IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
MATTRESS FIRM, INC., *et al.*,[1]	Case No. 18-12241 (CSS)
Debtors.	(Jointly Administered)
	Ref. Docket Nos. 22 & 23

NOTICE OF FILING OF PROPOSED EXIT FACILITY DOCUMENTS

PLEASE TAKE NOTICE that, on October 5, 2018, Mattress Firm, Inc. and its affiliated debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors") filed the *Joint Prepackaged Chapter 11 Plan of Reorganization for Mattress Firm, Inc. and Its Debtor Affiliates* [Docket No. 22] (the "Original Plan") and the *Disclosure Statement for the Joint Prepackaged Chapter 11 Plan of Reorganization for Mattress Firm, Inc. and Its Debtor Affiliates* [Docket No. 23] (the "Disclosure Statement").

PLEASE TAKE FURTHER NOTICE that, concurrently herewith, the Debtors filed a proposed modified version of the Original Plan (as the same may be amended, supplemented or otherwise modified from time to time, the "Modified Plan").

PLEASE TAKE FURTHER NOTICE that the Debtors hereby file the following items (collectively, the "Exit Facility Documents"), which are referenced in the Modified Plan:

Exhibit A: ABL Credit Agreement

Exhibit B: Term Loan Credit Agreement

Exhibit C: Intercreditor Agreement

[1] The last four digits of Mattress Firm, Inc.'s federal tax identification number are 6008. The Debtors' mailing address is 10201 S. Main Street, Houston, Texas 77025. Due to the large number of Debtors in these chapter 11 cases, which are being jointly administered, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. This information may be obtained on the website of the Debtors' noticing and claims agent at http://dm.epiq11.com/MattressFirm or by contacting counsel for the Debtors.

Exhibit D: Guaranties and Security Agreements

PLEASE TAKE FURTHER NOTICE that the hearing to consider the adequacy and approval of the Disclosure Statement and confirmation of the Modified Plan (the "Combined Hearing") is scheduled to be held on **November 16, 2018, at 9:30 a.m. (prevailing Eastern Time)**, or as soon thereafter as counsel may be heard, before the Honorable Christopher S. Sontchi, Chief United States Bankruptcy Judge, 5th floor, in Courtroom No. 6 of the United States Bankruptcy Court, 824 North Market Street, Wilmington, Delaware, 19801.

PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right to amend, revise, modify or supplement the Exit Facility Documents prior to, at, or as a result of the Combined Hearing.

Dated: November 13, 2018

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ATTORNEYS FOR THE DEBTORS AND
DEBTORS IN POSSESSION

EXHIBIT A

ABL Credit Agreement

DRAFT

$125,000,000
ABL CREDIT AGREEMENT

Dated as of [•], 2018,

among

MATTRESS FIRM, INC.,
as the Borrower,

MATTRESS HOLDING CORP.,
as Holdings,

THE PARENT GUARANTORS PARTY HERETO,

BARCLAYS BANK PLC,
as Administrative Agent, Collateral Agent and Issuer,

and

THE OTHER LENDERS AND ISSUERS PARTY HERETO

_____

BARCLAYS BANK PLC,
as Sole Book Runner and Sole Lead Arranger

SCHEDULES

Schedule I	-	Revolving Credit Commitments
Schedule II	-	Guarantors
Schedule 1.1A	-	Certain Security Interests and Guarantees
Schedule 1.1D	-	Mortgaged Properties
Schedule 1.1E	-	Credit Card Agreements
Schedule 2.4(a)	-	Existing Letters of Credit
Schedule 5.6	-	Litigation
Schedule 5.8	-	Real Property Liens
Schedule 5.11(a)	-	ERISA Compliance
Schedule 5.12	-	Subsidiaries and Other Equity Investments
Schedule 8.12	-	Deposit Accounts
Schedule 8.13 (b)	-	Post-Closing Matters
Schedule 9.1(b)	-	Existing Liens
Schedule 9.2(f)	-	Existing Investments
Schedule 9.3(b)	-	Existing Indebtedness
Schedule 9.8	-	Transactions with Affiliates
Schedule 9.9	-	Burdensome Agreements
Schedule 12.8	-	Administrative Agent's Office, Certain Addresses for Notices

