" shall have the meaning set forth in the recitals hereto.

"Cash Collateral" shall have the meaning set forth in the Interim Order, or, after the entry of the Final Order, in the Final Order.

"Cash Concentration Account" shall mean, with respect to Debtor, (A) that certain commercial deposit account at PNC in the name of the Debtor but under control of Agent which shall be: (a) pursuant to a deposit account control agreement in form and substance satisfactory to Agent, without liability by Agent or PNC Bank, National Association to pay interest thereon, (b)

the funds within which shall be the sole and exclusive property of Agent for the pro rata benefit of Lenders and (c) from which account Agent shall have the irrevocable and exclusive right to withdraw funds until all of the Obligations are paid, performed, satisfied and enforced in full and the commitments of Lenders to make Advances hereunder and all Letters of Credit have terminated or (B) such other deposit account designated by Agent to receive collections of Debtor for purposes of application to Debtor's Account.

"Cash Management Liabilities" shall have the meaning provided in the definition of "Cash Management Products and Services."

"Cash Management Order" shall have the meaning set forth in Section 8.1(f) hereof.

"Cash Management Products and Services" shall mean agreements or other arrangements under which Agent or any Lender or any Affiliate of Agent or a Lender provides any of the following products or services to any Loan Party: (a) credit cards; (b) credit card processing services; (c) debit cards and stored value cards; (d) commercial cards; (e) ACH transactions (including the ACH Line); and (f) cash management and treasury management services and products, including without limitation controlled disbursement accounts or services, lockboxes, automated clearinghouse transactions, overdrafts, interstate depository network services. The indebtedness, obligations and liabilities of any Loan Party to the provider of any Cash Management Products and Services (including all obligations and liabilities owing to such provider in respect of any returned items deposited with such provider) (the "Cash Management Liabilities") shall be "Obligations" hereunder, guaranteed obligations under the Guaranty and secured obligations under any Guarantor Security Agreement, as applicable, and otherwise treated as Obligations for purposes of each of the Other Documents. The Liens securing the Cash Management Products and Services shall be pari passu with the Liens securing all other Obligations under this Agreement and the Other Documents, subject to the express provisions of Section 11.5.

"CEA" shall mean the Commodity Exchange Act (7 U.S.C.§1 et seq.), as amended from time to time, and any successor statute.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§9601 et seq.

"Certificate of Beneficial Ownership" shall mean, for the Debtor, a certificate in form and substance acceptable to Agent (as amended or modified by Agent from time to time in its sole discretion), certifying, among other things, the Beneficial Owner of the Debtor.

"CFTC" shall mean the Commodity Futures Trading Commission.

"Challenge Period" shall have the meaning set forth in the Interim Order, or, after the entry of the Final Order, in the Final Order.

"Change in Law" shall mean the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any Applicable Law; (b) any change in any Applicable Law or in the administration, implementation, interpretation or application thereof by any Governmental Body; or (c) the making or issuance of any request, rule, guideline or directive (whether or not

having the force of law) by any Governmental Body; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines, interpretations or directives thereunder or issued in connection therewith (whether or not having the force of Applicable Law) and (y) all requests, rules, regulations, guidelines, interpretations 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 (whether or not having the force of law), 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, issued, promulgated or implemented.

"Change of Control" shall mean (a) the occurrence of any event (whether in one or more related transactions) which results in a transfer of control of the Company from Richard A. Curnutte, Sr., (b) any merger or consolidation of or with a Debtor in which a Debtor is not the surviving party or (c) the sale (whether in one or more related transactions) of all or substantially all of the property or assets of the Company. For purposes of this definition, "control" shall mean the power, direct or indirect (x) to vote fifty percent (50%) or more of the securities having ordinary voting power for the election of directors of the Company or (y) to direct or cause the direction of the management and policies of the Company by contract or otherwise.

"Change of Management" means that (a) Richard A. Curnutte, Sr., ceases, for any reason, to be employed by the Debtor as its president or chief executive officer or and a qualified successor that is reasonably satisfactory to Agent is not appointed within 90 days of the date that he ceases to be employed by the Debtor or (b) Dave Warner, ceases, for any reason, to be employed by the Debtor as its chief financial officer and a qualified successor that is reasonably satisfactory to Agent is not appointed within 90 days of the date that he ceases to be employed by the Debtor in such position.

"Charges" shall mean all taxes, charges, fees, imposts, levies or other assessments, including all net income, gross income, gross receipts, sales, use, ad valorem, value added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, stamp, occupation and property taxes, custom duties, fees, assessments, liens, claims and charges of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts, imposed by any taxing or other authority, domestic or foreign (including the Pension Benefit Guaranty Corporation or any environmental agency or superfund), upon the Collateral, the Debtor or any of its Affiliates.

"CIP Regulations" shall have the meaning set forth in Section 14.12.

"Claims" shall have the meaning set forth in Section 16.5 hereof.

"Closing Date" shall mean March 31, 2022 or such other date as may be agreed to in writing by the parties hereto.

"Code" shall mean the Internal Revenue Code of 1986, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

"Collateral" shall mean and include all right, title and interest of the Debtor in all of the following property and assets of the Debtor, in each case whether now existing or hereafter arising or created and whether now owned or hereafter acquired and wherever located:

(a) all Receivables and all supporting obligations relating thereto;

(b) all equipment and fixtures;

(c) all general intangibles (including all payment intangibles and all software) and all supporting obligations related thereto;

(d) all Inventory;

(e) all Subsidiary Stock, securities, investment property, and financial assets;

(f) all Real Property;

(g) all Leasehold Interests;

(h) all contract rights, rights of payment which have been earned under a contract rights, chattel paper (including electronic chattel paper and tangible chattel paper), commercial tort claims (whether now existing or hereafter arising and whether or not specifically identified); documents (including all warehouse receipts and bills of lading), deposit accounts, goods, instruments (including promissory notes), letters of credit (whether or not the respective letter of credit is evidenced by a writing) and letter-of-credit rights, cash, certificates of deposit, insurance proceeds (including hazard, flood and credit insurance), security agreements, eminent domain proceeds, condemnation proceeds, tort claim proceeds and all supporting obligations, including, without limitation, all liquidation and other proceeds, refunds and supporting obligations under any Hedge Liabilities;

(i) upon (and subject to) entry of the Final Order, all Avoidance Actions;

(j) all property and assets of the Debtor described in the Final Order, or, prior to the entry of the Final Order, the Interim Order, and also the Carve-Out Reserve Account and all funds on deposit in the Carve-Out Reserve Account;

(k) all ledger sheets, ledger cards, files, correspondence, records, books of account, business papers, computers, computer software (owned by the Debtor or in which it has an interest), computer programs, tapes, disks and documents, including all of such property relating to the property described in clauses (a) through (j) of this definition;

(l) all proceeds and products of the property described in clauses (a) through (k) of this definition, in whatever form. It is the intention of the parties that if Agent shall fail to have a perfected Lien in any particular property or assets of the Debtor for any reason whatsoever, but the provisions of this Agreement and/or of the Other Documents, together with all financing statements and other public filings relating to Liens filed or recorded by Agent against Debtor, would be sufficient to create a perfected Lien in any property or assets that the Debtor may receive

upon the sale, lease, license, exchange, transfer or disposition of such particular property or assets, then all such "proceeds" of such particular property or assets shall be included in the Collateral as original collateral that is the subject of a direct and original grant of a security interest as provided for herein and in the Other Documents (and not merely as proceeds (as defined in Article 9 of the Uniform Commercial Code) in which a security interest is created or arises solely pursuant to Section 9-315 of the Uniform Commercial Code); and

(m) without limitation of any of the foregoing, all of the Pre-Petition Collateral that is owned by a Debtor or in which the Debtor holds an interest.

"Collateral Assignment of Contracts" shall mean that Collateral Assignment of Contracts, dated as of November 21, 2014, between Debtor, as assignor and Agent, as assignee.

"Columbia Gas of Kentucky" shall mean Columbia Gas of Kentucky, Inc., a Kentucky corporation.

"Columbia Gas of Kentucky Receivable Purchase Agreement" shall mean that certain Columbia Gas of Kentucky, Inc. Accounts Receivable Purchase Agreement, dated as of February 22, 2010, between the Company and Columbia Gas of Kentucky, as amended by that certain Amendment to Columbia Gas of Kentucky, Inc. Accounts Receivable Purchase Agreement, dated as of April 1, 2011, between Columbia Gas of Kentucky and the Company, as the same may be further amended, restated, replaced, supplemented or otherwise modified from time to time to the extent consented to in writing by Agent.

"Columbia Gas of Ohio" shall mean Columbia Gas of Ohio, Inc., an Ohio corporation.

"Columbia Gas of Ohio Receivable Purchase Agreement" shall mean that certain Columbia Gas of Ohio, Inc. Accounts Receivable Purchase Agreement, dated March 24, 2010, by and between the Company and Columbia Gas of Ohio, as amended as of April 21, 2011, as the same may be further amended, restated, replaced, supplemented or otherwise modified from time to time to the extent consented to in writing by Agent.

"Columbia Gas of Ohio Standard Choice Offer Supplier Agreement" shall mean that certain Columbia Gas of Ohio, Inc. Standard Choice Offer Supplier Agreement dated February 14, 2012, by and between the Company and Columbia Gas of Ohio, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time to the extent consented to in writing by Agent.

"Columbia Gas of Pennsylvania" shall mean Columbia Gas of Pennsylvania, Inc., a Pennsylvania corporation.

"Columbia Gas of Pennsylvania Receivable Purchase Agreement" shall mean that certain Columbia Gas of Pennsylvania, Inc. Accounts Receivable Purchase Agreement, dated May 18, 2011, by and between the Company and Columbia Gas of Pennsylvania, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time to the extent consented to in writing by Agent.

"Commitment Transfer Supplement" shall mean a document in the form of Exhibit 16.3 hereto, properly completed and otherwise in form and substance satisfactory to Agent by which the Purchasing Lender purchases and assumes a portion of the obligation of Lenders to make Advances under this Agreement.

"Committee" shall have the meaning set forth in the Interim Order, or, after the entry of the Final Order, in the Final Order.

"Commodity Hedge" shall mean a commodity swap, commodity option, or forward commodity contract transaction, commodity price hedging arrangement, or similar agreements entered into by the Debtor, Guarantor and/or their respective Subsidiaries in the ordinary course of business, and not for speculative purposes.

"Commodity Hedge Liabilities" shall have the meaning assigned in the definition of Lender-Provided Commodity Hedge.

"Company" shall have the meaning set forth in the preamble to this Agreement

"Compliance Certificate" shall mean a compliance certificate substantially in the form of Exhibit 1.2(a) hereto to be signed by the Chief Financial Officer or Controller of Debtor.

"Consents" shall mean all filings and all licenses, permits, consents, approvals, authorizations, qualifications and orders of Governmental Bodies and other third parties, domestic or foreign, necessary to carry on any Loan Party's business or necessary (including to avoid a conflict or breach under any agreement, instrument, other document, license, permit or other authorization) for the execution, delivery or performance of this Agreement or the Other Documents, including any Consents required under all applicable federal, state or other Applicable Law.

"Consumers Energy" shall mean Consumers Energy Company, a Michigan corporation.

"Controlled Group" shall mean, at any time, each Loan Party and all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control and all other entities which, together with any Loan Party, are treated as a single employer under Section 414 of the Code.

"Covered Entity" shall mean (a) the Debtor, each of Debtor's Subsidiaries, all Guarantors and all pledgors of Collateral and (b) each Person that, directly or indirectly, is in control of a Person described in clause (a) above. For purposes of this definition, control of a Person shall mean the direct or indirect (x) ownership of, or power to vote, 25% or more of the issued and outstanding equity interests having ordinary voting power for the election of directors of such Person or other Persons performing similar functions for such Person, or (y) power to direct or cause the direction of the management and policies of such Person whether by ownership of equity interests, contract or otherwise.

"Customer" shall mean and include the account debtor with respect to any Receivable and/or the prospective purchaser of goods, services or both with respect to any contract or contract

right, and/or any party who enters into or proposes to enter into any contract or other arrangement with the Debtor pursuant to which the Debtor is to deliver any personal property or perform any services.

"Customs" shall have the meaning set forth in Section 2.11(b) hereof.

"Daily Simple SOFR" shall mean, for any day (a "SOFR Rate Day"), the interest rate per annum determined by the Agent by dividing (the resulting quotient rounded upwards, at the Agent's discretion, to the nearest 1/100th of 1%) (A) SOFR for the day (the "SOFR Determination Date") that is two (2) Business Days prior to (i) such SOFR Rate Day if such SOFR Rate Day is a Business Day or (ii) the Business Day immediately preceding such SOFR Rate Day if such SOFR Rate Day is not a Business Day, by (B) a number equal to 1.00 minus the SOFR Reserve Percentage. If Daily Simple SOFR as determined above would be less than the SOFR Floor, then Daily Simple SOFR shall be deemed to be the SOFR Floor. If SOFR for any SOFR Determination Date has not been published or replaced with a Benchmark Replacement by 5:00 p.m. (Pittsburgh, Pennsylvania time) on the second Business Day immediately following such SOFR Determination Date, then SOFR for such SOFR Determination Date will be SOFR for the first Business Day preceding such SOFR Determination Date for which SOFR was published in accordance with the definition of "SOFR"; provided that SOFR determined pursuant to this sentence shall be used for purposes of calculating Daily Simple SOFR for no more than 3 consecutive SOFR Rate Days. If and when Daily Simple SOFR as determined above changes, any applicable rate of interest based on Daily Simple SOFR will change automatically without notice to the Borrowers, effective on the date of any such change.

"Dayton Power and Light" means The Dayton Power and Light Company, an Ohio corporation.

"Debt Payments" shall mean for any period, in each case, all cash actually expended by the Debtor to make: (a) interest payments on any Advances hereunder, plus (b) payments for all fees, commissions and charges set forth herein, plus (c) payments on Capitalized Lease Obligations, plus (d) payments with respect to any other Indebtedness for borrowed money.

"Debtor" shall have the meaning set forth in the preamble to this Agreement and shall extend to all permitted successors and assigns of such Person.

"Debtor Registered IP" shall have the meaning set forth in Section 5.9.

"Debtor's Account" shall have the meaning set forth in Section 2.8.

"Default" shall mean an event, circumstance or condition which, with the giving of notice or passage of time or both, would constitute an Event of Default.

"Default Rate" shall have the meaning set forth in Section 3.1 hereof.

"Defaulting Lender" shall mean any Lender that: (a) has failed, within two (2) Business Days of the date required to be funded or paid, to (i) fund any portion of its Revolving Commitment Percentage of Advances, (ii) if applicable, fund any portion of its Participation Commitment in

Letters of Credit or (iii) pay over to Agent, Issuer or any Lender any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies 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 a particular Default or Event of Default, if any) has not been satisfied; (b) has notified Debtor or Agent 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 a particular Default or Event of 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 two (2) Business Days after request by Agent, 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 Advances and, if applicable, participations in then outstanding Letters of Credit under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon Agent's receipt of such certification in form and substance satisfactory to Agent; (d) has become the subject of an Insolvency Event; (e) has become the subject of a Bail-In Action; or (e) has failed at any time to comply with the provisions of Section 2.6(e) with respect to purchasing participations from the other Lenders, whereby such Lender's share of any payment received, whether by setoff or otherwise, is in excess of its pro rata share of such payments due and payable to all of Lenders.

"Depository Accounts" shall have the meaning set forth in Section 4.16(h) hereof and shall include, without limitation, each Cash Concentration Account.

"Designated Lender" shall have the meaning set forth in Section 16.2(d) hereof.

"Document" shall have the meaning given to the term "document" in the Uniform Commercial Code.

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

"Domestic Rate Loan" shall mean any Advance that bears interest based upon the Alternate Base Rate.

"Dominion" shall mean The East Ohio Gas Company, an Ohio corporation, d/b/a Dominion East Ohio.

"Dominion Receivables Purchase Agreement" shall mean that certain Service Agreement – Energy Choice Pooling Service, dated as of September 20, 2006, between Dominion and Volunteer Energy Services, Inc.

"Drawing Date" shall have the meaning set forth in Section 2.12(b) hereof.

"DTE Gas" shall mean DTE Gas Company, a Michigan corporation.

"Duke Energy" shall mean Duke Energy Ohio, Inc., an Ohio corporation.

"Duke Energy Receivables Purchase Agreement" shall mean that certain Account Receivables Purchase Agreement, dated as of November 9, 2005, by and between Duke Energy (as successor by merger to Cinergy Corp., the surviving entity of a merger between Cincinnati Gas & Electric Company and PSI Energy) and the Company.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" 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.

"Effective Date" means the date indicated in a document or agreement to be the date on which such document or agreement becomes effective, or, if there is no such indication, the date of execution of such document or agreement.

"Eligible Contract Participant" shall mean an "eligible contract participant" as defined in the CEA and regulations thereunder.

"Eligibility Date" shall mean, with respect to each Loan Party and each Swap, the date on which this Agreement or any Other Document becomes effective with respect to such Swap (for the avoidance of doubt, the Eligibility Date shall be the Effective Date of such Swap if this Agreement or any Other Document is then in effect with respect to such Loan Party, and otherwise it shall be the Effective Date of this Agreement and/or such Other Document(s) to which such Loan Party is a party).

"Environmental Laws" shall mean all federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes as well as common laws, relating to the protection of the environment, human health and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Materials and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state, international and local governmental agencies and authorities with respect thereto.

"Equipment" shall mean and include as to each Loan Party all of such Loan Party's goods (other than Inventory) whether now owned or hereafter acquired and wherever located including all equipment, machinery, apparatus, motor vehicles, fittings, furniture, furnishings, fixtures, parts, accessories and all replacements and substitutions therefor or accessions thereto.

"Equity Interests" shall mean, with respect to any Person, any and all shares, rights to purchase, options, warrants, general, limited or limited liability partnership interests, member interests, participation or other equivalents of or interest in (regardless of how designated) equity of such Person, whether voting or nonvoting, including common stock, preferred stock, convertible securities or any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the SEC under the Exchange Act), including in each case all of the following rights relating to such Equity Interests, whether arising under the Organizational Documents of the Person issuing such Equity Interests (the "issuer") or under the applicable laws of such issuer's jurisdiction of organization relating to the formation, existence and governance of corporations, limited liability companies or partnerships or business trusts or other legal entities, as the case may be: (i) all economic rights (including all rights to receive dividends and distributions) relating to such Equity Interests; (ii) all voting rights and rights to consent to any particular action(s) by the applicable issuer; (iii) all management rights with respect to such issuer; (iv) in the case of any Equity Interests consisting of a general partner interest in a partnership, all powers and rights as a general partner with respect to the management, operations and control of the business and affairs of the applicable issuer; (v) in the case of any Equity Interests consisting of the membership/limited liability company interests of a managing member in a limited liability company, all powers and rights as a managing member with respect to the management, operations and control of the business and affairs of the applicable issuer; (vi) all rights to designate or appoint or vote for or remove any officers, directors, manager(s), general partner(s) or managing member(s) of such issuer and/or any members of any board of members/managers/partners/directors that may at any time have any rights to manage and direct the business and affairs of the applicable issuer under its Organizational Documents as in effect from time to time or under Applicable Law; (vii) all rights to amend the Organizational Documents of such issuer, (viii) in the case of any Equity Interests in a partnership or limited liability company, the status of the holder of such Equity Interests as a "partner", general or limited, or "member" (as applicable) under the applicable Organizational Documents and/or Applicable Law; and (ix) all certificates evidencing such Equity Interests.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended or supplemented from time to time and the rules and regulations promulgated thereunder.

"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.

"Event of Default" shall have the meaning set forth in Article X hereof.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

"Excluded Hedge Liability or Liabilities" shall mean, with respect to the Debtor and Guarantor, each of its Swap Obligations if, and only to the extent that, all or any portion of this Agreement or any Other Document that relates to such Swap Obligation is or becomes illegal under the CEA, or any rule, regulation or order of the CFTC, solely by virtue of the Debtor's and/or Guarantor's failure to qualify as an Eligible Contract Participant on the Eligibility Date for such Swap. Notwithstanding anything to the contrary contained in the foregoing or in any other

provision of this Agreement or any Other Document, the foregoing is subject to the following provisos: (a) if a Swap Obligation arises under a master agreement governing more than one Swap, this definition shall apply only to the portion of such Swap Obligation that is attributable to Swaps for which such guaranty or security interest is or becomes illegal under the CEA, or any rule, regulations or order of the CFTC, solely as a result of the failure by the Debtor or Guarantor for any reason to qualify as an Eligible Contract Participant on the Eligibility Date for such Swap; (b) if a guarantee of a Swap Obligation would cause such obligation to be an Excluded Hedge Liability but the grant of a security interest would not cause such obligation to be an Excluded Hedge Liability, such Swap Obligation shall constitute an Excluded Hedge Liability for purposes of the guaranty but not for purposes of the grant of the security interest; and (c) if there is more than one Debtor or Guarantor executing this Agreement or the Other Documents and a Swap Obligation would be an Excluded Hedge Liability with respect to one or more of such Persons, but not all of them, the definition of Excluded Hedge Liability or Liabilities with respect to each such Person shall only be deemed applicable to (i) the particular Swap Obligations that constitute Excluded Hedge Liabilities with respect to such Person, and (ii) the particular Person with respect to which such Swap Obligations constitute Excluded Hedge Liabilities.

"Excluded Taxes" shall mean, with respect to Agent, any Lender, Participant, Issuer or any other recipient of any payment to be made by or on account of any Obligations, (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 or applicable lending office is located or, in the case of any Lender, Participant or Issuer, in which its applicable lending office is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which the Debtor is located, (c) in the case of a Foreign Lender, any withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new lending office) or is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with Section 3.10(e), except to the extent that such Foreign Lender or Participant (or its assignor or seller of a participation, if any) was entitled, at the time of designation of a new lending office (or assignment or sale of a participation), to receive additional amounts from Debtor with respect to such withholding tax pursuant to Section 3.10(a), or (d) any Taxes imposed on any "withholding payment" payable to such recipient as a result of the failure of such recipient to satisfy the requirements set forth in the FATCA after December 31, 2012.

"Executive Order No. 13224" shall mean the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

"Facility Fee" shall have the meaning set forth in Section 3.3(b) hereof.

"FATCA" shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations thereunder or official interpretations thereof.

"Federal Funds Effective Rate" shall mean, for any day, the rate per annum (based on a year of 360 days and actual days elapsed and rounded upward to the nearest 1/100 of 1 %) calculated by the Federal Reserve Bank of New York (or any successor), based on such day's federal funds transactions by depositary institutions, as determined in such matter as such Federal Reserve Bank (or any successor) shall set forth on its public website from time to time, and as published on the next succeeding Business Day by such Federal Reserve Bank as the "Federal Funds Effective Rate"; provided, if such Federal Reserve Bank (or its successor) does not publish such rate on any day, the "Federal Funds Effective Rate" for such day shall be the Federal Funds Effective Rate for the last day on which such rate was announced.

"Final Order" means a final order of the Bankruptcy Court in the Case authorizing and approving this Agreement and the Other Documents under, *inter alia*, Sections 364(c) and (d) of the Bankruptcy Code on a final basis and entered at or after a final hearing, in form and substance satisfactory to Agent in its reasonable discretion. The Final Order shall, among other things:

(a) authorize the transactions contemplated by this Agreement and the extensions of credit under this Agreement in an amount not less than the Maximum Revolving Advance Amount provided for herein;

(b) grant the claim and Lien status and Liens described in Section 4.1, and prohibit the granting of additional Liens on the assets of Debtor and any Superpriority Claim status except for any Liens and Claims specifically provided for in such order;

(c) provide that such Liens are automatically perfected as of the Petition Date by the entry of the Final Order and also grant to the Agent for the benefit of Agent and the Lenders relief from the automatic stay of Section 362(a) of the Bankruptcy Code to enable the Agent, if the Agent elects to do so in its discretion, to make all filings and recordings and to take all other actions considered necessary or advisable by the Agent to perfect, protect and insure the priority of its Liens upon the Collateral as a matter of non-bankruptcy law;

(d) provide that no Person will be permitted to surcharge the Collateral under Section 506(c) of the Bankruptcy Code, nor shall any costs or expenses whatsoever be imposed against the Collateral, except for the Carve-Out; and

(e) provide Agent with relief from the automatic stay in a manner consistent with the terms of Section 11.1.

"First Energy" means collectively or individually, as the context may require, Ohio Edison Company, an Ohio corporation, The Toledo Edison Company, an Ohio corporation and The Cleveland Electric Illuminating Company, an Ohio corporation.

"Flood Laws" shall mean all Applicable Laws relating to policies and procedures that address requirements placed on federally regulated lenders under the National Flood Insurance Reform Act of 1994 and other Applicable Laws related thereto.

"Foreign Currency Hedge" shall mean any foreign exchange transaction, including spot and forward foreign currency purchases and sales, listed or over-the-counter options on foreign

currencies, non-deliverable forwards and options, foreign currency swap agreements, currency exchange rate price hedging arrangements, and any other similar transaction providing for the purchase of one currency in exchange for the sale of another currency entered into by the Debtor, Guarantor and/or any of their respective Subsidiaries.

"Foreign Currency Hedge Liabilities" shall have the meaning assigned in the definition of Lender-Provided Foreign Currency Hedge.

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

"Foreign Subsidiary" shall mean any Subsidiary of any Person that is not organized or incorporated in the United States, any State or territory thereof or the District of Columbia.

"Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane which a Debtor sells in the ordinary course of its business pursuant to its Ohio Competitive Retail Natural Gas Supplier Certificate, Pennsylvania Public Utility Commission License for Natural Gas Supplier and Order Granting License from the Michigan Public Service Commission.

"GAAP" shall mean generally accepted accounting principles in the United States of America in effect from time to time.

"General Intangibles" shall mean and include as to each Loan Party all of such Loan Party's general intangibles, whether now owned or hereafter acquired, including all payment intangibles, all chases in action, causes of action, corporate or other business records, inventions, designs, patents, patent applications, equipment formulations, manufacturing procedures, quality control procedures, trademarks, trademark applications, service marks, trade secrets, goodwill, copyrights, design rights, software, computer information, source codes, codes, records and updates, registrations, licenses, franchises, customer lists, tax refunds, tax refund claims, computer programs, all claims under guaranties, security interests or other security held by or granted to such Loan Party to secure payment of any of the Receivables by a Customer (other than to the extent covered by Receivables) all rights of indemnification and all other intangible property of every kind and nature (other than Receivables).

"Governmental Acts" shall mean any act or omission, whether rightful or wrongful, of any present or future de jure or de facto Governmental Body.

"Governmental Body" shall mean any nation or government, any state or other political subdivision thereof or any entity, authority, agency, division or department exercising the executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to a government (including any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting

Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

"Guarantor" shall mean Richard A. Curnutte, Sr. and any other Person who may hereafter guarantee payment or performance of the whole or any part of the Obligations and "Guarantors" means collectively all such Persons.

"Guarantor Security Agreement" shall mean any security agreement executed by any Guarantor in favor of Agent securing the Obligations or the Guaranty of such Guarantor, in form and substance satisfactory to Agent, in each case as the same may be amended, supplemented, restated, replaced or otherwise modifies from time to time.

"Guaranty" shall mean any guaranty of the Obligations of a Debtor executed by a Guarantor in favor of Agent for its benefit and for the ratable benefit of Lenders, in form and substance satisfactory to Agent, in each case as the same may be amended, supplemented, restated, replaced or otherwise modified from time to time.

"Hazardous Discharge" shall have the meaning set forth in Section 9.3(b) hereof.

"Hazardous Materials" shall mean, without limitation, any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum products, methane, hazardous materials, Hazardous Wastes, hazardous or Toxic Substances or related materials as defined in or subject to regulation under Environmental Laws.

"Hazardous Wastes" shall mean all waste materials subject to regulation under CERCLA, RCRA or applicable state law, and any other applicable Federal and state laws now in force or hereafter enacted relating to hazardous waste disposal.

"Hedge Liabilities" shall mean Commodity Hedge Liabilities, Foreign Currency Hedge Liabilities and Interest Rate Hedge Liabilities.

"Indebtedness" shall mean, as to any Person at any time, any and all indebtedness, obligations or liabilities (whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, or joint or several) of such Person for or in respect of: (a) borrowed money; (b) amounts received under or liabilities in respect of any note purchase or acceptance credit facility, and all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments; (c) all Capitalized Lease Obligations; (d) reimbursement obligations (contingent or otherwise) under any letter of credit agreement, banker's acceptance agreement or similar arrangement; (e) obligations under any Interest Rate Hedge, Foreign Currency Hedge, Commodity Hedge or other interest rate management device, foreign currency exchange agreement, currency swap agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging arrangement; (f) any other advances of credit made to or on behalf of such Person or other transaction (including forward sale or purchase agreements, capitalized leases and conditional sales agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements

including to finance the purchase price of property or services and all obligations of such Person to pay the deferred purchase price of property or services (but not including trade payables and accrued expenses incurred in the Ordinary Course of Business which are not represented by a promissory note or other evidence of indebtedness and which are not more than thirty (30) days past due); (g) all Equity Interests of such Person subject to repurchase or redemption rights or obligations (excluding repurchases or redemptions at the sole option of such Person); (h) all indebtedness, obligations or liabilities secured by a Lien on any asset of such Person, whether or not such indebtedness, obligations or liabilities are otherwise an obligation of such Person; (i) all obligations of such Person for "earnouts", purchase price adjustments, profit sharing arrangements, deferred purchase money amounts and similar payment obligations or continuing obligations of any nature of such Person arising out of purchase and sale contracts; (j) off-balance sheet liabilities and/or pension plan liabilities of such Person; (k) obligations arising under bonus, deferred compensation, incentive compensation or similar arrangements, other than those arising in the Ordinary Course of Business; and (l) any guaranty of any indebtedness, obligations or liabilities of a type described in the foregoing clauses (a) through (k).

"Indemnified Party" shall have the meaning set forth in Section 16.5 hereof.

"Indemnified Taxes" shall mean Taxes other than Excluded Taxes.

"Ineligible Security" shall mean any security which may not be underwritten or dealt in by member banks of the Federal Reserve System under Section 16 of the Banking Act of 1933 (12 U.S.C. Section 24, Seventh), as amended.

"Insolvency Event" shall mean, with respect to any Person, including without limitation any Lender, such Person or such Person's direct or indirect parent company (a) becomes the subject of a bankruptcy or insolvency proceeding (including any proceeding under Title 11 of the United States Code), or regulatory restrictions, (b) 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 has called a meeting of its creditors, (c) admits in writing its inability, or be generally unable, to pay its debts as they become due or cease operations of its present business, (d) with respect to a Lender, such Lender is unable to perform hereunder due to the application of Applicable Law, or (e) in the good faith determination of Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment of a type described in clauses (a) or (b), provided that an Insolvency Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person or such Person's direct or indirect parent company by a Governmental Body or instrumentality thereof if, and only if, such ownership interest does not result in or provide such Person 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 Person (or such Governmental Body or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

"Intellectual Property" shall mean property constituting a patent, copyright, trademark (or any application in respect of the foregoing), service mark, copyright, copyright application, trade

name, mask work, trade secrets, design right, assumed name or license or other right to use any of the foregoing under Applicable Law.

"Intellectual Property Claim" shall mean the assertion, by any means, by any Person of a claim that the Debtor's ownership, use, marketing, sale or distribution of any Inventory, equipment, Intellectual Property or other property or asset is violative of any ownership of or right to use any Intellectual Property of such Person.

"Interest Rate Hedge" shall mean an interest rate exchange, collar, cap, swap, floor, adjustable strike cap, adjustable strike corridor, cross-currency swap or similar agreements entered into by the Debtor, Guarantor and/or their respective Subsidiaries in order to provide protection to, or minimize the impact upon, the Debtor, any Guarantor and/or their respective Subsidiaries of increasing floating rates of interest applicable to Indebtedness.

"Interest Rate Hedge Liabilities" shall have the meaning assigned in the definition of Lender-Provided Interest Rate Hedge.

"Interim Order" means an order of the Bankruptcy Court in the Case authorizing and approving this Agreement and the Other Documents, for an interim period, under, *inter alia*, Sections 364(c) and (d) of the Bankruptcy Code and entered at or after a hearing, in form and substance satisfactory to Agent in its reasonable discretion and attached hereto as Exhibit B.

"Internet Posting" shall have the meaning set forth in Section 16.6 hereof.

"Inventory" shall mean and include as to the Debtor all of the Debtor's inventory (as defined in Article 9 of the Uniform Commercial Code) and all of the Debtor's goods, merchandise and other personal property, wherever located, to be furnished under any consignment arrangement, contract of service or held for sale or lease, all raw materials, work in process, finished goods and materials and supplies of any kind, nature or description which are or might be used or consumed in the Debtor's business or used in selling or furnishing such goods, merchandise and other personal property, and all Documents.

"Inventory Advance Rate" shall have the meaning set forth in Section 2.1(a) hereof.

"Issuer" shall mean, with respect to any Letter of Credit, any Person who issues a Letter of Credit and/or accepts a draft pursuant to the terms hereof, and each of their successors and assigns (and which may be replaced at the sole discretion of Agent).

"Law(s)" shall mean any law(s) (including common law), constitution, statute, treaty, regulation, rule, ordinance, opinion, issued guidance, release, ruling, order, executive order, injunction, writ, decree, bond, judgment, authorization or approval, lien or award of or any settlement arrangement, by agreement, consent or otherwise, with any Governmental Body, foreign or domestic.

"Leasehold Interests" shall mean all of Debtor's right, title and interest in and to the premises located at 790 Windmiller Dr., Pickerington, Ohio 43147.

"Lender" and "Lenders" shall have the meaning ascribed to such term in the preamble to this Agreement and shall include each Person which becomes a transferee, successor or assign of any Lender. For the purpose of provisions of this Agreement or any Other Document which provides for the granting of a security interest or other Lien to Agent for the benefit of Lenders as security for the Obligations, "Lenders" shall include any Affiliate of a Lender to which such Obligation (specifically including any Hedge Liabilities and any Cash Management Liabilities) is owed.

"Lender-Provided Commodity Hedge" means a Commodity Hedge which is provided by any Lender and for which such Lender confirms to Agent in writing prior to an Event of Default that is continuing: (a) is documented in a standard International Swap Dealers Association, Inc. Master Agreement or another reasonable and customary manner; (b) provides for the method of calculating the reimbursable amount of the provider's credit exposure in a reasonable and customary manner; and (c) is entered into for hedging (rather than speculative) purposes. The liabilities owing to the provider of any Lender-Provided Commodity Hedge (the "Commodity Hedge Liabilities") by any Loan Party, Guarantor, or any of their respective Subsidiaries that is party to such Lender-Provided Commodity Hedge shall, for purposes of this Agreement and all Other Documents be "Obligations" of such Person and of each other Loan Party and Guarantor, be guaranteed obligations under any Guaranty and secured obligations under any Guarantor Security Agreement, as applicable, and otherwise treated as Obligations for purposes of the Other Documents, except to the extent constituting Excluded Hedge Liabilities of such Person. The Liens securing the Commodity Hedge Liabilities shall be pari passu with the Liens securing all other Obligations under this Agreement and the Other Documents, subject to the express provisions of Section 11.5.

"Lender-Provided Foreign Currency Hedge" means a Foreign Currency Hedge which is provided by any Lender and for which such Lender confirms to Agent in writing prior to an Event of Default that is continuing: (a) is documented in a standard International Swap Dealers Association, Inc. Master Agreement or another reasonable and customary manner; (b) provides for the method of calculating the reimbursable amount of the provider's credit exposure in a reasonable and customary manner; and (c) is entered into for hedging (rather than speculative) purposes. The liabilities owing to the provider of any Lender-Provided Foreign Currency Hedge (the "Foreign Currency Hedge Liabilities") by any Loan Party, Guarantor, or any of their respective Subsidiaries that is party to such Lender-Provided Foreign Currency Hedge shall, for purposes of this Agreement and all Other Documents be "Obligations" of such Person and of each other Loan Party and Guarantor, be guaranteed obligations under any Guaranty and secured obligations under any Guarantor Security Agreement, as applicable, and otherwise treated as Obligations for purposes of the Other Documents, except to the extent constituting Excluded Hedge Liabilities of such Person. The Liens securing the Foreign Currency Hedge Liabilities shall be pari passu with the Liens securing all other Obligations under this Agreement and the Other Documents, subject to the express provisions of Section 11.5.

"Lender-Provided Interest Rate Hedge" shall mean an Interest Rate Hedge which is provided by any Lender and with respect to which such Lender confirms to Agent in writing prior to an Event of Default that is continuing: (a) is documented in a standard International Swap Dealers Association, Inc. Master Agreement or another reasonable and customary manner;

(b) provides for the method of calculating the reimbursable amount of the provider's credit exposure in a reasonable and customary manner; and (c) is entered into for hedging (rather than speculative) purposes. The liabilities owing to the provider of any Lender-Provided Interest Rate Hedge (the "Interest Rate Hedge Liabilities") by any Loan Party, Guarantor, or any of their respective Subsidiaries that is party to such Lender-Provided Interest Rate Hedge shall, for purposes of this Agreement and all Other Documents be "Obligations" of such Person and of each other Loan Party and Guarantor, be guaranteed obligations under any Guaranty and secured obligations under any Guarantor Security Agreement, as applicable, and otherwise treated as Obligations for purposes of the Other Documents, except to the extent constituting Excluded Hedge Liabilities of such Person. The Liens securing the Interest Rate Hedge Liabilities shall be pari passu with the Liens securing all other Obligations under this Agreement and the Other Documents, subject to the express provisions of Section 11.5 hereof.

"Letter of Credit Application" shall have the meaning set forth in Section 2.10(a) hereof.

"Letter of Credit Borrowing" shall have the meaning set forth in Section 2.12(d).

"Letter of Credit Fees" shall have the meaning set forth in Section 3.2(a) hereof.

"Letter of Credit Sublimit" shall mean $0.

"Letters of Credit" shall have the meaning set forth in Section 2.9(a).

"License Agreement" shall mean any agreement between any Loan Party and a Licensor pursuant to which such Loan Party is authorized to use any Intellectual Property in connection with the manufacturing, marketing, sale or other distribution of any Inventory of such Loan Party or otherwise in connection with such Loan Party's business operations.

"Licensor" shall mean any Person from whom any Loan Party obtains the right to use (whether on an exclusive or non-exclusive basis) any Intellectual Property in connection with such Loan Party's manufacture, marketing, sale or other distribution of any Inventory or otherwise in connection with such Loan Party's business operations.

"Licensor/Agent Agreement" shall mean an agreement between Agent and a Licensor, in form and content satisfactory to Agent, by which Agent is given the unqualified right, vis-a-vis such Licensor, to enforce Agent's Liens with respect to and to dispose of any Loan Party's Inventory with the benefit of any Intellectual Property applicable thereto, irrespective of such Loan Party's default under any License Agreement with such Licensor.

"Lien" shall mean any mortgage, deed of trust, pledge, hypothecation, assignment, security interest, lien (whether statutory or otherwise), Charge, claim or encumbrance, or preference, priority or other security agreement or preferential arrangement held or asserted in respect of any asset of any kind or nature whatsoever including any conditional sale or other title retention agreement, any lease having substantially the same economic effect as any of the foregoing, and the filing of or agreement to give, any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction.

"Lien Waiver Agreement" shall mean an agreement which is executed in favor of Agent by a Person who owns or occupies premises at which any Collateral may be located from time to time in form and substance satisfactory to Agent and by which such Person shall waive any Lien that such Person may ever have with respect to any of the Collateral and shall authorize Agent from time to time to enter upon the premises to inspect or remove the Collateral from such premises or to use such premises to store or dispose of such Inventory.

"LLC Division" shall mean, in the event a Debtor or Guarantor is a limited liability company, (a) the division of any the Debtor or Guarantor into two or more newly formed limited liability companies (whether or not the Debtor or Guarantor is a surviving entity following any such division) pursuant to Section 18-217 of the Delaware Limited Liability Company Act or any similar provision under any similar act governing limited liability companies organized under the laws of any other State or Commonwealth or of the District of Columbia, or (b) the adoption of a plan contemplating, or the filing of any certificate with any applicable Governmental Body that results or may result in, any such division.

"Loan Parties" shall mean, collectively, the Debtor and each Guarantor (other than Richard A. Curnutte, Sr.) and "Loan Party" shall mean any one of them.

"Local Distribution Company" shall mean any (i) local gas distribution company acceptable to Agent in its sole discretion as advised by Agent in writing, which on the Closing Date includes Duke Energy, Columbia Gas of Ohio, Dominion, Columbia Gas of Pennsylvania, Columbia Gas of Kentucky, Vectren, Consumers Energy, Michigan Gas, DTE Gas, SEMCO Energy, PNG and PECO Energy and (ii) local electric distribution company acceptable to Agent in its sole discretion as advised by Agent in writing, which as of July 31, 2017 includes AEP Ohio, First Energy, Duke Energy and Dayton Power & Light.

"Material Adverse Effect" shall mean a material adverse effect on (a) the financial condition, results of operations or business, in each case, of the Debtor and any Loan Party taken as a whole, but excluding the effect of the filing of the Case, (b) any Loan Party's ability to duly and punctually pay or perform the Obligations in accordance with the terms thereof, (c) the value of the Collateral, or Agent's Liens on the Collateral or the priority of any such Lien or (d) the practical realization of the benefits of Agent's and each Lender's rights and remedies under this Agreement and the Other Documents.

"Material Contract" shall mean any contract, agreement, instrument, permit, lease or license, written or oral, of the Debtor, which is material to the Debtor's business or which the failure to comply with could reasonably be expected to result in a Material Adverse Effect.