EXHIBITS

Exhibit A	-	Form of Assignment and Assumption
Exhibit B	-	Form of Revolving Credit Note
Exhibit C	-	Form of Notice of Borrowing
Exhibit D	-	Form of Swing Loan Request
Exhibit E	-	Form of Letter of Credit Request
Exhibit F	-	Form of Notice of Conversion or Continuation
Exhibit G	-	Form of Guaranty
Exhibit H	-	Form of Security Agreement
Exhibit I	-	Form of Borrowing Base Certificate
Exhibit J	-	[Reserved]
Exhibit K	-	Intercompany Subordination Agreement
Exhibit L	-	Form of Solvency Certificate
Exhibit M	-	[Reserved]
Exhibit N	-	Forms of Non-Bank Certificates
Exhibit O	-	Form of Compliance Certificate
Exhibit P	-	Credit Card Notification
Exhibit Q	-	Form of Customs Broker Agreement

This ABL CREDIT AGREEMENT ("*Agreement*") is entered into as of [•], 2018, among MATTRESS FIRM, INC., a Delaware corporation (the "*Borrower*"), MATTRESS HOLDING CORP., a Delaware corporation ("*Holdings*"), the Parent Guarantors (as hereinafter defined) party hereto, BARCLAYS BANK PLC, as administrative agent (in such capacity, including any successor thereto, the "*Administrative Agent*") and as collateral agent (in such capacity, including any successor thereto, the "*Collateral Agent*") under the Loan Documents, and each lender from time to time party hereto (collectively, the "*Lenders*" and individually, a "*Lender*").

PRELIMINARY STATEMENTS

On the Closing Date, the Borrower requested that the Lenders extend credit to the Borrower in the form of Revolving Credit Commitments on the Closing Date in an initial aggregate principal amount of $125,000,000 pursuant to this Agreement.

The proceeds of Revolving Loans on the Closing Date were used, together with the Term Loans (as hereinafter defined), (a) to fund amounts payable under the Chapter 11 Plan (as hereinafter defined), (b) to pay fees and expenses in connection with the Transactions (as hereinafter defined) and (c) for working capital and other general corporate purposes of the Borrower and its Subsidiaries.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS, INTERPRETATION AND ACCOUNTING TERMS

SECTION 1.1 Defined Terms.

As used in this Agreement, the following terms have the following meanings:

"*13 Week Cash Flow Forecast*" has the meaning specified in Section 7.1(h).

"*ABL/Term Intercreditor Agreement*" means that certain ABL/Term Intercreditor Agreement, dated as of [•], 2018 by and between the Administrative Agent and the Term Agent, as amended and in effect from time to time.

"*ABL Priority Collateral*" has the meaning given to such term in the ABL/Term Intercreditor Agreement.

"*Account*" has the meaning given to such term in Article 9 of the UCC.

"*Account Debtor*" has the meaning given to such term in Article 9 of the UCC.

"*ACH*" means automated clearing house transfers.

"*Acquired Indebtedness*" means, with respect to any specified Person: (a) Indebtedness of any other Person existing at the time such other Person is merged, consolidated or amalgamated

with or into or became a Restricted Subsidiary of such specified Person, (but excluding Indebtedness incurred in connection with, or in contemplation of, such other Person merging, amalgamating or consolidating with or into, or becoming a Restricted Subsidiary of, such specified Person), and (b) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person; provided, however, that any Lien securing Acquired Indebtedness (other than any purchase money Indebtedness with respect to real estate, equipment or other fixed assets or any Capitalized Lease) shall be junior to the Liens on the Collateral securing the Obligations and subject to a Customary Intercreditor Agreement.

"*Additional Lender*" has the meaning specified in Section 2.15(a).

"*Adjusted Eurocurrency Rate*" means, as to any Eurocurrency Rate Loan for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (a) the Eurocurrency Rate for such Interest Period divided by (b) one minus the Eurocurrency Reserve Percentage.