"Maturity Date" shall mean April 23, 2022.

"Maximum Face Amount" shall mean, with respect to any outstanding Letter of Credit, the face amount of such Letter of Credit including all automatic increases provided for in such Letter of Credit, whether or not any such automatic increase has become effective.

"Maximum Revolving Advance Amount" shall mean, $5,000,000.

"Maximum Undrawn Amount" shall mean with respect to any outstanding Letter of Credit as of any date, the amount of such Letter of Credit that is or may become available to be drawn, including all automatic increases provided for in such Letter of Credit, whether or not any such automatic increase has become effective.

"Michigan Gas" shall mean Michigan Gas Utilities Corporation, a Michigan corporation.

"Modified Commitment Transfer Supplement" shall have the meaning set forth in Section 16.3(d).

"Mortgage" means any mortgage on the Real Property securing the Obligations.

"Multiemployer Plan" shall mean a "multiemployer plan" as defined in Sections 3(37) or 4001(a)(3) of ERISA to which contributions are required or, within the preceding five plan years, were required by the Debtor or any member of the Controlled Group.

"Multiple Employer Plan" shall mean a Plan which has two or more contributing sponsors (including the Debtor or any member of the Controlled Group) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

"Net Income" shall mean, for any period, the consolidated net income (or loss) of the Loan Parties, determined on a consolidated basis in accordance with GAAP.

"Non-Defaulting Lender" shall mean, at any time, any Lender holding a Revolving Commitment that is not a Defaulting Lender at such time.

"Non-Qualifying Party" shall mean the Debtor or any Guarantor that on the Eligibility Date fails for any reason to qualify as an Eligible Contract Participant.

"Obligations" shall mean and include any and all loans (including without limitation, all Advances), advances, debts, liabilities, obligations (including without limitation all reimbursement obligations and cash collateralization obligations with respect to Letters of Credit issued hereunder), covenants and duties owing by any Loan Party or Guarantor or any Subsidiary of any Loan Party or any Guarantor to Issuer, Lenders or Agent (or to any other direct or indirect subsidiary or affiliate of Issuer any Lender or Agent) of any kind or nature, present or future (including any interest or other amounts accruing thereon, any fees accruing under or in connection therewith, any costs and expenses of any Person payable by any Loan Party and any indemnification obligations payable by any Loan Party arising or payable after maturity, or after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding relating to any Loan Party, whether or not a claim for post-filing or post-petition interest, fees or other amounts is allowable or allowed in such proceeding), whether or not evidenced by any note, guaranty or other instrument, whether arising under any agreement, instrument or document (including this Agreement, the Other Documents, Lender-Provided Commodity Hedges, Lender-Provided Interest Rate Hedges, Lender-Provided Foreign Currency Hedges and any Cash Management Products and Services) whether or not for the payment of money, whether arising by reason of an extension of credit, opening or issuance of a letter of credit, loan, equipment lease, establishment of any commercial card or similar facility or guarantee, under

any commodity, interest or currency swap, future, option or other similar agreement, or in any other manner, whether arising out of overdrafts or deposit or other accounts or electronic funds transfers (whether through automated clearing houses or otherwise) or out of Agent's or any Lender's non-receipt of or inability to collect funds or otherwise not being made whole in connection with depository transfer check or other similar arrangements, whether direct or indirect (including those acquired by assignment or participation), absolute or contingent, joint or several, due or to become due, now existing or hereafter arising, contractual or tortious, liquidated or unliquidated, regardless of how such indebtedness or liabilities arise or by what agreement or instrument they may be evidenced or whether evidenced by any agreement or instrument, including, but not limited to, (i) any and all of any Loan Party's or any Guarantor's Indebtedness and/or liabilities (and any and all indebtedness, obligations and/or liabilities of any Subsidiary of any Loan Party or any Guarantor) under this Agreement, the Other Documents or under any other agreement between Issuer, Agent or Lenders and any Loan Party and any amendments, extensions, renewals or increases and all costs and expenses of Issuer, Agent and any Lender incurred in the documentation, negotiation, modification, enforcement, collection or otherwise in connection with any of the foregoing, including but not limited to reasonable attorneys' fees and expenses and all obligations of any Loan Party to Issuer, Agent or Lenders to perform acts or refrain from taking any action, (ii) all Hedge Liabilities, (iii) all Cash Management Liabilities and (iv) after entry of the Final Order, all Pre-Petition Obligations. Notwithstanding anything to the contrary contained in the foregoing, the Obligations shall not include any Excluded Hedge Liabilities.

"Order" shall have the meaning set forth in Section 2.18(b) hereof.

"Ordinary Course of Business" shall mean, with respect to the Debtor the ordinary course of the Debtor's business as conducted on the Closing Date.

"Organizational Documents" shall mean, with respect to any Person, any charter, articles or certificate of incorporation, certificate of organization, registration or formation, certificate of partnership or limited partnership, bylaws, operating agreement, limited liability company agreement, or partnership agreement of such Person and any and all other applicable documents relating to such Person's formation, organization or entity governance matters (including any shareholders' or equity holders' agreement or voting trust agreement) and specifically includes, without limitation, any certificates of designation for preferred stock or other forms of preferred equity.

"Other Documents" shall mean the Revolving Credit Note, the Reaffirmation of Other Documents, the Reaffirmation of Guaranty, the Questionnaire, the Letters of Credit, any deposit account control agreements, the Lien Waiver Agreements, any Guaranty, any Guarantor Security Agreement, any Pledge Agreement, the Collateral Assignment of Contracts, any Lender-Provided Commodity Hedge, Lender-Provided Foreign Currency Hedge, Lender-Provided Interest Rate Hedge and any and all other agreements, instruments and documents, including guaranties, pledges, powers of attorney, consents, commodity, interest or currency swap agreements or other similar agreements and all other writings heretofore, now or hereafter executed by the Debtor or any Guarantor or any other Loan Party and/or delivered to Agent or any Lender in respect of the transactions contemplated by this Agreement, in each case together with all extensions, renewals, amendments, supplements, modifications, substitutions and replacements thereto and thereof.

"Other Taxes" shall mean 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 Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any Other Document.

"Overnight Bank Funding Rate" shall mean, for any, day the rate per annum (based on a year of 360 days and actual days elapsed) comprised of both overnight federal funds and overnight Eurocurrency borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the Federal Reserve Bank of New York, as set forth on its public website from time to time, and as published on the next succeeding Business Day as the overnight bank funding rate by such Federal Reserve Bank (or by such other recognized electronic source (such as Bloomberg) selected by the Agent for the purpose of displaying such rate) (an "Alternate Source"); provided, that if such day is not a Business Day, the Overnight Bank Funding Rate for such day shall be such rate on the immediately preceding Business Day; provided, further, that if such rate shall at any time, for any reason, no longer exist, a comparable replacement rate determined by the Agent at such time (which determination shall be conclusive absent manifest error). If the Overnight Bank Funding Rate determined as above would be less than zero, then such rate shall be deemed to be zero. The rate of interest charged shall be adjusted as of each Business Day based on changes in the Overnight Bank Funding Rate without notice to the Debtor.

"Parent" of any Person shall mean a corporation or other entity owning, directly or indirectly, 50% or more of the Equity Interests issued by such Person having ordinary voting power to elect a majority of the directors of such Person, or other Persons performing similar functions for any such Person.

"Participant" shall mean each Person who shall be granted the right by any Lender to participate in any of the Advances and who shall have entered into a participation agreement in form and substance satisfactory to such Lender.

"Participation Advance" shall have the meaning set forth in Section 2.12(d).

"Participation Commitment" shall mean the obligation hereunder of each Lender holding a Revolving Commitment to buy a participation equal to its Revolving Commitment Percentage (subject to any reallocation pursuant to Section 2.23(b)(iii) hereof) in the Letters of Credit issued hereunder as provided for in Section 2.14(a) hereof.

"Payment in Full" shall mean, (a) the termination of Lenders' obligations to make Advances hereunder, (b) payment in full in cash and performance of all outstanding and unpaid Obligations, other than (i) contingent indemnification obligations for which claims have not been asserted, (ii) Hedge Liabilities that have been novated or collateralized, and (iii) Cash Management Liabilities to the extent that the provider of such Cash Management Liabilities allows such Obligations to remain outstanding without being repaid or cash collateralized, and (c) expiration of all Letters of Credit, other than Letters of Credit that have been cash collateralized in an amount equal to one hundred and five percent (105%) of the Maximum Undrawn Amount of such Letters of Credit in accordance with the terms of this Agreement or that have otherwise been backstopped in a manner reasonably satisfactory to Issuer of such Letter of Credit.

"Payment Office" shall mean initially Two Tower Center Boulevard, East Brunswick, New Jersey 08816; thereafter, such other office of Agent, if any, which it may designate by notice to Debtor and to each Lender to be the Payment Office.

"PBGC" shall mean the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA or any successor.

"PECO" shall mean PECO Energy Company, a Pennsylvania corporation.

"Pension Benefit Plan" shall mean at any time any "employee pension benefit plan" as defined in Section 3(2) of ERISA (including a Multiple Employer Plan, but not a Multiemployer Plan) which is covered by Title IV of ERISA or is subject to the minimum funding standards under Sections 412, 430 or 436 of the Code and either (i) is maintained or to which contributions are required by the Debtor or any member of the Controlled Group; or (ii) has at any time within the preceding five years been maintained or to which contributions are required by the Debtor or any entity which was at such time a member of the Controlled Group.

"Permitted Discretion" shall mean a determination made in good faith and in the exercise (from the perspective of a secured asset-based lender) of commercially reasonable business judgment.

"Permitted Encumbrances" shall mean:

(a) Liens in favor of Agent for the benefit of Agent and Lenders, including without limitation, Liens securing Hedge Liabilities and Cash Management Products and Services;

(b) Liens for taxes, assessments or other governmental charges not delinquent or being Properly Contested;

(c) Liens disclosed in the financial statements referred to in Section 5.5 and set forth on Schedule 1.2;

(d) deposits or pledges to secure obligations under worker's compensation, social security or similar laws, or under unemployment insurance;

(e) deposits or pledges to secure bids, tenders, contracts (other than contracts for the payment of money), leases, statutory obligations, surety and appeal bonds and other obligations of like nature arising in the Ordinary Course of Business;

(f) Liens arising by virtue of the rendition, entry or issuance against the Debtor or any Subsidiary, or any property of the Debtor or any Subsidiary, of any judgment, writ, order, or decree for so long as each such Lien (x) is in existence for less than 30 consecutive days after it first arises or is being Properly Contested and (y) is at all times junior in priority to any Liens in favor of Agent;

(g) mechanics', workers', materialmen's or other like Liens arising in the Ordinary Course of Business with respect to obligations which are not due or which are being Properly Contested;

(h) Liens placed upon fixed assets hereafter acquired to secure a portion of the purchase price thereof, provided that (x) any such lien shall not encumber any other property of any Loan Party and (y) the aggregate amount of Indebtedness secured by such Liens incurred as a result of such purchases during any fiscal year shall not exceed the amount provided for in Section 7.6;

(i) other Liens incidental to the conduct of the Debtor's business or the ownership of its property and assets which were not incurred in connection with the borrowing of money or the obtaining of advances or credit, and which do not in the aggregate materially detract from Agent's or Lenders' rights in and to the Collateral or the value of the Debtor's property or assets or which do not materially impair the use thereof in the operation of the Debtor's business;

(j) easements, rights-of-way, zoning restrictions, minor defects or irregularities in title and other charges or encumbrances, in each case, which do not interfere in any material respect with the Ordinary Course of Business of Debtor and its Subsidiaries;

(k) Liens disclosed on Schedule 1.2; provided that such Liens shall secure only those obligations which they secure on the Closing Date and shall not subsequently apply to any other property or assets of any Loan Party; and

(l) Liens in favor of Bank of America, N.A. (or its Affiliates), to secure obligations under the Commodity Hedges described in clause (f) of the definition of Permitted Indebtedness, so long as such Liens are subject to an intercreditor agreement in form and substance satisfactory to Agent in its sole discretion.

"Permitted Indebtedness" shall mean:

(a) the Obligations;

(b) Indebtedness incurred for Capital Expenditures permitted in Section 7.6 hereof;

(c) any guarantees of Indebtedness permitted under Section 7.3 hereof;

(d) any Indebtedness listed on Schedule 7.8 hereof (including any extensions, renewals or refinancing thereof), provided that the principal amount of such Indebtedness shall not be increased without the prior written consent of the Required Lenders;

(e) Interest Rate Hedges that are entered into by Debtor to hedge its risks with respect to outstanding Indebtedness of Debtor and not for speculative or investment purposes; and

(f) Indebtedness arising from Commodity Hedges with Bank of America, N.A. (or its Affiliates) as counterparties relating to commodities hedging transactions entered into for non-speculative purposes with notional amounts not to exceed an aggregate amount equal to

$2,000,000, so long as such Indebtedness is subject to an intercreditor agreement in form and substance satisfactory to Agent in its sole discretion.

"Permitted Investments" shall mean investments in: (a) obligations issued or guaranteed by the United States of America or any agency thereof; (b) commercial paper with maturities of not more than 180 days and a published rating of not less than A-1 or P-1 (or the equivalent rating); (c) certificates of time deposit and bankers' acceptances having maturities of not more than 180 days and repurchase agreements backed by United States government securities of a commercial bank if (i) such bank has a combined capital and surplus of at least $500,000,000, or (ii) its debt obligations, or those of a holding company of which it is a Subsidiary, are rated not less than A (or the equivalent rating) by a nationally recognized investment rating agency; and (d) U.S. money market funds that invest solely in obligations issued or guaranteed by the United States of America or an agency thereof.

"Permitted Variance" shall have the meaning set forth in Section 6.24(a).

"Person" shall mean any individual, sole proprietorship, partnership, corporation, business trust, joint stock company, trust, unincorporated organization, association, limited liability company, limited liability partnership, institution, public benefit corporation, joint venture, entity or Governmental Body (whether federal, state, county, city, municipal or otherwise, including any instrumentality, division, agency, body or department thereof).

"Petition Date" shall have the meaning set forth in the recitals hereto.

"Plan" shall mean any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Benefit Plan and a Multiemployer Plan, as defined herein), maintained by the Debtor or any member of the Controlled Group or to which the Debtor or any member of the Controlled Group is required to contribute.

"Pledge Agreement" shall mean any pledge agreement executed subsequent to the Closing Date by any other Person to secure the Obligations.

"PNC" shall have the meaning set forth in the preamble to this Agreement and shall extend to all of its successors and assigns.

"PNG" shall mean Peoples Natural Gas Company LLC, a Pennsylvania limited liability company.

"PNG Receivables Purchase Agreement" shall mean that certain Priority One Pooling Agreement, dated as of April 12, 2013, by and between PNG and the Company.

"Post-Petition Obligations" shall mean all Obligations (including, without limitation the Letters of Credit) other than the Pre-Petition Obligations.

"Post-Petition Secured Parties" shall mean, collectively, the Agent, the Lenders, the Issuer and each Lender or Agent, or Affiliate thereof, that is counterparty to any Hedge Agreement or Cash Management Products and Services entered into after the Petition Date.

"Pre-Petition Agent" shall have the meaning set forth in the recitals hereto.

"Pre-Petition Collateral" shall mean all "Collateral" as defined in Pre-Petition Credit Agreement in existence as of the Petition Date.

"Pre-Petition Credit Agreement" shall have the meaning set forth in the recitals hereto.

"Pre-Petition Lender" shall have the meaning set forth in the recitals hereto.

"Pre-Petition Obligations" shall have the meaning set forth in Section 1.5(a).

"Pre-Petition Other Documents" shall mean the Pre-Petition Credit Agreement, the "Other Documents" as defined in the Pre-Petition Credit Agreement and each document, agreement and instrument (and all schedules and exhibits thereto) executed in connection therewith, in each case, as in effect immediately prior to the Petition Date.

"Pre-Petition Payment" means a payment (by way of adequate protection or otherwise) of principal or interest or otherwise on account of any pre-petition Indebtedness or trade payables or other pre-petition claims against the Debtor.

"Pre-Petition Released Claim" or "Pre-Petition Released Claims" shall have the meaning set forth in Section 1.6 hereof.

"Pre-Petition Secured Parties" shall mean, collectively, the Pre-Petition Agent, the Pre-Petition Lenders, PNC, as Issuer under the Pre-Petition Credit Agreement, and each Lender or Agent, or Affiliate thereof, counterparty to any Hedge Agreement or Cash Management Products and Services entered into prior to the Petition Date.

"Power" shall mean electricity which Debtor sells in the ordinary course of its business pursuant to its certification as a Certified Retail Electric Service Provider.

"Properly Contested" shall mean, in the case of any Indebtedness, Lien or Taxes, as applicable, of any Person that are not paid as and when due or payable by reason of such Person's bona fide dispute concerning its liability to pay the same or concerning the amount thereof: (a) such Indebtedness, Lien or Taxes, as applicable, are being properly contested in good faith by appropriate proceedings promptly instituted and diligently conducted; (b) such Person has established appropriate reserves as shall be required in conformity with GAAP; (c) the non-payment of such Indebtedness or Taxes will not have a Material Adverse Effect or will not result in the forfeiture of any assets of such Person; (d) no Lien is imposed upon any of such Person's assets with respect to such Indebtedness or taxes unless such Lien (x) does not attach to any Receivables or Inventory, (y) is at all times junior and subordinate in priority to the Liens in favor of Agent (except only with respect to property Taxes that have priority as a matter of applicable state law) and, (z) enforcement of such Lien is stayed during the period prior to the final resolution or disposition of such dispute; (e) if such Indebtedness or Lien, as applicable, results from, or is determined by the entry, rendition or issuance against a Person or any of its assets of a judgment, writ, order or decree, enforcement of such judgment, writ, order or decree is stayed pending a timely appeal or other judicial review; and (f) if such contest is abandoned, settled or determined

adversely (in whole or in part) to such Person, such Person forthwith pays such Indebtedness and all penalties, interest and other amounts due in connection therewith.

"Provider Agreement" shall mean the terms and conditions of any written agreement or tariff of an electric Local Distribution Company by which a Debtor becomes an approved "Competitive Retail Electric Service Provider" in such Local Distribution Company's service territory.

"Published Rate" shall mean the rate of interest published each Business Day in the Wall Street Journal "Money Rates" listing under the caption "London Interbank Offered Rates" for a one month period (or, if no such rate is published therein for any reason, then the Published Rate shall be the eurodollar rate for a one month period as published in another publication selected by the Agent).

"Purchasing CLO" shall have the meaning set forth in Section 16.3(d) hereof.

"Purchasing Lender" shall have the meaning set forth in Section 16.3(c) hereof.

"Qualified ECP Loan Party" shall mean the Debtor or Guarantor that on the Eligibility Date is (a) a corporation, partnership, proprietorship, organization, trust, or other entity other than a "commodity pool" as defined in Section 1a(10) of the CEA and CFTC regulations thereunder that has total assets exceeding $10,000,000 or (b) an Eligible Contract Participant that can cause another person to qualify as an Eligible Contract Participant on the Eligibility Date under Section 1a(18)(A)(v)(II) of the CEA by entering into or otherwise providing a "letter of credit or keepwell, support, or other agreement" for purposes of Section 1a(18)(A)(v)(II) of the CEA.

"Questionnaire" shall mean the Documentation Information Questionnaire and the responses thereto provided by Debtor and delivered to Agent.

"RCRA" shall mean the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., as same may be amended from time to time.

"Reaffirmation of Guaranty" means the reaffirmation agreement, dated as of the Closing Date, executed by the Guarantor in favor of Agent, reaffirming the guaranty and security interests, granted by the Guarantor under the Other Documents, in form and substance reasonably satisfactory to Agent.

"Reaffirmation of Other Documents" means the reaffirmation agreement, dated as of the Closing Date, executed by the Loan Parties in favor of Agent, reaffirming the guarantees, security interests, pledges and mortgages granted by the Loan Parties under the Other Documents, in form and substance reasonably satisfactory to Agent.

"Real Property" shall mean all of the Debtor's right, title and interest in and to the owned and leased premises identified on Schedule 4.5 hereto or which is hereafter owned or leased by the Debtor.

"Receivables" shall mean and include, as to the Debtor, all of the Debtor's accounts (as defined in Article 9 of the Uniform Commercial Code) and all of the Debtor's contract rights, instruments (including those evidencing indebtedness owed to the Debtor by its Affiliates), documents, chattel paper (including electronic chattel paper), general intangibles relating to accounts, contract rights, instruments, documents and chattel paper, and drafts and acceptances, credit card receivables and all other forms of obligations owing to the Debtor arising out of or in connection with the sale or lease of Inventory or Receivables or the rendition of services, all supporting obligations, guarantees and other security therefor, whether secured or unsecured, now existing or hereafter created, and whether or not specifically sold or assigned to Agent hereunder.

"Receivables Advance Rate" shall have the meaning set forth in Section 2.1(a) hereof.

"Receivables Purchase Agreement" means an Aggregation\Pooling Service Agreement or a Provider Agreement, as applicable, between Debtor as a certified natural gas or power remarketer, as the case may be, and a Local Distribution Company, acceptable to Agent in its sole discretion as advised by Agent in writing, providing for (a) the Local Distribution Company's transporting, and Debtor's supplying, Gas or Power to Customers, as the case may be, (b) the Local Distribution Company's purchase of some or all of the Receivables owed by Customers to Debtor for the supplying of Gas or Power, in connection with such Aggregation\Pooling Services Agreement or Provider Agreement, in each case as applicable, and (c) the purchase of any such Receivable occurring by no later than the calendar month following the month in which any Gas or Power, as applicable, was transported to the Customer giving rise to such Receivable. The Receivables due from the Customers to Debtor that a Local Distribution Company has purchased as described in the preceding sentence are called "Specified Sold Customer Receivables," and the Receivables due from Local Distribution Companies to a Debtor that arise from the Debtor's sale of Specified Sold Customer Receivables are called "Specified LDC Receivables". On the Closing Date, the following are Receivables Purchase Agreements: the Columbia Gas of Ohio Receivable Purchase Agreement, the Columbia Gas of Ohio Standard Choice Offer Supplier Agreement, the Columbia Gas of Pennsylvania Receivable Purchase Agreement, the Columbia Gas of Kentucky Receivables Purchase Agreement, the Dominion Receivables Purchase Agreement, the Duke Energy Receivables Purchase Agreement, the PNG Receivables Purchase Agreement and the Vectren Choice Supplier Pooling Agreement.

"Register" shall have the meaning set forth in Section 16.3(e).

"Release" shall have the meaning set forth in Section 5.7(c)(i) hereof.

"Releasee" shall have the meaning set forth in Section 1.6(a) hereof.

"Releasors" shall have the meaning set forth in Section 1.6(a) hereof.

"Reorganization Plan" means a plan or plans of reorganization in the Case.

"Replacement Lender" shall have the meaning set forth in Section 3.11 hereof.

"Reportable Compliance Event" shall mean that any Covered Entity becomes a Sanctioned Person, or is charged by indictment, criminal complaint or similar charging instrument, arraigned,

or custodially detained in connection with any Anti-Terrorism Law or any predicate crime to any Anti-Terrorism Law, or has knowledge of facts or circumstances to the effect that it is reasonably likely that any aspect of its operations is in actual or probable violation of any Anti-Terrorism Law.

"Reportable ERISA Event" shall mean a reportable event described in Section 4043(c) of ERISA or the regulations promulgated thereunder.

"Required Lenders" shall mean Lenders or any Defaulting Lender) holding greater than fifty percent (50.0%) of the Advances and, if no Advances are outstanding, shall mean Lenders holding greater than fifty percent (50.0%) of the Revolving Commitment Percentages; provided, however, if there are three (3) Lenders or two (2) Lenders, Required Lenders shall mean at least two Lenders (excluding any Defaulting Lender).

"Required Lenders for Eligibility" shall mean Lenders or any Defaulting Lender) holding at least sixty-six and two-thirds percent (66 2/3%) of the Advances and, if no Advances are outstanding, shall mean Lenders holding sixty-six and two thirds-percent (66 2/3%) of the Revolving Commitment Percentages.

"Reserve Percentage" shall mean as of any day the maximum effective percentage in effect on such day as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including supplemental, marginal and emergency reserve requirements) with respect to eurocurrency funding (currently referred to as "Eurocurrency Liabilities."

"Revolving Advances" shall mean Advances other than Letters of Credit.

"Revolving Commitment" shall mean, as to any Lender, the obligation of such Lender (if applicable), to make Revolving Advances and participate in Letters of Credit, in an aggregate principal and/or face amount not to exceed the Revolving Commitment Amount (if any) of such Lender.

"Revolving Commitment Amount" shall mean, as to any Lender the Revolving Commitment amount (if any) set forth below such Lender's name on the signature page hereto (or, in the case of any Lender that became party to this Agreement after the Closing Date pursuant to Section 16.3(c) or (d) hereof, the Revolving Commitment amount (if any) of such Lender as set forth in the applicable Commitment Transfer Supplement).

"Revolving Commitment Percentage" shall mean, as to any Lender, the Revolving Commitment Percentage (if any) set forth below such Lender's name on the signature page hereof (or, in the case of any Lender that became party to this Agreement after the Closing Date pursuant to Section 16.3(c) or (d) hereof, the Revolving Commitment Percentage (if any) of such Lender as set forth in the applicable Commitment Transfer Supplement).

"Revolving Credit Note" shall mean, collectively, the promissory notes referred to in Section 2.1(a) hereof.

"Revolving Interest Rate" shall mean, with respect to Revolving Advances that are Domestic Rate Loans, an interest rate per annum equal to the sum of the Applicable Margin plus the Alternate Base Rate.

"Sanctioned Country" shall mean a country subject to a sanctions program maintained under any Anti-Terrorism Law.

"Sanctioned Person" shall mean any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person, group, regime, entity or thing, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any Anti-Terrorism Law.

"Schedules" shall mean all schedules and statement of financial affairs required to be filed with the Bankruptcy Court under the Federal Rules of Bankruptcy Procedure with respect to the Debtor.

"SEC" shall mean the Securities and Exchange Commission or any successor thereto.

"Section 20 Subsidiary" shall mean the Subsidiary of the bank holding company controlling PNC, which Subsidiary has been granted authority by the Federal Reserve Board to underwrite and deal in certain Ineligible Securities.

"Secured Parties" shall mean, collectively, Agent, Issuer and Lenders, together with any Affiliates of Agent or any Lender to whom any Hedge Liabilities or Cash Management Liabilities are owed, and the respective successors and assigns of each of them.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"SEMCO Energy" shall mean SEMCO Energy Gas Company, a division of SEMCO Energy, Inc., a Michigan corporation.

"Settlement" shall have the meaning set forth in Section 2.20(f) hereof.

"Settlement Date" shall have the meaning set forth in Section 2.20(f) hereof.

"SOFR" shall mean, for any day, a rate equal to the secured overnight financing rate as administered by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Floor" shall mean a rate of interest per annum equal to zero basis points (0.00%).

"SOFR Reserve Percentage" shall mean, for any day, the maximum effective percentage in effect on such day, if any, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including, without limitation, supplemental, marginal and emergency reserve requirements) with respect to SOFR funding.

"Sold or Encumbered Receivable" means a Receivable of a Debtor (i) which is sold or transferred to a local gas or power distribution company (including all Specified Sold Customer Receivables) or (ii) in which a Debtor has granted a security interest to a local gas or power distribution company, in either case whether pursuant to a Receivables Purchase Agreement, any similar agreement or otherwise.

"Specified LDC Receivable Payment Deadline" means, unless otherwise specified in the following sentence, the earlier of (a) the date required in the applicable Receivables Purchase Agreement and (b) 30 days after the date a Debtor sold the Specified Sold Customer Receivable to the Local Distribution Company under a Receivables Purchase Agreement that gave rise to the Specified LDC Receivable. With respect to the following Specified LDC Receivables, Specified LDC Receivable Payment Deadline means: (i) the third (3rd) Business Day following the twentieth (20th) day of the calendar month in which Columbia Gas of Ohio purchased the applicable Specified Sold Customer Receivable under the Columbia Gas of Ohio Receivable Purchase Agreement, (ii) the twenty-fifth (25th) day of the calendar month in which Columbia Gas of Ohio purchased the applicable Specified Sold Customer Receivable under the Columbia Gas of Ohio Standard Choice Offer Supplier Agreement, (iii) the thirtieth (30th) day of the calendar month in which Columbia Gas of Pennsylvania purchased the applicable Specified Sold Customer Receivable under a Receivables Purchase Agreement, (iv) the third (3rd) Business Day following the twenty-fifth (25th) day of the calendar month in which Vectren purchased the applicable Specified Sold Customer Receivable under the Vectren Choice Supplier Pooling Agreement and (v) the last Business Day of the calendar month following the calendar month in which Columbia Gas of Kentucky purchased the applicable Specified Sold Customer Receivable under the Columbia Gas of Kentucky Receivable Purchase Agreement.

"Specified LDC Receivables" shall have the meaning provided in the definition of "Receivables Purchase Agreement."

"Specified Sold Customer Receivables" shall have the meaning provided in the definition of "Receivables Purchase Agreement."

"Statutory Fees" shall have the meaning given to the term "Statutory Fees" in the Final Order, or, prior to the entry of the Final Order, the Interim Order.

"Subsidiary" of any Person shall mean a corporation or other entity of whose Equity Interests having ordinary voting power (other than Equity Interests having such power only by reason of the happening of a contingency) to elect a majority of the directors of such corporation, or other Persons performing similar functions for such entity, are owned, directly or indirectly, by such Person.

"Subsidiary Stock" shall mean (a) with respect to the Equity Interests issued to a Debtor by any Subsidiary (other than a Foreign Subsidiary), 100% of such issued and outstanding Equity Interests, and (b) with respect to any Equity Interests issued to a Debtor by any Foreign Subsidiary (i) 100% of such issued and outstanding Equity Interests not entitled to vote (within the meaning of Treas. Reg. Section 1.956(c)(2)) and (ii) 66% (or such greater percentage that, due to a change in an Applicable Law after the date hereof, (x) could not reasonably be expected to cause the

undistributed earnings of such Foreign Subsidiary as determined for United States federal income tax purposes to be treated as a deemed dividend to the Debtor and (y) could not reasonably be expected to cause any material adverse tax consequences) of such issued and outstanding Equity Interests entitled to vote (within the meaning of Treas. Reg. Section 1.956 2(c)(2)).

"Superpriority Claim" means an allowed claim against the Debtor or the Debtor's estate in the Case which is an administrative expense claim having priority over (a) any and all allowed administrative expenses (other than the Carve-Out) and (b) all unsecured claims now existing or hereafter arising, including any administrative expenses of the kind specified in the Bankruptcy Code, including without limitation Sections 105, 326, 328, 330, 331, 364(c)(1), 365, 503, 506(c) (upon entry of the Final Order), 507, 546, 726, 1113 or 1114 of the Bankruptcy Code.

"Swap" shall mean any "swap" as defined in Section 1a(47) of the CEA and regulations thereunder other than (a) a swap entered into on, or subject to the rules of, a board of trade designated as a contract market under Section 5 of the CEA, or (b) a commodity option entered into pursuant to CFTC Regulation 32.3(a).

"Swap Obligation" means any obligation to pay or perform under any agreement, contract or transaction that constitutes a Swap which is also a Lender-Provided Commodity Hedge, Lender-Provided Interest Rate Hedge, or a Lender-Provided Foreign Currency Hedge.

"Tax Refund" shall mean any refund of (a) any Taxes paid by a Loan Party or (b) any Taxes allocable to the income of a Loan Party paid by a shareholder or equityholder of a Loan Party in respect of which such shareholder or equityholder received an Income Tax Distribution.

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

"Term" shall have the meaning set forth in Section 13.1 hereof.

"Termination Date" shall have the meaning set forth in Section 13.1 hereof.

"Termination Event" shall mean: (a) a Reportable ERISA Event with respect to any Plan; (b) the withdrawal of the Debtor or any member of the Controlled Group from a Plan during a plan year in which such entity 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) the providing of notice of intent to terminate a Plan in a distress termination described in Section 4041(c) of ERISA; (d) the commencement of proceedings by the PBGC to terminate a Plan; (e) any event or condition (a) which might constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or (b) that may result in termination of a Multiemployer Plan pursuant to Section 4041A of ERISA; (f) the partial or complete withdrawal within the meaning of Section 4203 or 4205 of ERISA, of the Debtor or any member of the Controlled Group from a Multiemployer Plan; (g) notice that a Multi-employer Plan is subject to Section 4245 of ERISA; or (h) the imposition of any liability under Title IV of

ERISA, other than for PBGC premiums due but not diligent, upon the Debtor or any member of the Controlled Group.

"Toxic Substance" shall mean and include any material present on the Real Property (including the Leasehold Interests) which has been shown to have significant adverse effect on human health or which is subject to regulation under the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 et seq., applicable state law, or any other applicable Federal or state laws now in force or hereafter enacted relating to toxic substances. "Toxic Substance" includes but is not limited to asbestos, polychlorinated biphenyls (PCBs) and lead-based paints.

"Trading with the Enemy Act" shall mean the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any enabling legislation or executive order relating thereto.

"Transferee" shall have the meaning set forth in Section 16.3(d) hereof.

"Unadjusted Benchmark Replacement" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"Undrawn Availability" at a particular date shall mean an amount equal to (a) the Maximum Revolving Advance Amount minus the Maximum Undrawn Amount of outstanding Letters of Credit, minus (b) the sum of (i) the then outstanding amount of Advances plus (ii) all amounts due and owing to Debtor's trade creditors which are outstanding which are outstanding sixty (60) days or more past their due date, plus (iii) fees and expenses for which the Debtor is liable but which have not been paid or charged to the Debtor's Account.

"Unfunded Capital Expenditures" shall mean, as to the Debtor, without duplication, a Capital Expenditure funded (a) from the Debtor's internally generated cash flow or (b) with the proceeds of a Revolving Advance.

"Uniform Commercial Code" shall have the meaning set forth in Section 1.3 hereof.

"US Trustee" shall have the meaning set forth in the Interim Order, or, after the entry of the Final Order, in the Final Order.

"USA PATRIOT Act" shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

"Vectren" shall mean Vectren Energy Delivery of Ohio, Inc.

"Vectren Choice Supplier Pooling Agreement" shall mean that certain Vectren Energy Delivery of Ohio, Inc. Choice Supplier Pooling Agreement dated October 9, 2009, by and between the Company and Vectren, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time to the extent consented to in writing by Agent.

"Week" shall mean the time period commencing with the opening of business on a Wednesday and ending on the end of business the following Tuesday.

"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.

1.3 Uniform Commercial Code Terms. All terms used herein and defined in the Uniform Commercial Code as adopted in the State of Ohio from time to time (the "Uniform Commercial Code") shall have the meaning given therein unless otherwise defined herein. Without limiting the foregoing, the terms "accounts", "chattel paper" (and "electronic chattel paper" and "tangible chattel paper"), "commercial tort claims", "deposit accounts", "documents", "equipment", "financial asset", "fixtures", "general intangibles", "goods", "instruments", "inventory", "investment property", "letter-of-credit rights", "payment intangibles", "proceeds", "promissory note" "securities", "software" and "supporting obligations" as and when used in the description of Collateral shall have the meanings given to such terms in Articles 8 or 9 of the Uniform Commercial Code. To the extent the definition of any category or type of collateral is expanded by any amendment, modification or revision to the Uniform Commercial Code, such expanded definition will apply automatically as of the date of such amendment, modification or revision.

1.4 Certain Matters of Construction. The terms "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular section, paragraph or subdivision. All references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement. Any pronoun used shall be deemed to cover all genders. Wherever appropriate in the context, terms used herein in the singular also include the plural and vice versa. All references to statutes and related regulations shall include any amendments of same and any successor statutes and regulations. Unless otherwise provided, all references to any instruments or agreements to which Agent is a party, including references to any of the Other Documents, shall include any and all modifications, supplements or amendments thereto, any and all restatements or replacements thereof and any and all extensions or renewals thereof. Except as otherwise expressly provided for herein, all references herein to the time of day shall mean the time in New York, New York. Unless otherwise provided, all financial calculations shall be performed with Inventory valued on a first-in, first-out basis. Whenever the words "including" or "include" shall be used, such words shall be understood to mean "including, without limitation" or "include, without limitation." A Default or an Event of Default shall be deemed to exist at all times during the period commencing on the date that such Default or Event of Default occurs to the date on which such Default or Event of Default is waived in writing pursuant to this Agreement or, in the case of a Default, is cured within any period of cure expressly provided for in this Agreement; and an Event of Default shall "continue" or be "continuing" until such Event of Default has been waived in writing by the Required Lenders. Any Lien referred to in this Agreement or any of the Other Documents as having been created in favor of Agent, any agreement entered into by Agent pursuant to this Agreement or any of the Other Documents, any payment made by or to or funds received by Agent pursuant to or as contemplated by this Agreement or any of the Other Documents, or any act taken

or omitted to be taken by Agent, shall, unless otherwise expressly provided, be created, entered into, made or received, or taken or omitted, for the benefit or account of Agent and Lenders. Wherever the phrase "to the best of Loan Parties' knowledge" or words of similar import relating to the knowledge or the awareness of any Loan Party are used in this Agreement or Other Documents, such phrase shall mean and refer to (i) the actual knowledge of a senior officer of any Loan Party or (ii) the knowledge that a senior officer would have obtained if he had engaged in good faith and diligent performance of his duties, including the making of such reasonably specific inquiries as may be necessary of the employees or agents of such Loan Party and a good faith attempt to ascertain the existence or accuracy of the matter to which such phrase relates. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or otherwise within the limitations of, another covenant shall not avoid the occurrence of a default if such action is taken or condition exists. In addition, all representations and warranties hereunder shall be given independent effect so that if a particular representation or warranty proves to be incorrect or is breached, the fact that another representation or warranty concerning the same or similar subject matter is correct or is not breached will not affect the incorrectness of a breach of a representation or warranty hereunder.

1.5 Acknowledgment.

(a) As of the Petition Date, the aggregate amount of all Pre-Petition Obligations owing by the Debtor to the Pre-Petition Secured Parties under and in connection with the Pre-Petition Credit Agreement and the Pre-Petition Other Documents was not less than $30,252,427.89, consisting of Revolving Advances outstanding under (and as defined in) the Pre-Petition Credit Agreement, plus interest accrued and accruing thereon at the rate in effect on the Petition Date, plus (b) outstanding letters of credit in the aggregate amount of $0, plus (c) accrued and accruing fees, plus (d) all accrued and accruing costs and expenses (including attorneys' fees and legal expenses), plus (e) all accrued and accruing charges and obligations in respect of Cash Management Products and Services (as defined in the Pre-Petition Credit Agreement), plus (f) any other charges and liabilities accrued, accruing or chargeable, whether due or to become due, matured or contingent, under the Pre-Petition Credit Agreement (collectively, "Pre-Petition Obligations"). Without limiting the foregoing, the Pre-Petition Obligations shall include all indemnification obligations of Debtor and Guarantors to the Pre-Petition Secured Parties arising under the Pre-Petition Credit Agreement and the Pre-Petition Other Documents, including without limitation the indemnitee and other protections provided to indemnitees under the obligations arising under the Pre-Petition Credit Agreement which survive payment in full of the Pre-Petition Obligations.

(b) The Debtor confirms and agrees that Agent, for the benefit of itself and the other Lenders, has and shall continue to have valid, enforceable and perfected first priority security interests and Liens upon Pre-Petition Collateral of the Debtor heretofore granted to the Pre-Petition Secured Parties pursuant to the Pre-Petition Other Documents as in effect immediately prior to the Petition Date to secure all of the Pre-Petition Obligations, as well as valid and enforceable first priority security interests in and Liens upon all Collateral of the Debtor granted to Agent, in accordance with the Interim Order and the Final Order, for the benefit of itself and the Pre-Petition

Secured Parties and the Post-Petition Secured Parties, upon the entry of, and under, the Interim Order or Final Order, and under this Agreement.

1.6 Release.

(a) In consideration of and as a condition to the Agent and the Lenders making Advances, consent to use of Cash Collateral and providing other credit and financial accommodations to the Debtor pursuant to the provisions of this Agreement, the Interim Order, the Final Order and the Other Documents, the Debtor, on behalf of itself, and successors and assigns and the Debtor's estate (collectively, "Releasors"), subject only to Section VIII of the Interim Order, hereby absolutely releases and forever discharges and acquits each Pre-Petition Secured Party, and each of their respective successors, participants, and assigns, and their present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, and other representatives (the Pre-Petition Agent, each Pre-Petition Lender, and all such other parties being hereinafter referred to collectively as "Releasees") of and from any and all claims, demands, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages, and any and all other claims, counterclaims, cross claims, defenses, rights of set-off, demands, and liabilities whatsoever (individually, a "Pre-Petition Released Claim" and collectively, "Pre-Petition Released Claims") of every kind, name, nature and description, known or unknown, foreseen or unforeseen, matured or contingent, liquidated or unliquidated, primary or secondary, suspected or unsuspected, both at law and in equity, which, including, without limitation, any so-called "lender liability" claims or defenses, that any Releasor may now or hereafter own, hold, have, or claim to have against Releasees, or any of them for, upon, or by reason of any nature, cause, or thing whatsoever which arose or may have arisen at any time on or prior to the date of this Agreement, in respect of the Pre-Petition Obligations, the Pre-Petition Other Documents, and any Revolving Advances, Letters of Credit, or other financial accommodations under the Pre-Petition Other Documents; provided that such release shall not be effective with respect to the Debtor until entry of the Final Order, and with respect to the Debtor's estates, until the expiration of the Challenge Period. In addition, upon entry of the Final Order and the indefeasible payment in full of all Obligations owed to the Agent and the Lenders by the Debtor and termination of the rights and obligations arising under this Agreement, the Interim Order and the Other Documents (which payment and termination shall be on terms and conditions acceptable to the Agent), the Agent and the Lenders shall be automatically deemed absolutely and forever released and discharged from any and all obligations, liabilities, actions, duties, responsibilities, commitments, claims and causes of action arising or occurring in connection with or related to this Agreement, the Other Documents, the Interim Order or the Final Order (whether known or unknown, direct or indirect, matured or contingent, foreseen or unforeseen, due or not due, primary or secondary, liquidated or unliquidated).