"*Adjustment Date*" means the first day of each January, April, July and October, as applicable; provided, that the first Adjustment Date shall be April 1, 2019.

"*Administrative Agent*" has the meaning specified in the introductory paragraph to this Agreement.

"*Administrative Agent's Office*" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 12.8, or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

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

"*Affiliate*" means, with respect to any Person, another Person that directly or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "*Controlling*" and "*Controlled*" have meanings correlative thereto. For the avoidance of doubt, neither the Arranger, the Agents, nor their respective lending affiliates nor any entity acting as an Issuer hereunder shall be deemed to be an Affiliate of Holdings, the Borrower or any of their respective Subsidiaries.

"*Agent Parties*" has the meaning specified in Section 12.8(d).

"*Agent-Related Distress Event*" means, with respect to the Administrative Agent, Collateral Agent, or any Person that directly or indirectly Controls the Administrative Agent or the Collateral Agent (each, a "*Distressed Agent-Related Person*"), a voluntary or involuntary case with respect to such Distressed Agent-Related Person under any Debtor Relief Law, or a custodian, conservator, receiver or similar official is appointed for such Distressed Agent-Related Person or any substantial part of such Distressed Agent-Related Person's assets, or such Distressed Agent-Related Person makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory

authority over such Distressed Agent-Related Person to be, insolvent or bankrupt; provided that an Agent-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any Equity Interests in the Administrative Agent, Collateral Agent, or any Person that directly or indirectly Controls the Administrative Agent or the Collateral Agent by a Governmental Authority or an instrumentality thereof.

"*Agent-Related Persons*" means the Agents, together with their respective Affiliates, and the officers, directors, employees, agents, attorney-in-fact, partners, trustees and advisors of such Persons and of such Persons' Affiliates.

"*Agents*" means, collectively, the Administrative Agent, the Collateral Agent, the Supplemental Administrative Agents (if any), and the Arranger.

"*Aggregate Commitments*" means the Revolving Credit Commitments of all the Lenders.

"*Aggregate Letter of Credit Sublimit*" means the lesser of (a) $30,000,000 and (b) the aggregate principal amount of the Revolving Credit Commitments.

"*Agreement*" means this ABL Credit Agreement, as amended, restated, modified or supplemented from time to time in accordance with the terms hereof.

"*Agreement Currency*" has the meaning specified in Section 12.10.

"*Anti-Corruption Laws*" has the meaning specified in Section 5.18(b).

"*Applicable Indebtedness*" has the meaning specified in the definition of "Weighted Average Life to Maturity".

"*Applicable Percentage*" means with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of the Aggregate Commitments represented by such Lender's Revolving Credit Commitment at such time, subject to adjustment as provided in Section 2.16. If the commitment of each Lender to make Loans and the obligation of the Issuers to make L/C Credit Extensions have been terminated pursuant to Section 10.2 or if the Aggregate Commitments have expired, then the Applicable Percentage of each Lender shall be determined based on the Applicable Percentage of such Lender most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule I or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

"*Applicable Rate*" means a percentage per annum equal to (a) until the first Adjustment Date, (i) for Eurocurrency Loans and Letter of Credit Fees, 2.50%, and (ii) for Base Rate Loans, 1.50%, and (b) thereafter, the following percentages per annum, based upon Average Historical Excess Availability as of the most recent Adjustment Date:

Average Historical Excess Availability as a percentage of Maximum Credit	Applicable Rate for Eurocurrency Loans and Letter of Credit Fees	Applicable Rate for Base Rate Loans
Greater than or equal to	2.00%	1.00%

66.7%		
Less than 66.7% and greater than or equal to 33.3%	2.25%	1.25%
Less than 33.3%	2.50%	1.50%

The Applicable Rate shall be adjusted quarterly in accordance with the table above on each Adjustment Date for the period beginning on such Adjustment Date based upon the Average Historical Excess Availability as the Administrative Agent shall determine in good faith within ten (10) Business Days after such Adjustment Date. Any increase or decrease in the Applicable Rate resulting from a change in the Average Historical Excess Availability shall become effective as of the Adjustment Date for the period beginning on such Adjustment Date.