(b) Upon the entry of the Interim Order, the Debtor, on behalf of itself and the Releasors, hereby, absolutely, unconditionally and irrevocably, covenants and agrees to absolutely, unconditionally and irrevocably, covenant and agree, with each Releasee that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Pre-Petition Released Claim released, remised and discharged by each Releasee pursuant to this Section 1.6. If any Releasor violates the foregoing covenant, the Debtor agree to pay, in addition

to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by any Releasee as a result of such violation.

1.7 Adoption and Ratification. The Debtor hereby (a) ratifies, assumes, adopts and agrees to be bound by all of the Pre-Petition Other Documents to which it is a party and (b) agrees to pay all Pre-Petition Obligations in accordance with the terms of the Pre-Petition Other Documents and in accordance with the Interim Order and Final Order. Each Pre-Petition Other Document to which the Debtor is a party is hereby incorporated herein by reference and hereby is and shall be deemed adopted and assumed in full by the Debtor, as a debtor and debtor-in-possession, and considered an agreement among the Debtor, on the one hand, and the applicable Secured Parties, on the other hand.

II. ADVANCES, PAYMENTS.

2.1 Revolving Advances. Subject to the terms and conditions of this Agreement (including without limitation, Section 8.2 hereof) and in reliance upon the representations and warranties of the Debtor contained herein, each Lender severally and not jointly agrees to make Revolving Advances to Debtor, from the Closing Date through the Termination Date, in aggregate amounts outstanding at any time equal to such Lender's Revolving Commitment Percentage of the Maximum Revolving Advance Amount less the Maximum Undrawn Amount of all outstanding Letters of Credit; provided however that the amount of Revolving Advances made by Lenders in any week shall not exceed the aggregate "expenses and disbursements" for such week set forth in the Budget unless Agent otherwise agrees in its sole discretion (subject to the Permitted Variance other than with respect to any Carve-Out).

The Revolving Advances shall be evidenced by one or more secured promissory notes (collectively, the "Revolving Credit Note") substantially in the form attached hereto as Exhibit 2.1(a).

2.2 Procedure for Revolving Advances Borrowing. The Debtor may notify Agent prior to 10:00 a.m. on a Business Day of a Debtor's request to incur, on that day, a Revolving Advance hereunder. Should any amount required to be paid as interest hereunder, or as fees or other charges under this Agreement or any other agreement with Agent or Lenders, or with respect to any other Obligation under this Agreement, become due, same shall be deemed a request for a Revolving Advance maintained as a Domestic Rate Loan as of the date such payment is due, in the amount required to pay in full such interest, fee, charge or Obligation under this Agreement or any other agreement with Agent or Lenders, and such request shall be irrevocable.

2.3 Disbursement of Advance Proceeds. All Advances shall be disbursed from whichever office or other place Agent may designate from time to time and, together with any and all other Obligations of Debtor to Agent or Lenders, shall be charged to Debtor's Account on Agent's books. The proceeds of each Revolving Advance requested by the Debtor or deemed to have been requested by the Debtor under Sections 2.2, 2.12 or 2.20 hereof shall, (i) with respect to requested Revolving Advances, to the extent Lenders make such Revolving Advances in accordance with Section 2.2, 2.12 or 2.20 hereof, be made available to the applicable Debtor on the day so requested by way of credit to the Debtor's operating account at PNC, or such other bank as Debtor may designate following notification to Agent, in immediately available federal funds

or other immediately available funds or, (ii) with respect to Revolving Advances deemed to have been requested by the Debtor be disbursed to Agent to be applied to the outstanding Obligations giving rise to such deemed request. During the Term, Debtor may use the Revolving Advances by borrowing, prepaying and reborrowing, all in accordance with the terms and conditions hereof.

2.4 Reserved.

2.5 Maximum Advances. The aggregate balance of Revolving Advances at any time shall not exceed the Maximum Revolving Advance Amount, minus, the aggregate Maximum Undrawn Amount of all issued and outstanding Letters of Credit.

2.6 Manner and Repayment of Advances.

(a) The Revolving Advances shall be due and payable in full on the last day of the Term subject to earlier prepayment as herein provided. Notwithstanding the foregoing, all Advances shall be subject to earlier repayment upon (x) acceleration upon the occurrence of an Event of Default under this Agreement or (y) termination of this Agreement. Each payment (including each prepayment) by the Debtor on account of the principal of and interest on the Advances shall be applied, pro rata according to the applicable Revolving Commitment Percentages of Lenders, to the outstanding Revolving Advances (subject to any contrary provisions of Section 2.23).

(b) The Debtor recognizes that the amounts evidenced by checks, notes, drafts or any other items of payment relating to and/or proceeds of Collateral may not be collectible by Agent on the date received by Agent. Agent shall conditionally credit Debtor's Account for each item of payment on the next Business Day after the Business Day on which such item of payment is received by Agent (and the Business Day on which each such item of payment is so credited shall be referred to, with respect to such item, as the "Application Date"). Agent is not, however, required to credit Debtor's Account for the amount of any item of payment which is unsatisfactory to Agent and Agent may charge Debtor's Account for the amount of any item of payment which is returned, for any reason whatsoever, to Agent unpaid. Subject to the foregoing, Debtor agrees that for purposes of computing the interest charges under this Agreement, each item of payment received by Agent shall be deemed applied by Agent on account of the Obligations on its respective Application Date. Debtor further agrees that there is a monthly float charge payable to Agent for Agent's sole benefit, in an amount equal to (y) the face amount of all items of payment received each day during the prior month (including items of payment received by Agent as a wire transfer or electronic depository check) multiplied by (z) the Revolving Interest Rate with respect to Domestic Rate Loans for one day (i.e. Revolving Interest Rate divided by 360 or 365/366 as applicable) The monthly float charge shall be calculated daily and charged once per month, relating to all payments collected in the prior month.

(c) All payments of principal, interest and other amounts payable hereunder, or under any of the Other Documents shall be made to Agent at the Payment Office not later than 1:00 p.m. (New York time) on the due date therefor in lawful money of the United States of America in federal funds or other funds immediately available to Agent. Agent shall have the right

to effectuate payment on any and all Obligations due and owing hereunder by charging Debtor's Account or by making Advances as provided in Section 2.2 hereof.

(d) Debtor shall pay principal, interest, and all other amounts payable hereunder, or under any related agreement, without any deduction whatsoever, including, but not limited to, any deduction for any setoff or counterclaim.

2.7 Repayment of Excess Advances. If at any time the aggregate balance of outstanding Revolving Advances and/or Advances taken as a whole exceeds the maximum amount of such type of Advances and/or Advances taken as a whole (as applicable) permitted hereunder, such excess Advances shall be immediately due and payable without the necessity of any demand, at the Payment Office, whether or not a Default or an Event of Default has occurred.

2.8 Statement of Account. Agent shall maintain, in accordance with its customary procedures, a loan account ("Debtor's Account") in the name of Debtor in which shall be recorded the date and amount of each Advance made by Agent and the date and amount of each payment in respect thereof; provided, however, the failure by Agent to record the date and amount of any Advance shall not adversely affect Agent or any Lender. Each month, Agent shall send to Debtor a statement showing the accounting for the Advances made, payments made or credited in respect thereof, and other transactions between Agent, Lenders and Debtor during such month. The monthly statements shall be deemed correct and binding upon Debtor in the absence of manifest error and shall constitute an account stated between Lenders and Debtor unless Agent receives a written statement of Debtor's specific exceptions thereto within thirty (30) days after such statement is received by Debtor. The records of Agent with respect to Debtor's Account shall be conclusive evidence absent manifest error of the amounts of Advances and other charges thereto and of payments applicable thereto.

2.9 Letters of Credit.

(a) Subject to the terms and conditions hereof, Issuer shall issue or cause the issuance of standby and/or trade letters of credit denominated in Dollars ("Letters of Credit") for the account of the Debtor except to the extent that the issuance thereof would then cause the sum of (i) the outstanding Revolving Advances plus (ii) the Maximum Undrawn Amount of all outstanding Letters of Credit, plus (iii) the Maximum Undrawn Amount of the Letter of Credit to be issued to exceed the Maximum Revolving Advance Amount. The Maximum Undrawn Amount of all outstanding Letters of Credit shall not exceed in the aggregate at any time the Letter of Credit Sublimit. All disbursements or payments related to Letters of Credit shall be deemed to be Domestic Rate Loans consisting of Revolving Advances and shall bear interest at the Revolving Interest Rate for Domestic Rate Loans. Letters of Credit that have not been drawn upon shall not bear interest (but fees shall accrue in respect of outstanding Letters of Credit as provided in Section 3.2 hereof). Each Existing Letter of Credit shall be deemed to be a Letter of Credit issued under this Agreement and entitled to the benefits of a Letter of Credit issued hereunder.

(b) Notwithstanding any provision of this Agreement, Issuer shall not be under any obligation to issue any Letter of Credit if (i) any order, judgment or decree of any Governmental Body or arbitrator shall by its terms purport to enjoin or restrain Issuer from issuing

any Letter of Credit, or any Law applicable to Issuer or any request or directive (whether or not having the force of law) from any Governmental Body with jurisdiction over Issuer shall prohibit, or request that Issuer refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon Issuer with respect to the Letter of Credit any restriction, reserve or capital requirement (for which Issuer is not otherwise compensated hereunder) not in effect on the date of this Agreement, or shall impose upon Issuer any unreimbursed loss, cost or expense which was not applicable on the date of this Agreement, and which Issuer in good faith deems material to it, or (ii) the issuance of the Letter of Credit would violate one or more policies of Issuer applicable to letters of credit generally.

(c) Notwithstanding anything to the contrary herein, all undrawn Letters of Credit issued under (and as defined in) the Pre-Petition Credit Agreement shall be deemed to have been issued hereunder. Issuer shall not be under any obligation to issue any Letter of Credit other than those issued under the Pre-Petition Credit Agreement.

2.10 Issuance of Letters of Credit.

(a) The Debtor may request Issuer to issue or cause the issuance of a Letter of Credit by delivering to Issuer, with a copy to Agent at the Payment Office, prior to 10:00 a.m., at least five (5) Business Days prior to the proposed date of issuance, such Issuer's form of Letter of Credit Application (the "Letter of Credit Application") completed to the satisfaction of Agent and Issuer; and, such other certificates, documents and other papers and information as Agent or Issuer may reasonably request. Debtor also has the right to give instructions and make agreements with respect to any application, any applicable letter of credit and security agreement, any applicable letter of credit reimbursement agreement and/or any other applicable agreement, any letter of credit and the disposition of documents, disposition of any unutilized funds, and to agree with Agent upon any amendment, extension or renewal of any Letter of Credit. Issuer shall not issue any requested Letter of Credit if such Issuer has received notice from a Debtor, Agent or any Lender that one or more of the applicable conditions set forth in Section 8.2 of this Agreement have not been satisfied or the commitments of Lenders to make Revolving Advances hereunder have been terminated for any reason.

(b) Each Letter of Credit shall, among other things, (i) provide for the payment of sight drafts, other written demands for payment, or acceptances of issuance drafts when presented for honor thereunder in accordance with the terms thereof and when accompanied by the documents described therein and (ii) have an expiry date not later than twelve (12) months after such Letter of Credit's date of issuance and in no event later than the last day of the Term. Each standby Letter of Credit shall be subject either to the Uniform Customs and Practice for Documentary Credits as most recently published by the International Chamber of Commerce at the time a Letter of Credit is issued (the "UCP") or the International Standby Practices (International Chamber of Commerce Publication Number 590) (the "ISP98 Rules")), and any subsequent revision thereof at the time a standby Letter of Credit is issued, as determined by Issuer, and each trade Letter of Credit shall be subject to the UCP.

(c) Agent shall use its reasonable efforts to notify Lenders of the request by Debtor for a Letter of Credit hereunder.

2.11 Requirements For Issuance of Letters of Credit.

(a) Debtor shall authorize and direct any Issuer to name the applicable Debtor as the "Applicant" or "Account Party" of each Letter of Credit. If Agent is not Issuer of any Letter of Credit, Debtor shall authorize and direct Issuer to deliver to Agent all instruments, documents, and other writings and property received by Issuer pursuant to the Letter of Credit and to accept and rely upon Agent's instructions and agreements with respect to all matters arising in connection with the Letter of Credit, the application therefor.

(b) In connection with all trade Letters of Credit issued or caused to be issued by Issuer under this Agreement, the Debtor hereby appoints Issuer, or its designee, as its attorney, with full power and authority if an Event of Default shall have occurred, (i) to sign and/or endorse the Debtor's name upon any warehouse or other receipts, letter of credit applications and acceptances, (ii) to sign the Debtor's name on bills of lading; (iii) to clear Inventory through the United States of America Customs Department ("Customs") in the name of the Debtor or Issuer or Issuer's designee, and to sign and deliver to Customs officials powers of attorney in the name of the Debtor for such purpose; and (iv) to complete in the Debtor's name or Issuer's, or in the name of Issuer's designee, any order, sale or transaction, obtain the necessary documents in connection therewith, and collect the proceeds thereof. Neither Agent, Issuer nor their attorneys will be liable for any acts or omissions nor for any error of judgment or mistakes of fact or law, except for Agent's, Issuer's or their respective attorney's willful misconduct. This power, being coupled with an interest, is irrevocable as long as any Letters of Credit remain outstanding.

2.12 Disbursements, Reimbursement.

(a) Immediately upon the issuance of each Letter of Credit, each Lender holding a Revolving Commitment shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from Issuer a participation in each Letter of Credit and each drawing thereunder in an amount equal to such Lender's Revolving Commitment Percentage of the Maximum Undrawn Amount of such Letter of Credit (as in effect from time to time) and the amount of such drawing, respectively.

(b) In the event of any request for a drawing under a Letter of Credit by the beneficiary or transferee thereof, Issuer will promptly notify Agent and Debtor. Regardless of whether Debtor shall have received such notice, Debtor shall reimburse (such obligation to reimburse Issuer shall sometimes be referred to as a "Reimbursement Obligation") Issuer prior to 12:00 Noon, on each date that an amount is paid by Issuer under any Letter of Credit (each such date, a "Drawing Date") in an amount equal to the amount so paid by Issuer. In the event Debtor fails to reimburse Issuer for the full amount of any drawing under any Letter of Credit by 12:00 Noon, on the Drawing Date, Issuer will promptly notify Agent each Lender holding a Revolving Commitment thereof, and Debtor shall be automatically deemed to have requested that a Revolving Advance maintained as a Domestic Rate Loan be made by Lenders to be disbursed on the Drawing Date under such Letter of Credit, and Lenders holding the Revolving Commitments shall be unconditionally obligated to fund such Revolving Advance (all whether or not the conditions specified in Section 8.2 are then satisfied or the commitments of Lenders to make Revolving Advances hereunder have been terminated for any reason) as provided for in Section

2.12(c) immediately below. Any notice given by Issuer pursuant to this Section 2.12(b) may be oral if promptly confirmed in writing; provided that the lack of such a confirmation shall not affect the conclusiveness or binding effect of such notice.

(c) Each Lender holding a Revolving Commitment shall upon any notice pursuant to Section 2.12(b) make available to Issuer through Agent at the Payment Office an amount in immediately available funds equal to its Revolving Commitment Percentage (subject to any contrary provisions of Section 2.23) of the amount of the drawing, whereupon the participating Lenders shall (subject to Section 2.12(d)) each be deemed to have made a Revolving Advance maintained as a Domestic Rate Loan to Debtor in that amount. If any Lender holding a Revolving Commitment so notified fails to make available to Agent, for the benefit of Issuer, the amount of such Lender's Revolving Commitment Percentage of such amount by 2:00 p.m. on the Drawing Date, then interest shall accrue on such Lender's obligation to make such payment, from the Drawing Date to the date on which such Lender makes such payment (i) at a rate per annum equal to the Federal Funds Effective Rate during the first three (3) days following the Drawing Date and (ii) at a rate per annum equal to the rate applicable to Revolving Advances maintained as a Domestic Rate Loan on and after the fourth day following the Drawing Date. Agent and Issuer will promptly give notice of the occurrence of the Drawing Date, but failure of Agent or Issuer to give any such notice on the Drawing Date or in sufficient time to enable any Lender holding a Revolving Commitment to effect such payment on such date shall not relieve such Lender from its obligations under this Section 2.12(c), provided that such Lender shall not be obligated to pay interest as provided in Section 2.12(c) (i) and (ii) until and commencing from the date of receipt of notice from Agent or Issuer of a drawing.

(d) With respect to any unreimbursed drawing that is not converted into a Revolving Advance maintained as a Domestic Rate Loan to Debtor in whole or in part as contemplated by Section 2.12(b), because of Debtor's failure to satisfy the conditions set forth in Section 8.2 hereof (other than any notice requirements) or for any other reason, Debtor shall be deemed to have incurred from Agent a borrowing (each a "Letter of Credit Borrowing") in the amount of such drawing. Such Letter of Credit Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the rate per annum applicable to a Revolving Advance maintained as a Domestic Rate Loan. Each applicable Lender's payment to Agent pursuant to Section 2.12(c) shall be deemed to be a payment in respect of its participation in such Letter of Credit Borrowing and shall constitute a "Participation Advance" from such Lender in satisfaction of its Participation Commitment in respect of the applicable Letter of Credit under this Section 2.12.

(e) Each applicable Lender's Participation Commitment in respect of the Letters of Credit shall continue until the last to occur of any of the following events: (x) Agent ceases to be obligated to issue or cause to be issued Letters of Credit hereunder; (y) no Letter of Credit issued or created hereunder remains outstanding and uncancelled and (z) all Persons (other than Debtor) have been fully reimbursed for all payments made under or relating to Letters of Credit.

2.13 Repayment of Participation Advances.

(a) Upon (and only upon) receipt by Agent for the account of Issuer of immediately available funds from Debtor (i) in reimbursement of any payment made by Issuer or Agent under the Letter of Credit with respect to which any Lender has made a Participation Advance to Agent, or (ii) in payment of interest on such a payment made by Issuer or Agent under such a Letter of Credit, Agent will pay to each Lender holding a Revolving Commitment, in the same funds as those received by Agent, the amount of such Lender's Revolving Commitment Percentage of such funds, except Agent shall retain the amount of the Revolving Commitment Percentage of such funds of any Lender holding a Revolving Commitment that did not make a Participation Advance in respect of such payment by Agent (and, to the extent that any of the other Lender(s) holding the Revolving Commitment have funded any portion of such Defaulting Lender's Participation Advance in accordance with the provisions of Section 2.23, Agent will pay over to such Non-Defaulting Lenders a pro rata portion of the funds so withheld from such Defaulting Lender).

(b) If Issuer or Agent is required at any time to return to the Debtor, or to a trustee, receiver, liquidator, custodian, or any official in any insolvency proceeding, any portion of the payments made by Debtor to Issuer or Agent pursuant to Section 2.13(a) in reimbursement of a payment made under the Letter of Credit or interest or fee thereon, each applicable Lender shall, on demand of Agent, forthwith return to Issuer or Agent the amount of its Revolving Commitment Percentage of any amounts so returned by Issuer or Agent plus interest at the Federal Funds Effective Rate.

2.14 Documentation. The Debtor agrees to be bound by the terms of the Letter of Credit Application and by Issuer's interpretations of any Letter of Credit issued on behalf of the Debtor and by Issuer's written regulations and customary practices relating to letters of credit, though Issuer's interpretations may be different from the Debtor's own. In the event of a conflict between the Letter of Credit Application and this Agreement, this Agreement shall govern. It is understood and agreed that, except in the case of gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment), Issuer shall not be liable for any error, negligence and/or mistakes, whether of omission or commission, in following the Debtor's instructions or those contained in the Letters of Credit or any modifications, amendments or supplements thereto.

2.15 Determination to Honor Drawing Request. In determining whether to honor any request for drawing under any Letter of Credit by the beneficiary thereof, Issuer shall be responsible only to determine that the documents and certificates required to be delivered under such Letter of Credit have been delivered and that they comply on their face with the requirements of such Letter of Credit and that any other drawing condition appearing on the face of such Letter of Credit has been satisfied in the manner so set forth.

2.16 Nature of Participation and Reimbursement Obligations. The obligation of each Lender holding a Revolving Commitment in accordance with this Agreement to make the Revolving Advances or Participation Advances as a result of a drawing under a Letter of Credit issued in accordance with the terms of this Agreement, and the obligations of Debtor to reimburse Issuer upon a draw under a Letter of Credit issued in accordance with the terms of this Agreement,

shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Section 2.16 under all circumstances, including the following circumstances:

(i) any set-off, counterclaim, recoupment, defense or other right which such Lender or the Debtor, as the case may be, may have against Issuer, Agent, the Debtor or Lender, as the case may be, or any other Person for any reason whatsoever;

(ii) the failure of the Debtor or any other Person to comply, in connection with a Letter of Credit Borrowing, with the conditions set forth in this Agreement for the making of a Revolving Advance, it being acknowledged that such conditions are not required for the making of a Letter of Credit Borrowing and the obligation of Lenders to make Participation Advances under Section 2.12;

(iii) any lack of validity or enforceability of any Letter of Credit;

(iv) any claim of breach of warranty that might be made by the Debtor, Agent, Issuer or any Lender against the beneficiary of a Letter of Credit, or the existence of any claim, set-off, recoupment, counterclaim, cross-claim, defense or other right which the Debtor, Agent, Issuer or any Lender may have at any time against a beneficiary, any successor beneficiary or any transferee of any Letter of Credit or assignee of the proceeds thereof (or any Persons for whom any such transferee or assignee may be acting), Issuer, Agent or any Lender or any other Person, whether in connection with this Agreement, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between the Debtor or any Subsidiaries of the Debtor and the beneficiary for which any Letter of Credit was procured);

(v) the lack of power or authority of any signer of (or any defect in or forgery of any signature or endorsement on) or the form of or lack of validity, sufficiency, accuracy, enforceability or genuineness of any draft, demand, instrument, certificate or other document presented under or in connection with any Letter of Credit, or any fraud or alleged fraud in connection with any Letter of Credit, or the transport of any property or provision of services relating to a Letter of Credit, in each case even if Issuer or any of Issuer's Affiliates has been notified thereof;

(vi) payment by Issuer under any Letter of Credit against presentation of a demand, draft or certificate or other document which is forged or does not fully comply with the terms of such Letter of Credit (provided that the foregoing shall not excuse Issuer from any obligation under the terms of any applicable Letter of Credit to require the presentation of documents that on their face appear to satisfy any applicable requirements for drawing under such Letter of Credit prior to honoring or paying any such draw);

(vii) the solvency of, or any acts or omissions by, any beneficiary of any Letter of Credit, or any other Person having a role in any transaction or obligation relating to a Letter of Credit, or the existence, nature, quality, quantity, condition, value or other characteristic of any property or services relating to a Letter of Credit;

(viii) any failure by Issuer or any of Issuer's Affiliates to issue any Letter of Credit in the form requested by Debtor, unless Agent and Issuer have each received written notice from Debtor of such failure within three (3) Business Days after Issuer shall have furnished Agent and Debtor a copy of such Letter of Credit and such error is material and no drawing has been made thereon prior to receipt of such notice;

(ix) the occurrence of any Material Adverse Effect;

(x) any breach of this Agreement or any Other Document by any party thereto;

(xi) the occurrence or continuance of an insolvency proceeding with respect to the Debtor or any Guarantor;

(xii) the fact that a Default or an Event of Default shall have occurred and be continuing;

(xiii) the fact that the Term shall have expired or this Agreement or the obligations of Lenders to make Advances have been terminated; and

(xiv) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

2.17 Indemnity. In addition to amounts payable as provided in Section 16.5, the Debtor hereby agrees to protect, indemnify, pay and save harmless Issuer and any of Issuer's Affiliates that have issued a Letter of Credit from and against any and all claims, demands, liabilities, damages, taxes, penalties, interest, judgments, losses, costs, charges and expenses (including reasonable fees, expenses and disbursements of counsel and allocated costs of internal counsel) which Issuer or any of Issuer's Affiliates may incur or be subject to as a consequence, direct or indirect, of the issuance of any Letter of Credit, other than as a result of (A) the gross negligence or willful misconduct of Issuer as determined by a final and non-appealable judgment of a court of competent jurisdiction or (b) the wrongful dishonor by Issuer or any of Issuer's Affiliates of a proper demand for payment made under any Letter of Credit, except if such dishonor resulted from any act or omission, whether rightful or wrongful, of any present or future de jure or de facto Governmental Body (all such acts or omissions herein called "Governmental Acts").

2.18 Liability for Acts and Omissions.

(a) As between Debtor and Issuer, Agent and Lenders, the Debtor assumes all risks of the acts and omissions of, or misuse of the Letters of Credit by, the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, Issuer shall not be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for an issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged (even if Issuer or any of its Affiliates shall have been notified thereof); (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds

thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) the failure of the beneficiary of any such Letter of Credit, or any other party to which such Letter of Credit may be transferred, to comply fully with any conditions required in order to draw upon such Letter of Credit or any other claim of the Debtor against any beneficiary of such Letter of Credit, or any such transferee, or any dispute between or among the Debtor and any beneficiary of any Letter of Credit or any such transferee; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, facsimile, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of Issuer, including any Governmental Acts, and none of the above shall affect or impair, or prevent the vesting of, any of Issuer's rights or powers hereunder. Nothing in the preceding sentence shall relieve Issuer from liability for Issuer's gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment) in connection with actions or omissions described in such clauses (i) through (viii) of such sentence. In no event shall Issuer or Issuer's Affiliates be liable to the Debtor for any indirect, consequential, incidental, punitive, exemplary or special damages or expenses (including without limitation attorneys' fees), or for any damages resulting from any change in the value of any property relating to a Letter of Credit.

(b) Without limiting the generality of the foregoing, Issuer and each of its Affiliates (i) may rely on any oral or other communication believed in good faith by Issuer or such Affiliate to have been authorized or given by or on behalf of the applicant for a Letter of Credit; (ii) may honor any presentation if the documents presented appear on their face substantially to comply with the terms and conditions of the relevant Letter of Credit; (iii) may honor a previously dishonored presentation under a Letter of Credit, whether such dishonor was pursuant to a court order, to settle or compromise any claim of wrongful dishonor, or otherwise, and shall be entitled to reimbursement to the same extent as if such presentation had initially been honored, together with any interest paid by Issuer or its Affiliates; (iv) may honor any drawing that is payable upon presentation of a statement advising negotiation or payment, upon receipt of such statement (even if such statement indicates that a draft or other document is being delivered separately), and shall not be liable for any failure of any such draft or other document to arrive, or to conform in any way with the relevant Letter of Credit; (v) may pay any paying or negotiating bank claiming that it rightfully honored under the laws or practices of the place where such bank is located; and (vi) may settle or adjust any claim or demand made on Issuer or its Affiliate in any way related to any order issued at the applicant's request to an air carrier, a letter of guarantee or of indemnity issued to a steamship agent or carrier or any document or instrument of like import (each an "Order") and honor any drawing in connection with any Letter of Credit that is the subject of such Order, notwithstanding that any drafts or other documents presented in connection with such Letter of Credit fail to conform in any way with such Letter of Credit.

(c) In furtherance and extension and not in limitation of the specific provisions set forth above, any action taken or omitted by Issuer under or in connection with the Letters of Credit issued by it or any documents and certificates delivered thereunder, if taken or omitted in good faith and without gross negligence (as determined by a court of competent jurisdiction in a

final non-appealable judgment), shall not put Issuer under any resulting liability to the Debtor, Agent or any Lender.

2.19 Additional Payments. Any sums expended by Agent or any Lender due to the Debtor's failure to perform or comply with its obligations under this Agreement or any Other Document including the Debtor's obligations under Sections 4.2, 4.4, 4.11, 4.15, 6.1 and 6.6 hereof, may be charged to Debtor's Account as a Revolving Advance and added to the Obligations.

2.20 Manner of Borrowing and Payment.

(a) Each borrowing of Revolving Advances shall be advanced according to the applicable Revolving Commitment Percentages of Lenders (subject to any contrary terms of Section 2.23).

(b) Each payment (including each prepayment) by Debtor on account of the principal of and interest on the Revolving Advances, shall be applied to the Pre-Petition Obligations or to the Revolving Advances pro rata according to the applicable Revolving Commitment Percentages of Lenders, in the sole discretion of Agent. Except as expressly provided herein, all payments (including prepayments) to be made by the Debtor on account of principal, interest and fees shall be made without set off or counterclaim and shall be made to Agent on behalf of Lenders to the Payment Office, in each case on or prior to 1:00 p.m., New York time, in Dollars and in immediately available funds.

(c) (i) Notwithstanding anything to the contrary contained in Sections 2.20(a) and (b) hereof, commencing with the first Business Day following the Closing Date, each borrowing of Revolving Advances shall be advanced by Agent and each payment by the Debtor on account of Revolving Advances shall be applied first to those Revolving Advances advanced by Agent. On or before 1:00 p.m., New York time, on each Settlement Date commencing with the first Settlement Date following the Closing Date, Agent and Lenders shall make certain payments as follows: (I) if the aggregate amount of new Revolving Advances made by Agent during the preceding Week (if any) exceeds the aggregate amount of repayments applied to outstanding Revolving Advances during such preceding Week, then each Lender shall provide Agent with funds in an amount equal to its applicable Revolving Commitment Percentage of the difference between (w) such Revolving Advances and (x) such repayments and (II) if the aggregate amount of repayments applied to outstanding Revolving Advances during such Week exceeds the aggregate amount of new Revolving Advances made during such Week, then Agent shall provide each Lender with funds in an amount equal to its applicable Revolving Commitment Percentage of the difference between (y) such repayments and (z) such Revolving Advances.

(ii) Each Lender shall be entitled to earn interest at the applicable Revolving Interest Rate on outstanding Advances which it has funded.

(iii) Promptly following each Settlement Date, Agent shall submit to each Lender a certificate with respect to payments received and Advances made during the Week immediately preceding such Settlement Date. Such certificate of Agent shall be conclusive in the absence of manifest error.

(d) If any Lender or Participant (a "Benefited Lender") shall at any time receive any payment of all or part of its Advances, or interest thereon, or receive any Collateral in respect thereof (whether voluntarily or involuntarily or by set-off) in a greater proportion than any such payment to and Collateral received by any other Lender, if any, in respect of such other Lender's Advances, or interest thereon, and such greater proportionate payment or receipt of Collateral is not expressly permitted hereunder, such Benefited Lender shall purchase for cash from the other Lenders a participation in such portion of each such other Lender's Advances, or shall provide such other Lender with the benefits of any such Collateral, or the proceeds thereof; as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such Collateral or proceeds ratably with each of the other Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest. Each Lender so purchasing a portion of another Lender's Advances may exercise all rights of payment (including rights of set-off) with respect to such portion as fully as if such Lender were the direct holder of such portion.

(e) Unless Agent shall have been notified by telephone, confirmed in writing, by any Lender that such Lender will not make the amount which would constitute its applicable Revolving Commitment Percentage of the Advances available to Agent, Agent may (but shall not be obligated to) assume that such Lender shall make such amount available to Agent on the next Settlement Date and, in reliance upon such assumption, make available to Debtor a corresponding amount. Agent will promptly notify Debtor of its receipt of any such notice from a Lender. If such amount is made available to Agent on a date after such next Settlement Date, such Lender shall pay to Agent on demand an amount equal to the product of (i) the daily average Federal Funds Rate (computed on the basis of a year of 360 days) during such period as quoted by Agent, times (ii) such amount, times (iii) the number of days from and including such Settlement Date to the date on which such amount becomes immediately available to Agent. A certificate of Agent submitted to any Lender with respect to any amounts owing under this paragraph (e) shall be conclusive, in the absence of manifest error. If such amount is not in fact made available to Agent by such Lender within three (3) Business Days after such Settlement Date, Agent shall be entitled to recover such an amount, with interest thereon at the rate per annum then applicable to such Revolving Advances hereunder, on demand from Debtor; provided, however, that Agent's right to such recovery shall not prejudice or otherwise adversely affect Debtor's rights (if any) against such Lender.

2.21 Mandatory Prepayments.

(a) Subject to the last sentence of this Section 2.21(a), when the Debtor receives any net cash proceeds from a sale or other disposition of any Collateral or any other assets or property (i.e., gross cash proceeds less the reasonable direct costs of such sales or other dispositions approved by Agent, hereinafter, "Net Sales Proceeds"), the Debtor shall promptly repay the Obligations in an amount equal to the Net Sales Proceeds by directing payment of the Net Sales Proceeds of such Collateral or other assets or property no later than one (1) Business Day after receipt of such Net Sales Proceeds by the Debtor in accordance with Section 2.6(c), and until the date of payment, such Net Sales Proceeds shall be held in trust for Agent. The foregoing shall not be deemed to be implied consent to any such sale otherwise prohibited by the terms and conditions

hereof. Such repayments shall be applied to either the Pre-Petition Obligations or the Post-Petition Obligations as Agent may elect in its sole and absolute discretion in accordance with the Interim Order and the Final Order, subject to Borrowers' ability to reborrow Revolving Advances in accordance with the terms hereof.

(b) In the event of any issuance or other incurrence of Indebtedness by Debtor or the issuance of any Equity Interests by the Debtor, Debtor shall, no later than one (1) Business Day after the receipt by Debtor of (i) the cash proceeds from any such issuance or incurrence of Indebtedness or (ii) the net cash proceeds of any issuance of Equity Interests, as applicable, repay the Pre-Petition Obligations or the Post-Petition Obligations in an amount equal to (x) one hundred percent (100%) of such cash proceeds in the case of such incurrence or issuance of Indebtedness and (y) fifty percent (50%) of such net cash proceeds in the case of an issuance of Equity Interests. Such repayments shall be applied to either the Pre-Petition Obligations or the Post-Petition Obligations, as Agent may elect in its sole and absolute discretion only to the extent permitted in accordance with the Interim Order and, once entered, the Final Order, subject to Debtor's ability to reborrow Revolving Advances in accordance with the terms hereof.

(c) Subject to the last sentence of this Section 2.21(c), proceeds received by Debtor or Agent (i) under any insurance policy on account of damage or destruction of any assets or property of the Debtor, or (ii) as a result of any taking or condemnation of any assets or property shall, in each case, be applied in accordance with Section 6.6 hereof. Such repayments shall be applied to either the Pre-Petition Obligations or the Post-Petition Obligations, as Agent may elect in its sole and absolute discretion only to the extent permitted in accordance with the Interim Order and, once entered, the Final Order, subject to Debtor's ability to reborrow Revolving Advances in accordance with the terms hereof.

2.22 Use of Proceeds.

(a) Debtor shall apply the proceeds of Advances to (i) reimburse any and/or all of the professional fees, costs and expenses of the Pre-Petition Agent and the Pre-Petition Lenders, in whole or in part, in cash, as elected by Agent in its sole and absolute discretion from time to time as provided for herein, (ii) pay fees and expenses payable under this Agreement or any of the Other Documents to the Post-Petition Secured Parties, (iii) reimburse drawings under Letters of Credit and provide for their working capital needs in accordance with the Budget, (iv) to fund the Carve-Out strictly in accordance with the Budget, and (v) to pay for Allowed Professional Fees and Statutory Fees allocated to the Debtor during the Case in accordance with the Budget; in each case, to the extent such use of proceeds is not otherwise prohibited under the terms of this Agreement and is otherwise consistent with the terms of the Interim Order and the Final Order, as applicable.

(b) Without limiting the generality of Section 2.22(a) above, neither Debtor nor any other Person which may in the future become party to this Agreement or the Other Documents as a Debtor, intends to use nor shall they use any portion of the proceeds of the Advances, directly or indirectly, for any purpose in violation of Applicable Law.

2.23 Defaulting Lender.

(a) Notwithstanding anything to the contrary contained herein, in the event any Lender is a Defaulting Lender, all rights and obligations hereunder of such Defaulting Lender and of the other parties hereto shall be modified to the extent of the express provisions of this Section 2.23 so long as such Lender is a Defaulting Lender.

(b) (i) Except as otherwise expressly provided for in this Section 2.23, Revolving Advances shall be made pro rata from Lenders holding Revolving Commitments which are not Defaulting Lenders based on their respective Revolving Commitment Percentages, and no Revolving Commitment Percentage of any Lender or any pro rata share of any Revolving Advances required to be advanced by any Lender shall be increased as a result of any Lender being a Defaulting Lender. Amounts received in respect of principal of any type of Revolving Advances shall be applied to reduce such type of Revolving Advances of each Lender (other than any Defaulting Lender) holding a Revolving Commitment in accordance with their Revolving Commitment Percentages; provided, that, Agent shall not be obligated to transfer to a Defaulting Lender any payments received by Agent for Defaulting Lender's benefit, nor shall a Defaulting Lender be entitled to the sharing of any payments hereunder (including any principal, interest or fees). Amounts payable to a Defaulting Lender shall instead be paid to or retained by Agent. Agent may hold and, in its discretion, re-lend to a Debtor the amount of such payments received or retained by it for the account of such Defaulting Lender.

(ii) fees pursuant to Section 3.3(b) hereof shall cease to accrue in favor of such Defaulting Lender.

(iii) if any Letters of Credit (or drawings under any Letter of Credit for which Issuer has not been reimbursed) are outstanding or exist at the time any such Lender holding a Revolving Commitment becomes a Defaulting Lender, then:

(A) Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all outstanding Letters of Credit shall be reallocated among Non-Defaulting Lenders holding Revolving Commitments in proportion to the respective Revolving Commitment Percentages of such Non-Defaulting Lenders to the extent (but only to the extent) that (x) such reallocation does not cause the aggregate sum of outstanding Revolving Advances made by any such Non-Defaulting Lender holding a Revolving Commitment plus such Lender's reallocated Participation Commitment in the aggregate Maximum Undrawn Amount of all outstanding Letters of Credit to exceed the Revolving Commitment Amount of any such Non-Defaulting Lender, and (y) no Default or Event of Default has occurred and is continuing at such time;

(B) If the reallocation described in clause (A) above cannot, or can only partially, be effected, Debtor shall within one Business Day following notice by Agent, cash collateralize for the benefit of Issuer, Debtor's obligations corresponding to such Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit (after giving effect to any partial reallocation pursuant to clause (A) above) in accordance with Section 3.2(b) for so long as such Obligations are outstanding;

(C) if Debtor cash collateralizes any portion of such Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit pursuant to clause (B) above, Debtor shall not be required to pay any fees to such Defaulting Lender pursuant to Section 3.2(a) with respect to such Defaulting Lender's Revolving Commitment Percentage of Maximum Undrawn Amount of all Letters of Credit during the period such Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit are cash collateralized;

(D) if Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit is reallocated pursuant to clause (A) above, then the fees payable to Lenders holding Revolving Commitments pursuant to Section 3.2(a) shall be adjusted and reallocated to Non-Defaulting Lenders holding Revolving Commitments in

(E) accordance with such reallocation; and (E) if all or any portion of such Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit is neither reallocated nor cash collateralized pursuant to clauses (A) or (B) above, then, without prejudice to any rights or remedies of Issuer or any other Lender hereunder, all Letter of Credit Fees payable under Section 3.2(a) with respect to such Defaulting Lender's Revolving Commitment Percentage of the Maximum Undrawn Amount of all Letters of Credit shall be payable to Issuer (and not to such Defaulting Lender) until (and then only to the extent that) such Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit is reallocated and/or cash collateralized; and

(iv) so long as any Lender holding a Revolving Commitment is a Defaulting Lender, Issuer shall not be required to issue, amend or increase any Letter of Credit, unless such Issuer is satisfied that the related exposure and Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit (after giving effect to any such issuance, amendment, increase or funding) will be fully allocated to Non-Defaulting Lenders holding Revolving Commitments and/or cash collateral for such Letters of Credit will be provided by Debtor in accordance with clause (A) and (B) above, and participating interests in any newly issued or increased Letter of Credit shall be allocated among Non-Defaulting Lenders in a manner consistent with Section 2.23(b)(iii)(A) above (and such Defaulting Lender shall not participate therein).

(c) A Defaulting Lender shall not be entitled to give instructions to Agent or to approve, disapprove, consent to or vote on any matters relating to this Agreement and the Other Documents, and all amendments, waivers and other modifications of this Agreement and the Other Documents may be made without regard to a Defaulting Lender and, for purposes of the definition of "Required Lenders", a Defaulting Lender shall not be deemed to be a Lender, to have any outstanding Advances or a Revolving Commitment Percentage.

(d) Other than as expressly set forth in this Section 2.23, the rights and obligations of a Defaulting Lender (including the obligation to indemnify Agent) and the other parties hereto shall remain unchanged. Nothing in this Section 2.23 shall be deemed to release any Defaulting Lender from its obligations under this Agreement and the Other Documents, shall alter such obligations, shall operate as a waiver of any default by such Defaulting Lender hereunder,

or shall prejudice any rights which the Debtor, Agent or any Lender may have against any Defaulting Lender as a result of any default by such Defaulting Lender hereunder.

(e) In the event that Agent, Debtor and Issuer agree in writing that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then Agent will so notify the parties hereto, and, if such cured Defaulting Lender is a Lender holding a Revolving Commitment, then Participation Commitments of Lenders holding Revolving Commitments (including such cured Defaulting Lender) of the Maximum Undrawn Amount of all outstanding Letters of Credit shall be reallocated to reflect the inclusion of such Lender's Revolving Commitment, and on such date such Lender shall purchase at par such of the Revolving Advances of the other Lenders as Agent shall determine may be necessary in order for such Lender to hold such Revolving Advances in accordance with its Revolving Commitment Percentage.

(f) If Issuer has a good faith belief that any Lender holding a Revolving Commitment has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, Issuer shall not be required to issue, amend or increase any Letter of Credit, unless Issuer shall have entered into arrangements with Debtor or such Lender satisfactory to Issuer to defease any risk to it in respect of such Lender hereunder.

III. INTEREST AND FEES.

3.1 Interest. Interest on Advances shall be payable in arrears on the first day of each month with respect to Domestic Rate Loans; provided that all accrued and unpaid interest shall be due and payable at the end of the Term. Interest charges shall be computed on the actual principal amount of Advances outstanding during the month at a rate per annum equal to with respect to Revolving Advances, the applicable Revolving Interest Rate. Except as expressly provided otherwise in this Agreement, any Obligations other than the Advances that are not paid when due shall accrue interest at the Revolving Interest Rate for Domestic Rate Loans, subject to the provision of the final sentence of this Section 3.1 regarding the Default Rate. Whenever, subsequent to the date of this Agreement, the Alternate Base Rate is increased or decreased, the Revolving Interest Rate for Domestic Rate Loans shall be similarly changed without notice or demand of any kind by an amount equal to the amount of such change in the Alternate Base Rate during the time such change or changes remain in effect. Upon and after the occurrence of an Event of Default, and during the continuation thereof, at the option of Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of any such Event of Default without the requirement of any affirmative action by any party), the Obligations shall bear interest at the applicable Revolving Interest Rate plus two (2%) percent per annum (the "Default Rate").

3.2 Letter of Credit Fees.

(a) Debtor shall pay (x) to Agent, for the ratable benefit of Lenders holding Revolving Commitments, fees for each Letter of Credit for the period from and excluding the date of issuance of same to and including the date of expiration or termination, equal to the daily face amount of each outstanding Letter of Credit multiplied by the Applicable Margin for Revolving Advances consisting of Domestic Rate Loans, such fees to be calculated on the basis of a 360-day

year for the actual number of days elapsed and to be payable quarterly in arrears on the first day of each calendar quarter and on the last day of the Term, and (y) to Issuer, a fronting fee of one quarter of one percent (0.25%) per annum times the daily face amount of each outstanding Letter of Credit for the period from and excluding the date of issuance of same to and including the date of expiration or termination, to be payable quarterly in arrears on the first day of each calendar quarter and on the last day of the Term (all of the foregoing fees, the "Letter of Credit Fees"). In addition, Debtor shall pay to Agent, for the benefit of Issuer, any and all administrative, issuance, amendment, payment and negotiation charges with respect to Letters of Credit and all fees and expenses as agreed upon by Issuer and the Debtor in connection with any Letter of Credit, including in connection with the opening, amendment or renewal of any such Letter of Credit and any acceptances created thereunder, all such charges, fees and expenses, if any, to be payable on demand. All such charges shall be deemed earned in full on the date when the same are due and payable hereunder and shall not be subject to rebate or pro-ration upon the termination of this Agreement for any reason. Any such charge in effect at the time of a particular transaction shall be the charge for that transaction, notwithstanding any subsequent change in Issuer's prevailing charges for that type of transaction. Upon and after the occurrence of an Event of Default, and during the continuation thereof, at the option of Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of any such Event of Default without the requirement of any affirmative action by any party), the Letter of Credit Fees described in clause (x) of this Section 3.2(a) shall be increased by an additional two percent (2.0%) per annum.

(b) Upon the occurrence and during the continuance of an Event of Default, on demand, at the option of Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of such Event of Default, without the requirement of any affirmative action by any party), or upon the expiration of the Term or any other termination of this Agreement (and also, if applicable, in connection with any mandatory prepayment under Section 2.21), Debtor will cause cash to be deposited and maintained in an account with Agent, as cash collateral, in an amount equal to one hundred and five percent (105%) of the Maximum Undrawn Amount of all outstanding Letters of Credit, and the Debtor hereby irrevocably authorizes Agent, in its discretion, on the Debtor's behalf and in the Debtor's name, to open such an account and to make and maintain deposits therein, or in an account opened by the Debtor, in the amounts required to be made by the Debtor, out of the proceeds of Receivables or other Collateral or out of any other funds of the Debtor coming into any Lender's possession at any time. Agent may, in its discretion, invest such cash collateral (less applicable reserves) in such short-term money-market items as to which Agent and the Debtor mutually agree (or, in the absence of such agreement, as Agent may reasonably select) and the net return on such investments shall be credited to such account and constitute additional cash collateral, or Agent may (notwithstanding the foregoing) establish the account provided for under this Section 3.2(b) as a non-interest bearing account and in such case Agent shall have no obligation (and Debtor hereby waives any claim) under Article 9 of the Uniform Commercial Code or under any other Applicable Law to pay interest on such cash collateral being held by Agent. No Debtor may withdraw amounts credited to any such account except upon the occurrence of all of the following: (x) payment and performance in full of all Obligations; (y) expiration of all Letters of Credit; and (z) termination of this Agreement. Debtor hereby assigns, pledges and grants

to Agent, for its benefit and the ratable benefit of Issuer, Lenders and each other Secured Party, a continuing security interest in and to and Lien on any such cash collateral and any right, title and interest of Debtor in any deposit account, securities account or investment account into which such cash collateral may be deposited from time to time to secure the Obligations, specifically including all Obligations with respect to any Letters of Credit. Debtor agrees that upon the coming due of any Reimbursement Obligations (or any other Obligations, including Obligations for Letter of Credit Fees) with respect to the Letters of Credit, Agent may use such cash collateral to pay and satisfy such Obligations.

3.3 Facility Fee. If, for any day in each calendar quarter during the Term, the daily unpaid balance of the Revolving Advances plus the undrawn amount of any outstanding Letters of Credit (the "Usage Amount") does not equal the Maximum Revolving Advance Amount, then Debtor shall pay to Agent for the ratable benefit of Lenders holding the Revolving Commitments based on their Revolving Commitment Percentages, a fee at a rate equal to 0.375% per annum for each such day the amount by which the Maximum Revolving Advance Amount on such day exceeds such Usage Amount (the "Facility Fee"). Such Facility Fee shall be payable to Agent in arrears on the first Business Day of each calendar quarter with respect to each day in the previous calendar quarter.

3.4 Collateral Evaluation Fee and Other Fees .

(a) All of the fees and out-of-pocket costs and expenses of any appraisals conducted pursuant to Sections 4.10 or 4.11 hereof shall be paid for when due, in full and without deduction, off-set or counterclaim by Debtor.

3.5 Computation of Interest and Fees. Interest on Domestic Rate Loans shall be computed on the basis of a 365/366 day basis, and actual days elapsed. If any payment to be made hereunder becomes due and payable on a day other than a Business Day, the due date thereof shall be extended to the next succeeding Business Day and interest thereon shall be payable at the Revolving Interest Rate for Domestic Rate Loans during such extension.

3.6 Maximum Charges. In no event whatsoever shall interest and other charges charged hereunder exceed the highest rate permissible under Applicable Law. In the event interest and other charges as computed hereunder would otherwise exceed the highest rate permitted under Applicable Law: (i) the interest rates hereunder will be reduced to the maximum rate permitted under Applicable Law; (ii) such excess amount shall be first applied to any unpaid principal balance owed by Debtor; and (iii) if the then remaining excess amount is greater than the previously unpaid principal balance, Lenders shall promptly refund such excess amount to Debtor and the provisions hereof shall be deemed amended to provide for such permissible rate.

3.7 Increased Costs. In the event that any Applicable Law or any Change in Law or compliance by any Lender (for purposes of this Section 3.7, the term "Lender" shall include Agent, any Issuer or any Lender and any corporation or bank controlling Agent, any Lender or Issuer) and the office or branch where Agent, any Lender or Issuer (as so defined) makes or maintains any Loans with any request or directive (whether or not having the force of law) from any central bank or other financial, monetary or other authority, shall:

(a) subject Agent, any Lender or Issuer to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any Loan, or change the basis of taxation of payments to Agent, such Lender or Issuer in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 3.10 and the imposition of, or any change in the rate of, any Excluded Tax payable by Agent, such Lender or Issuer);

(b) impose, modify or deem applicable any reserve, special deposit, assessment, special deposit, compulsory loan, insurance charge or similar requirement against assets held by, or deposits in or for the account of, advances or loans by, or other credit extended by, any office of Agent, Issuer or any Lender, including pursuant to Regulation D of the Board of Governors of the Federal Reserve System; or

(c) impose on Agent, any Lender or Issuer or the London interbank LIBOR market any other condition, loss or expense (other than Taxes) affecting this Agreement or any Other Document or any Advance made by any Lender, or any Letter of Credit or participation therein;

and the result of any of the foregoing is to increase the cost to Agent, any Lender or Issuer of making, converting to, continuing, renewing or maintaining its Advances hereunder by an amount that Agent, such Lender or Issuer deems to be material or to reduce the amount of any payment (whether of principal, interest or otherwise) in respect of any of the Advances by an amount that Agent or such Lender or Issuer deems to be material, then, in any case Debtor shall promptly pay Agent, such Lender or Issuer, upon its demand, such additional amount as will compensate Agent or such Lender or Issuer for such additional cost or such reduction, as the case may be. Agent, such Lender or Issuer shall certify the amount of such additional cost or reduced amount to Debtor, and such certification shall be conclusive absent manifest error.

3.8 Reserved.

3.9 Capital Adequacy.

(a) In the event that Agent or any Lender shall have determined that any Applicable Law or guideline regarding capital adequacy, or any Change in Law or any change in the interpretation or administration thereof by any Governmental Body, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by Agent, Issuer or any Lender (for purposes of this Section 3.9, the term "Lender" shall include Agent, Issuer or any Lender and any corporation or bank controlling Agent or any Lender and the office or branch where Agent or any Lender (as so defined) makes or maintains any Loans) with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on Agent or any Lender's capital as a consequence of its obligations hereunder to a level below that which Agent or such Lender could have achieved but for such adoption, change or compliance (taking into consideration Agent's and each Lender's policies with respect to capital adequacy) by an amount deemed by Agent or any Lender to be material, then, from time to time, Debtor shall pay upon demand to Agent or such Lender such additional amount or amounts as will compensate Agent or such Lender for such reduction. In determining such amount or amounts,

Agent or such Lender may use any reasonable averaging or attribution methods. The protection of this Section 3.9 shall be available to Agent and each Lender regardless of any possible contention of invalidity or inapplicability with respect to the Applicable Law, rule, regulation, guideline or condition.

(b) A certificate of Agent or such Lender setting forth such amount or amounts as shall be necessary to compensate Agent or such Lender with respect to Section 3.9(a) above when delivered to Debtor shall be conclusive absent manifest error.

3.10 Taxes.

(a) Any and all payments by or on account of any Obligations hereunder or under any Other Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes; provided that if Debtor shall be required by Applicable Law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) Agent, Lender, Issuer or Participant, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) Debtor shall make such deductions and (iii) Debtor shall timely pay the full amount deducted to the relevant Governmental Body in accordance with Applicable Law.

(b) Without limiting the provisions of Section 3.10(a) above, Debtor shall timely pay any Other Taxes to the relevant Governmental Body in accordance with Applicable Law.

(c) The Debtor shall indemnify Agent, each Lender, Issuer and any Participant, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by Agent, such Lender, Issuer, or such Participant, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Body. A certificate as to the amount of such payment or liability delivered to Debtor by any Lender, Participant, or Issuer (with a copy to Agent), or by Agent on its own behalf or on behalf of a Lender or Issuer, shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Debtor to a Governmental Body, Debtor shall deliver to Agent the original or a certified copy of a receipt issued by such Governmental Body evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Agent.

(e) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Debtor is resident for tax purposes, or under any treaty to which such jurisdiction is a party, with respect to payments hereunder or

under any Other Document shall deliver to Debtor (with a copy to Agent), at the time or times prescribed by Applicable Law or reasonably requested by Debtor or Agent, such properly completed and executed documentation prescribed by Applicable Law as will permit such payments to be made without withholding or at a reduced rate of withholding. Notwithstanding the submission of such documentation claiming a reduced rate of or exemption from U.S. withholding tax, Agent shall be entitled to withhold United States federal income taxes at the full 30% withholding rate if in its reasonable judgment it is required to do so under the due diligence requirements imposed upon a withholding agent under § 1.1441-7(b) of the United States Income Tax Regulations or other Applicable Law. Further, Agent is indemnified under § 1.1461-1(e) of the United States Income Tax Regulations against any claims and demands of any Lender, Issuer or assignee or participant of a Lender or Issuer for the amount of any tax it deducts and withholds in accordance with regulations under § 1441 of the Code. In addition, any Lender, if requested by Debtor or Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by Debtor or Agent as will enable Debtor or Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Without limiting the generality of the foregoing, in the event that the Debtor is resident for tax purposes in the United States of America, any Foreign Lender (or other Lender) shall deliver to Debtor and Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender (or other Lender) becomes a Lender under this Agreement (and from time to time thereafter upon the request of Debtor or Agent, but only if such Foreign Lender (or other Lender) is legally entitled to do so), whichever of the following is applicable: two (2) duly completed valid originals of IRS Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States of America is a party,

(i) two (2) duly completed valid originals of IRS Form W-8ECI (2014 revision),

(ii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate to the effect that such Foreign Lender is not (A) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of Debtor within the meaning of section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code and (y) two duly completed valid originals of IRS Form W-8BEN-E,

(iii) any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in United States Federal withholding tax duly completed together with such supplementary documentation as may be prescribed by Applicable Law to permit Debtor to determine the withholding or deduction required to be made, or

(iv) To the extent that any Lender is not a Foreign Lender, such Lender shall submit to Agent two (2) originals of an IRS Form W-9 or any other form prescribed by Applicable Law demonstrating that such Lender is not a Foreign Lender.

(f) If a payment made to a Lender, Participant, Issuer, or Agent under this Agreement or any Other Document would be subject to U.S. Federal withholding Tax imposed by

FATCA if such Person fails 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, Participant, Issuer, or Agent shall deliver to Agent (in the case of a Lender, Participant or Issuer) and Debtor (A) a certification signed by the chief financial officer, principal accounting officer, treasurer or controller of such Person, and (B) other documentation reasonably requested by Agent or the Debtor sufficient for Agent and Debtor to comply with their obligations under FATCA and to determine that such Lender, Participant, Issuer, or Agent has complied with such applicable reporting requirements.

3.11 Replacement of Lenders. If any Lender (an "Affected Lender") (a) makes demand upon Debtor for (or if Debtor is otherwise required to pay) amounts pursuant to Section 3.7 or 3.9 hereof, (b) is unable to make or maintain Loans as a result of a condition described in Section 2.2(h) hereof, (c) is a Defaulting Lender, or (d) denies any consent requested by Agent pursuant to Section 16.2(b) hereof, Debtor may, within ninety (90) days of receipt of such demand, notice (or the occurrence of such other event causing Debtor to be required to pay such compensation or causing Section 2.2(h) hereof to be applicable), or such Lender becoming a Defaulting Lender or denial of a request by Agent pursuant to Section 16.2(b) hereof, as the case may be, by notice in writing to Agent and such Affected Lender (i) request the Affected Lender to cooperate with Debtor in obtaining a replacement Lender satisfactory to Agent and Debtor (the "Replacement Lender"); (ii) request the non-Affected Lenders to acquire and assume all of the Affected Lender's Advances and its Revolving Commitment Percentage, as provided herein, but none of such Lenders shall be under any obligation to do so; or (iii) propose a Replacement Lender subject to approval by Agent in its good faith business judgment. If any satisfactory Replacement Lender shall be obtained, and/or if any one or more of the non-Affected Lenders shall agree to acquire and assume all of the Affected Lender's Advances and its Revolving Commitment Percentage, then such Affected Lender shall assign, in accordance with Section 16.3 hereof, all of its Advances and its Revolving Commitment Percentage, and other rights and obligations under this Loan Agreement and the Other Documents to such Replacement Lender or non-Affected Lenders, as the case may be, in exchange for payment of the principal amount so assigned and all interest and fees accrued on the amount so assigned, plus all other Obligations then due and payable to the Affected Lender.

IV. COLLATERAL: GENERAL TERMS

4.1 Security Interest in the Collateral. To secure the prompt payment and performance to the Post-Petition Secured Parties of the Post-Petition Obligations (and, upon entry of the Final Order, any and all Obligations, including without limitation, all Pre-Petition Obligations and Post-Petition Obligations) of whatever kind, nature or description, absolute or contingent, now existing or hereafter arising, the Agent, for the benefit of itself and the other Secured Parties, shall have and is hereby granted by the Debtor, effective as of the Petition Date, valid and perfected first priority (subject to the Senior Liens (as defined in the Interim Order) and the Carve-Out), security interests and liens in and upon all pre- and post- petition property of the Debtor, whether existing on the Petition Date or thereafter acquired including a continuing security interest in and to and Lien on all of its Collateral, whether now owned or existing or hereafter acquired or arising and wheresoever located. The Debtor shall mark its books and records as may be necessary or appropriate to evidence, protect and perfect Agent's security interest and shall cause its financial

statements to reflect such security interest. The Debtor shall promptly provide Agent with written notice of all commercial tort claims, such notice to contain the case title together with applicable court and a brief description of the claim(s), the events out of which such claim(s) arose, the parties against which such claims may be asserted and, if applicable in any case where legal proceedings regarding such claim(s) have been commenced, the case title together with the applicable court and docket number and the express grant by the Debtor to Agent of a security interest and lien in and to such commercial tort claim and the proceeds thereof. In the event that such notice does not include such grant of a security interest, the sending thereof by the Debtor to Agent shall be deemed to thereby grant to Agent a security interest and lien in and to such commercial tort claims described therein and all proceeds thereof. The Debtor shall provide Agent with written notice promptly upon becoming the beneficiary under any letter of credit or otherwise obtaining any right, title or interest in any letter of credit rights, and at Agent's request shall take such actions as Agent may reasonably request for the perfection of Agent's security interest therein. As adequate protection and as consideration to Pre-Petition Secured Parties for their agreement to the terms hereof and as replacement collateral for the Pre-Petition Collateral used, consumed or sold by the Debtor in the Case, the Collateral shall secure the Pre-Petition Obligations to the extent of the diminution in value of the Pre-Petition Collateral.

4.2 Perfection of Security Interest. Each Loan Party shall take all action that Agent may request, so as at all times to maintain the validity, perfection, enforceability and priority of Agent's security interest in and Lien on the Collateral or to enable Agent to protect, exercise or enforce its rights hereunder and in the Collateral, including, but not limited to, (i) immediately discharging all Liens other than Permitted Encumbrances, (ii) obtaining Lien Waiver Agreements, (iii) delivering to Agent, endorsed or accompanied by such instruments of assignment as Agent may specify, and stamping or marking, in such manner as Agent may specify, any and all chattel paper, instruments, letters of credits and advices thereof and documents evidencing or forming a part of the Collateral, (iv) entering into warehousing, lockbox, customs and freight agreements and other custodial arrangements satisfactory to Agent, and (v) executing and delivering financing statements, control agreements, instruments of pledge, mortgages, notices and assignments, in each case in form and substance satisfactory to Agent, relating to the creation, validity, perfection, maintenance or continuation of Agent's security interest and Lien under the Uniform Commercial Code or other Applicable Law. By its signature hereto, each Loan Party hereby authorizes Agent to file against such Loan Party, one or more financing, continuation or amendment statements pursuant to the Uniform Commercial Code in form and substance satisfactory to Agent (which statements may have a description of collateral which is broader than that set forth herein, including without limitation a description of Collateral as "all assets" and/or "all personal property" of the Debtor). All charges, expenses and fees Agent may incur in doing any of the foregoing, and any local taxes relating thereto, shall be charged to Debtor's Account as a Revolving Advance of a Domestic Rate Loan and added to the Obligations, or, at Agent's option, shall be paid by Debtor to Agent for its benefit and for the ratable benefit of Lenders immediately upon demand.

4.3 Disposition of Collateral. Each Loan Party will safeguard and protect all Collateral for Agent's general account and make no disposition thereof whether by sale, lease or otherwise except the sale of Inventory in the Ordinary Course of Business.

4.4 Preservation of Collateral. Following the occurrence of a Default or Event of Default, in addition to the rights and remedies set forth in Section 11.1 hereof, Agent: (a) may at any time take such steps as Agent deems necessary to protect Agent's interest in and to preserve the Collateral, including the hiring of security guards or the placing of other security protection measures as Agent may deem appropriate; (b) may employ and maintain at any of any Loan Party's premises a custodian who shall have full authority to do all acts necessary to protect Agent's interests in the Collateral; (c) may lease warehouse facilities to which Agent may move all or part of the Collateral; (d) may use any Loan Party's owned or leased lifts, hoists, trucks and other facilities or equipment for handling or removing the Collateral; and (e) subject to the prior rights of any applicable landlord or mortgagee, shall have, and is hereby granted, a right of ingress and egress to the places where the Collateral is located, and may proceed over and through any of Loan Party's owned or leased property. Each Loan Party shall cooperate fully with all of Agent's efforts to preserve the Collateral and will take such actions to preserve the Collateral as Agent may direct. All of Agent's expenses of preserving the Collateral, including any expenses relating to the bonding of a custodian, shall be charged to Debtor's Account as a Revolving Advance maintained as a Domestic Rate Loan and added to the Obligations.

4.5 Ownership and Location of Collateral.

(a) With respect to the Collateral, at the time the Collateral becomes subject to Agent's security interest: (i) each Loan Party shall be the sole owner of and fully authorized and able to sell, transfer, pledge and/or grant a first priority security interest in each and every item of its respective Collateral to Agent; and, except for Permitted Encumbrances the Collateral shall be free and clear of all Liens whatsoever; (ii) each document and agreement executed by each Loan Party or delivered to Agent or any Lender in connection with this Agreement shall be true and correct in all respects; (iii) all signatures and endorsements of each Loan Party that appear on such documents and agreements shall be genuine and each Loan Party shall have full capacity to execute same; and (iv) each Loan Party's Equipment and Inventory shall be located as set forth on Schedule 4.5 and shall not be removed from such location(s) without the prior written consent of Agent except with respect to the sale of Inventory in the Ordinary Course of Business.

(b) (i) There is no location at which any Loan Party has any Inventory (except for Inventory in transit) other than those locations listed on Schedule 4.5; (ii) Schedule 4.5 hereto contains a correct and complete list, as of the Closing Date, of the legal names and addresses of each warehouse at which Inventory of any Loan Party is stored; none of the receipts received by any Loan Party from any warehouse states that the goods covered thereby are to be delivered to bearer or to the order of a named Person or to a named Person and such named Person's assigns; (iii) Schedule 4.5 hereto sets forth a correct and complete list as of the Closing Date of (A) each place of business of each Loan Party and (B) the chief executive office of each Loan Party; and (iv) Schedule 4.5 hereto sets forth a correct and complete list as of the Closing Date of the location, by state and street address, of all Real Property owned or leased by each Loan Party, identifying which properties are owned and which are leased, together with the names and addresses of any landlords.

4.6 Defense of Agent's and Lenders' Interests. Until (a) payment and performance in full of all of the Obligations and (b) termination of this Agreement, Agent's interests in the

Collateral shall continue in full force and effect. During such period no Loan Party shall, without Agent's prior written consent, pledge, sell (except for sales or other dispositions otherwise permitted in Section 7.1(b) hereof), assign, transfer, create or suffer to exist a Lien upon or encumber or allow or suffer to be encumbered in any way except for Permitted Encumbrances, any part of the Collateral. Each Loan Party shall defend Agent's interests in the Collateral against any and all Persons whatsoever. At any time following demand by Agent for payment of all Obligations, Agent shall have the right to take possession of the indicia of the Collateral and the Collateral in whatever physical form contained, including: labels, stationery, documents, instruments and advertising materials. If Agent exercises this right to take possession of the Collateral, Loan Parties shall, upon demand, assemble it in the best manner possible and make it available to Agent at a place reasonably convenient to Agent. In addition, with respect to all Collateral, Agent and Lenders shall be entitled to all of the rights and remedies set forth herein and further provided by the Uniform Commercial Code or other Applicable Law. Each Loan Party shall, and Agent may, at its option, instruct all suppliers, carriers, forwarders, warehousers or others receiving or holding cash, checks, Inventory, documents or instruments in which Agent holds a security interest to deliver same to Agent and/or subject to Agent's order and if they shall come into any Loan Party's possession, they, and each of them, shall be held by such Loan Party in trust as Agent's trustee, and such Loan Party will immediately deliver them to Agent in their original form together with any necessary endorsement.

4.7 [Reserved]

4.8 [Reserved]

4.9 [Reserved]

4.10 Inspection of Premises. At all reasonable times Agent and each Lender shall have full access to and the right to audit, check, inspect and make abstracts and copies from each Loan Party's books, records, audits, hedge audits, correspondence and all other papers relating to the Collateral and the operation of each Loan Party's business. Agent, any Lender and their agents may enter upon any premises of any Loan Party at any time during business hours and at any other reasonable time, and from time to time, for the purpose of inspecting the Collateral and any and all records pertaining thereto and the operation of such Loan Party's business. Notwithstanding anything herein to the contrary, (i) prior to the occurrence of an Event of Default that is continuing, (1) Agent shall (y) give the applicable Loan Party at least one day's prior notice before so entering such Loan Party's premises to do any of the foregoing and (z) conduct such field examinations, audits, hedge audits, inspections and appraisals no more frequently than three times per fiscal year and (2) Debtor shall be responsible for paying for all such field examinations, audits, inspections and appraisals, and (ii) after the occurrence of an Event of Default that is continuing, (1) Agent (y) shall not be obligated to give the applicable Loan Party any prior notice that it intends to enter such Loan Party's premises to do any of the foregoing and (z) may conduct field examinations, audits, hedge audits, inspections and appraisals at any time and from time to time and (2) Debtor shall be responsible for paying for all such field examination, audits, hedge audits, inspections and appraisals.

4.11 Appraisals. Agent may, in its Permitted Discretion, at any time after the Closing Date and from time to time, engage the services of an independent appraisal firm or firms of reputable standing, satisfactory to Agent, for the purpose of appraising the then current values of Debtor's assets. Absent the occurrence and continuance of an Event of Default at such time, Agent shall consult with Debtor as to the identity of any such firm. In the event the value of Debtor's Inventory, as so determined pursuant to such appraisal, is less than anticipated by Agent or Lenders, such that the Revolving Advances are in excess of such Advances permitted hereunder, then, promptly upon Agent's demand for same, Debtor shall make mandatory prepayments of the then outstanding Revolving Advances so as to eliminate the excess Advances.

4.12 [Reserved]

4.13 [Reserved]

4.14 [Reserved]

4.15 Payment of Leasehold Obligations. Each Loan Party shall at all times pay, when and as due, its rental obligations under all leases under which it is a tenant, and shall otherwise comply, in all material respects, with all other terms of such leases and keep them in full force and effect and, at Agent's request will provide evidence of having done so.

4.16 Receivables.

(a) Nature of Receivables. Each of the Receivables shall be a bona fide and valid account representing a bona fide indebtedness incurred by the Customer therein named, for a fixed sum as set forth in the invoice relating thereto (provided immaterial or unintentional invoice errors shall not be deemed to be a breach hereof) with respect to an absolute sale or lease and delivery of goods upon stated terms of a Loan Party, or work, labor or services theretofore rendered by a Loan Party as of the date each Receivable is created. Same shall be due and owing in accordance with the applicable Loan Party's standard terms of sale without dispute, setoff or counterclaim except as may be stated on the accounts receivable schedules delivered by Loan Parties to Agent.

(b) Solvency of Customers. Each Customer, to the best of each Loan Party's knowledge, as of the date each Receivable is created, is and will be solvent and able to pay all Receivables on which the Customer is obligated in full when due or with respect to such Customers of any Loan Party who are not solvent such Loan Party has set up on its books and in its financial records bad debt reserves adequate to cover such Receivables.

(c) Location of Loan Parties. Each Loan Party's state of organization is as set forth on, and chief executive office is located at those locations set forth on, Schedule 4.16(c) hereto. Until written notice is given to Agent by Debtor of any other office at which any Loan Party keeps its records pertaining to Receivables, all such records shall be kept at such executive office.

(d) Collection of Receivables. Debtor shall instruct its Customers to deliver all remittances upon Receivables (whether paid by check or by wire transfer of funds) to such Blocked

Account(s) and/or Depository Accounts (and any associated lockboxes) as Agent shall designate from time to time as contemplated by Section 4.16(h) or as otherwise agreed to from time to time by Agent. Notwithstanding the foregoing, to the extent the Debtor directly receives any remittances upon Receivables, the Debtor shall, at the Debtor's sole cost and expense, but on Agent's behalf and for Agent's account, collect as Agent's property and in trust for Agent all amounts received on Receivables, and shall not commingle such collections with the Debtor's funds or use the same except to pay Obligations, and shall as soon as possible and in any event no later than one (1) Business Day after the receipt thereof (i) in the case of remittances paid by check, deposit all such remittances in their original form (after supplying any necessary endorsements) and (ii) in the case of remittances paid by wire transfer of funds, transfer all such remittances, in each case, into such Blocked Accounts(s) and/or Depository Account(s). The Debtor shall deposit in the Blocked Account and/or Depository Account or, upon request by Agent, deliver to Agent, in original form and on the date of receipt thereof, all checks, drafts, notes, money orders, acceptances, cash and other evidence of Indebtedness.

(e) Notification of Assignment of Receivables. At any time following the occurrence of an Event of Default or a Default, Agent shall have the right to send notice of the assignment of, and Agent's security interest in and Lien on, the Receivables to any and all Customers or any third party holding or otherwise concerned with any of the Collateral. Thereafter, Agent shall have the sole right to collect the Receivables, take possession of the Collateral, or both. Agent's actual collection expenses, including, but not limited to, stationery and postage, telephone, facsimile and telegraph, secretarial and clerical expenses and the salaries of any collection personnel used for collection, may be charged to Debtor's Account and added to the Obligations.

(f) Power of Agent to Act on Loan Parties' Behalf. Agent shall have the right to receive, endorse, assign and/or deliver in the name of Agent or any Loan Party any and all checks, drafts and other instruments for the payment of money relating to the Receivables, and each Loan Party hereby waives notice of presentment, protest and non-payment of any instrument so endorsed. Each Loan Party hereby constitutes Agent or Agent's designee as such Loan Party's attorney with power at any time after the occurrence of an Event of Default or Default (i) to endorse such Loan Party's name upon any notes, acceptances, checks, drafts, money orders or other evidences of payment or Collateral; (ii) to sign such Loan Party's name on any invoice or bill of lading relating to any of the Receivables, drafts against Customers, assignments and verifications of Receivables; (iii) to send verifications of Receivables to any Customer; (iv) to sign such Loan Party's name on all financing statements or any other documents or instruments deemed necessary or appropriate by Agent to preserve, protect, or perfect Agent's interest in the Collateral and to file same; (v) to receive, open and dispose of all mail addressed to the Debtor at any post office box/lockbox maintained by Agent for Debtor or at any other business premises of Agent; (vi) to demand payment of the Receivables; (vii) to enforce payment of the Receivables by legal proceedings or otherwise; (viii) to exercise all of such Loan Party's rights and remedies with respect to the collection of the Receivables and any other Collateral; (ix) to sue upon or otherwise collect, extend the time of payment of, settle, adjust, compromise, extend or renew the Receivables; (x) to settle, adjust or compromise any legal proceedings brought to collect Receivables; (xi) to prepare, file and sign such Loan Party's name on a proof of claim in bankruptcy or similar document against any Customer; (xii) to prepare, file and sign such Loan Party's name on any notice of Lien, assignment or satisfaction of Lien or similar document in connection with the

Receivables; (xiii) to accept the return of goods represented by any of the Receivables; (xiv) to change the address for delivery of mail addressed to the Debtor to such address as Agent may designate; and (xv) to do all other acts and things necessary to carry out this Agreement. All acts of said attorney or designee are hereby ratified and approved, and said attorney or designee shall not be liable for any acts of omission or commission nor for any error of judgment or mistake of fact or of law, unless done maliciously or with gross (not mere) negligence (as determined by a court of competent jurisdiction in a final non-appealable judgment); this power being coupled with an interest is irrevocable while any of the Obligations remain unpaid. Agent shall have the right at any time following the occurrence of an Event of Default or Default, to change the address for delivery of mail addressed to any Loan Party to such address as Agent may designate and to receive, open and dispose of all mail addressed to any Loan Party.

(g) No Liability. Neither Agent nor any Lender shall, under any circumstances or in any event whatsoever, have any liability for any error or omission or delay of any kind occurring in the settlement, collection or payment of any of the Receivables or any instrument received in payment thereof, or for any damage resulting therefrom. Following the occurrence of an Event of Default or Default Agent may, without notice or consent from any Loan Party, sue upon or otherwise collect, extend the time of payment of, compromise or settle for cash, credit or upon any terms any of the Receivables or any other securities, instruments or insurance applicable thereto and/or release any obligor thereof. Agent is authorized and empowered to accept following the occurrence of an Event of Default or Default the return of the goods represented by any of the Receivables, without notice to or consent by any Loan Party, all without discharging or in any way affecting any Loan Party's liability hereunder.

(h) Establishment of a Lockbox Account, Dominion Account. All proceeds of Collateral shall be deposited by Loan Parties into either (i) a lockbox account, dominion account or such other "blocked account" ("Blocked Accounts") established at a bank or banks (each such bank, a "Blocked Account Bank") pursuant to an arrangement with such Blocked Account Bank as may be acceptable to Agent or (ii) depository accounts ("Depository Accounts") established at Agent for the deposit of such proceeds. Each applicable Loan Party, Agent and each Blocked Account Bank shall enter into a deposit account control agreement in form and substance satisfactory to Agent that is sufficient to give Agent "control" (for purposes of Articles 8 and 9 of the Uniform Commercial Code) over such account and which directs such Blocked Account Bank to transfer such funds so deposited on a daily basis, or at other times acceptable to Agent, to Agent, either to any account maintained by Agent at said Blocked Account Bank or by wire transfer to appropriate account(s) at Agent. All funds deposited in such Blocked Accounts or Depositary Accounts shall immediately become subject to the security interest of Agent for its own benefit and the ratable benefit of Issuer, Lenders and all other holders of the Obligations, and Debtor shall obtain the agreement by such Blocked Account Bank to waive any offset rights against the funds so deposited. Neither Agent nor any Lender assumes any responsibility for such blocked account arrangement, including any claim of accord and satisfaction or release with respect to deposits accepted by any Blocked Account Bank thereunder. Agent shall apply all funds received by it from the Blocked Accounts and/or Depository Accounts to reduce the Pre-Petition Obligations or the Post-Petition Obligations in any order at the sole discretion of Agent.

(i) Adjustments. No Loan Party will, without Agent's consent, compromise or adjust any Receivables (or extend the time for payment thereof) or accept any returns of merchandise or grant any additional discounts, allowances or credits thereon except for those compromises, adjustments, returns, discounts, credits and allowances as have been heretofore customary in the Ordinary Course of Business of such Loan Party.

(j) All deposit accounts (including all Blocked Accounts and Depository Accounts), securities accounts and investment accounts of the Debtor and its Subsidiaries as of the Closing Date are set forth on Schedule 4.16(j). No Debtor shall open any new deposit account, securities account or investment account unless (i) Debtor shall have given at least thirty (30) days prior written notice to Agent and (ii) if such account is to be maintained with a bank, depository institution or securities intermediary that is not Agent, such bank, depository institution or securities intermediary, each applicable Debtor and Agent shall first have entered into an account control agreement in form and substance satisfactory to Agent sufficient to give Agent "control" (for purposes of Articles 8 and 9 of the Uniform Commercial Code) over such account.

4.17 Inventory. To the extent Inventory held for sale or lease has been produced by any Loan Party, it has been and will be produced by such Loan Party in accordance with the Federal Fair Labor Standards Act of 1938, as amended, and all rules, regulations and orders thereunder.

4.18 Maintenance of Equipment. The Equipment shall be maintained in good operating condition and repair (reasonable wear and tear excepted) and all necessary replacements of and repairs thereto shall be made so that the value and operating efficiency of the Equipment shall be maintained and preserved. No Loan Party shall use or operate the Equipment in violation of any law, statute, ordinance, code, rule or regulation.

4.19 Exculpation of Liability. Nothing herein contained shall be construed to constitute Agent or any Lender as any Loan Party's agent for any purpose whatsoever, nor shall Agent or any Lender be responsible or liable for any shortage, discrepancy, damage, loss or destruction of any part of the Collateral wherever the same may be located and regardless of the cause thereof. Neither Agent nor any Lender, whether by anything herein or in any assignment or otherwise, assume any of any Loan Party's obligations under any contract or agreement assigned to Agent or such Lender, and neither Agent nor any Lender shall be responsible in any way for the performance by any Loan Party of any of the terms and conditions thereof.

4.20 [Reserved.]

4.21 Financing Statements. Except as respects the financing statements filed by Agent and the financing statements described on Schedule 1.2, no financing statement covering any of the Collateral or any proceeds thereof is on file in any public office.

4.22 Superpriority Claims and Collateral Security. The Debtor hereby represents, warrants and covenants that, upon the entry by the Bankruptcy Court of the Interim Order and/or the Final Order, as applicable:

(a) for all Post-Petition Obligations (and upon entry of the Final Order, for all Obligations, including without limitation, all Pre-Petition Obligations and Post-Petition Obligations) now existing or hereafter arising and for diminution in value of any Pre-Petition Collateral used by the Debtor pursuant to the Interim Order, this Agreement or otherwise, the Agent, for the benefit of itself and the other Secured Parties, is granted an allowed superpriority administrative claim in the Debtor's estates pursuant to Section 364(c)(1) of the Bankruptcy Code, having priority in right of payment over any and all other obligations, liabilities and indebtedness of the Debtor, whether now in existence or hereafter incurred by the Debtor, and over any and all administrative expenses or priority claims of the kind specified in, or ordered pursuant to the Bankruptcy Code, including without limitation, inter alia, Sections 105, 326, 328, 330, 331, 503(b), 506(c) (upon entry of the Final Order), 507, 364(c)(1), 546(c), 726 or 1114 of the Bankruptcy Code, subject as to priority only to the Carve-Out; and

(b) (A) to secure the prompt payment and performance of any and all Post-Petition Obligations, (and upon entry of the Final Order, any and all Obligations, including without limitation, all Pre-Petition Obligations and the Post-Petition Obligations) of the Debtor to the Secured Parties of whatever kind, nature or description, absolute or contingent, now existing or hereafter arising, the Agent, for the benefit of itself and the other Secured Parties, shall have and is hereby granted, effective as of the Petition Date, valid and perfected first priority (subject to the Senior Liens (as defined in the Interim Order) and the Carve-Out), security interests and liens in and upon all pre- and post- petition property of the Debtor, whether existing on the Petition Date or thereafter acquired (1) pursuant to Section 364(c) (2), that, on or as of the Petition Date is not subject to valid, perfected and non-avoidable liens (collectively, the "Unencumbered Property"), (2) pursuant to Section 364(c) and (d) of the Bankruptcy Code, all of the Pre-Petition Collateral, and (3) pursuant to Section 364(c) and (d) of the Bankruptcy Code, all of the Collateral (as defined in this Agreement), (B) such security interests and Liens shall be senior in all respects to interests of other parties arising out of security interests or Liens, if any, in such assets and property existing immediately prior to the Petition Date and (C) the Liens securing the Obligations shall not be subject to Section 551 of the Bankruptcy Code.

4.23 No Filings Required. The Liens securing the Obligations shall be deemed valid and perfected and duly recorded by entry of the Interim Order. Agent shall not be required to file any financing statements, mortgages, notices of Lien or similar instruments in any jurisdiction or filing office or to cause any account control agreements to be entered into by any otherwise applicable parties with respect to any deposit account or securities account or to take any other action in order to validate or perfect the Lien granted by or pursuant to the Interim Order, the Final Order, this Agreement or any Other Document.

4.24 Grants, Rights and Remedies. The Lien and administrative priority granted by or pursuant to the Interim Order, the Final Order, this Agreement or any Other Document are independently granted. The Interim Order, the Final Order, this Agreement and the Other Documents supplement each other, and the grants, priorities, rights and remedies of Agent and Lenders hereunder and thereunder are cumulative.

V. REPRESENTATIONS AND WARRANTIES.

Each Loan Party represents and warrants as follows:

5.1 Authority. Subject to entry by the Bankruptcy Court of the Interim Order and the Final Order, as applicable, each Loan Party has full power, authority and legal right to enter into this Agreement and the Other Documents to which it is a party and to perform all its respective Obligations hereunder and thereunder. This Agreement and the Other Documents to which it is a party have been duly executed and delivered by each Loan Party, and, subject to entry by the Bankruptcy Court of the Interim Order and the Final Order, this Agreement and the Other Documents to which it is a party constitute the legal, valid and binding obligation of such Loan Party enforceable in accordance with their terms. Subject to entry by the Bankruptcy Court of the Interim Order and the Final Order, as applicable, the execution, delivery and performance of this Agreement and of the Other Documents to which it is a party (a) are within such Loan Party's corporate or company powers, as applicable, have been duly authorized by all necessary corporate or company action, as applicable, are not in contravention of law or the terms of such Loan Party's Organizational Documents or to the conduct of such Loan Party's business or of any Material Contract or undertaking to which such Loan Party is a party or by which such Loan Party is bound, (b) will not conflict with or violate any law or regulation, or any judgment, order or decree of any Governmental Body, (c) will not require the Consent of any Governmental Body, any party to a Material Contract or any other Person, except those Consents set forth on Schedule 5.1 hereto, all of which will have been duly obtained, made or compiled prior to the Closing Date and which are in full force and effect and (d) will not conflict with, nor result in any breach in any of the provisions of or constitute a default under or result in the creation of any Lien except Permitted Encumbrances upon any asset of such Loan Party under the provisions of any agreement, charter document, instrument, by-law or other instrument to which such Loan Party is a party or by which it or its property is a party or by which it may be bound.

5.2 Formation and Qualification.

(a) Each Loan Party is duly incorporated and in good standing under the laws of the state listed on Schedule 5.2(a) and is qualified to do business and is in good standing in the states listed on Schedule 5.2(a) which constitute all states in which qualification and good standing are necessary for such Loan Party to conduct its business and own its property and where the failure to so qualify could reasonably be expected to have a Material Adverse Effect on such Loan Party. Each Loan Party has delivered to Agent true and complete copies of its Organizational Documents and will promptly notify Agent of any amendment or changes thereto.

(b) The only Subsidiaries of each Loan Party are listed on Schedule 5.2(b).

5.3 Survival of Representations and Warranties. All representations and warranties of such Loan Party contained in this Agreement and the Other Documents to which it is a party shall be true at the time of such Loan Party's execution of this Agreement and the Other Documents to which it is a party, and shall survive the execution, delivery and acceptance thereof by the parties thereto and the closing of the transactions described therein or related thereto.

5.4 Tax Returns. Each Loan Party's federal tax identification number is set forth on Schedule 5.4. Each Loan Party has filed all federal, state and local tax returns and other reports

each is required by law to file and has paid all taxes, assessments, fees and other governmental charges that are due and payable. Federal, state and local income tax returns of each Loan Party have been examined and reported upon by the appropriate taxing authority or closed by applicable statute and satisfied for all fiscal years prior to and including the fiscal year ending December 31, 2015. The provision for taxes on the books of each Loan Party is adequate for all years not closed by applicable statutes, and for its current fiscal year, and no Loan Party has any knowledge of any deficiency or additional assessment in connection therewith not provided for on its books.

5.5 Budget. The Budget was prepared in good faith by an Authorized Officer of the Debtor and based upon assumptions which were reasonable in light of the conditions existing at the time of delivery thereof and reflect the Debtor's reasonable estimate of their future financial performance for such period (it being understood (for purposes of this representation and warranty only and any determination of the truth and correctness hereof on any date such representation and warranty is made or deemed to be made by the Debtor, and not for any other purpose (including without limitation any purpose under Sections 6.15, 9.6 and 9.7 hereof or any purpose under any other provision hereof restricting the Debtor's actions to those taken in accordance with the Budget subject to the Permitted Variance) under this Agreement or any Other Document) that projections by their nature are inherently uncertain and the results reflected therein may not actually be achieved and actual results may differ and differences may be material).

5.6 Entity Names. No Loan Party has been known by any other company or corporate name, as applicable, in the past five (5) years and does not sell Inventory under any other name except as set forth on Schedule 5.6, nor has any Loan Party been the surviving corporation or company, as applicable, of a merger or consolidation or acquired all or substantially all of the assets of any Person during the preceding five (5) years.

5.7 O.S.H.A. and Environmental Compliance.

(a) Each Loan Party has duly complied with, and its facilities, business, assets, property, leaseholds, Real Property and Equipment are in compliance in all material respects with, the provisions of the Federal Occupational Safety and Health Act, the Environmental Protection Act, RCRA and all other Environmental Laws; there have been no outstanding citations, notices or orders of non-compliance issued to any Loan Party or relating to its business, assets, property, leaseholds or Equipment under any such laws, rules or regulations.

(b) Each Loan Party has been issued all required federal, state and local licenses, certificates or permits (collectively, "Approvals") relating to all applicable Environmental Laws and all such Approvals are current and in full force and effect.

(c) (i) There are no releases, spills, discharges, leaks or disposal (collectively referred to as "Releases") of Hazardous Materials at, upon, under or within any Real Property or any premises leased by any Loan Party (ii) there are no underground storage tanks or polychlorinated biphenyls on the Real Property or any premises leased by any Loan Party; (iii) neither the Real Property nor any premises leased by any Loan Party has ever been used as a treatment, storage or disposal facility of Hazardous Waste; and (iv) no Hazardous Materials are present on the Real Property or any premises leased by any Loan Party.

(d) All Real Property owned by Loan Parties is insured pursuant to policies and other bonds which are valid and in full force and effect and which provide adequate coverage from reputable and financially sound insurers in amounts sufficient to insure the assets and risks of each such Loan Party in accordance with prudent business practice in the industry of such Loan Party. Each Loan Party has taken all actions required under the Flood Laws and/or requested by Agent to assist in ensuring that each Lender is in compliance with the Flood Laws applicable to the Collateral, including, but not limited to, providing Agent with the address and/or GPS coordinates of each structure located upon any Real Property that will be subject to a Mortgage in favor of Agent, for the benefit of Lenders, and, to the extent required, obtaining flood insurance for such property, structures and contents prior to such property, structures and contents becoming Collateral.

5.8 No Litigation, Violation, Indebtedness or Default.

(a) Except as disclosed in Schedule 5.8(b), no Loan Party has (i) any pending or threatened litigation, arbitration, actions or proceedings which involve the possibility of having a Material Adverse Effect, or (ii) any outstanding Indebtedness other than (x) the Obligations and (y) Indebtedness otherwise permitted under Section 7.8 hereof.

(b) No Loan Party is in violation of any applicable statute, law, rule, regulation or ordinance in any respect which could reasonably be expected to have a Material Adverse Effect, nor is any Loan Party in violation of any order of any court, Governmental Body or arbitration board or tribunal. Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other federal or state laws.

(c) No Loan Party nor any member of the Controlled Group maintains or contributes to any Plan other than (i) as of the Closing Date, those listed on Schedule 5.8(d) hereto and (ii) thereafter, as permitted under this Agreement. (i) No Plan has incurred any "accumulated funding deficiency," as defined in Section 302(a)(2) of ERISA and Section 412(a) of the Code, whether or not waived, and each Loan Party and each member of the Controlled Group has met all applicable minimum funding requirements under Section 302 of ERISA in respect of each Plan; (ii) each Plan which is intended to be a qualified plan under Section 401(a) of the Code as currently in effect has been determined by the Internal Revenue Service to be qualified under Section 401(a) of the Code and the trust related thereto is exempt from federal income tax under Section 501(a) of the Code; (iii) neither any Loan Party nor any member of the Controlled Group has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due which are unpaid; (iv) no Plan has been terminated by the plan administrator thereof nor by the PBGC, and there is no occurrence which would cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Plan; (v) at this time, the current value of the assets of each Plan exceeds the present value of the accrued benefits and other liabilities of such Plan and neither any Loan Party nor any member of the Controlled Group knows of any facts or circumstances which would materially change the value of such assets and accrued benefits and other liabilities and could reasonably be expected to have a Material Adverse Effect; (vi) neither any Loan Party nor any member of the Controlled Group has breached any of the responsibilities, obligations or duties imposed on it by ERISA with respect to any Plan; (vii) neither any Loan Party nor any member of a Controlled Group has incurred any liability for any

excise tax arising under Section 4972 or 4980B of the Code, and no fact exists which could give rise to any such liability; (viii) neither any Loan Party nor any member of the Controlled Group nor any fiduciary of, nor any trustee to, any Plan, has engaged in a "prohibited transaction" described in Section 406 of the ERISA or Section 4975 of the Code nor taken any action which would constitute or result in a Termination Event with respect to any such Plan which is subject to ERISA; (ix) each Loan Party and each member of the Controlled Group has made all contributions due and payable with respect to each Plan; (x) there exists no event described in Section 4043(b) of ERISA, for which the thirty (30) day notice period has not been waived; (xi) neither any Loan Party nor any member of the Controlled Group has any fiduciary responsibility for investments with respect to any plan existing for the benefit of persons other than employees or former employees of any Loan Party and any member of the Controlled Group; (xii) neither any Loan Party nor any member of the Controlled Group maintains or contributes to any Plan which provides health, accident or life insurance benefits to former employees, their spouses or dependents, other than in accordance with Section 4980B of the Code; (xiii) neither any Loan Party nor any member of the Controlled Group has withdrawn, completely or partially, from any Multiemployer Plan so as to incur liability under the Multiemployer Pension Plan Amendments Act of 1980 and there exists no fact which would reasonably be expected to result in any such liability; and (xiv) no Plan fiduciary (as defined in Section 3(21) of ERISA) has any liability for breach of fiduciary duty or for any failure in connection with the administration or investment of the assets of a Plan.

5.9 Patents, Trademarks, Copyrights and Licenses. All Intellectual Property owned or utilized by the Debtor: (i) is set forth on Schedule 5.9; (ii) is valid and has been duly registered or filed with all appropriate Governmental Bodies; and (iii) constitutes all of the intellectual property rights which are necessary for the operation of its business. There is no objection to, pending challenge to the validity of, or proceeding by any Governmental Body to suspend, revoke, terminate or adversely modify, any such Intellectual Property and to the best of Debtor's knowledge, no grounds for any challenge or proceedings exist, except as set forth in Schedule 5.9 hereto. All Intellectual Property owned or held by the Debtor consists of original material or property developed by the Debtor or was lawfully acquired by the Debtor from the proper and lawful owner thereof. Each of such items has been maintained so as to preserve the value thereof from the date of creation or acquisition thereof.

5.10 Licenses and Permits. Except as set forth in Schedule 5.10, each Loan Party (a) is in compliance with and (b) has procured and is now in possession of, all material licenses or permits required by any applicable federal, state, provincial or local law, rule or regulation for the operation of its business in each jurisdiction wherein it is now conducting or proposes to conduct business and where the failure to procure such licenses or permits could have a Material Adverse Effect.

5.11 Default of Indebtedness. No Loan Party is in default in the payment of the principal of or interest on any Indebtedness or under any instrument or agreement under or subject to which any Indebtedness has been issued and no event has occurred under the provisions of any such instrument or agreement which with or without the lapse of time or the giving of notice, or both, constitutes or would constitute an event of default thereunder, in each case, which could reasonably be expected to have a Material Adverse Effect.

5.12 No Default. No Loan Party is in default in the payment or performance of any of its contractual obligations and no Default or Event of Default has occurred.

5.13 No Burdensome Restrictions. No Loan Party is party to any contract or agreement the performance of which could have a Material Adverse Effect. Each Loan Party has heretofore delivered to Agent true and complete copies of all material contracts to which it is a party or to which it or any of its properties is subject. No Loan Party has agreed or consented to cause or permit in the future (upon the happening of a contingency or otherwise) any of its property, whether now owned or hereafter acquired, to be subject to a Lien which is not a Permitted Encumbrance.

5.14 No Labor Disputes. No Loan Party is involved in any labor dispute; there are no strikes or walkouts or union organization of any Loan Party's employees threatened or in existence and no labor contract is scheduled to expire during the Term other than as set forth on Schedule 5.14 hereto.

5.15 Margin Regulations. No Loan Party is engaged, nor will it engage, principally or as one of its important activities, in the business of extending credit for the purpose of "purchasing" or "carrying" any "margin stock" within the respective meanings of each of the quoted terms under Regulation U of the Board of Governors of the Federal Reserve System as now and from time to time hereafter in effect. No part of the proceeds of any Advance will be used for "purchasing" or "carrying" "margin stock" as defined in Regulation U of such Board of Governors.

5.16 Investment Company Act. No Loan Party is an "investment company" registered or required to be registered under the Investment Company Act of 1940, as amended, nor is it controlled by such a company.

5.17 Disclosure. No representation or warranty made by any Loan Party in this Agreement, or in any financial statement, report, certificate or any other document furnished in connection herewith or therewith contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements herein or therein not misleading. There is no fact known to any Loan Party or which reasonably should be known to such Loan Party which such Loan Party has not disclosed to Agent in writing with respect to the transactions contemplated by this Agreement which could reasonably be expected to have a Material Adverse Effect.

5.18 [Reserved]

5.19 Swaps. No Loan Party is a party to, nor will it be a party to, any swap agreement whereby such Loan Party has agreed or will agree to swap interest rates or currencies unless same provides that damages upon termination following an event of default thereunder are payable on an unlimited "two-way basis" without regard to fault on the part of either party.

5.20 Conflicting Agreements. No provision of any mortgage, indenture, contract, agreement, judgment, decree or order binding on any Loan Party or affecting the Collateral conflicts with, or requires any Consent which has not already been obtained to, or would in any

way prevent the execution, delivery or performance of, the terms of this Agreement or the Other Documents.

5.21 Application of Certain Laws and Regulations. Neither any Loan Party nor any Affiliate of any Loan Party is subject to any law, statute, rule or regulation which regulates the incurrence of any Indebtedness, including laws, statutes, rules or regulations relative to common or interstate carriers or to the sale of electricity, gas, steam, water, telephone, telegraph or other public utility services.

5.22 Business and Property of Loan Parties. Upon and after the Closing Date, Loan Parties do not propose to engage in any business other than as set forth on Schedule 5.22 hereto and activities necessary to conduct the foregoing. On the Closing Date, each Loan Party will own all the property and possess all of the rights and Consents necessary for the conduct of the business of such Loan Party.

5.23 Section 20 Subsidiaries. Loan Parties do not intend to use and shall not use any portion of the proceeds of the Advances, directly or indirectly, to purchase during the underwriting period, or for 30 days thereafter, Ineligible Securities being underwritten by a Section 20 Subsidiary.

5.24 Anti-Terrorism Laws.

(a) General. Neither any Loan Party nor any Affiliate of any Loan Party is in violation of any Anti-Terrorism Law or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(b) Executive Order No. 13224. Neither any Loan Party nor any Affiliate of any Loan Party or their respective agents acting or benefiting in any capacity in connection with the Advances or other transactions hereunder, is any of the following (each a "Blocked Person"):

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224;

(ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224;

(iii) a Person or entity with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(iv) a Person or entity that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order No. 13224;

(v) a Person or entity that is named as a "specially designated national" on the most current list published by the U.S. Treasury Department Office of Foreign Asset

Control at its official website or any replacement website or other replacement official publication of such list, or

(vi) a Person or entity who is affiliated or associated with a Person or entity listed above.

Neither any Loan Party nor to the knowledge of any Loan Party, any of its agents acting in any capacity in connection with the Advances or other transactions hereunder (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order No. 13224.

5.25 Trading with the Enemy. No Loan Party has engaged, nor does it intend to engage, in any business or activity prohibited by the Trading with the Enemy Act.

5.26 Federal Securities Laws. Neither any Loan Party nor any of its Subsidiaries (i) is required to file periodic reports under the Exchange Act, (ii) has any securities registered under the Exchange Act or (iii) has filed a registration statement that has not yet become effective under the Securities Act.

5.27 Common Enterprise. The successful operation and condition of each of the Loan Parties is dependent on the continued successful performance of the functions of the group of the Loan Parties as a whole, and the successful operation of each of the Loan Parties is dependent on the successful performance and operation of each other Loan Party. Each Loan Party expects to derive benefit (and its board of directors or other governing body has determined that it may reasonably be expected to derive benefit), directly and indirectly, from (i) successful operations of each of the other Loan Parties and (ii) the credit extended by Lenders to the Loan Parties hereunder, both in their separate capacities and as members of the group of companies. Each Loan Party has determined that execution, delivery, and performance of this Agreement and any Other Documents to be executed by such Loan Party is within its purpose, will be of direct and indirect benefit to such Loan Party, and is in its best interest.

5.28 Equity Interests. The authorized and outstanding Equity Interests of the Debtor, and each legal and beneficial holder thereof as of the Closing Date, are as set forth on Schedule 5.28(a) hereto. All of the Equity Interests of the Debtor have been duly and validly authorized and issued and are fully paid and non-assessable and have been sold and delivered to the holders hereof in compliance with, or under valid exemption from, all federal and state laws and the rules and regulations of each Governmental Body governing the sale and delivery of securities. Except for the rights and obligations set forth on Schedule 5.28(b), there are no subscriptions, warrants, options, calls, commitments, rights or agreement by which the Debtor or any of the shareholders of the Debtor is bound relating to the issuance, transfer, voting or redemption of shares of its Equity Interests or any pre-emptive rights held by any Person with respect to the Equity Interests of Debtor. Except as set forth on Schedule 5.28(c), Debtor has not issued any securities convertible into or exchangeable for shares of its Equity Interests or any options, warrants or other rights to acquire such shares or securities convertible into or exchangeable for such shares.

5.29 Commercial Tort Claims. Debtor has no commercial tort claims except as set forth on Schedule 5.29 hereto.

5.30 Letter of Credit Rights. As of the Closing Date, Debtor has no letter of credit rights except as set forth on Schedule 5.30 hereto.

5.31 Material Contracts. Schedule 5.31 sets forth all Material Contracts of Debtor. All Material Contracts are in full force and effect and no material defaults currently exist thereunder.

5.32 Certificate of Beneficial Ownership. The Certificate of Beneficial Ownership executed and delivered to Agent and Lenders for the Debtor on or prior to the August 2, 2018, as updated from time to time in accordance with this Agreement, is accurate, complete and correct as of the date. hereof and as of the date any such update is delivered. The Debtor acknowledges and agrees that the Certificate of Beneficial Ownership is one of the Other Documents.

VI. AFFIRMATIVE COVENANTS.

Each Loan Party shall, until payment in full of the Obligations and termination of this Agreement:

6.1 Payment of Fees. Pay to Agent on demand all usual and customary fees and expenses which Agent incurs in connection with (a) the forwarding of Advance proceeds, (b) the establishment and maintenance of any Blocked Accounts or Depository Accounts as provided for in Section 4.16(h) and (c) the hiring of a third party to review financial statements and other deliverables provided by the Debtor under Article IX. Agent may, without making demand, charge Debtor's Account for all such fees and expenses.

6.2 Conduct of Business and Maintenance of Existence and Assets. (a) Conduct continuously and operate actively its business according to good business practices and maintain all of its properties useful or necessary in its business in good working order and condition (reasonable wear and tear excepted and except as may be disposed of in accordance with the terms of this Agreement), including all licenses, patents, copyrights, design rights, tradenames, trade secrets and trademarks and take all actions necessary to enforce and protect the validity of any intellectual property right or other right included in the Collateral; (b) keep in full force and effect its existence and comply in all material respects with the laws and regulations governing the conduct of its business where the failure to do so could reasonably be expected to have a Material Adverse Effect; and (c) make all such reports and pay all such franchise and other taxes and license fees and do all such other acts and things as may be lawfully required to maintain its rights, licenses, leases, powers and franchises under the laws of the United States or any political subdivision thereof.

6.3 Violations. Promptly notify Agent in writing of any violation of any law, statute, regulation or ordinance of any Governmental Body, or of any agency thereof, applicable to any Loan Party which could reasonably be expected to have a Material Adverse Effect.

6.4 Government Receivables. Take all steps necessary to protect Agent's interest in the Collateral under the Federal Assignment of Claims Act, the Uniform Commercial Code and

all other applicable state or local statutes or ordinances and deliver to Agent appropriately endorsed, any instrument or chattel paper connected with any Receivable arising out of contracts between any Loan Party and the United States, any state or any department, agency or instrumentality of any of them.

6.5 [Reserved].

6.6 Insurance.

(a) (i) Shall, and shall cause each Subsidiary to, maintain with financially sound and reputable carriers having a financial strength rating of at least A- by A.M. Best Company, (ii) keep all its insurable properties and properties in which the Debtor has an interest insured against the hazards of fire, flood, sprinkler leakage, those hazards covered by extended coverage insurance and such other hazards, and for such amounts, as is customary in the case of companies engaged in businesses similar to the Debtor's including business interruption insurance; (iii) maintain a bond in such amounts as is customary in the case of companies engaged in businesses similar to the Debtor insuring against larceny, embezzlement or other criminal misappropriation of insured's officers and employees who may either singly or jointly with others at any time have access to the assets or funds of the Debtor either directly or through authority to draw upon such funds or to direct generally the disposition of such assets; (iv) maintain public and product liability insurance against claims for personal injury, death or property damage suffered by others; (v) maintain all such worker's compensation or similar insurance as may be required under the laws of any state or jurisdiction in which the Debtor is engaged in business; (vi) furnish Agent with (A) copies of all policies and evidence of the maintenance of such policies by the renewal thereof at least thirty (30) days before any expiration date, and (B) appropriate loss payable endorsements in form and substance satisfactory to Agent, naming Agent as an additional insured and mortgagee and/or lender loss payee (as applicable) as its interests may appear with respect to all insurance coverage referred to in clauses (ii), and (iv) above, and providing (I) that all proceeds thereunder shall be payable to Agent, (II) no such insurance shall be affected by any act or neglect of the insured or owner of the property described in such policy, and (III) that such policy and loss payable clauses may not be cancelled, amended or terminated unless at least thirty (30) days prior written notice is given to Agent (or in the case of non-payment, at least ten (10) days prior written notice). In the event of any loss thereunder, the carriers named therein hereby are directed by Agent and the applicable Debtor to make payment for such loss to Agent and not to the Debtor and Agent jointly. If any insurance losses are paid by check, draft or other instrument payable to the Debtor and Agent jointly, Agent may endorse the Debtor's name thereon and do such other things as Agent may deem advisable to reduce the same to cash.

(b) The Debtor shall take all actions required under the Flood Laws and/or requested by Agent to assist in ensuring that each Lender is in compliance with the Flood Laws applicable to the Collateral, including, but not limited to, providing Agent with the address and/or GPS coordinates of each structure on any real property that will be subject to a mortgage in favor of Agent, for the benefit of Lenders, and, to the extent required, obtaining flood insurance for such property, structures and contents prior to such property, structures and contents becoming Collateral, and thereafter maintaining such flood insurance in full force and effect for so long as required by the Flood Laws.

(c) During the occurrence and continuance of an Event of Default, Agent is hereby authorized to adjust and compromise claims under insurance coverage referred to in Sections 6.6(a)(i) and (iii) and Section 6.6(b) above. All loss recoveries received by Agent under any such insurance may be applied to the Obligations, in such order as Agent in its sole discretion shall determine. Any surplus shall be paid by Agent to Debtor or applied as may be otherwise required by law. Any deficiency thereon shall be paid by Debtor to Agent, on demand. If the Debtor fails to obtain insurance as hereinabove provided, or to keep the same in force, Agent, if Agent so elects, may obtain such insurance and pay the premium therefor on behalf of the Debtor, which payments shall be charged to Debtor's Account and constitute part of the obligations.

6.7 Execution of Supplemental Instruments. Execute and deliver to Agent from time to time, upon demand, such supplemental agreements, statements, assignments and transfers, or instructions or documents relating to the Collateral, and such other instruments as Agent may request, in order that the full intent of this Agreement may be carried into effect.

6.8 Payment of Indebtedness and Leasehold Obligations. Pay, discharge or otherwise satisfy (i) at or before maturity (subject, where applicable, to specified grace periods) all its Indebtedness, except when the failure to do so could not reasonably be expected to have a Material Adverse Effect or when the amount or validity thereof is currently being Properly Contested, subject at all times to any applicable subordination arrangement in favor of Lenders and (ii) when due its rental obligations under all leases under which it is a tenant, and shall otherwise comply, in all material respects, with all other terms of such leases and keep them in full force and effect.

6.9 Environmental Matters.

(a) Ensure that the Real Property and all operations and businesses conducted thereon are in compliance and remain in compliance with all Environmental Laws and it shall manage any and all Hazardous Materials on any Real Property in compliance with Environmental Laws.

(b) Establish and maintain an environmental management and compliance system to assure and monitor continued compliance with all applicable Environmental Laws which system shall include periodic environmental compliance audits to be conducted by knowledgeable environmental professionals. All potential violations and violations of Environmental Laws shall be reviewed with legal counsel to determine any required reporting to applicable Governmental Bodies and any required corrective actions to address such potential violations or violations.

(c) Respond promptly to any Hazardous Discharge or Environmental Complaint and take all necessary action in order to safeguard the health of any Person and to avoid subjecting the Collateral or Real Property to any Lien. If the Debtor shall fail to respond promptly to any Hazardous Discharge or Environmental Complaint or the Debtor shall fail to comply with any of the requirements of any Environmental Laws, Agent on behalf of Lenders may, but without the obligation to do so, for the sole purpose of protecting Agent's interest in the Collateral: (i) give such notices or (ii) enter onto the Real Property (or authorize third parties to enter onto the Real Property) and take such actions as Agent (or such third parties as directed by Agent) deem reasonably necessary or advisable, to remediate, remove, mitigate or otherwise manage with any

such Hazardous Discharge or Environmental Complaint. All reasonable costs and expenses incurred by Agent and Lenders (or such third parties) in the exercise of any such rights, including any sums paid in connection with any judicial or administrative investigation or proceedings, fines and penalties, together with interest thereon from the date expended at the Default Rate for Revolving Advances shall be paid upon demand by Debtor, and until paid shall be added to and become a part of the Obligations secured by the Liens created by the terms of this Agreement or any other agreement between Agent, any Lender and the Debtor.

(d) Promptly upon the written request of Agent from time to time, Debtor shall provide Agent, at Debtor's expense, with an environmental site assessment or environmental compliance audit report prepared by an environmental engineering firm acceptable in the reasonable opinion of Agent, to assess with a reasonable degree of certainty the existence of a Hazardous Discharge and the potential costs in connection with abatement, remediation and removal of any Hazardous Materials found on, under, at or within the Real Property. Any report or investigation of such Hazardous Discharge proposed and acceptable to the responsible Governmental Body shall be acceptable to Agent. If such estimates, individually or in the aggregate, exceed $100,000, Agent shall have the right to require Debtor to post a bond, letter of credit or other security reasonably satisfactory to Agent to secure payment of these costs and expenses.

6.10 Standards of Financial Statements. Cause all financial statements referred to in Sections 9.7, 9.8, 9.9, 9.10, 9.11, 9.12 and 9.13 as to which GAAP is applicable to be complete and correct in all material respects (subject, in the case of interim financial statements, to normal year-end audit adjustments) and to be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein (except as disclosed therein and agreed to by such reporting accountants or officer, as applicable).

6.11 Federal Securities Laws. Promptly notify Agent in writing if any Loan Party or any of its Subsidiaries (i) is required to file periodic reports under the Exchange Act, (ii) registers any securities under the Exchange Act or (iii) files a registration statement under the Securities Act.

6.12 [Reserved].

6.13 Delivery of Receivable Sale Documents. Prior to the sale of any Receivable expressly permitted pursuant to the terms of Section 7.1(b), the Loan Parties shall deliver a true and complete copy of the documents, by which such sale to the applicable Local Distribution Company is to be consummated, including an executed purchase agreement or similar document and any UCC Financing Statement permitted to be filed pursuant to Section 7.2. Such documents shall in form and substance satisfactory to Agent and shall not be modified or amended without the prior written consent of Agent.

6.14 [Reserved].

6.15 Compliance with Laws. Comply with all Applicable Laws with respect to the Collateral or any part thereof or to the operation of the Debtor's business the non-compliance with which could reasonably be expected to have a Material Adverse Effect (except to the extent any

separate provision of this Agreement shall expressly require compliance with any particular Applicable Law(s) pursuant to another standard).

6.16 Books and Records. Keep proper books of record and account in which full, true and correct entries will be made of all dealings or transactions of or in relation to its business and affairs (including without limitation accruals for taxes, assessments, Charges, levies and claims, allowances against doubtful Receivables and accruals for depreciation, obsolescence or amortization of assets), all in accordance with, or as required by, GAAP consistently applied in the opinion of such independent public accountant as shall then be regularly engaged by Debtor.

6.17 Payment of Taxes. Pay, when due, all taxes, assessments and other Charges lawfully levied or assessed upon the Debtor or any of the Collateral, including real and personal property taxes, assessments and charges and all franchise, income, employment, social security benefits, withholding, and sales taxes. If any tax by any Governmental Body is or may be imposed on or as a result of any transaction between the Debtor and Agent or any Lender which Agent or any Lender may be required to withhold or pay or if any taxes, assessments, or other Charges remain unpaid after the date fixed for their payment, or if any claim shall be made which, in Agent's or any Lender's opinion, may possibly create a valid Lien on the Collateral, Agent may without notice to Debtor pay the taxes, assessments or other Charges and the Debtor hereby indemnifies and holds Agent and each Lender harmless in respect thereof. Agent will not pay any taxes, assessments or Charges to the extent that any applicable Debtor has Properly Contested those taxes, assessments or Charges. The amount of any payment by Agent under this Section 6.17 shall be charged to Debtor's Account as a Revolving Advance maintained as a Domestic Rate Loan and added to the Obligations and, until Debtor shall furnish Agent with an indemnity therefor (or supply Agent with evidence satisfactory to Agent that due provision for the payment thereof has been made), Agent may hold without interest any balance standing to Debtor's credit and Agent shall retain its security interest in and Lien on any and all Collateral held by Agent.

6.18 Membership/Partnership Interests. Designate and shall cause all of their Subsidiaries to designate (a) their limited liability company membership interests or partnership interests as the case may be, as securities as contemplated by the definition of "security" in Section 8-102(15) and Section 8-103 of Article 8 of the Uniform Commercial Code, and (b) certificate such limited liability company membership interests and partnership interests, as applicable.

6.19 Keepwell. If it is a Qualified ECP Loan Party, then jointly and severally, together with each other Qualified ECP Loan Party, hereby absolutely unconditionally and irrevocably (a) guarantees the prompt payment and performance of all Swap Obligations owing by each Non-Qualifying Party (it being understood and agreed that this guarantee is a guaranty of payment and not of collection), and (b) undertakes to provide such funds or other support as may be needed from time to time by any Non-Qualifying Party to honor all of such Non-Qualifying Party's obligations under this Agreement or any Other Document in respect of Swap Obligations (provided, however, that each Qualified ECP Loan Party shall only be liable under this Section 6.19 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 6.19, or otherwise under this Agreement or any Other Document, voidable under applicable law, including applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Loan Party under this

Section 6.19 shall remain in full force and effect until payment in full of the Obligations and termination of this Agreement and the Other Documents. Each Qualified ECP Loan Party intends that this Section 6.19 constitute, and this Section 6.19 shall be deemed to constitute, a guarantee of the obligations of, and a "keepwell, support, or other agreement" for the benefit of each other Debtor and Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the CEA.

6.20 [Reserved].

6.21 Milestones. Within the time periods set forth below, Debtor shall perform each action with respect to the Case as set forth below:

(a) Within one (1) business day of the Petition Date Debtor shall file an emergency motion ("Transfer Motion") seeking the transfer of customers to providers of last resort ("POLRs");

(b) Within eleven (11) days of the Petition Date, Debtor shall obtain an expedited hearing ("Transfer Motion Hearing") on the Transfer Motion;

(c) Within one (1) Business Day of the Transfer Motion Hearing, Debtor shall obtain entry of an Order ("Transfer Motion Order") in form and substance acceptable to Agent in its sole and absolute discretion approving the Transfer Motion and providing for the transfer of customers to POLRs within ten (10) days of entry of the Transfer Motion Order.

6.22 Tax Refund. Promptly upon receipt by (y) a Loan Party or (z) a shareholder or equityholder of a Loan Party (including, without limitation, Richard A. Curnutte, Sr.) of a Tax Refund, cause such Tax Refund proceeds to be deposited into either a Blocked Account or a Depository Account established at Agent for the deposit of such proceeds.

6.23 Certificate of Beneficial Ownership and Other Additional Information. Provide to Agent and the Lenders: (i) confirmation of the accuracy of the information set forth in the most recent Certificate of Beneficial Ownership provided to the Agent and Lenders; (ii) a new Certificate of Beneficial Ownership, in form and substance acceptable to Agent and each Lenders, when the individual(s) to be identified as a Beneficial Owner have changed; and (iii) such other information and documentation as may reasonably be requested by Agent or any Lender from time to time for purposes of compliance by Agent or such Lender with applicable laws (including without limitation the USA Patriot Act and other "know your customer" and anti-money laundering rules and regulations), and any policy or procedure implemented by Agent or such Lender to comply therewith.

6.24 Budget Compliance.

(a) Disbursements Covenant. Commencing with the weekly period ending April 9, 2022 reflected in the Initial Budget delivered as of the Closing Date, cause Debtor's disbursements, on an aggregate basis, to be not more than one hundred ten percent (110%) (provided, however, that in Agent's sole and absolute discretion and without court order, approval of, or notice to, any other Persons, Agent may increase such percentage up to one hundred fifteen percent (115%); provided, further, that any unused amounts set forth in the Budget may be carried

forward on an aggregate and cumulative basis for use in any subsequent week) of forecasted disbursements set forth in the Budget for the applicable period (the "Permitted Variance"), such covenant to be tested on a rolling two week period provided that for the initial one week test such covenant shall be tested against the Budget as follows: (i) for the first week based on one week forecast and one weeks actual; and (ii) for the second week based on two weeks forecast and two weeks actual, in each case, on a cumulative basis. Notwithstanding anything to the contrary, the Permitted Variance shall not apply to amounts included in the Budget for the Carve-Out, including, without limitation, Allowed Professional Fees and Statutory Fees.

(b) Minimum Receipt Covenant. Commencing with the weekly period ending April 23, 2022 reflected in the Initial Budget delivered as of the Closing Date, cause Debtor's receipts, on an aggregate basis, to be at least 90% (provided, however, that in Agent's sole and absolute discretion and without court order, approval of, or notice to, any other Persons, Agent may decrease such percentage down to eighty-five percent (85%)) of the forecasted receipts as set forth in the Budget for the applicable period, such covenant to be tested on a rolling 2-week basis; provided that for the initial one week test such covenant shall be tested against the Budget as follows: (i) for the first week based on a one week forecast and one week actual; and (ii) for the second week based on two weeks forecast and two weeks actual, in each case, on a cumulative basis.

6.25 Bankruptcy Schedules and Covenants.

(a) File with the Bankruptcy Court and deliver to Agent, all Schedules of the Debtor within the time periods required by the Bankruptcy Court.

(b) Serve all:

(i) secured creditors, all judgment creditors (if any) actually known to the Debtor, the twenty (20) largest unsecured creditors, the federal and state taxing authorities, any and all Governmental Bodies holding a claim, any of the Debtor's unions, and any other party claiming an interest in the Collateral in accordance with the Federal Rules of Bankruptcy Procedure a copy of the Motion and Interim Order as approved by the Bankruptcy Court in accordance with the Federal Rules of Bankruptcy Procedure; and

(ii) all parties from whom the Debtor has received or that the Debtor believes they may have received goods from within twenty (20) days of the filing of the Case, a copy of the Interim Order and notice of the hearing on entry of the proposed Final Order in accordance with the Federal Rules of Bankruptcy Procedure.

VII. NEGATIVE COVENANTS.

No Loan Party shall, until satisfaction in full of the Obligations and termination of this Agreement:

7.1 Merger, Consolidation, Acquisition and Sale of Assets.

(a) Enter into any merger, consolidation or other reorganization with or into any other Person or acquire all or a substantial portion of the assets or Equity Interests of any Person or consummate an LLC Division or permit any other Person to consolidate with or merge with it.

(b) Sell, lease, transfer or otherwise dispose of any of its properties or assets (including, in each case, by way of an LLC Division), except dispositions of Inventory to the extent expressly permitted by Section 4.3; provided, however, that a Loan Party may sell a Receivable to the applicable Local Distribution Company which participated in the delivery of Gas to such Loan Party's Customers which gave rise to such Receivable, but only to the extent that the applicable Local Distribution Company makes a cash payment for 100% of the value of such Receivable (with the exception for Specified Sold Customer Receivables, which shall be no less than the greater of (y) 97% or (z) the percentage specified in the applicable Receivables Purchase Agreement, of the value of such Receivable) directly into the Cash Concentration Account on the same day as the sale thereof is consummated and the transfer occurs or, in the case of Specified LDC Receivables, by the applicable Specified LDC Receivable Payment Deadline.

7.2 Creation of Liens. Create or suffer to exist any Lien or transfer upon or against any of its property or assets now owned or hereafter acquired, except (i) Permitted Encumbrances, and (ii) security interests necessary to effect the transfer of any Receivable expressly permitted pursuant to the terms of Section 7.1(b) so long as such security interest only relates to sales of such Receivable and such security interest does not secure any obligation or other liability of the Loan Parties owing to any Local Distribution Company or any other Person.

7.3 Guarantees. Become liable upon the obligations or liabilities of any Person by assumption, endorsement or guaranty thereof or otherwise (other than to Lenders or Issuer) except (a) as disclosed on Schedule 7.3, and (b) the endorsement of checks in the Ordinary Course of Business.

7.4 Investments. Purchase or acquire obligations or Equity Interests of, or any other interest in, any Person, other than Permitted Investments.

7.5 Loans. Make advances, loans or extensions of credit to any Person, including any Parent, Subsidiary or Affiliate except with respect to the extension of commercial trade credit in connection with the sale of Inventory in the Ordinary Course of Business.

7.6 Capital Expenditures. Contract for, purchase or make any expenditure or commitments for Capital Expenditures unless and except to the extent expressly provided for in the Budget.

7.7 Dividends. Declare, pay or make any dividend or distribution on any shares of the common stock or preferred stock of any Loan Party (other than dividends or distributions payable in its stock, or split-ups or reclassifications of its stock) or apply any of its funds, property or assets to the purchase, redemption or other retirement of any common or preferred stock, or of any options to purchase or acquire any such shares of common or preferred stock of any Loan Party.

7.8 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness other than Permitted Indebtedness.

7.9 Nature of Business. Substantially change the nature of the business in which it is presently engaged, nor except as specifically permitted hereby purchase or invest, directly or indirectly, in any assets or property other than in the Ordinary Course of Business for assets or property which are useful in, necessary for and are to be used in its business as presently conducted.

7.10 Transactions with Affiliates. Directly or indirectly, purchase, acquire or lease any property from, or sell, transfer or lease any property to, or otherwise enter into any transaction or deal with, any Affiliate, except for (a) transactions among Loan Parties which are not expressly prohibited by the terms of this Agreement and which are in the Ordinary Course of Business, (b) payment by Loan Parties of dividends and distributions permitted under Section 7.7 hereof, and (c) transactions disclosed to Agent in writing, which are in the Ordinary Course of Business, on an arm's-length basis on terms and conditions no less favorable than terms and conditions which would have been obtainable from a Person other than an Affiliate.

7.11 Leases. Without the prior written consent of Agent (which consent shall not be unreasonably withheld), enter as lessee into any lease arrangement for real or personal property (unless capitalized and permitted under Section 7.6 hereof) if after giving effect thereto, aggregate annual rental payments for all leased property would exceed $300,000 in any one fiscal year in the aggregate for all Loan Parties.

7.12 Subsidiaries.

(a) Form any Subsidiary unless such Subsidiary (i) is not a Foreign Subsidiary, (ii) at Agent's discretion, (x) expressly joins in this Agreement as a Debtor and becomes jointly and severally liable for the obligations of Debtor hereunder, under the Revolving Credit Notes, and under any other agreement between the Debtor and Lenders, or (y) becomes a Guarantor with respect to the Obligations and executes a Guarantor Security Agreement in favor of Agent, (iii) Agent and Lenders shall have received all documents, including without limitation, legal opinions and appraisals it may reasonably require to establish compliance with each of the foregoing conditions in connection therewith and (iv) such Subsidiary grants first (1st) priority perfected Liens in its assets to Agent for the benefit of Issuer and Lenders; or

(b) Enter into any partnership, joint venture or similar arrangement.

7.13 Fiscal Year and Accounting Changes. Change its fiscal year or make any change (i) in accounting treatment and reporting practices except as required by GAAP or (ii) in tax reporting treatment except as required by law; provided that Agent and the Lenders consent to Debtor's change to a fiscal year ending June 30 within thirty (30) days of the Closing Date.

7.14 Pledge of Credit. Now or hereafter pledge Agent's or any Lender's credit on any purchases, commitments or contracts or for any purpose whatsoever or use any portion of any Advance in or for any business other than such Loan Party's business operations as conducted on the Closing Date.

7.15 Amendment of Organizational Documents. (i) Change its legal name, (ii) change its form of legal entity (e.g., converting from a corporation to a limited liability company or vice versa), (iii) change its jurisdiction of organization or become (or attempt or purport to become) organized in more than one jurisdiction, or (iv) otherwise amend, modify or waive any term or material provision of its Organizational Documents unless required by law, in any such case without (x) giving at least thirty (30) days prior written notice of such intended change to Agent and Lenders, (y) having received from Agent confirmation that Agent has taken all steps necessary for Agent to continue the perfection of and protect the enforceability and priority of its Liens in the Collateral belonging to the Debtor and in the Equity Interests of the Debtor and (z) in any case under clause (iv), having received the prior written consent of Agent and Required Lenders to such amendment, modification or waiver.

7.16 Compliance with ERISA. (i) (x) Maintain, or permit any member of the Controlled Group to maintain, or (y) become obligated to contribute, or permit any member of the Controlled Group to become obligated to contribute, to any Plan, other than those Plans disclosed on Schedule 5.8(d) or any other Plan for which Agent has provided its prior written consent, (ii) engage, or permit any member of the Controlled Group to engage, in any non-exempt "prohibited transaction," as that term is defined in section 406 of ERISA and Section 4975 of the Code, (iii) incur, or permit any member of the Controlled Group to incur, any "accumulated funding deficiency," as that term is defined in Section 302 of ERISA or Section 412 of the Code, (iv) terminate, or permit any member of the Controlled Group to terminate, any Plan where such event could result in any liability of any Loan Party or any member of the Controlled Group or the imposition of a lien on the property of any Loan Party or any member of the Controlled Group pursuant to Section 4068 of ERISA, (v) assume, or permit any member of the Controlled Group to assume, any obligation to contribute to any Multiemployer Plan not disclosed on Schedule 5.8(d), (vi) incur, or permit any member of the Controlled Group to incur, any withdrawal liability to any Multiemployer Plan; (vii) fail promptly to notify Agent of the occurrence of any Termination Event, (viii) fail to comply, or permit a member of the Controlled Group to fail to comply, with the requirements of ERISA or the Code or other Applicable Laws in respect of any Plan, (ix) fail to meet, or permit any member of the Controlled Group to fail to meet, or permit any Plan to fail to meet all minimum funding requirements under ERISA and the Code, without regard to any waivers or variances, or postpone or delay or allow any member of the Controlled Group to postpone or delay any funding requirement with respect of any Plan, or (x) cause, or permit any member of the Controlled Group to cause, a representation or warranty in Section 5.8(d) to cease to be true and correct.

7.17 Prepayment of Indebtedness. At any time, directly or indirectly, prepay any Indebtedness (other than to Lenders), or repurchase, redeem, retire or otherwise acquire any Indebtedness of any Loan Party.

7.18 Anti-Terrorism Laws. No Loan Party shall, until satisfaction in full of the Obligations and termination of this Agreement, nor shall it permit any Affiliate or agent to:

(a) Conduct any business or engage in any transaction or dealing with any Blocked Person, including the making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person.

(b) Deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order No. 13224.

(c) Engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive Order No. 13224, the USA PATRIOT Act or any other Anti-Terrorism Law. Loan Party shall deliver to Lenders any certification or other evidence requested from time to time by any Lender in its sole discretion, confirming Loan Party's compliance with this Section.

7.19 Tax Refund. Permit a Tax Refund to be reimbursed, distributed, returned or otherwise refunded to any Person (including Richard A. Curnutte, Sr.) other than a Loan Party, unless, promptly upon receipt thereof, such Tax Refund is reimbursed, distributed, returned or otherwise refunded to a Loan Party in full.

7.20 Trading with the Enemy Act. Engage in any business or activity in violation of the Trading with the Enemy Act.

7.21 Other Agreements. Enter into any material amendment, waiver or modification of any Aggregation\Pooling Service Agreements to which a Loan Party is a party or any Receivables Purchase Agreement.

7.22 Bank of America Cash Collateral Account. Maintain any funds in account number 65550-619389 at Bank of America, N.A. other than amounts deposited as cash collateral to secure Debtor's obligations with respect to Commodity Hedges constituting Permitted Indebtedness under clause (f) thereof; provided that the balance of such account shall not at any time exceed Two Million Dollars ($2,000,000).

7.23 [Reserved].

7.24 Bankruptcy Matters.

(a) Directly or indirectly, seek, consent or suffer to exist: (i) any modification, stay, vacation or amendment to the Interim Order or Final Order, unless the Agent has consented to such modification, stay, vacation or amendment in writing; (ii) entry of any order that could adversely affect Agent's liens on the Collateral or its recovery in the Case that is not, in form and substance, satisfactory to Agent in its Permitted Discretion; (iii) a priority claim for any administrative expense or unsecured claim (now existing or hereafter arising of any kind or nature whatsoever, including any administrative expenses of the kind specified in the Bankruptcy Code, including without limitation Sections 105, 326, 328, 330, 331, 364(c)(1), 365, 503, 506(c) (upon entry of the Final Order), 507, 546, 726, 1113 or 1114 of the Bankruptcy Code) equal or superior to the Superpriority Claim of the Secured Parties in respect of the Obligations, except for the Carve-Out; or (iv) any Lien on any Collateral, having a priority equal or superior to the Lien in favor of the Agent in respect of the Obligations (subject to the Senior Liens (as defined in the Interim Order) and the Carve-Out);

(b) Prior to the date on which the Obligations have been indefeasibly paid in full in cash and Lenders' commitment to make Advances has been terminated, the Debtor shall

not pay any administrative expense claims not provided for in the Budget, subject to the Permitted Variances other than with respect to the Carve-Out which shall not be subject to a Permitted Variance; provided however that Debtor may pay administrative expense claims with respect to (i) any Obligations due and payable hereunder and (ii) Statutory Fees;

(c) Make any material expenditure except of the type and for the purposes provided for in the Budget; and

(d) Amend, modify or supplement any final order of the Bankruptcy Court relating to or any agreement providing for an Approved Bankruptcy Sale without the prior written consent of Agent.

VIII. CONDITIONS PRECEDENT.

8.1 Conditions to Initial Advances. The agreement of Lenders to make the initial Advances requested to be made on the Closing Date is subject to the satisfaction, or waiver by Agent, immediately prior to or concurrently with the making of such Advances, of the following conditions precedent:

(a) Credit Agreement. Agent shall have received this Agreement duly executed and delivered by an Authorized Officer of the Debtor;

(b) Other Documents. Agent shall have received each of the Other Documents to which a Debtor is a party, duly executed and delivered by an Authorized Officer of the Debtor, as applicable;

(c) Bankruptcy Case. The Case shall have been commenced in the Bankruptcy Court and all of the first day orders entered at the time of commencement of the Case shall be reasonably satisfactory, in form and substance, to Agent and no trustee or examiner shall have been appointed with respect to the Debtor, or any property of or any estate of the Debtor;

(d) Interim Order. The Interim Order shall have been entered by the Bankruptcy Court on or before the second (2^{nd}) Business Day after the Petition Date, which Interim Order (i) shall have been entered upon an application or motion of the Debtor reasonably satisfactory in form and substance to Agent and upon prior notice to such parties required to receive such notice and such other parties as may be reasonably requested by Agent; (ii) shall be in full force and effect and shall not have been amended, modified or stayed, or reversed; and, if the Interim Order is the subject of a pending objection, appeal or motion for reconsideration in any respect, neither the Interim Order, nor the making of the Advances, the issuance, extension or renewal of any Letters of Credit, or the performance by the Debtor of any of the Obligations shall be the subject of a presently effective stay, and (iii) shall otherwise satisfy the requirements of the definition of Interim Order set forth herein. The Debtor and the Secured Parties shall be entitled to rely in good faith upon the Interim Order notwithstanding any such objection, appeal or motion for reconsideration;

(e) Budget. Agent shall have received and approved the Budget;

(f) Cash Management Order. The Bankruptcy Court shall have entered a customary "cash management order" adopting and implementing cash management arrangements for the Debtor, which shall be in form and substance and on terms and conditions satisfactory to Agent in its sole and absolute discretion (any such order, the "Cash Management Order");

(g) Filings, Registrations and Recordings. Each document (including any Uniform Commercial Code financing statement) required by this Agreement, any related agreement or under law or reasonably requested by Agent to be filed, registered or recorded in order to create, in favor of Agent, a perfected security interest in or lien upon the Collateral shall have been properly filed, registered or recorded in each jurisdiction in which the filing, registration or recordation thereof is so required or requested, and Agent shall have received an acknowledgment copy, or other evidence satisfactory to it, of each such filing, registration or recordation and satisfactory evidence of the payment of any necessary fee, tax or expense relating thereto;

(h) Reserved.

(i) Reserved.

(j) Secretary's Certificates, Authorizing Resolutions and Good Standings of Debtor. Agent shall have received a certificate of the Secretary or Assistant Secretary (or other equivalent officer, partner or manager) of the Debtor in form and substance satisfactory to Agent dated as of the Closing Date which shall certify (i) copies of resolutions in form and substance reasonably satisfactory to Agent, of the board of directors (or other equivalent governing body, member or partner) of the Debtor authorizing (x) the execution, delivery and performance of this Agreement, the Revolving Credit Notes and each Other Document to which the Debtor is a party (including authorization of the incurrence of indebtedness, borrowing of Revolving Advances and requesting of Letters of Credit as provided for herein), and (y) the granting by the Debtor of the security interests in and liens upon the Collateral to secure all of the Obligations of Debtor (and such certificate shall state that such resolutions have not been amended, modified, revoked or rescinded as of the date of such certificate), (ii) the incumbency and signature of the officers of the Debtor authorized to execute this Agreement and the Other Documents, (iii) copies of the Organizational Documents of the Debtor as in effect on such date, complete with all amendments thereto, and (iv) the good standing (or equivalent status) of the Debtor in its jurisdiction of organization and each applicable jurisdiction where the conduct of the Debtor's business activities or the ownership of its properties necessitates qualification, as evidenced by good standing certificate(s) (or the equivalent thereof issued by any applicable jurisdiction) dated not more than 20 days prior to the Closing Date, issued by the Secretary of State or other appropriate official of each such jurisdiction;

(k) [Reserved];

(l) Reserved;

(m) No Litigation. Other than the case: (i) no litigation, investigation or proceeding before or by any arbitrator or Governmental Body shall be continuing or threatened

against any Loan Party against the officers or directors of any Loan Party (A) in connection with this Agreement, the Other Documents or any of the transactions contemplated thereby and which, in the reasonable opinion of Agent, is deemed material or (B) which could, in the reasonable opinion of Agent, have a Material Adverse Effect; and (ii) no injunction, writ, restraining order or other order of any nature materially adverse to any Loan Party or the conduct of its business or inconsistent with the due consummation of the transactions hereunder or contemplated hereby shall have been issued by any Governmental Body;

(n) Fees. All fees and expenses required to be paid or reimbursed hereunder on the Closing Date to Agent and the Lenders shall have been paid, in each case, at Debtor's option, from the proceeds of the initial Revolving Advances under this Agreement;

(o) Insurance. Agent shall have received reasonable evidence that insurance required to be maintained by Section 6.6(a) is in full force and effect, including insurance certificates;

(p) Payment Instructions. Agent shall have received written instructions from Debtor directing the application of proceeds of the initial Advances made pursuant to this Agreement;

(q) Consents. Agent shall have received any and all Consents necessary to permit the effectuation of the transactions contemplated by this Agreement and the Other Documents; and, Agent shall have received such Consents and waivers of such third parties as might assert claims with respect to the Collateral, as Agent and its counsel shall deem reasonably necessary;

(r) Compliance with Laws. Agent shall be reasonably satisfied that each Loan Party is in compliance with all pertinent federal, state, local or territorial regulations, including those with respect to the Federal Occupational Safety and Health Act, the Environmental Protection Act, ERISA and the Anti-Terrorism Laws;

(s) Certificate of Beneficial Ownership; USA Patriot Act Diligence. Agent and each Lender shall have received, in form and substance acceptable to Agent, a Certificate of Beneficial Ownership duly authorized, executed and delivered by the Debtor and such other documentation and other information requested in connection with applicable "know your customer" and anti-money laundering rules and regulations, including the USA Patriot Act;

(t) Other. Debtor shall use its commercially reasonable efforts to ensure that all corporate and other proceedings, and all documents, instruments and other legal matters in connection with the Transactions are satisfactory in form and substance to Agent and its counsel;

(u) Closing Certificate. Agent shall have received a closing certificate signed by the Chief Financial Officer of each Loan Party dated as of the date hereof, stating that (i) all representations and warranties set forth in this Agreement and the Other Documents are true and correct on and as of such date, (ii) Loan Parties are on such date in compliance with all the terms

and provisions set forth in this Agreement and the Other Documents and (iii) on such date no Default or Event of Default has occurred or is continuing;

(v) [Reserved];

(w) Compliance with Laws. Agent shall be reasonably satisfied that each Loan Party is in compliance with all pertinent federal, state, local or territorial regulations, including those with respect to the Federal Occupational Safety and Health Act, the Environmental Protection Act, ERISA and the Trading with the Enemy Act; and

(x) Other. All corporate and other proceedings, and all documents, instruments and other legal matters in connection with the Transactions shall be satisfactory in form and substance to Agent and its counsel.

8.2 Conditions to Each Advance. The agreement of Lenders to make any Advance requested to be made on any date (including the initial Advance), is subject to the satisfaction of the following conditions precedent as of the date such Advance is made:

(a) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to this Agreement, the Other Documents and any related agreements to which it is a party, and each of the representations and warranties contained in any certificate, document or financial or other statement furnished at any time under or in connection with this Agreement, the Other Documents or any related agreement shall be true and correct in all material respects (or, if any such representation, warranty or statement is by its terms qualified by concepts of materiality or reference to Material Adverse Effect, such representation, warranty or statement, in any respect) on and as of such date as if made on and as of such date (except to the extent any such representation or warranty expressly relates only to any earlier and/or specified date);

(b) No Default. No Event of Default or Default shall have occurred and be continuing on such date, or would exist after giving effect to the Advances requested to be made, on such date; provided, however that Agent, in its sole discretion, may continue to make Advances notwithstanding the existence of an Event of Default or Default and that any Advances so made shall not be deemed a waiver of any such Event of Default or Default;

(c) Maximum Advances. In the case of any type of Advance requested to be made, after giving effect thereto, the aggregate amount of such type of Advance shall not exceed the maximum amount of such type of Advance permitted under this Agreement;

(d) Budget. In connection with each request of an Advance pursuant to Section 2.1 hereof, Debtor shall deliver to agent a written notice identifying the line-items on the applicable Budget that Debtor intends to pay with the proceeds of such Advance; and

(e) Interim Order/Final Order. The Interim Order, or, after the entry of the Final Order, the Final Order, shall be in full force and effect and shall not be the subject of any appeal, motion for reconsideration, stay, order of reversal, amendment or modification.

Each request for an Advance by the Debtor hereunder shall constitute a representation and warranty by the Debtor as of the date of such Advance that the conditions contained in this subsection shall have been satisfied.

IX. INFORMATION AS TO LOAN PARTIES.

Each Loan Party shall, or (except with respect to Section 9.12) shall cause Debtor on its behalf to, until satisfaction in full of the Obligations and the termination of this Agreement:

9.1 Disclosure of Material Matters. Immediately upon learning thereof, report to Agent all matters materially affecting the value, enforceability or collectability of any portion of the Collateral, including any Loan Party's reclamation or repossession of, or the return to any Loan Party of, a material amount of goods or claims or disputes asserted by any Customer or other obligor.

9.2 [Reserved].

9.3 Environmental Reports.

(a) Furnish Agent, concurrently with the delivery of the financial statements referred to in Sections 9.7 and 9.8, with a Compliance Certificate signed by the President, Chief Financial Officer or Director of Banking of Debtor stating, to the best of his knowledge, that each Loan Party is in compliance in all material respects with all federal, state and local Environmental Laws. To the extent any Loan Party is not in compliance with the foregoing laws, the certificate shall set forth with specificity all areas of non-compliance and the proposed action such Loan Party will implement in order to achieve full compliance.

(b) In the event the Debtor obtains, gives or receives notice of any Release or threat of Release of a reportable quantity of any Hazardous Materials at the Real Property (any such event being hereinafter referred to as a "Hazardous Discharge") or receives any notice of violation, request for information or notification that it is potentially responsible for investigation or cleanup of environmental conditions at the Real Property, demand letter or complaint, order, citation, or other written notice with regard to any Hazardous Discharge or violation of Environmental Laws affecting the Real Property or the Debtor's interest therein or the operations or the business (any of the foregoing is referred to herein as an "Environmental Complaint") from any Person, including any Governmental Body, then Debtor shall, within five (5) Business Days, give written notice of same to Agent detailing facts and circumstances of which the Debtor is aware giving rise to the Hazardous Discharge or Environmental Complaint. Such information is to be provided to allow Agent to protect its security interest in and Lien on the Collateral and is not intended to create nor shall it create any obligation upon Agent or any Lender with respect thereto.

(c) Debtor shall promptly forward to Agent copies of any request for information, notification of potential liability, demand letter relating to potential responsibility with respect to the investigation or cleanup of Hazardous Materials at any other site owned, operated or used by the Debtor to manage of Hazardous Materials and shall continue to forward

copies of correspondence between the Debtor and the Governmental Body regarding such claims to Agent until the claim is settled. Debtor shall promptly forward to Agent copies of all documents and reports concerning a Hazardous Discharge or Environmental Complaint at the Real Property, operations or business that the Debtor is required to file under any Environmental Laws. Such information is to be provided solely to allow Agent to protect Agent's security interest in and Lien on the Collateral.

9.4 Litigation. Promptly notify Agent in writing of any claim, litigation, suit or administrative proceeding affecting any Loan Party, whether or not the claim is covered by insurance, and of any litigation, suit or administrative proceeding, which in any such case affects the Collateral or which could reasonably be expected to have a Material Adverse Effect.

9.5 Material Occurrences. Promptly notify Agent in writing upon the occurrence of (a) any Event of Default or Default; (b) any event, development or circumstance whereby any financial statements or other reports furnished to Agent fail in any material respect to present fairly, in accordance with GAAP consistently applied, the financial condition or operating results of any Loan Party as of the date of such statements; (c) any accumulated retirement plan funding deficiency which, if such deficiency continued for two plan years and was not corrected as provided in Section 4971 of the Code, could subject any Loan Party to a tax imposed by Section 4971 of the Code; (d) each and every default by any Loan Party which might result in the acceleration of the maturity of any Indebtedness, including the names and addresses of the holders of such Indebtedness with respect to which there is a default existing or with respect to which the maturity has been or could be accelerated, and the amount of such Indebtedness; and (e) any other development in the business or affairs of any Loan Party which could reasonably be expected to have a Material Adverse Effect; in each case describing the nature thereof and the action Loan Parties propose to take with respect thereto.

9.6 Government Receivables. Notify Agent immediately if any of its Receivables arise out of contracts between any Loan Party and the United States, any state, or any department, agency or instrumentality of any of them.

9.7 Annual Financial Statements. Furnish Agent and Lenders within one hundred five (105) days after the end of each fiscal year of Loan Parties, financial statements of Loan Parties on a consolidating and consolidated basis including, but not limited to, statements of income and stockholders' equity and cash flow from the beginning of the current fiscal year to the end of such fiscal year and the balance sheet as at the end of such fiscal year, all prepared in accordance with GAAP applied on a basis consistent with prior practices, and in reasonable detail and reported upon without qualification by an independent certified public accounting firm selected by Loan Parties and satisfactory to Agent (the "Accountants"). In addition, the reports shall be accompanied by a Compliance Certificate of the Loan Parties signed by each Loan Party's Chief Financial Officer which shall state that, based on an examination sufficient to permit him to make an informed statement, no Default or Event of Default exists, or, if such is not the case, specifying such Default or Event of Default, its nature, when it occurred, whether it is continuing and the steps being taken by such Loan Party with respect to such event, and such Compliance Certificate shall have appended thereto calculations which set forth compliance with the requirements or restrictions imposed by Sections 7.6 and 7.11 hereof.

9.8 Quarterly Financial Statements. Furnish Agent and Lenders within sixty (60) days after the end of each fiscal quarter, an unaudited balance sheet of Loan Parties on a consolidated and consolidating basis and unaudited statements of income and stockholders' equity and cash flow of Loan Parties on a consolidated and consolidating basis reflecting results of operations from the beginning of the fiscal year to the end of such quarter and for such quarter, prepared on a basis consistent with prior practices and complete and correct in all material respects, subject to normal and recurring year-end adjustments that individually and in the aggregate are not material to Loan Parties' business operations and setting forth in comparative form the respective financial statements for the corresponding date and period in the previous fiscal year. In addition, the reports shall be accompanied by a Compliance Certificate of the Loan Parties signed by each Loan Party's Chief Financial Officer which shall state that, based on an examination sufficient to permit him to make an informed statement, no Default or Event of Default exists, or, if such is not the case, specifying such Default or Event of Default, its nature, when it occurred, whether it is continuing and the steps being taken by such Loan Party with respect to such event, and such Compliance Certificate shall have appended thereto calculations which set forth compliance with the requirements or restrictions imposed by Sections 7.6 and 7.11 hereof.

9.9 Monthly Financial Statements. (a) Furnish Agent and Lenders within sixty (60) days after the end of each month, an unaudited balance sheet of Loan Parties on a consolidated and consolidating basis and unaudited statements of income and stockholders' equity and cash flow of Loan Parties on a consolidated and consolidating basis reflecting results of operations from the beginning of the fiscal year to the end of such month and for such month, prepared on a basis consistent with prior practices and complete and correct in all material respects, subject to normal and recurring year-end adjustments that individually and in the aggregate are not material to Loan Parties' business.

(b) [Reserved].

(c) Furnish Agent and Lenders within sixty (60) days after the end of each month, a month by month projected operating budget and cash flow of Loan Parties on a consolidated and consolidating basis for the next 12 months (including an income statement for each month, a balance sheet as at the end of the last month in each fiscal quarter and projected levels of Undrawn Availability), such projections to be accompanied by a certificate signed by the President or Chief Financial Officer of each Loan Party to the effect that such projections have been prepared on the basis of sound financial planning practice consistent with past budgets and financial statements and that such officer has no reason to question the reasonableness of any material assumptions on which such projections were prepared.

(d) Furnish Agent and Lenders within sixty (60) days after the end of each month, a report, in form and substance satisfactory to Agent and Lenders, that details sales, gross profits and natural Gas and Power volumes sold.

9.10 Other Reports. Furnish Agent as soon as available, but in any event within ten (10) days after the issuance thereof, with copies of such financial statements, reports and returns as each Loan Party shall send to its stockholders.

9.11 Additional Information. Furnish Agent and Lenders with such additional information as Agent shall reasonably request in order to enable Agent to determine whether the terms, covenants, provisions and conditions of this Agreement and the Revolving Credit Notes have been complied with by Loan Parties including, without the necessity of any request by Agent, (a) copies of all environmental audits and reviews, (b) at least thirty (30) days prior thereto, notice of any Loan Party's opening of any new office or place of business or any Loan Party's closing of any existing office or place of business, and (c) promptly upon any Loan Party's learning thereof, notice of any labor dispute to which any Loan Party may become a party, any strikes or walkouts relating to any of its plants or other facilities, and the expiration of any labor contract to which any Loan Party is a party or by which any Loan Party is bound.

9.12 [Reserved].

9.13 [Reserved].

9.14 Notice of Suits, Adverse Events. Furnish Agent with prompt written notice of (i) any lapse or other termination of any Consent issued to any Loan Party by any Governmental Body or any other Person that is material to the operation of any Loan Party's business, (ii) any refusal by any Governmental Body or any other Person to renew or extend any such Consent; and (iii) copies of any periodic or special reports filed by any Loan Party with any Governmental Body or Person, if such reports indicate any material change in the business, operations, affairs or condition of any Loan Party, or if copies thereof are requested by Lender, and (iv) copies of any material notices and other communications from any Governmental Body or Person which specifically relate to any Loan Party.

9.15 ERISA Notices and Requests. Furnish Agent with immediate written notice in the event that (i) any Loan Party or any member of the Controlled Group knows or has reason to know that a Termination Event has occurred, together with a written statement describing such Termination Event and the action, if any, which such Loan Party or any member of the Controlled Group has taken, is taking, or proposes to take with respect thereto and, when known, any action taken or threatened by the Internal Revenue Service, Department of Labor or PBGC with respect thereto, (ii) any Loan Party or any member of the Controlled Group knows or has reason to know that a prohibited transaction (as defined in Sections 406 of ERISA and 4975 of the Code) has occurred together with a written statement describing such transaction and the action which such Loan Party or any member of the Controlled Group has taken, is taking or proposes to take with respect thereto, (iii) a funding waiver request has been filed with respect to any Plan together with all communications received by any Loan Party or any member of the Controlled Group with respect to such request, (iv) any increase in the benefits of any existing Plan or the establishment of any new Plan or the commencement of contributions to any Plan to which any Loan Party or any member of the Controlled Group was not previously contributing shall occur, (v) any Loan Party or any member of the Controlled Group shall receive from the PBGC a notice of intention to terminate a Plan or to have a trustee appointed to administer a Plan, together with copies of each such notice, (vi) any Loan Party or any member of the Controlled Group shall receive any favorable or unfavorable determination letter from the Internal Revenue Service regarding the qualification of a Plan under Section 401(a) of the Code, together with copies of each such letter; (vii) any Loan Party or any member of the Controlled Group shall receive a notice regarding the

imposition of withdrawal liability, together with copies of each such notice; (viii) any Loan Party or any member of the Controlled Group shall fail to make a required installment or any other required payment under Section 412 of the Code on or before the due date for such installment or payment; or (ix) any Loan Party or any member of the Controlled Group knows that (a) a Multiemployer Plan has been terminated, (b) the administrator or plan sponsor of a Multiemployer Plan intends to terminate a Multiemployer Plan, (c) the PBGC has instituted or will institute proceedings under Section 4042 of ERISA to terminate a Multiemployer Plan or (d) a Multiemployer Plan is subject to Section 432 of the Code or Section 305 of ERISA.

9.16 Personal Financial Statements. The Debtor shall cause Richard A. Curnutte, Sr. to provide to Agent an updated personal financial statement within thirty (30) days after the end of each calendar year.

9.17 Additional Documents. Execute and deliver to Agent, upon request, such documents and agreements as Agent may, from time to time, reasonably request to carry out the purposes, terms or conditions of this Agreement.

9.18 Updates to Certain Schedules. Deliver to Agent promptly as shall be required to maintain the related representations and warranties as true and correct, updates to Schedules 4.4 (Locations of equipment and Inventory), 5.9 (Intellectual Property, Source Code Escrow Agreements), 5.24 (Equity Interests), 5.25 (Commercial Tort Claims), and 5.26 (Letter-of-Credit Rights); provided, that absent the occurrence and continuance of any Event of Default, Debtor shall only be required to provide such updates on a quarterly basis in connection with delivery of a Compliance Certificate with respect to the applicable quarter. Any such updated Schedules delivered by Debtor to Agent in accordance with this Section 9.17 shall automatically and immediately be deemed to amend and restate the prior version of such Schedule previously delivered to Agent and attached to and made part of this Agreement.

9.19 Financial Disclosure. The Debtor hereby irrevocably authorizes and directs all accountants and auditors employed by the Debtor at any time during the Term to exhibit and deliver to Agent and each Lender copies of any of the Debtor's financial statements, trial balances or other accounting records of any sort in the accountant's or auditor's possession, and to disclose to Agent and each Lender any information such accountants may have concerning the Debtor's financial status and business operations. The Debtor hereby authorizes all Governmental Bodies to furnish to Agent and each Lender copies of reports or examinations relating to the Debtor, whether made by the Debtor or otherwise; however, Agent and each Lender will attempt to obtain such information or materials directly from the Debtor prior to obtaining such information or materials from such accountants or Governmental Bodies.

9.20 [Reserved].

9.21 Budget. Furnish Agent and Lenders, no less frequently than every two weeks commencing on the Closing Date, a proposed updated budget for the four-week period following the date of delivery, which shall be in substantially the same form and detail of the Initial Budget, and accompanied by a certificate signed by an Authorized Officer of the Debtor to the effect that such Budget has been prepared in good faith based upon assumptions which the Debtor believes

to be reasonable at the time made and in light of the conditions existing at the time of delivery thereof and that such officer has no reason to question the reasonableness of any material assumptions on which such projections were prepared (it being understood and agreed that the Debtor may (but is not required to) furnish one or more proposed updated 4-week budgets more frequently than every two weeks); provided that, such proposed budget shall become the "Budget" as defined and for all purposes hereunder and under the Interim Order and (upon entry of the Final Order) the Final Order upon written approval thereof by Agent in its sole discretion following a reasonable opportunity to review and comment thereon.

9.22 Variances From Budget. Deliver to Agent on or before Thursday of each week, a comparison of actual receipts and disbursements and actual Advances outstanding hereunder and under the Pre-Petition Credit Agreement to projected receipts and disbursements and projected Advances outstanding hereunder and under the Pre-Petition Credit Agreement of the prior week in a form substantially similar to that attached as Exhibit C hereto. In addition, Debtor shall, and shall cause its financial consultant to attend calls no less than once a week to discuss the Debtor's business and the status of the Case with Agent, Lenders and Agent's advisors.

9.23 Other Bankruptcy Documents. Deliver to Agent: (a) substantially contemporaneous with the filing thereof, copies of all pleadings, motions, applications, financial information and other papers and documents filed by the Debtor in the Case, with copies of such papers and documents also provided to or served on Agent's counsel; (b) substantially contemporaneous with the receipt and/or execution thereof, copies of all letters of intent, expressions of interest, and offers to purchase with respect to any of the Collateral; (c) substantially contemporaneously with delivery thereof to the Committee or any other official or unofficial committee in the Case, copies of all material written reports and all term sheets for a Reorganization Plan or any sale under Section 363 of the Bankruptcy Code given by the Debtor to the Committee or any other official or unofficial committee in the Case, with copies of such reports and term sheets also provided to or served on Agent's counsel; and (d) projections, operating plans and other financial information and information, reports or statements regarding the Debtor, its business and the Collateral as Agent may from time to time reasonably request.

X. EVENTS OF DEFAULT.

The occurrence of any one or more of the following events shall constitute an "Event of Default":

10.1 Nonpayment. Failure by any Loan Party to pay when due (a) any principal or interest on the Obligations (including without limitation pursuant to Section 2.9), or (b) any other fee, charge, amount or liability provided for herein or in any Other Document, in each case whether at maturity, by reason of acceleration pursuant to the terms of this Agreement, by notice of intention to prepay, or by required prepayment;

10.2 Breach of Representation. Any representation or warranty made or deemed made by the Debtor or any Guarantor in this Agreement, any Other Document or any related agreement or in any certificate, document or financial or other statement furnished at any time in connection herewith or therewith shall prove to have been incorrect or misleading in any material respect (or,

if any such representation, warranty or statement is by its terms qualified by concepts of materiality or reference to Material Adverse Effect, such representation, warranty or statement, in any respect) on the date when made or deemed to have been made;

10.3 Financial Information. Failure by any Loan Party to (i)(x) furnish financial information when due, or (y) when requested, or (ii) permit the inspection of its books or records or access to its premises for audits, hedge audits and appraisals in accordance with the terms hereof;

10.4 Judicial Actions. Issuance of a notice of Lien, levy, assessment, injunction or attachment against any Loan Party's Inventory or Receivables or against a material portion of any Loan Party's other property;

10.5 Noncompliance. Except as otherwise provided for in Sections 10.1, 10.3 and 10.5(ii), (i) failure or neglect of any Loan Party or any Guarantor to perform, keep or observe any term, provision, condition, covenant herein contained, or contained in any Other Document or any other agreement or arrangement, now or hereafter entered into between any Loan Party or any Guarantor, and Agent or any Lender, or (ii) failure or neglect of any Loan Party to perform, keep or observe any term, provision, condition or covenant, contained in Sections 4.6, 6.1, 6.3, 6.15 or 6.16 hereof which is not cured within thirty (30) days from the occurrence of such failure or neglect;

10.6 Judgments. Any (a) judgment or judgments, writ(s), order(s) or decree(s) for the payment of money are rendered against all Loan Parties for an aggregate amount in excess of $500,000 and (b) (i) action shall be legally taken by any judgment creditor to levy upon assets or properties of any Loan Party to enforce any such judgment, (ii) such judgment shall remain undischarged for a period of thirty (30) consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, shall not be in effect, or (iii) any Liens arising by virtue of the rendition, entry or issuance of such judgment upon assets or properties of any Loan Party shall be senior to any Liens in favor of Agent on such assets or properties;

10.7 Bankruptcy Defaults.

(a) the Bankruptcy Court shall enter any order, that has not been consented to by Agent (i) revoking, reversing, staying, vacating, rescinding, modifying, supplementing or amending (x) the Interim Order, the Final Order, the Cash Management Order, any sale order, this Agreement, the Pre-Petition Other Documents or any Other Document, or (y) any other "first day" orders to the extent such revocation, reversal, stay, vacation, rescission, modification, supplement or amendment is materially adverse to the interests of Secured Parties, or (ii) permitting any administrative expense or any claim (now existing or hereafter arising, of any kind or nature whatsoever) to have administrative priority as to the Debtor equal or superior to the priority of the Agent and Lenders in respect of the Obligations, or there shall arise any such Superpriority Claim, or (iii) to grant or permit the grant of a Lien on the Collateral superior to, or pari passu with, the Liens of Agent on the Pre-Petition Collateral or the Collateral (other than the Senior Liens (as defined in the Interim Order), and the Carve-Out);

(b) the Bankruptcy Court shall enter any order (i) appointing a Chapter 11 trustee under Section 1104 of the Bankruptcy Code in the Case, (ii) appointing an examiner with

enlarged powers relating to the operation of the business (powers beyond those set forth in Section 1106(a)(3) and (4) of the Bankruptcy Code) under Section 1106(b) of the Bankruptcy Code in the Case, (iii) appointing a fiduciary or representative of the estate with decision-making or other management authority over some or all of the Debtor's senior management other than the Debtor's Chief Restructuring Officer, (iv) substantively consolidating the estate of the Debtor with the estate of any other Person, (v) dismissing the Case or converting the Case to a Chapter 7 case; or (vi) approving a sale of any of the assets of the Debtor which order does not provide that upon consummation of such sale, all of the Net Sales Proceeds shall be paid to Agent and applied to either the Pre-Petition Obligations or the Post-Petition Obligations as Agent may elect in its sole and absolute discretion and which sale order shall otherwise be in form and substance satisfactory to Agent;

(c) this Agreement, any of the Other Documents, the Interim Order or the Final Order for any reason ceases to be in full force and effect or is declared to be null and void by a court of competent jurisdiction, or the Debtor shall seek to, or shall support (in any such case by way of any motion or other pleading filed with the Bankruptcy Court or any other writing to another party-in-interest executed by or on behalf of the Debtor) any other Person's motion to, disallow in whole or in part the Secured Parties' claim in respect of the Obligations or to challenge the validity and enforceability of the Liens in favor of any Secured Party;

(d) the Debtor files a motion with the Bankruptcy Court asserting that the Secured Parties do not have a right to, or supports a motion filed with the Bankruptcy Court that asserts the Secured Parties do not have the right to, credit bid for any assets of the Debtor in connection with any sale pursuant to Section 363(k) of the Bankruptcy Code;

(e) the Bankruptcy Court shall enter any order granting relief from the automatic stay to any creditor holding or asserting a Lien, reclamation claim or other rights on the assets of the Debtor in excess of $50,000;

(f) any application for any of the orders described in clauses (a), (b), (c), (d) or (e) above shall be made and, if made by a Person other than a Debtor, such application is not being diligently contested by the Debtor in good faith;

(g) except (i) as permitted by the Interim Order or Final Order and set forth in the Budget, or (ii) as otherwise agreed to by Agent in writing, and approved by all necessary Bankruptcy Court orders/approvals, the Debtor shall make any Pre-Petition Payment (including, without limitation, related to any reclamation claims) following the Closing Date;

(h) the Debtor shall be unable to pay its post-petition debts as they mature, shall fail to comply with any order of the Bankruptcy Court in any material respect, or shall fail to make, as and when such payments become due or otherwise;

(i) the period covered by the Budget shall expire without the Budget being updated pursuant to Section 9.21 prior to such expiration;

(j) the Debtor shall file a motion in the Case (i) to use cash Collateral under Section 363(c) of the Bankruptcy Code without Agent's prior written consent except to the extent expressly permitted in the Interim Order or, once entered, the Final Order, (ii) to sell a material portion of the assets of the Debtor without Agent's prior written consent, (iii) to recover from any portions of the Collateral any costs or expenses of preserving or disposing of such Collateral under Section 506(c) of the Bankruptcy Code, or to cut off rights in the Collateral under Section 552(b) of the Bankruptcy Code, (iv) to obtain additional financing under Sections 364(c) or (d) of the Bankruptcy Code not otherwise permitted under this Agreement, unless such motion and additional financing shall provide that upon initial closing and consummation of such financing, that upon consummation of such sale, all of the Obligations shall be indefeasibly paid and satisfied in full and Secured Parties receive a release (on terms and conditions and in form and substance satisfactory to Agent in its sole discretion) of Secured Parties in full from all claims of the Debtor and its estate, or (v) to take any other action or actions adverse to Secured Parties or their rights and remedies hereunder or under any of the Other Documents or Secured Parties interest in any of the Collateral;

(k) (i) a Reorganization Plan is filed in the Case by the Debtor which does not contain provisions for termination of Agent's and Lenders' commitment to make Advances hereunder and indefeasible Payment in Full and the release of the Secured Parties (on terms and conditions and in form and substance satisfactory to Agent) in full from all claims of the Debtor and its estate, in each case, on or before, and the continuation of the Liens and security interests granted to Agent until, the effective date of such Reorganization Plan, or (ii) an order shall be entered by the Bankruptcy Court confirming a Reorganization Plan in the Case which does not contain provisions for termination of Agent's and Lenders commitment to make Advances hereunder and indefeasible Payment in Full and the release of the Secured Parties (on terms and conditions and in form and substance satisfactory to Agent) in full from all claims of the Debtor and its estate on or before, and the continuation of the Liens and security interests granted to Agent until, the effective date of such Reorganization Plan upon entry thereof;

(l) the expiration or termination, in each case without the prior written consent of the Agent, of the "exclusive period" of the Debtor under Section 1121 of the Bankruptcy Code for the filing of a plan of reorganization;

(m) (i) the Debtor engages in or supports any challenge to the validity, perfection, priority, extent or enforceability of the credit facility provided hereunder or the Pre-Petition Other Documents or the liens on or security interest in the assets of the Debtor securing the Obligations or (ii) the Debtor engages in or supports any investigation or asserts any claims or causes of action (or directly or indirectly support assertion of the same) against Secured Parties; *provided*, *however*, that it shall not constitute an Event of Default if the Debtor provides information with respect to the Pre-Petition Credit Agreement and the Pre-Petition Other Documents to (x) the Committee and (y) with prior written notice to the Agent and the Lenders of any requirement to do so, any other party in interest;

(n) the termination or rejection of any contract of the Debtor which would reasonably be expected to result in a Material Adverse Effect;

(o) the Case is converted to a case under Chapter 7 of the Bankruptcy Code;

(p) the Case is dismissed;

(q) the Final Order is not entered, following an application or motion of the Debtor reasonably satisfactory, in form and substance, to Agent and upon prior notice to such parties required to receive such notice and such other parties as may be reasonably requested by Agent, immediately following the expiration of the Interim Order, and in any case, not later than April 22, 2022;

(r) a breach of the terms or provisions of, or the occurrence of a defined "Event of Default" under, the Interim Order or Final Order;

(s) solely upon entry of the Final Order, any Person shall be permitted to surcharge the Collateral or the Pre-Petition Collateral under Section 506(c) of the Bankruptcy Code, or any costs or expenses whatsoever shall be imposed against the Collateral or the Pre-Petition Collateral, other than the Carve-Out;

(t) solely upon entry of the Final Order, the Agent shall be made subject to any equitable remedy of marshalling or any similar doctrine with respect to the Collateral and the Prepetition Collateral; or

(u) Failure of Debtor to meet any of the Milestones set forth in Section 6.21

10.8 [Reserved];

10.9 Material Adverse Effect. The occurrence of any event or development which could reasonably be expected to have a Material Adverse Effect;

10.10 Lien Priority. Any Lien created hereunder or provided for hereby or under any related agreement for any reason ceases to be or is not a valid and perfected Lien having a first priority interest;

10.11 Cross Default. Either (x) any specified "event of default" under any Indebtedness (other than the Obligations) of any Loan Party with a then-outstanding principal balance (or, in the case of any Indebtedness not so denominated, with a then-outstanding total obligation amount) of $100,000 or more, or any other event or circumstance which would permit the holder of any such Indebtedness of any Loan Party to accelerate such Indebtedness (and/or the obligations of such Loan Party thereunder) prior to the scheduled maturity or termination thereof, shall occur (regardless of whether the holder of such Indebtedness shall actually accelerate, terminate or otherwise exercise any rights or remedies with respect to such Indebtedness), (y) a breach of or a default or event of default under any Aggregation\Pooling Service Agreement or any Receivables Purchase Agreement, in any case to which a Loan Party is a party, shall occur, or (z) a default of the obligations of any Loan Party under any other agreement to which it is a party shall occur which has or is reasonably likely to have a Material Adverse Effect;

10.12 Breach of Guaranty. Termination or breach of any Guaranty or Guaranty Security Agreement or similar agreement executed and delivered to Agent in connection with the Obligations of any Loan Party, or if any Guarantor attempts to terminate, challenges the validity of, or its liability under, any such Guaranty or Guaranty Security Agreement or similar agreement;

10.13 Change of Control. Any Change of Control shall occur;

10.14 Invalidity. Any material provision of this Agreement or any Other Document shall, for any reason, cease to be valid and binding on Loan Party or any Guarantor, or any Loan Party or any Guarantor shall so claim in writing to Agent or any Lender or any Loan Party challenges the validity of or its liability under this Agreement or any Other Document;

10.15 Licenses. (i) Any Governmental Body shall (A) revoke, terminate, suspend or adversely modify any license, permit, patent trademark or tradename of any Loan Party or any Guarantor, or (B) commence proceedings to suspend, revoke, terminate or adversely modify any such license, permit, trademark, tradename or patent and such proceedings shall not be dismissed or discharged within sixty (60) days, or (C) schedule or conduct a hearing on the renewal of any license, permit, trademark, tradename or patent necessary for the continuation of any Loan Party's or any Guarantor's business and the staff of such Governmental Body issues a report recommending the termination, revocation, suspension or material, adverse modification of such license, permit, trademark, tradename or patent; (ii) any agreement which is necessary or material to the operation of any Loan Party's or any Guarantor's business shall be revoked or terminated and not replaced by a substitute acceptable to Agent, and such revocation or termination and non-replacement would reasonably be expected to have a Material Adverse Effect;

10.16 Seizures. Any portion of the Collateral shall be seized, subject to garnishment or taken by a Governmental Body, or any Loan Party or any Guarantor or the title and rights of any Loan Party or any Guarantor shall have become the subject matter of claim, litigation, suit, garnishment or other proceeding which might, in the opinion of Agent, upon final determination, result in impairment or loss of the security provided by this Agreement or the Other Documents;

10.17 Operations. The operations of any Loan Party are interrupted at any time for more than seven (7) consecutive days, which interruption would reasonably be expected to have a Material Adverse Effect;

10.18 Pension Plans. An event or condition specified in Sections 7.16 or 9.15 hereof shall occur or exist with respect to any Plan and, as a result of such event or condition, together with all other such events or conditions, any Loan Party or any member of the Controlled Group shall incur, or in the opinion of Agent be reasonably likely to incur, a liability to a Plan or the PBGC (or both) which, in the reasonable judgment of Agent, would have a Material Adverse Effect; or

10.19 Termination of Ohio Competitive Retail Natural Gas Supplier Certificate or Competitive Retail Electric Service Provider Certification. The Ohio Competitive Retail Natural Gas Supplier Certificate or Competitive Retail Electric Service Provider Certification granted by The Public Utilities Commission of Ohio to Volunteer Energy Services, Inc. is terminated;

10.20 Anti-Money Laundering/International Trade Law Compliance. Any representation or warranty contained in Section 16.18 is or becomes false or misleading at any time; or

10.21 Change of Management. Any Change of Management shall occur.

XI. LENDERS' RIGHTS AND REMEDIES AFTER DEFAULT.

11.1 Rights and Remedies.

(a) Upon the occurrence of and during the continuance of an Event of Default, and without the necessity of seeking relief from the automatic stay or any further Order of the Bankruptcy Court (i) the Agent and Lenders shall no longer have any obligation to make any Advances (or otherwise extend credit); (ii) all amounts outstanding under this Agreement and the Other Documents shall, at the option of the Agent, be accelerated and become immediately due and payable; (iii) the Agent and the Pre-Petition Agent shall be entitled to immediately terminate the Debtor's right to use Cash Collateral, without further application or order of the Bankruptcy Court, provided, however, that the Debtor shall have the right to use Cash Collateral to pay their weekly ordinary course payroll included in the approved Budget through and including the date immediately following the date on which such Event of Default occurs, (iv) the Debtor shall be bound by all post-default restrictions, prohibitions, and other terms as provided in the Interim Order, this Agreement, the Other Documents, the Pre-Petition Credit Agreement and the Pre-Petition Other Documents, (v) the Agent shall be entitled to charge the default rate of interest under the Credit Agreement and (vi) subject only to (x) the notice requirement set forth in Section 11.1(b) below and (y) the Interim Order or Final Order, as applicable, both the Agent and the Pre-Petition Agent shall be entitled to take any other act or exercise any other right or remedy as provided in this Agreement, the Other Documents, the Pre-Petition Credit Agreement, the Pre-Petition Other Documents, or applicable law, including, without limitation, setting off any Obligations or Pre-Petition Obligations with Collateral, Pre-Petition Collateral or proceeds in the possession of any Pre-Petition Secured Party or Lender, and enforcing any and all rights and remedies with respect to the Collateral or Pre-Petition Collateral, as applicable.

(b) Without further notice, application or order of the Bankruptcy Court, upon the occurrence and during the continuance of an Event of Default, and after providing five (5) Business Days' prior written notice thereof (which five (5) Business Day period only applies to the Collateral enforcement remedies described below) to counsel for the Debtor, counsel for any Committee, the US Trustee, the Agent for the benefit of itself and the Lenders, and the Pre-Petition Agent, for the benefit of itself and the other Pre-Petition Secured Parties, as applicable, shall be entitled to take any action and exercise all rights and remedies provided to them by the Interim Order, this Agreement, the Other Loan Documents or the Pre-Petition Other Documents, or applicable law, unless otherwise ordered by the Bankruptcy Court, as the Agent or the Pre-Petition Agent, as applicable, may deem appropriate in their sole discretion to, among other things, proceed against and realize upon the Collateral (including the Pre-Petition Collateral) or any other assets or properties of the Debtor's Estate upon which the Agent, for the benefit of itself and the Lenders, and the Pre-Petition Agent, for the benefit of itself and the other Pre-Petition Secured Parties, has been or may hereafter be granted liens or security interests to obtain the full and indefeasible payment of all the Pre-Petition Obligations and Post-Petition Obligations. Notwithstanding the

foregoing or anything in Section 11.1(a) above, Agent may continue to apply proceeds received into the lockbox or collection account to reduce the Pre-Petition Obligations or the Post-Petition Obligations in any order at the sole discretion of the Agent during such five (5) Business Day period. During such five (5) Business Day period, either or both the Debtor and the Committee shall be entitled to seek an emergency hearing with the Bankruptcy Court.

(c) Additionally, upon the occurrence and during the continuance of an Event of Default and the exercise by Agent or the Pre-Petition Agent of their respective rights and remedies under the Interim Order, the Credit Agreement, the Other Documents, the Pre-Petition Credit Agreement or the Pre-Petition Other Documents, provided that the Debtor and the Agent agree upon a mutually acceptable wind down budget, the Debtor shall cooperate with the Agent in the exercise of rights and remedies and assist the Agent in effecting any sale or other disposition of the Collateral required by the Agent, including any sale of Collateral pursuant to Bankruptcy Code section 363 or assumption and assignment of Collateral consisting of contracts and leases pursuant to Bankruptcy Code section 365, in each case, upon such terms that are acceptable to the Agent.

(d) Upon the occurrence and during the continuance of an Event of Default, and subject to the five (5) Business Day notice provision provided above, in connection with a liquidation of any of the Collateral, the Agent (or any of its employees, agents, consultants, contractors, or other professionals) shall have the right, at the sole cost and expense of the Debtor, to: (i) enter upon, occupy, and use any real or personal property, fixtures, equipment, leasehold interests, or warehouse arrangements owned or leased by the Debtor; provided, however, the Agent may only be permitted to do so in accordance with (a) existing rights under applicable non-bankruptcy law, including, without limitation, applicable leases, (b) any pre-petition (and, if applicable, post-petition) landlord waivers or consents, or (c) further order of the Bankruptcy Court on motion and notice appropriate under the circumstances; and (ii) use any and all trademarks, tradenames, copyrights, licenses, patents, equipment or any other similar assets of the Debtor, or assets which are owned by or subject to a lien of any third party and which are used by the Debtor in its business. The Agent and Lenders will be responsible for the payment of any applicable fees, rentals, royalties, or other amounts owing to such lessor, licensor or owner of such property (other than the Debtor) for the period of time that the Agent actually occupies any real property or uses the equipment or the intellectual property (but in no event for any accrued and unpaid fees, rentals, or other amounts owing for any period prior to the date that the Agent actually occupies or uses such assets or properties).

(e) To the extent that Applicable Law imposes duties on Agent to exercise remedies in a commercially reasonable manner, the Debtor acknowledges and agrees that it is not commercially unreasonable for Agent (i) to fail to incur expenses reasonably deemed significant by Agent to prepare Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (ii) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, (iii) to fail to exercise collection remedies against Customers or other Persons obligated on Collateral or to remove Liens on or any adverse claims against Collateral, (iv) to exercise collection remedies against Customers and other Persons

obligated on Collateral directly or through the use of collection agencies and other collection specialists, (v) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (vi) to contact other Persons, whether or not in the same business as the Debtor, for expressions of interest in acquiring all or any portion of such Collateral, (vii) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the Collateral is of a specialized nature, (viii) to dispose of Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (ix) to dispose of assets in wholesale rather than retail markets, (x) to disclaim disposition warranties, such as title, possession or quiet enjoyment, (xi) to purchase insurance or credit enhancements to insure Agent against risks of loss, collection or disposition of Collateral or to provide to Agent a guaranteed return from the collection or disposition of Collateral, or (xii) to the extent deemed appropriate by Agent, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist Agent in the collection or disposition of any of the Collateral. The Debtor acknowledges that the purpose of this Section 11.1(b) is to provide non-exhaustive indications of what actions or omissions by Agent would not be commercially unreasonable in Agent's exercise of remedies against the Collateral and that other actions or omissions by Agent shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 11.1(b). Without limitation upon the foregoing, nothing contained in this Section 11.1(b) shall be construed to grant any rights to the Debtor or to impose any duties on Agent that would not have been granted or imposed by this Agreement or by Applicable Law in the absence of this Section 11.1(b).

(f) A Default or an Event of Default shall be deemed to exist at all times during the period commencing on the date that such Default or Event of Default occurs to the date on which such Default or Event of Default is waived in writing pursuant to this Agreement or, in the case of a Default, is cured within any period of cure expressly provided for in this Agreement or in a manner reasonably satisfactory to Agent, if such Default or Event of Default is capable of being cured.

11.2 Agent's Discretion. Agent shall have the right in its sole discretion to determine which rights, Liens, security interests or remedies Agent may at any time pursue, relinquish, subordinate, or modify, which procedures, timing and methodologies to employ, and what any other action to take with respect to any or all of the Collateral and in what order, thereto and such determination will not in any way modify or affect any of Agent's or Lenders' rights hereunder as against Debtor or each other.

11.3 Setoff. Subject to Section 14.13, in addition to any other rights which Agent or any Lender may have under Applicable Law, upon the occurrence of an Event of Default hereunder, Agent and such Lender shall have a right, immediately and without notice of any kind, to apply any Loan Party's property held by Agent and such Lender or any of their Affiliates to reduce the Obligations and to exercise any and all rights of setoff which may be available to Agent and such Lender with respect to any deposits held by Agent or such Lender.

11.4 Rights and Remedies not Exclusive. The enumeration of the foregoing rights and remedies is not intended to be exhaustive and the exercise of any rights or remedy shall not

preclude the exercise of any other right or remedies provided for herein or otherwise provided by law, all of which shall be cumulative and not alternative. The fourteen-day stay provisions of Bankruptcy Rules 6004(h) and 4001(a)(3) are hereby waived.

11.5 Allocation of Payments After Event of Default. Notwithstanding any other provisions of this Agreement to the contrary, after the occurrence and during the continuance of an Event of Default, all amounts collected or received by Agent on account of the Obligations (including any amounts on account of any of Cash Management Liabilities or Hedge Liabilities) or any other amounts outstanding under any of the Other Documents or in respect of the Collateral may, at Agent's discretion, be applied either to the Pre-Petition Obligations or the Post-Petition Obligations as Agent may elect in its sole and absolute discretion, so long as such application is in accordance with the authorizations set forth in the Interim Order and (once entered) the Final Order; provided that (x) at any such time following an Event of Default, all such amounts applied to the Pre-Petition Obligations in accordance with Agent's election under this sentence shall be applied in accordance with the provisions of Section 11.5 of the Pre-Petition Credit Agreement, and (y) at any such time following an Event of Default, all such amounts applied to the Post-Petition Obligations in accordance with Agent's election under this sentence shall be applied as follows:

FIRST, to the payment of all reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees) of Agent in connection with enforcing its rights and the rights of Lenders under this Agreement and the Other Documents (other than Cash Management Products and Services, Lender-Provided Commodity Hedges, Lender-Provided Foreign Currency Hedges and Lender-Provided Interest Rate Hedges) with respect to the Collateral under or pursuant to the terms of this Agreement;

SECOND, to payment of any fees owed to Agent;

THIRD, to the payment of all reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees) of each of the Lenders to the extent owing to such Lender pursuant to the terms of this Agreement;

FOURTH, to the payment of all of Pre-Petition Obligations or Post-Petition Obligations arising under this Agreement and the Other Documents (other than Cash Management Liabilities and Hedge Liabilities) consisting of accrued fees and interest, as determined in the Agent's sole discretion;

FIFTH, to the payment of the outstanding principal amount of Pre-Petition Obligations or Post-Petition Obligations arising under this Agreement and the Other Documents (other than Cash Management Liabilities and Hedge Liabilities) (including the payment or cash collateralization of any outstanding Letters of Credit), as determined in the Agent's sole discretion;

SIXTH, to all other Obligations under this Agreement and the Other Documents (including Cash Management Liabilities and Hedge Liabilities) which shall have become due and payable (hereunder, under the Other Documents, or otherwise) and not repaid pursuant to clauses "FIRST" through "FIFTH" above; and

SEVENTH, to all other Obligations which shall have become due and payable and not repaid pursuant to clauses "FIRST" through "SIXTH"; and

EIGHTH, to the payment of the surplus, if any, to whoever may be lawfully entitled to receive such surplus.

In carrying out the foregoing, (i) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category; (ii) each of the Lenders shall receive (so long as it is not a Defaulting Lender) an amount equal to its pro rata share (based on the proportion that the then outstanding Advances, Cash Management Liabilities and Hedge Liabilities held by such Lender bears to the aggregate then outstanding Advances, Cash Management Liabilities and Hedge Liabilities) of amounts available to be applied pursuant to clauses "SIXTH", "SEVENTH" and "EIGHTH" above; and (iii) notwithstanding anything to the contrary in this Section 11.5, no Swap Obligations of any Non-Qualifying Party shall be paid with amounts received from such Non-Qualifying Party under its Guaranty (including sums received as a result of the exercise of remedies with respect to such Guaranty) or from the proceeds of such Non-Qualifying Party's Collateral if such Swap Obligations would constitute Excluded Hedge Liabilities; and (iv) to the extent that any amounts available for distribution pursuant to clause "FIFTH" above are attributable to the issued but undrawn amount of outstanding Letters of Credit, such amounts shall be held by Agent as cash collateral for the Letters of Credit pursuant to Section 3.2(b) hereof and applied (A) first, to reimburse Issuer from time to time for any drawings under such Letters of Credit and (B) then, following the expiration of all Letters of Credit, to all other obligations of the types described in clauses "SIXTH," "SEVENTH" and "EIGHTH" above in the manner provided in this Section 11.5.

XII. WAIVERS AND JUDICIAL PROCEEDINGS.

12.1 Waiver of Notice. Each Loan Party hereby waives notice of non-payment of any of the Receivables, demand, presentment, protest and notice thereof with respect to any and all instruments, notice of acceptance hereof, notice of loans or advances made, credit extended, Collateral received or delivered, or any other action taken in reliance hereon, and all other demands and notices of any description, except such as are expressly provided for herein.

12.2 Delay. No delay or omission on Agent's or any Lender's part in exercising any right, remedy or option shall operate as a waiver of such or any other right, remedy or option or of any Default or Event of Default.

12.3 Jury Waiver. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, COUNTERCLAIM, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING UNDER THIS AGREEMENT, ANY OTHER DOCUMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR (B) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT, ANY OTHER DOCUMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS

RELATED HERETO OR THERETO IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE AND EACH PARTY HEREBY CONSENTS THAT ANY SUCH CLAIM, COUNTERCLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENTS OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

XIII. EFFECTIVE DATE AND TERMINATION.

13.1 Term. This Agreement, which shall inure to the benefit of and shall be binding upon the respective successors and permitted assigns of the Debtor signatory hereto and the Secured Parties, shall become effective on the date hereof and shall, unless sooner terminated as herein provided (including by acceleration by Agent), continue in full force and effect for a period ending on the earliest to occur of (the date of such earliest occurrence, the "Termination Date"): (a) the Maturity Date; (b) the effective date or substantial consummation of a Reorganization Plan that has been confirmed by an order of the Bankruptcy Court; (c) the closing of an Approved 363 Sale with respect to all or substantially all of the Debtor's assets; (d) the date of the conversion of the Case to a case under Chapter 7 of the Bankruptcy Code; (e) the date of the dismissal of the Case; and (f) April 22, 2022 if the Final Order has not been entered as of such date (such period from of the date hereof through and ending on the Termination Date, the "Term"). Debtor may terminate this Agreement at any time, subject to providing seven (7) Business Days' prior written notice to Agent, upon Payment in Full as provided in Section 13.2 hereof.

13.2 Termination.

(a) The termination of the Agreement shall not affect Agent's or any Lender's rights, or any of the Obligations having their inception prior to the effective date of such termination or any Obligations which pursuant to the terms hereof continue to accrue after such date, and the provisions hereof shall continue to be fully operative until all transactions entered into and rights or interests created hereunder have been concluded or liquidated and Payment in Full. Each Guaranty and the Liens and rights granted to Agent and Lenders hereunder and the financing statements filed hereunder shall continue in full force and effect, notwithstanding the termination of this Agreement or the fact that Debtor's Account may, from time to time be temporarily in a zero or credit position, until Payment in Full or the Debtor has furnished Agent and Lenders with an indemnification satisfactory to Agent and Lenders with respect thereto. Accordingly, the Debtor waives any rights which it may have under the Uniform Commercial Code to demand the filing of termination statements with respect to the Collateral, and Agent shall not be required to send such termination statements to the Debtor, or to file them with any filing office, until Payment in Full and the Secured Parties have received a full release from the Debtor from all claims of the Debtor and its estate for any matters arising out of, relating to or in connection, with the Pre-Petition Other Documents, this Agreement and the Other Documents. Furthermore, Debtor hereby agrees that upon payment of all Obligations consisting of principal, interest, fees and expenses, in each case owing pursuant to this Agreement, Agent may hold a reserve following the date of payment in full of the Obligations as cash collateral in an amount

equal to the sum of (x) cash collateral in an amount to be determined by Agent in its Permitted Discretion for Cash Management Liabilities and professional and legal fees and expenses, plus (y) an amount to be determined by Agent in its Permitted Discretion for legal fees and other costs and expenses Agent reasonably believes it may incur as a result of any claims, actions or challenges in the Case in connection with the Obligations, the Pre-Petition Obligations, the Liens thereon, this Agreement or any other matter related thereto. The cash collateral referenced in clause (x) above shall be released to Debtor or to such other Person(s) directed by the Bankruptcy Court upon termination and satisfaction of all Cash Management Liabilities and Hedge Liabilities (including any potential contingent claims). The cash collateral referenced in clause (y) above, to the extent any such amounts are deposited with Agent, will be released to Debtor or to such other Person(s) directed by the Bankruptcy Court upon expiration of the Challenge Period with no Objection (as defined in the Interim Order and Final Order) having been threatened or filed against Agent and/or Lenders.

(b) All representations, warranties, covenants, waivers and agreements contained herein shall survive termination hereof until Payment in Full and the Secured Parties have received a full release from the Debtor from all claims of the Debtor and its estate for any matters arising out of, relating to or in connection, with the Pre-Petition Other Documents, this Agreement and the Other Documents.

XIV. REGARDING AGENT.

14.1 Appointment. Each Lender hereby designates PNC to act as Agent for such Lender under this Agreement and the Other Documents. Each Lender hereby irrevocably authorizes Agent to take such action on its behalf under the provisions of this Agreement and the Other Documents and to exercise such powers and to perform such duties hereunder and thereunder as are specifically delegated to or required of Agent by the terms hereof and thereof and such other powers as are reasonably incidental thereto and Agent shall hold all Collateral, payments of principal and interest, fees (except the fees set forth in Section 3.4), charges and collections (without giving effect to any collection days) received pursuant to this Agreement, for the ratable benefit of Lenders. Agent may perform any of its duties hereunder by or through its agents or employees. As to any matters not expressly provided for by this Agreement (including collection of the Revolving Credit Note) 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 instructions of the Required Lenders, and such instructions shall be binding; provided, however, that Agent shall not be required to take any action which, in Agent's discretion, exposes Agent to liability or which is contrary to this Agreement or the Other Documents or Applicable Law unless Agent is furnished with an indemnification reasonably satisfactory to Agent with respect thereto.

14.2 Nature of Duties. Agent shall have no duties or responsibilities except those expressly set forth in this Agreement and the Other Documents. Neither Agent nor any of its officers, directors, employees or agents shall be (i) liable for any action taken or omitted by them as such hereunder or in connection herewith, unless caused by their gross (not mere) negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment), or (ii) responsible in any manner for any recitals, statements, representations or

warranties made by the Debtor or any officer thereof contained in this Agreement, or in any of the Other Documents or in any certificate, report, statement or other document referred to or provided for in, or received by Agent under or in connection with, this Agreement or any of the Other Documents or for the value, validity, effectiveness, genuineness, due execution, enforceability or sufficiency of this Agreement, or any of the Other Documents or for any failure of the Debtor to perform its obligations hereunder. Agent shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any of the Other Documents, or to inspect the properties, books or records of the Debtor. The duties of Agent as respects the Advances to Debtor shall be mechanical and administrative in nature; Agent shall not have by reason of this Agreement a fiduciary relationship in respect of any Lender; and nothing in this Agreement, expressed or implied, is intended to or shall be so construed as to impose upon Agent any obligations in respect of this Agreement or the transactions described herein except as expressly set forth herein.

14.3 Lack of Reliance on Agent and Resignation. Independently and without reliance upon Agent or any other Lender, each Lender has made and shall continue to make (i) its own independent investigation of the financial condition and affairs of each Loan Party and each Guarantor in connection with the making and the continuance of the Advances hereunder and the taking or not taking of any action in connection herewith, and (ii) its own appraisal of the creditworthiness of each Loan Party and each Guarantor. Agent shall have no duty or responsibility, either initially or on a continuing basis, to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before making of the Advances or at any time or times thereafter except as shall be provided by any Loan Party pursuant to the terms hereof. Agent shall not be responsible to any Lender for any recitals, statements, information, representations or warranties herein or in any agreement, document, certificate or a statement delivered in connection with or for the execution, effectiveness, genuineness, validity, enforceability, collectability or sufficiency of this Agreement or any Other Document, or of the financial condition of any Loan Party or any Guarantor, or be required to make any inquiry concerning either the performance or observance of any of the terms, provisions or conditions of this Agreement, the Revolving Credit Note, the Other Documents or the financial condition of the Debtor, or the existence of any Event of Default or any Default.

14.4 Resignation of Agent; Successor Agent. Agent may resign on sixty (60) days written notice to each Lender and Debtor and upon such resignation, Required Lenders will promptly designate a successor Agent reasonably satisfactory to Debtor (provided that no such approval by Debtor shall be required (i) in any case where the successor Agent is one of the Lenders or (ii) after the occurrence and during the continuance of any Event of Default). Any such successor Agent shall succeed to the rights, powers and duties of Agent, and shall in particular succeed to all of Agent's right, title and interest in and to all of the Liens in the Collateral securing the Obligations created hereunder or any Other Document (including all account control agreements), and the term "Agent" shall mean such successor agent effective upon its appointment, and the former Agent's rights, powers and duties as Agent shall be terminated, without any other or further act or deed on the part of such former Agent. However, notwithstanding the foregoing, if at the time of the effectiveness of the new Agent's appointment, any further actions need to be taken in order to provide for the legally binding and valid transfer of any Liens in the Collateral from former Agent to new Agent and/or for the perfection of any Liens in the Collateral as held

by new Agent or it is otherwise not then possible for new Agent to become the holder of a fully valid, enforceable and perfected Lien as to any of the Collateral, former Agent shall continue to hold such Liens solely as agent for perfection of such Liens on behalf of new Agent until such time as new Agent can obtain a fully valid, enforceable and perfected Lien on all Collateral, provided that Agent shall not be required to or have any liability or responsibility to take any further actions after such date as such agent for perfection to continue the perfection of any such Liens (other than to forego from taking any affirmative action to release any such Liens). After any Agent's resignation as Agent, the provisions of this Article XIV, and any indemnification rights under this Agreement, including without limitation, rights arising under Section 16.5 hereof, shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement (and in the event resigning Agent continues to hold any Liens pursuant to the provisions of the immediately preceding sentence, the provisions of this Article XIV and any indemnification rights under this Agreement, including without limitation, rights arising under Section 16.5 hereof, shall inure to its benefit as to any actions taken or omitted to be taken by it in connection with such Liens).

14.5 Certain Rights of Agent. If Agent shall request instructions from Lenders with respect to any act or action (including failure to act) in connection with this Agreement or any Other Document, Agent shall be entitled to refrain from such act or taking such action unless and until Agent shall have received instructions from the Required Lenders; and Agent shall not incur liability to any Person by reason of so refraining. Without limiting the foregoing, Lenders shall not have any right of action whatsoever against Agent as a result of its acting or refraining from acting hereunder in accordance with the instructions of the Required Lenders.

14.6 Reliance. Agent shall be entitled to rely, and shall be fully protected in relying, upon any note, writing, resolution, notice, statement, certificate, email, facsimile, telex, teletype or telecopier message, cablegram, order or other document or telephone message believed by it to be genuine and correct and to have been signed, sent or made by the proper person or entity, and, with respect to all legal matters pertaining to this Agreement and the Other Documents and its duties hereunder, upon advice of counsel selected by it. Agent may employ agents and attorneys-in-fact and shall not be liable for the default or misconduct of any such agents or attorneys-in-fact selected by Agent with reasonable care.

14.7 Notice of Default. Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder or under the Other Documents, unless Agent has received notice from a Lender or Debtor referring to this Agreement or the Other Documents, describing such Default or Event of Default and stating that such notice is a "notice of default." In the event that Agent receives such a notice, Agent shall give notice thereof to Lenders. Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by Required Lenders; provided, that, unless and until Agent shall have received such directions, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of Lenders.

14.8 Indemnification. To the extent Agent is not reimbursed and indemnified by Debtor, each Lender will reimburse and indemnify Agent in proportion to its respective portion of the

outstanding Advances and its respective Participation Commitments in the outstanding Letters of Credit (or, if no Advances are outstanding, pro rata according to the percentage that its Revolving Commitment Amount constitutes of the total aggregate Revolving Commitment Amounts), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against Agent in performing its duties hereunder, or in any way relating to or arising out of this Agreement or any Other Document; provided that Lenders shall not be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from Agent's gross (not mere) negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment).

14.9 Agent in its Individual Capacity. With respect to the obligation of Agent to lend under this Agreement, the Advances made by it shall have the same rights and powers hereunder as any other Lender and as if it were not performing the duties as Agent specified herein; and the term "Lender" or any similar term shall, unless the context clearly otherwise indicates, include Agent in its individual capacity as a Lender. Agent may engage in business with any Loan Party as if it were not performing the duties specified herein, and may accept fees and other consideration from the Debtor for services in connection with this Agreement or otherwise without having to account for the same to Lenders.

14.10 Delivery of Documents. To the extent Agent receives financial statements or notices required under Article IX from the Debtor pursuant to the terms of this Agreement which the Debtor is not obligated to deliver to each Lender, Agent will promptly furnish such documents and information to Lenders.

14.11 Debtor's Undertaking to Agent. Without prejudice to their respective obligations to Lenders under the other provisions of this Agreement, the Debtor hereby undertakes with Agent to pay to Agent from time to time on demand all amounts from time to time due and payable by it for the account of Agent or Lenders or any of them pursuant to this Agreement to the extent not already paid. Any payment made pursuant to any such demand shall pro tanto satisfy the relevant Debtor's obligations to make payments for the account of Lenders or the relevant one or more of them pursuant to this Agreement.

14.12 No Reliance on Agent's Customer Identification Program. To the extent the Advances or this Agreement is, or becomes, syndicated in cooperation with other Lenders, each Lender acknowledges and agrees that neither such Lender, nor any of its Affiliates, participants or assignees, may rely on Agent to carry out such Lender's, Affiliate's, participant's or assignee's customer identification program, or other obligations required or imposed under or pursuant to the USA PATRIOT Act or the regulations thereunder, including the regulations contained in 31 CFR 103.121 (as hereafter amended or replaced, the "CIP Regulations"), or any other Anti-Terrorism Law, including any programs involving any of the following items relating to or in connection with any Loan Party, its Affiliates or its agents, this Agreement, the Other Documents or the transactions hereunder or contemplated hereby: (1) any identity verification procedures, (2) any record-keeping, (3) comparisons with government lists, (4) customer notices or (5) other procedures required under the CIP Regulations or such Anti-Terrorism Laws.

14.13 Other Agreements. Each of the Lenders agrees that it shall not, without the express consent of Agent, and that it shall, to the extent it is lawfully entitled to do so, upon the request of Agent, set off against the Obligations, any amounts owing by such Lender to the Debtor or any deposit accounts of the Debtor now or hereafter maintained with such Lender. Anything in this Agreement to the contrary notwithstanding, each of the Lenders further agrees that it shall not, unless specifically requested to do so by Agent, take any action to protect or enforce its rights arising out of this Agreement or the Other Documents, it being the intent of Lenders that any such action to protect or enforce rights under this Agreement and the Other Documents shall be taken in concert and at the direction or with the consent of Agent or Required Lenders.

XV. [RESERVED].

XVI. MISCELLANEOUS

16.1 Governing Law. This Agreement and each Other Document (unless and except to the extent expressly provided otherwise in any such Other Document), and all matters relating hereto or thereto or arising herefrom or therefrom (whether arising under contract law, tort law or otherwise) shall be governed by and construed in accordance with the laws of the State of Ohio applied to contracts to be performed within the State of Ohio. Any judicial proceeding brought by or against any Loan Party with respect to any of the Obligations, this Agreement, the Other Documents or any related agreement may be brought in any court of competent jurisdiction in the State of Ohio, United States of America, and, by execution and delivery of this Agreement, each Loan Party accepts for itself and in connection with its properties, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts, and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement. Each Loan Party hereby waives personal service of any and all process upon it and consents that all such service of process may be made by certified or registered mail (return receipt requested) directed to Debtor at its address set forth in Section 16.6 and service so made shall be deemed completed five (5) days after the same shall have been so deposited in the mails of the United States of America, or, at Agent's option, by service upon Debtor which each Loan Party irrevocably appoints as the Debtor's Agent for the purpose of accepting service within the State of Ohio. Nothing herein shall affect the right to serve process in any manner permitted by law or shall limit the right of Agent or any Lender to bring proceedings against any Loan Party in the courts of any other jurisdiction. Each Loan Party waives any objection to jurisdiction and venue of any action instituted hereunder and shall not assert any defense based on lack of jurisdiction or venue or based upon forum non conveniens. Each Loan Party waives the right to remove any judicial proceeding brought against such Loan Party in any state court to any federal court. Any judicial proceeding by any Loan Party against Agent or any Lender involving, directly or indirectly, any matter or claim in any way arising out of, related to or connected with this Agreement or any related agreement, shall be brought only in a federal or state court located in the County of Cuyahoga, State of Ohio.

16.2 Entire Understanding.

(a) This Agreement and the documents executed concurrently herewith contain the entire understanding between each Loan Party, Agent and each Lender and supersedes all prior agreements and understandings, if any, relating to the subject matter hereof. Any promises,

representations, warranties or guarantees not herein contained and hereinafter made shall have no force and effect unless in writing, signed by each Loan Party's, Agent's and each Lender's respective officers. Neither this Agreement nor any portion or provisions hereof may be changed, modified, amended, waived, supplemented, discharged, cancelled or terminated orally or by any course of dealing, or in any manner other than by an agreement in writing, signed by the party to be charged. The parties hereto shall be permitted to amend this Agreement and the Other Documents without further approval or order of the Bankruptcy Court; provided, however, that any material modification or amendment to this Agreement or the any Other Documents shall be subject to providing notice of such material modification or amendment to counsel to any Committee and the US Trustee each of whom shall have three (3) Business Days from the date of such notice within which to object in writing to such modification or amendment unless the Committee and the US Trustee agree in writing to a shorter period. Unless the Committee or the US Trustee timely objects to any material modification or amendment to this Agreement or any Other Document, then such modification or amendment shall become effective upon the expiration of the aforementioned notice period. If a timely objection is interposed, the Bankruptcy Court shall resolve such objection prior to such modification or amendment becoming effective. The Debtor acknowledges that it has been advised by counsel in connection with the execution of this Agreement and Other Documents and is not relying upon oral representations or statements inconsistent with the terms and provisions of this Agreement.

(b) The Required Lenders, Agent with the consent in writing of the Required Lenders, and Loan Parties may, subject to the provisions of this Section 16.2(b), from time to time enter into written supplemental agreements to this Agreement or the Other Documents executed by Loan Parties, for the purpose of adding or deleting any provisions or otherwise changing, varying or waiving in any manner the rights of Lenders, Agent or Loan Parties thereunder or the conditions, provisions or terms thereof or waiving any Event of Default thereunder, but only to the extent specified in such written agreements; provided, however that no such supplemental agreement shall:

(i) increase the Revolving Commitment Percentage, or the maximum dollar amount of the Revolving Commitment Amount of any Lender without the consent of such Lender directly affected thereby;

(ii) whether or not any Advances are outstanding, extend the Term or the time for payment of principal or interest of any Advance (excluding the due date of any mandatory prepayment of an Advance), or any fee payable to any Lender, or reduce the principal amount of or the rate of interest borne by any Advances or reduce any fee payable to any Lender, without the consent of each Lender directly affected thereby (except that Required Lenders may elect to waive or rescind any imposition of the Default Rate under Section 3.1 or of default rates of Letter of Credit fees under Section 3.2 (unless imposed by Agent));

(iii) increase the Maximum Revolving Advance Amount without the consent of all Lenders holding a Revolving Commitment;

(iv) alter the definition of the term Required Lenders or Required Lenders for Eligibility or alter, amend or modify this Section 16.2(b) without the consent of all Lenders;

(v) [reserved];

(vi) release any Collateral during any calendar year (other than in accordance with the provisions of this Agreement) having an aggregate value in excess of $1,000,000 without the consent of all Lenders;

(vii) change the rights and duties of Agent without the consent of all Lenders;

(viii) [reserved];

(ix) increase the Advance Rates above the Advance Rates in effect on the Closing Date without the consent of all Lenders;

(x) release any Guarantor or the Debtor without the consent of all Lenders; or

(xi) subordinate all or substantially all of Agent's Liens under this Agreement and the Other Documents.

(c) Any such supplemental agreement shall apply equally to each Lender and shall be binding upon Loan Parties, Lenders and Agent and all future holders of the Obligations. In the case of any waiver, Loan Parties, Agent and Lenders shall be restored to their former positions and rights, and any Event of Default waived shall be deemed to be cured and not continuing, but no waiver of a specific Event of Default shall extend to any subsequent Event of Default (whether or not the subsequent Event of Default is the same as the Event of Default which was waived), or impair any right consequent thereon.

(d) In the event that (i) (A) Agent requests the consent of a Lender pursuant to this Section 16.2 or (B) pursuant to an amendment or waiver any consent is required by all Lenders, or each Lender affected thereby, (ii) such Lender withholds its consent, and (iii) the Required Lenders provide such consent, then PNC may, at its option, require such Lender to assign its interest in the Advances to PNC or to another Lender or to any other Person designated by Agent (the "Designated Lender"), for a price equal to (x) the then outstanding principal amount thereof plus (y) accrued and unpaid interest and fees due such Lender, which interest and fees shall be paid when collected from Loan Parties. In the event PNC elects to require any Lender to assign its interest to PNC or to the Designated Lender, PNC will so notify such Lender in writing within forty five (45) days following such Lender's denial, and such Lender will assign its interest to PNC or the Designated Lender no later than five (5) days following receipt of such notice pursuant to a Commitment Transfer Supplement executed by such Lender, PNC or the Designated Lender, as appropriate, and Agent.

16.3 Successors and Assigns; Participations; New Lenders.

(a) This Agreement shall be binding upon and inure to the benefit of Loan Parties, Agent, each Lender, all future holders of the Obligations and their respective successors and permitted assigns, except that no Loan Party may assign or transfer any of its rights or obligations under this Agreement (including, in each case, by way of an LLC Division) without the prior written consent of Agent and each Lender.

(b) The Debtor acknowledges that in the regular course of commercial banking business one or more Lenders may at any time and from time to time sell participating interests in the Advances to other Persons (each such transferee or purchaser of a participating interest, a "Participant"). Each Participant may exercise all rights of payment (including rights of set-off) with respect to the portion of such Advances held by it or other Obligations payable hereunder as fully as if such Participant were the direct holder thereof provided that (i) Debtor shall not be required to pay to any Participant more than the amount which it would have been required to pay to Lender which granted an interest in its Advances or other Obligations payable hereunder to such Participant had such Lender retained such interest in the Advances hereunder or other Obligations payable hereunder unless the sale of the participation to such Participant is made with Debtor's prior written consent, and (ii) in no event shall Debtor be required to pay any such amount arising from the same circumstances and with respect to the same Advances or other Obligations payable hereunder to both such Lender and such Participant. Each Loan Party hereby grants to any Participant a continuing security interest in any deposits, moneys or other property actually or constructively held by such Participant as security for the Participant's interest in the Advances.

(c) Any Lender, with the consent of Agent which shall not be unreasonably withheld or delayed, may sell, assign or transfer all or any part of its rights and obligations under or relating to Revolving Advances under this Agreement and the Other Documents to one or more Persons and one or more Persons may commit to make Advances hereunder (each a "Purchasing Lender"), in minimum amounts of not less than $5,000,000, pursuant to a Commitment Transfer Supplement, executed by a Purchasing Lender, the transferor Lender, and Agent and delivered to Agent for recording. Upon such execution, delivery, acceptance and recording, from and after the transfer effective date determined pursuant to such Commitment Transfer Supplement, (i) Purchasing Lender thereunder shall be a party hereto and, to the extent provided in such Commitment Transfer Supplement, have the rights and obligations of a Lender thereunder with a Revolving Commitment Percentage as set forth therein, and (ii) the transferor Lender thereunder shall, to the extent provided in such Commitment Transfer Supplement, be released from its obligations under this Agreement, the Commitment Transfer Supplement creating a novation for that purpose. Such Commitment Transfer Supplement shall be deemed to amend this Agreement to the extent, and only to the extent, necessary to reflect the addition of such Purchasing Lender and the resulting adjustment of the Revolving Commitment Percentages arising from the purchase by such Purchasing Lender of all or a portion of the rights and obligations of such transferor Lender under this Agreement and the Other Documents. Each Loan Party hereby consents to the addition of such Purchasing Lender and the resulting adjustment of the Revolving Commitment Percentages arising from the purchase by such Purchasing Lender of all or a portion of the rights and obligations of such transferor Lender under this Agreement and the Other Documents. Each Loan Party shall execute and deliver such further documents and do such further acts and things in order to effectuate the foregoing.

(d) Any Lender, with the consent of Agent which shall not be unreasonably withheld or delayed, may directly or indirectly sell, assign or transfer all or any portion of its rights and obligations under or relating to Revolving Advances under this Agreement and the Other Documents to an entity, whether a corporation, partnership, trust, limited liability company or other entity that (i) is engaged in making, purchasing, holding or otherwise investing in bank loans and similar extensions of credit in the ordinary course of its business and (ii) is administered, serviced or managed by the assigning Lender or an Affiliate of such Lender (a "Purchasing CLO" and together with each Participant and Purchasing Lender, each a "Transferee" and collectively the "Transferees"), pursuant to a Commitment Transfer Supplement modified as appropriate to reflect the interest being assigned ("Modified Commitment Transfer Supplement"), executed by any intermediate purchaser, the Purchasing CLO, the transferor Lender, and Agent as appropriate and delivered to Agent for recording. Upon such execution and delivery, from and after the transfer effective date determined pursuant to such Modified Commitment Transfer Supplement, (i) Purchasing CLO thereunder shall be a party hereto and, to the extent provided in such Modified Commitment Transfer Supplement, have the rights and obligations of a Lender thereunder and (ii) the transferor Lender thereunder shall, to the extent provided in such Modified Commitment Transfer Supplement, be released from its obligations under this Agreement, the Modified Commitment Transfer Supplement creating a novation for that purpose. Such Modified Commitment Transfer Supplement shall be deemed to amend this Agreement to the extent, and only to the extent, necessary to reflect the addition of such Purchasing CLO. Each Loan Party hereby consents to the addition of such Purchasing CLO. Each Loan Party shall execute and deliver such further documents and do such further acts and things in order to effectuate the foregoing.

(e) Agent shall maintain at its address a copy of each Commitment Transfer Supplement and Modified Commitment Transfer Supplement delivered to it and a register (the "Register") for the recordation of the names and addresses of each Lender and the outstanding principal, accrued and unpaid interest and other fees due hereunder. The entries in the Register shall be conclusive, in the absence of manifest error, and each Loan Party, Agent and Lenders may treat each Person whose name is recorded in the Register as the owner of the Advance recorded therein for the purposes of this Agreement. The Register shall be available for inspection by Debtor or any Lender at any reasonable time and from time to time upon reasonable prior notice. Agent shall receive a fee in the amount of $3,500 payable by the applicable Purchasing Lender and/or Purchasing CLO upon the effective date of each transfer or assignment (other than to an intermediate purchaser) to such Purchasing Lender and/or Purchasing CLO.

(f) Each Loan Party authorizes each Lender to disclose to any Transferee and any prospective Transferee any and all financial information in such Lender's possession concerning such Loan Party which has been delivered to such Lender by or on behalf of such Loan Party pursuant to this Agreement or in connection with such Lender's credit evaluation of such Loan Party.

(g) Notwithstanding anything to the contrary contained in this Agreement, any Lender may at any time and from time to time pledge or assign a security interest in all or any portion of its rights under this Agreement 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.

16.4 Application of Payments. Agent shall have the continuing and exclusive right to apply or reverse and re-apply any payment and any and all proceeds of Collateral to any portion of the Obligations. To the extent that any Loan Party makes a payment or Agent or any Lender receives any payment or proceeds of the Collateral for any Loan Party's benefit, which are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, debtor in possession, receiver, custodian or any other party under any bankruptcy law, common law or equitable cause, then, to such extent, the Obligations or part thereof intended to be satisfied shall be revived and continue as if such payment or proceeds had not been received by Agent or such Lender.

16.5 Indemnity. Each Loan Party shall defend, protect, indemnify, pay and save harmless Agent, Issuer, each Lender and each of their respective officers, directors, Affiliates, attorneys, employees and agents (each an "Indemnified Party") for and from and against any and all claims, demands, liabilities, obligations, losses, damages, penalties, fines, actions, judgments, suits, costs, charges, expenses and disbursements of any kind or nature whatsoever (including fees and disbursements of counsel (including allocated costs of internal counsel)) (collectively, "Claims") which may be imposed on, incurred by, or asserted against any Indemnified Party in arising out of or in any way relating to or as a consequence, direct or indirect, of: (i) this Agreement, the Other Documents, the Advances and other Obligations and/or the transactions contemplated hereby including the Transactions, (ii) any action or failure to act or action taken only after delay or the satisfaction of any conditions by any Indemnified Party in connection with and/or relating to the negotiation, execution, delivery or administration of the Agreement and the Other Documents, the credit facilities established hereunder and thereunder and/or the transactions contemplated hereby including the Transactions, (iii) any Loan Party's or any Guarantor's failure to observe, perform or discharge any of its covenants, obligations, agreements or duties under or breach of any of the representations or warranties made in this Agreement and the Other Documents, (iv) the enforcement of any of the rights and remedies of Agent, Issuer or any Lender under the Agreement and the Other Documents, (v) any threatened or actual imposition of fines or penalties, or disgorgement of benefits, for violation of any Anti-Terrorism Law by any Loan Party, any Affiliate or Subsidiary of any Loan Parties, or any Guarantor, and (vi) any claim, litigation, proceeding or investigation instituted or conducted by any Governmental Body or instrumentality or any other Person with respect to any aspect of, or any transaction contemplated by, or referred to in, or any matter related to, this Agreement or the Other Documents, whether or not Agent or any Lender is a party thereto. Without limiting the generality of any of the foregoing, each Loan Party shall defend, protect, indemnify, pay and save harmless each Indemnified Party from (x) any Claims which may be imposed on, incurred by, or asserted against any Indemnified Party arising out of or in any way relating to or as a consequence, direct or indirect, of the issuance of any Letter of Credit hereunder and (y) any Claims which may be imposed on, incurred by, or asserted against any Indemnified Party under any Environmental Laws with respect to or in connection with the Real Property, any Hazardous Discharge, the presence of any Hazardous Materials affecting the Real Property (whether or not the same originates or emerges from the Real Property or any contiguous real estate), including any Claims consisting of or relating to the imposition or assertion of any Lien on any of the Real Property under any Environmental Laws and any loss of value of

the Real Property as a result of the foregoing except to the extent such loss, liability, damage and expense is attributable to any Hazardous Discharge resulting from actions on the part of Agent or any Lender. Loan Parties' obligations under this Section 16.5 shall arise upon the discovery of the presence of any Hazardous Materials at the Real Property, whether or not any federal, state, or local environmental agency has taken or threatened any action in connection with the presence of any Hazardous Materials, in each such case except to the extent that any of the foregoing arises out of the gross negligence or willful misconduct of the Indemnified Party (as determined by a court of competent jurisdiction in a final and non-appealable judgment). Without limiting the generality of the foregoing, this indemnity shall extend to any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses and disbursements of any kind or nature whatsoever (including fees and disbursements of counsel) asserted against or incurred by any of the Indemnified Parties by any Person under any Environmental Laws or similar laws by reason of any Loan Party's or any other Person's failure to comply with laws applicable to solid or hazardous waste materials, including Hazardous Materials and Hazardous Waste, or other Toxic Substances. Additionally, if any taxes (excluding taxes imposed upon or measured solely by the net income of Agent and Lenders, but including any intangibles taxes, stamp tax, recording tax or franchise tax) shall be payable by Agent, Lenders or Loan Parties on account of the execution or delivery of this Agreement, or the execution, delivery, issuance or recording of any of the Other Documents, or the creation or repayment of any of the Obligations hereunder, by reason of any Applicable Law now or hereafter in effect, Loan Parties will pay (or will promptly reimburse Agent and Lenders for payment of) all such taxes, including interest and penalties thereon, and will indemnify and hold the Indemnified Parties harmless from and against all liability in connection therewith.

16.6 Notice. Any notice or request hereunder may be given to Debtor or any Loan Party or to Agent or any Lender at their respective addresses set forth below or at such other address as may hereafter be specified in a notice designated as a notice of change of address under this Section. Any notice, request, demand, direction or other communication (for purposes of this Section 16.6 only, a "Notice") to be given to or made upon any party hereto under any provision of this Agreement shall be given or made by telephone or in writing (which includes by means of electronic transmission (i.e., "e-mail") or facsimile transmission or by setting forth such Notice on a website to which Debtor is directed (an "Internet Posting") if Notice of such Internet Posting (including the information necessary to access such site) has previously been delivered to the applicable parties hereto by another means set forth in this Section 16.6) in accordance with this Section 16.6. Any such Notice must be delivered to the applicable parties hereto at the addresses and numbers set forth under their respective names on Section 16.6 hereof or in accordance with any subsequent unrevoked Notice from any such party that is given in accordance with this Section 16.6. Any Notice shall be effective:

(a) In the case of hand-delivery, when delivered;

(b) If given by mail, four (4) days after such Notice is deposited with the United States Postal Service, with first-class postage prepaid, return receipt requested;

(c) In the case of a telephonic Notice, when a party is contacted by telephone, if delivery of such telephonic Notice is confirmed no later than the next Business Day by hand

delivery, a facsimile or electronic transmission, an Internet Posting or an overnight courier delivery of a confirmatory Notice (received at or before noon on such next Business Day);

(d) In the case of a facsimile transmission, when sent to the applicable party's facsimile machine's telephone number, if the party sending such Notice receives confirmation of the delivery thereof from its own facsimile machine;

(e) In the case of electronic transmission, when actually received;

(f) In the case of an Internet Posting, upon delivery of a Notice of such posting (including the information necessary to access such site) by another means set forth in this Section 16.6; and

(g) If given by any other means (including by overnight courier), when actually received.

Any Lender giving a Notice to Debtor or any Loan Party shall concurrently send a copy thereof to Agent, and Agent shall promptly notify the other Lenders of its receipt of such Notice.

(A) If to Agent or PNC at:

PNC Bank, National Association
1900 East Ninth Street, 9th Floor
Mail Stop B7-Y813-09-5
Cleveland, Ohio 44114
Attention: Todd Milenius
Telephone: (216) 222-9761
Facsimile: (216) 222-8155

with a copy to:

PNC Bank, National Association
PNC Agency Services
PNC Firstside Center
500 First Avenue
Mailstop: P7-PFSC-04-V
Pittsburgh, Pennsylvania 15219
Attention: Jennifer Rosenstein
Telephone: (412) 762-0915
Facsimile: (412) 705-2006

with an additional copy to:

Blank Rome LLP
130 North 18th Street
Philadelphia, Pennsylvania 19103
Attention: Michael C. Graziano
Telephone: (215) 569-5387
Facsimile: (215) 832-5387

(B) If to a Lender other than Agent, as specified on the signature pages hereof.

(C) If to Debtor or any Loan Party:

Volunteer Energy Services, Inc.
790 Windmiller Drive
Pickerington, Ohio 43147
Attention: John L. Einstein, Esq.
Telephone: (614) 729-2325
Facsimile: (614) 729-2326

with a copy to:

McDermott Will & Emery LLP
One Vanderbilt Avenue
New York, New York 10017
Attention: Darren Azman
Telephone: (212) 547-5615
Email: dazman@mwe.com

16.7 Survival. The obligations of Loan Parties under Sections 2.17, 3.7, 3.9, 3.10, 4.16(h), 16.5 and 16.9 and the obligations of Lenders under Section 2.2, 2.13(b), 2.16, 2.18, 2.20, 14.7 and 14.8, shall survive termination of this Agreement and the Other Documents and payment in full of the Obligations.

16.8 Severability. If any part of this Agreement is contrary to, prohibited by, or deemed invalid under Applicable Laws, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder hereof shall not be invalidated thereby and shall be given effect so far as possible.

16.9 Expenses. Debtor shall pay (i) all out-of-pocket expenses incurred by Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for Agent), and shall pay all fees and time charges and disbursements for attorneys who may be employees of Agent, in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the Other Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all out-of-pocket expenses incurred by Issuer in connection with the issuance, amendment, renewal

or extension of any Letter of Credit or any demand for payment thereunder, (iii) all out-of-pocket expenses incurred by Agent, any Lender or Issuer (including the fees, charges and disbursements of any counsel for Agent, any Lender or Issuer), and shall pay all fees and time charges for attorneys who may be employees of Agent, any Lender or Issuer, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the Other Documents, including its rights under this Section, or (B) in connection with the Advances made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit, (iv) all reasonable out-of-pocket expenses of Agent's regular employees and agents engaged periodically to perform audits of the Debtor's or the Debtor's Affiliate's or Subsidiary's books, records and business properties and (v) in connection with the Case, including without limitation, (A) costs and expenses incurred in connection with review of pleadings and other filings made with the Bankruptcy Court, (B) attendance at all hearings in respect of the Case, and (C) defending and prosecuting any actions or proceedings arising out of or relating to the Pre-Petition Obligations, the Obligations, the Liens securing the Pre-Petition Obligations and the Obligations or any transactions related to arising in connection with the Pre-Petition Other Documents or the Other Documents. The Debtor agrees that in the event that any actions or proceedings are in effect or are threatened by or Agent reasonably believes any actions or proceedings may be brought by the Committee or any other party in interest attacking the legality, validity, enforceability of the Pre-Petition Obligations, the Liens arising under the Pre-Petition Credit Agreement or any other matters relating to the Pre-Petition Other Documents at the time of the consummation of any sale of the assets of the Debtor or at the time that Debtor proposes to pay and satisfy the Obligations in full, Agent may hold a reserve following the date of payment in full of the Obligations as cash collateral for the expenses (including the fees, charges and disbursements of counsel for Agent and Lenders) reasonably expected in Agent's Permitted Discretion to be incurred in connection with such actions or proceedings until the earliest of (x) Agent's receipt of a general release satisfactory in form and substance to Agent, (y) the entry of a final non-appealable order determining the outcome of such litigation, and (z) the expiration of the Challenge Period so long as no Challenge (as defined in the Interim Order or, if entered, the Final Order) has been asserted by that date.

16.10 Injunctive Relief. Each Loan Party recognizes that, in the event any Loan Party fails to perform, observe or discharge any of its obligations or liabilities under this Agreement, or threatens to fail to perform, observe or discharge such obligations or liabilities, any remedy at law may prove to be inadequate relief to Lenders; therefore, Agent, if Agent so requests, shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving that actual damages are not an adequate remedy.

16.11 Consequential Damages. Neither Agent nor any Lender, nor any agent or attorney for any of them, shall be liable to any Loan Party or any Guarantor (or any Affiliate of any such Person) for indirect, punitive, exemplary or consequential damages arising from any breach of contract, tort or other wrong relating to the establishment, administration or collection of the Obligations or as a result of any transaction contemplated under this Agreement or any Other Document.

16.12 Captions. The captions at various places in this Agreement are intended for convenience only and do not constitute and shall not be interpreted as part of this Agreement.

16.13 Counterparts; Facsimile Signatures. This Agreement may be executed in any number of and by different parties hereto on separate counterparts, all of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same agreement. Any signature delivered by a party by facsimile or electronic transmission (including email transmission of a PDF image) shall be deemed to be an original signature hereto.

16.14 Construction. The parties acknowledge that each party and its counsel have reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments, schedules or exhibits thereto.

16.15 Confidentiality; Sharing Information. Agent, each Lender and each Transferee shall hold all non-public information obtained by Agent, such Lender or such Transferee pursuant to the requirements of this Agreement in accordance with Agent's, such Lender's and such Transferee's customary procedures for handling confidential information of this nature; provided, however, Agent, each Lender and each Transferee may disclose such confidential information (a) to its examiners, Affiliates, financing sources, outside auditors, counsel and other professional advisors, (b) to Agent, any Lender or to any prospective Transferees, and (c) as required or requested by any Governmental Body or representative thereof or pursuant to legal process; provided, further that (i) unless specifically prohibited by Applicable Law, Agent, each Lender and each Transferee shall use its reasonable best efforts prior to disclosure thereof, to notify the applicable Loan Party of the applicable request for disclosure of such non-public information (A) by a Governmental Body or representative thereof (other than any such request in connection with an examination of the financial condition of a Lender or a Transferee by such Governmental Body) or (B) pursuant to legal process and (ii) in no event shall Agent, any Lender or any Transferee be obligated to return any materials furnished by any Loan Party other than those documents and instruments in possession of Agent or any Lender in order to perfect its Lien on the Collateral once the Obligations have been paid in full and this Agreement has been terminated. Each Loan Party acknowledges that from time to time financial advisory, investment banking and other services may be offered or provided to such Loan Party or one or more of its Affiliates (in connection with this Agreement or otherwise) by any Lender or by one or more Subsidiaries or Affiliates of such Lender and each Loan Party hereby authorizes each Lender to share any information delivered to such Lender by such Loan Party and its Subsidiaries pursuant to this Agreement, or in connection with the decision of such Lender to enter into this Agreement, to any such Subsidiary or Affiliate of such Lender, it being understood that any such Subsidiary or Affiliate of any Lender receiving such information shall be bound by the provisions of this Section 16.15 as if it were a Lender hereunder. Such authorization shall survive the repayment of the other Obligations and the termination of this Agreement. Notwithstanding any non-disclosure agreement or similar document executed by Agent in favor of the Debtor or any of the Debtor's affiliates, the provisions of this Agreement shall supersede such agreements.

16.16 Publicity. Each Loan Party and each Lender hereby authorizes Agent to make appropriate announcements of the financial arrangement entered into among Loan Parties, Agent and Lenders, including announcements which are commonly known as tombstones, in such publications and to such selected parties as Agent shall in its sole and absolute discretion deem appropriate.

16.17 Certifications From Banks and Participants; USA PATRIOT Act.

(a) Each Lender or assignee or participant of a Lender that is not incorporated under the Laws of the United States of America or a state thereof (and is not excepted from the certification requirement contained in Section 313 of the USA PATRIOT Act and the applicable regulations because it is both (i) an affiliate of a depository institution or foreign bank that maintains a physical presence in the United States or foreign country, and (ii) subject to supervision by a banking authority regulating such affiliated depository institution or foreign bank) shall deliver to Agent the certification, or, if applicable, recertification, certifying that such Lender is not a "shell" and certifying to other matters as required by Section 313 of the USA PATRIOT Act and the applicable regulations: (1) within ten (10) days after the Closing Date, and (2) as such other times as are required under the USA PATRIOT Act.

(b) The USA PATRIOT Act requires all financial institutions to obtain, verify and record certain information that identifies individuals or business entities which open an "account" with such financial institution. Consequently, Lender may from time to time request, and the Debtor shall provide to Lender, the Debtor's name, address, tax identification number and/or such other identifying information as shall be necessary for Lender to comply with the USA PATRIOT Act and any other Anti-Terrorism Law.

16.18 Anti-Terrorism Laws.

(a) The Debtor represents and warrants that (i) no Covered Entity is a Sanctioned Person and (ii) no Covered Entity, either in its own right or through any third party, (A) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (B) does business in or with, or derives any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; or (C) engages in any dealings or transactions prohibited by any Anti-Terrorism Law.

(b) The Debtor covenants and agrees that (i) no Covered Entity will become a Sanctioned Person, (ii) no Covered Entity, either in its own right or through any third party, will (A) have any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (B) do business in or with, or derive any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; (C) engage in any dealings or transactions prohibited by any Anti-Terrorism Law or (D) use the Advances to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law, (iii) the funds used to repay the Obligations will not be derived from any unlawful activity, (iv) each Covered Entity shall comply with all Anti-Terrorism Laws and (v) Debtor shall promptly notify Agent in writing upon the occurrence of a Reportable Compliance Event.

16.19 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, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

16.20 Exclusive Remedy For Any Alleged Post-Petition Claim. Notwithstanding anything to the contrary provided for herein, if the Debtor asserts that it has any adverse claims against any Post-Petition Secured Party with respect to this Agreement and the transactions contemplated hereby, the Debtor agrees that its sole and exclusive remedy for any and all such adverse claims will be an action for monetary damages (a "Damage Lawsuit"). Any such Damage Lawsuit, regardless of the procedural form in which it is alleged (e.g., by complaint, counterclaim, cross-claim, third-party claim, or otherwise) will be severed from any enforcement by Post-Petition Secured Parties of their legal, equitable, and contractual rights (including collection of the Obligations and foreclosure or other enforcement against the Collateral) pursuant to the Other Documents, and the Damage Lawsuit (including any and all adverse claims alleged against the Post-Petition Secured Parties) cannot be asserted by the Debtor as a defense, setoff, recoupment, or grounds for delay, stay, or injunction against any enforcement by any Post-Petition Secured Party of their legal, equitable, and contractual rights under the Final Order, the Other Documents, and otherwise.

16.21 Prohibition on Surcharge. No Person will be permitted to surcharge the Collateral under Section 506(c) of the Bankruptcy Code, nor shall any costs or expenses whatsoever be imposed against the Collateral, except for the Carve-Out. The prohibition on surcharging or priming of the Liens of Agent on the Collateral will survive the termination of this Agreement and the dismissal of the Case, such that no Person will be permitted to obtain a Lien or rights (through any means, at law or in equity) which in any case is equal or senior to the Liens of Agent on the Collateral. Upon the termination of this Agreement and the dismissal of the Case, the Bankruptcy Court will retain jurisdiction over the Collateral for the limited purpose of enforcing this section.

16.22 Marshalling Obligations. The Agent shall not be subject to any equitable remedy of marshalling.

16.23 No Discharge; Survival of Claims. The Debtor agrees that (i) the Obligations shall not be discharged by the entry of an order confirming a Reorganization Plan (and the Debtor, pursuant to Section 1141(d)(4) of the Bankruptcy Code, hereby waives any such discharge), (ii) the Superpriority Claim granted to the Post-Petition Secured Parties pursuant to the Interim Order and the Final Order and the Liens granted to Agent, for the benefit of the Post-Petition Secured Parties pursuant to the Interim Order, the Final Order, this Agreement and the Other Documents, shall not be affected in any manner by the entry of an order confirming a Reorganization Plan, (iii) the Debtor shall not propose or support any Reorganization Plan that is not conditioned upon Payment in Full and the release of Agent and Lenders in full from all claims of the Debtor and its estate, in each case, on or before the effective date of such Reorganization Plan, and (iv) no Reorganization Plan shall be confirmed if it does not satisfy the foregoing requirements.

16.24 Disavowal and Waiver of Any Subsequent Relief Based on Changed Circumstances. The Debtor and the Post-Petition Secured Parties know and understand that there are rights and remedies provided under the Bankruptcy Code, the Federal Rules of Civil Procedure, and the Bankruptcy Rules, pursuant to which parties otherwise bound by a previously entered order can attempt to obtain relief from such an order by alleging circumstances that may warrant a change or modification in the order, or circumstances such as fraud, mistake, inadvertence, excusable neglect, newly discovered evidence, or similar matters that may justify vacating the order entirely, or otherwise changing or modifying it (collectively, "Changed Circumstances"). Rights and remedies based on Changed Circumstances include, but are not limited to, modification of a plan of reorganization after confirmation of the plan and before its substantial consummation, pursuant to Section 1127(b) of the Bankruptcy Code, relief from a final order or judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure and Bankruptcy Rule 9024, and the commencement and prosecution of a serial Chapter 11 case by a debtor which is in default of obligations under a stipulation or plan of reorganization confirmed in an earlier case. With full knowledge and understanding of what are, or may be, its present or future rights and remedies based on allegations of Changed Circumstances, the Debtor: (i) expressly disavows that there are any matters which constitute any kind of Changed Circumstances as of the date of entry of the Interim Order and (ii) expressly disavows that it is aware of any matters whatsoever that it is assuming, contemplating, or expecting in proceeding with the Final Order and the transactions contemplated by this Agreement and having the Final Order entered that would serve as a basis to allege such Changed Circumstances. The Debtor understands and agrees that the Post-Petition Secured Parties are not willing to bear any of the risks involved in the Debtor's business enterprises and the Post-Petition Secured Parties are not willing to modify any of the rights if such risks cause actual or alleged Changed Circumstances; and the Debtor expressly assumes all risks of any and all such matters, and the consequences that the Post-Petition Secured Parties will enforce their legal, equitable, and contractual rights if the Post-Petition Secured Parties are not paid and dealt with strictly in accordance with the terms and conditions of the Interim Order, the Final Order, this Agreement and the Other Documents. Without limiting the foregoing in any way, the Debtor's use of any cash collateral that is included in the Collateral will be governed exclusively by the terms and conditions of this Agreement, the Interim Order and the Final Order, and, until Payment in Full either before or after a termination of this Agreement, Debtor will not seek authority from the

Bankruptcy Court to otherwise use any cash collateral that is included in the Collateral for any purpose whatsoever.

16.25 Interim Order and Final Order Control. In the event of any conflict between the terms of the Interim Order and/or the Final Order and this Agreement or any Other Document, the terms of the Interim Order and/or the Final Order, as applicable, shall control to the extent the Interim Order and/or Final Order, as applicable, were approved and acceptable to Agent.

[Signature Page Follows]

Each of the parties has signed the Agreement as of the day and year first above written.

VOLUNTEER ENERGY SERVICES INC.,
as a Debtor

By: _____
Name: Richard A. Curnutte, Sr.
Title: President

PNC BANK, NATIONAL ASSOCIATION,
as Lender, Issuer and as Agent

By: _____
Name: Todd Milenius
Title: Vice President

PNC Bank, National Association
1900 East Ninth Street, 9th Floor
Mail Stop B7-YB13-09-5
Cleveland, Ohio 44114
Attention: Todd Milenius

Revolving Commitment Percentage: 100.00%

Exhibit 1.2(a)

FORM OF COMPLIANCE CERTIFICATE

_____, 20__

PNC Bank, National Association, as Agent
1900 East 9th Street
Locator B7-YB13-09-5
Cleveland, Ohio 44114
Attention: Todd Milenius

Each Lender party to the
Credit Agreement referred to below

Ladies and Gentlemen:

Reference is made to that certain Debtor-In-Possession Revolving Credit and Security Agreement, dated as of March 31, 2022, (as amended, restated, supplemented or otherwise modified, the "Credit Agreement"), by and among Volunteer Energy Services, Inc., an Ohio corporation ("Debtor"), the Lenders from time to time party thereto, and PNC Bank, National Association, as administrative agent for the Lenders (the "Agent"). Unless otherwise defined herein, terms defined in the Credit Agreement are used herein with the same meanings.

(a) I am the duly elected [Chief Financial Officer/Controller] of Volunteer.

(b) I am familiar with the terms of the Credit Agreement and the Other Documents, and I have made, or have caused to be made under my supervision, a review in reasonable detail of the transactions and conditions of Debtor during the quarterly or annual accounting period (the "Testing Period") covered by the financial statements delivered to the Agent simultaneously with this Compliance Certificate.

(c) The review described in paragraph (b) above did not disclose, and I have no knowledge of, the existence of any condition or event that constitutes or constituted a Default or Event of Default at the end of the Testing Period or as of the date of this Compliance Certificate, except as set forth in Attachment I hereto, which includes a description of the nature and period of existence of such Default or an Event of Default and what action the Loan Parties have taken, are undertaking and propose to take with respect thereto.

(d) Following the review described in paragraph (b) above, to the best of my knowledge, each Loan Party is in compliance in all material respects with all federal, state and local Environmental Laws.

(e) Set forth on Attachment II hereto are (i) calculations of certain Capital Expenditures, which calculations show compliance with the terms of Section 7.6 of the Credit Agreement for the fiscal year of Volunteer ending [_____], and (ii) calculations of the aggregate annual rental

payments of the Loan Parties, which calculations show compliance with the terms of Section 7.11 of the Credit Agreement for the fiscal year of Volunteer ending [_____].

(f) [Set forth on Attachment III hereto are supplements to Schedules 4.5, 5.9, 5.28, 5.29 and 5.30 to the Credit Agreement, if applicable, solely with respect to updates to the Schedules occurring during the Testing Period.][1]

Very truly yours,
[_____]

By:_____
Name:
Title:

[1] Only provide this Attachment in connection with a Compliance Certificate delivered in connection with the financial statements delivered pursuant to Section 9.8 of the Credit Agreement.

Attachment I

Events of Defaults

Attachment II

Calculations

A.

Section 7.6 – Capital Expenditures

1.	Capital Expenditures contracted for, purchased or for which expenditures or commitments were made, by the Loan Parties during the relevant Testing Period:	$_____
	(A) Are the Capital Expenditures referenced in Line B.1 less than or equal to $1,000,000 for the fiscal year of Volunteer in which the Testing Period occurred?	[Yes/No]

B. Section 7.11 - Leases

1.	Aggregate annual rental payments owed by the Loan Parties as lessees under all lease arrangements for real or personal property (unless capitalized and permitted under Section 7.6 of the Credit Agreement) as of the last day of the relevant Testing Period:	$_____
	(A) Are the aggregate annual rental payments owed by the Loan Parties referred to in Line C.1 less than or equal to $300,000 for the fiscal year of Volunteer in which the relevant Testing Period occurred?	[Yes/No][2]

[2] If the response is "No", indicate if the applicable Loan Parties received the prior written consent of the Agent to enter into such lease arrangements that, after giving effect thereto, the aggregate annual rental payments for all leased property of the Loan Parties during such fiscal year would be greater than $300,000.

Attachment III

Supplemented Schedules

Exhibit 2.1(a)

REVOLVING CREDIT NOTE

$_____ Date: March ___, 2022
Cleveland, Ohio

This Revolving Credit Note (this "Note") is executed and delivered under and pursuant to the terms of that certain Debtor-In-Possession Revolving Credit and Security Agreement, dated as of the date hereof (as further amended, restated, supplemented or modified from time to time, the "Credit Agreement"), by and among Volunteer Energy Services, Inc., an Ohio corporation ("Debtor") and PNC Bank, National Association ("PNC"), the various other financial institutions named therein or which hereafter become a party thereto (PNC and such other financial institutions are each, a "Lender" and collectively, the "Lenders"), PNC, as agent for the Lenders (in such capacity, the "Agent") and as the Issuer. Capitalized terms not otherwise defined herein shall have the meanings provided in the Credit Agreement.

FOR VALUE RECEIVED, the Debtor hereby promises to pay to PNC at the office of Agent located at 1900 East Ninth Street, 9th Floor, Mail Stop B7-Y813-09-5, Cleveland, Ohio 44114, or at such other place as Agent may from time to time designate to the Debtor in writing:

(i) the principal sum of _____ MILLION and 00/100 Dollars ($_____) or, if different from such amount, the unpaid principal balance of PNC's Revolving Commitment Percentage of the Revolving Advances as may be due and owing under the Credit Agreement, payable in accordance with the provisions of the Credit Agreement, subject to acceleration upon the occurrence of an Event of Default under the Credit Agreement or earlier termination of the Credit Agreement pursuant to the terms thereof; and

(ii) interest on the principal amount of this Note from time to time outstanding until such principal amount is paid in full at the applicable Revolving Interest Rate in accordance with the provisions of the Credit Agreement. In no event, however, shall interest exceed the maximum interest rate permitted by law. Upon and after the occurrence of an Event of Default, and during the continuation thereof, interest shall be payable at the Default Rate.

This Note is one of the Revolving Credit Notes referred to in the Credit Agreement and is secured by the Liens granted pursuant to the Credit Agreement and the Other Documents, is entitled to the benefits of the Credit Agreement and the Other Documents and is subject to all of the agreements, terms and conditions therein contained.

This Note is subject to mandatory prepayment and may be voluntarily prepaid, in whole or in part, on the terms and conditions set forth in the Credit Agreement.

If an Event of Default under Section 10.7 of the Credit Agreement shall occur, then this Note shall become immediately due and payable, without notice, together with reasonable attorneys' fees if the collection hereof is placed in the hands of an attorney to obtain or enforce payment hereof. If any other Event of Default shall occur under the Credit Agreement or any of

the Other Documents, then this Note may, as provided in the Credit Agreement, be declared to be immediately due and payable, without notice, together with reasonable attorneys' fees, if the collection hereof is placed in the hands of an attorney to obtain or enforce payment hereof.

This Note shall be in substitution for and replacement of, and amends and restates in its entirety, that certain Revolving Credit Note in the original principal amount of $45,000,000 dated November 21, 2014 executed by Debtor in favor of PNC (the "Original Note"). The indebtedness evidenced by the Original Note is continuing and nothing contained herein shall be deemed to constitute payment, settlement or a proration of the Original Note.

This Note shall be construed and enforced in accordance with the laws of the State of Ohio.

The Debtor expressly waives any presentment, demand, protest, notice of protest, or notice of any kind except as expressly provided in the Credit Agreement.

WAIVER OF TRIAL BY JURY. THE UNDERSIGNED HEREBY EXPRESSLY, KNOWINGLY AND VOLUNTARILY WAIVES ALL BENEFIT AND ADVANTAGE OF ANY RIGHT TO A TRIAL BY JURY, AND IT WILL NOT AT ANY TIME INSIST UPON, OR PLEAD OR IN ANY MANNER WHATSOEVER CLAIM OR TAKE THE BENEFIT OR ADVANTAGE OF A TRIAL BY JURY IN ANY ACTION ARISING IN CONNECTION WITH THIS NOTE, THE CREDIT AGREEMENT OR ANY OF THE OTHER DOCUMENTS.

[INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, and intending to be legally bound, the Debtor has executed, issued and delivered this Note on the day and year above first written.

VOLUNTEER ENERGY SERVICES, INC.

By: _____
Name: _____
Title: _____

Exhibit 16.3

COMMITMENT TRANSFER SUPPLEMENT

This Commitment Transfer Supplement (the "Commitment Transfer Supplement") is dated as of the Effective Date set forth below and is entered into by and between [Insert name of Assignor] (the "Assignor") and [Insert name of Assignee] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the "Credit Agreement"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Commitment Transfer Supplement as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Agent as contemplated below (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any letters of credit, guarantees included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Commitment Transfer Supplement, without representation or warranty by the Assignor.

1.	Assignor:	_____
2.	Assignee:	_____ [and is an Affiliate/approved fund of [identify Lender][3]]
3.	Debtor:	Volunteer Energy Services, Inc., an Ohio corporation
4.	Agent:	PNC Bank, National Association, as the administrative agent under the Credit Agreement

[3] Select as applicable.

5. Credit Agreement: The Debtor-In-Possession Revolving Credit and Security Agreement, dated as of March 31, 2022, among Debtor, the Lenders parties thereto, and the Agent

6. Assigned Interest:

Facility Assigned[4]	Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/Loans Assigned	Percentage Assigned of Loans/Commitment Percentage Assigned[5]
	$	$	%
	$	$	%
	$	$	%

Effective Date: _____ __, 20__ [TO BE INSERTED BY AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The Assignee agrees to deliver to the Agent a completed administrative questionnaire in which the Assignee designates one or more credit contacts to whom all syndicate-level information

(which may contain material non-public information about the Debtor, and their related parties or their respective securities) will be made available and who may receive such information in accordance with the Assignee's compliance procedures and applicable laws, including Federal and state securities laws.

The terms set forth in this Commitment Transfer Supplement are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: _____
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By: _____
Title:

[4] Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Commitment Transfer Supplement (e.g. "Revolving Commitment," etc.)

[5] Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

Consented to and Accepted:

[NAME OF AGENT], as
Agent

By: _____
Title:

[Consented to:][6]

[NAME OF RELEVANT PARTY]

By: _____
Title:

[6] To be added only if the consent of the Debtor and/or other parties is required by the terms of the Credit Agreement.

ANNEX 1

[_____]

STANDARD TERMS AND CONDITIONS FOR
COMMITMENT TRANSFER SUPPLEMENT

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Commitment Transfer Supplement and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement and the Other Documents, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement and the Other Documents or any collateral thereunder, (iii) the financial condition of the Debtor, any of their Subsidiaries or Affiliates or any other Person obligated in respect of the Credit Agreement and the Other Documents or (iv) the performance or observance by the Debtor, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under the Credit Agreement and the Other Documents.

1.2 Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Commitment Transfer Supplement and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.5 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Commitment Transfer Supplement and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Agent or any other Lender, and (v) if it is a foreign lender, attached to the Commitment Transfer Supplement is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement and the Other Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Credit Agreement and the Other Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Commitment Transfer Supplement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Commitment Transfer Supplement may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Commitment Transfer Supplement by facsimile shall be effective as delivery of a manually executed counterpart of this Commitment Transfer Supplement. This Commitment Transfer Supplement shall be governed by, and construed in accordance with, the law of the State of Ohio.

Schedule 1.2A
Inventory

None

Schedule 1.2
Permitted Encumbrances

Liens

Financing Statement Number	Secured Party
OH00158307261	Columbia Gas of Ohio, Inc.
OH00251929425	The East Ohio Gas Company d/b/a Dominion Energy Ohio
OH00204937617	Columbia Gas of Kentucky, Inc.
OH00157312877	Vectren Energy Delivery of Ohio, Inc.
OH00174867691	Vectren Energy Delivery of Ohio, Inc.

Surety Bonds

Surety Bond Number	Issuer	Amount	Counterparty
1-37-85-79	Great American Insurance	$250,000	First Energy Ohio
3234265	Cincinnati Ins	$700,000	Consumer Energy
1246704	Cincinnati Ins	$293,000	Michigan Consolidated (DTE)
60134593	Capital Indemnity	$100,000	MI Public Svs Commission
60134592	Capital Indemnity	$50,000	Michigan Gas (MGU)
60134591	Capital Indemnity	$500,000	AEP
CIC1912879	Capital Indemnity	$100,000	DPL
CIC1912877	Capital Indemnity	$100,000	Semco

Posted Collateral

Party	Category	Amount
Columbia Gas Transmission LLC	Interstate Gas Pipeline	$3,166,000
Dominion Transmission, Inc.	Interstate Gas Pipeline	$292,000
Embridge-Nexas	Interstate Gas Pipeline	$459,000
Panhandle - Trunkline	Interstate Gas Pipeline	$503,000
Rockies Express Pipeline	Interstate Gas Pipeline	$110,000
Texas Eastern	Interstate Gas Pipeline	$96,000
Duke Energy	Gas Utility	$950,000
AEP	Power Utility or RTO	$656,000
PJM	Power Utility or RTO	$1,837,200
Cap Specialty	Surety Bond Company	$500,000

Schedule 4.5
Equipment and Inventory Locations

Ohio Offices (Chief Executive Office)

790 Windmiller Drive, Pickerington, Ohio 43147 (Leased)
Landlord: LJC Real Estate Holdings, LLC
Mailing Address: 790 Windmiller Drive, Pickerington, Ohio 43147

Schedule 4.16(c)
Chief Location of Loan Parties

Chief Executive Office:	790 Windmiller Drive, Pickerington, Ohio 43147
State of Organization:	Ohio

Schedule 4.16(j)
Deposit and Investment Accounts

Account Name	Account Number	Bank/Counterparty	Account Type
Collections Account	11-3135-9114	PNC Bank N.A.	Bank Account-Regular Business
Operating Account	11-3125-7644	PNC Bank N.A.	Bank Account-Regular Business
Checking Account	42-3972-5554	PNC Bank N.A.	Bank Account-Zero Balance
INTL FCStone Markets Account	G12836 Customer ID: 008569	INTL FCStone Markets, LLC d/b/a StoneX Markets LLC	
ICE US Account -1	Account ID: 1411100000 Customer ID: 008569	ICE US OTC Commodity Mkts	Brokerage Account – Used for purchasing natural gas financial swaps
ICE US Account -2	Account ID: 6138000000	ICE US OTC Commodity Mkts	Brokerage Account – Used for bilateral physical gas purchases
Interactive Brokers Account	U1651699	Interactive Brokers LLC	Brokerage Account – Used for buying natural gas futures/forward contracts
Interactive Brokers Account	U2044614	Interactive Brokers LLC	Brokerage Account – Used for buying natural gas futures/forward contracts
BAML Trade ISDA		Merrill lynch Commodities, Inc.	ISDA Financial Swaps – Power & Gas Trades
Nextera Energy ISDA		Nextera Energy Capital Holdings, Inc.	ISDA Financial Swaps – Power Trades
PNC ISDA	N/A	PNC Bank N.A.	ISDA Financial Swaps – Gas Trades

Blackrock Account	34412	BlackRock, Inc.	Investment Account

Schedule 5.1
Consents

None Required

Schedule 5.2(a)
States of Qualification and Good Standing

1. Ohio
2. Pennsylvania
3. Michigan
4. Kentucky

Schedule 5.2(b)
Subsidiaries

None

Schedule 5.4
Federal Tax Identification Number

Debtor's Federal Tax Identification is 31-1772693.

Schedule 5.6
Prior Names

None

Schedule 5.8 (b)
Litigation

None

Schedule 5.8(d)
Plans

Debtor maintains a 401(k) retirement plan, which is administered by Transamerica Retirement Solutions, LLC, and Crest Retirement administers the filing of Internal Revenue Service Form 5500 and certain compliance functions related to the plan.

Schedule 5.9
Intellectual Property, Source Code Escrow Agreements

Trademark Reg. No. 3,875,415 for a stylized “VE” Logo

Trademark Reg. no. 4,922,075 for the words “Volunteer Energy”

Schedule 5.10
Licenses and Permits

None

Schedule 5.14
Labor Disputes

None

Schedule 5.22
Business and Property

Debtor is engaged in the business of operating as a full-service energy marketer engaged in business in Ohio, Kentucky, Pennsylvania, and Michigan.

Schedule 5.28(a)
Equity Interests

Richard A. Curnutte, Sr. - 100% Shareholder of Debtor (49 Shares Outstanding)

Schedule 5.28(b)
Subscriptions, Warrants, Options, Calls, or Commitments

None

Schedule 5.28(b)
Convertible Equity Interests

None

Schedule 5.29
Commercial Tort Claims[7]

Logical Communication Services LLC v. Volunteer Energy Services, Inc. Franklin County Court of Common Pleas 22CV-02-714 – Failure to pay disputed commissions.

Volunteer Energy Services, Inc. v. Tom Arnold, Fairfield County Court of Common Pleas 21 CV 282 – Asserting claim of theft of company records and embezzlement.

Volunteer Energy Services, Inc. v. NorthEast Energy Advisors, Allegheny County, Pennsylvania Case No: GD-17-010020 – Lawsuit against electric broker for failing to pay Volunteer Energy commission owed for brokered electric accounts.

Polar Vortex charge & TCO Rate dispute – Threatened PUCO claim disputing charges assessed customers for Polar Vortex expenses and TCO Rate case pass through costs

[7] To be updated.

Schedule 5.30
Letters of Credit

None.

Schedule 5.31
Material Contracts

Licenses:

Ohio – PUCO Cert 02-022G(7)
Michigan – PSC Case U-14831
Pennsylvania PUC Case A-125124
Kentucky – No State Licensing – Contract with Columbia Gas of Kentucky

Material Contracts

1. Accounts Receivable Purchase Agreement, dated as of February 22, 2010, between Volunteer Energy Services, Inc. and Columbia Gas of Kentucky, Inc, as amended by that certain Amendment to Columbia Gas of Kentucky, Inc. Accounts Receivable Purchase Agreement, dated as of April 1, 2011, between Columbia Gas of Kentucky, Inc. and Volunteer Energy Services, Inc.

2. Columbia Gas of Kentucky Service Agreement for Small Volume Aggregation Service Rate Schedule, dated as of February 22, 2010, between Columbia Gas of Kentucky, Inc. and Volunteer Energy Services, Inc.

3. Account Receivables Purchase Agreement, dated as of November 9, 2005, between Duke Energy Ohio, Inc. (as successor by merger to Cinergy Corp., the surviving entity of a merger between Cincinnati Gas & Electric Company and PSI Energy) and Volunteer Energy Services, Inc.

4. Gas Supply Aggregation/Customer Pooling Agreement Associated with Firm Transportation Program, dated as of August 16, 2007, between Duke Energy Ohio, Inc. and Volunteer Energy Services, Inc.

5. Alternative Gas Supplier Agreement, dated as of April 1, 2014, between DTE Gas Company and Volunteer Energy Services, Inc.

6. Service Agreement – Energy Choice Pooling Service, dated as of September 20, 2006, between The East Ohio Gas Company d/b/a Dominion East Ohio and Volunteer Energy Services, Inc.

7. Authorized Gas Supplier Agreement, dated as of June 28, 2006, between Consumers Energy Company and Volunteer Energy Services, Inc., as amended by that certain Amendment to Authorized Gas Supplier Agreement, dated as of March 31, 2007, between Consumers Energy Company and Volunteer Energy Services, Inc., and as further amended by that certain Amendment to Authorized Gas Supplier Agreement, dated as of March 31, 2007, between Consumers Energy Company and Volunteer Energy Services, Inc.

8. Accounts Receivable Purchase Agreement, dated May 18, 2011, between Columbia Gas of Pennsylvania, Inc. and Volunteer Energy Services, Inc.

9. Accounts Receivable Purchase Agreement, dated March 24, 2010, between Columbia Gas of Ohio, Inc. and Volunteer Energy Services, Inc.

10. Electric Distribution Company/Competitive Retail Electric Service Provider Agreement, dated March 26, 2015, between Volunteer Energy Services, Inc. and Ohio Power Company.

Schedule 7.3
Guarantees

None

Schedule 7.8
Indebtedness

Interactive Broker Hedging Account –market fluctuations on hedge positions require margin calls which falls under the definition of Indebtedness