"*Applicable Unused Commitment Fee Rate*" means a percentage per annum equal to (a) until the first Adjustment Date, 0.375% and (b) thereafter, the following percentages per annum, based upon Average Revolving Loan Utilization determined as of the most recent Adjustment Date:

Average Revolving Loan Utilization as a percentage of Maximum Credit	Applicable Unused Commitment Fee Rate
Greater than or equal to 50.0%	0.25%
Less than 50.0%	0.375%

The Applicable Unused Commitment Fee Rate shall be adjusted quarterly in accordance with the table above on each Adjustment Date for the period beginning on such Adjustment Date based upon the Average Revolving Loan Utilization as the Administrative Agent shall determine in good faith within ten (10) Business Days after such Adjustment Date. Any increase or decrease in the Applicable Unused Commitment Fee Rate resulting from a change in the Average Revolving Loan Utilization shall become effective as of the Adjustment Date for the period beginning on such Adjustment Date.

"*Appropriate Lender*" means, at any time, with respect to Loans of any Class, the Lenders of such Class.

"*Approved Account Bank*" means a financial institution at which the Borrower or a Guarantor maintains an Approved Deposit Account.

"*Approved Bank*" means any commercial bank that is organized under the Laws of the United States, any state thereof, the District of Columbia or any member nation of the Organization for Economic Cooperation and Development or is the principal banking Subsidiary of a bank holding company organized under the Laws of the United States, any state thereof, the District of Columbia or any member nation of the Organization for Economic Cooperation and

Development, is a member of the Federal Reserve System and has combined capital and surplus of not less than $500,000,000 in the case of U.S. domestic banks and $100,000,000 (or the Dollar equivalent as of the date of determination) in the case of non-U.S. banks.

"*Approved Deposit Account*" means each Deposit Account in respect of which a Loan Party shall have entered into a Deposit Account Control Agreement.

"*Approved Fund*" means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

"*Approved Plan*" means the Chapter 11 Plan, the Confirmation Order and all other documents to be executed and/or delivered in connection with the implementation of the Chapter 11 Plan, in each case, to the extent on terms and conditions acceptable to the Administrative Agent.

"*Approved Securities Account*" means each Securities Account in respect of which the Borrower or any Guarantor shall have entered into a Securities Account Control Agreement.

"*Approved Securities Intermediary*" means a securities intermediary at which the Borrower or a Guarantor maintains an Approved Securities Account.

"*Arranger*" means Barclays Bank PLC.

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

"*Assignment and Assumption*" means an Assignment and Assumption substantially in the form of Exhibit A or any other form approved by the Administrative Agent.

"*Attorney Costs*" means all reasonable and documented or invoiced, fees, costs, expenses and disbursements of any law firm or other external legal counsel.

"*Attributable Indebtedness*" means, subject to the second paragraph of Section 1.3, on any date, in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with IFRS.

"*Availability Rent*" means the lesser of (1) rent for two months and (2) rent for the projected "going out of business sale" period for Inventory at leased locations as set forth in the most recent appraisal of Inventory received by the Administrative Agent.

"*Availability Reserves*" means, without duplication of any other reserves or items that are otherwise addressed or excluded through eligibility criteria, such reserves as the Administrative Agent from time to time determines in its Permitted Discretion as being appropriate (a) to reflect the impediments to the Agents' ability to realize upon the Collateral, (b) to reflect claims and liabilities that the Administrative Agent determines will need to be satisfied in connection with the realization upon the Collateral, (c) to reflect criteria, events, conditions, contingencies or

risks which adversely affect any component of the Borrowing Base, the Collateral or the validity or enforceability of this Agreement or the other Loan Documents or any material remedies of the Secured Parties hereunder or thereunder or (d) to reflect any Lien, choate or inchoate, which could reasonably be expected to rank in priority to or pari passu with the Collateral Agent's Lien in the ABL Priority Collateral (subject to the limitations described below). Without limiting the generality of the foregoing, Availability Reserves may include reserves based on: (i) rent; *provided* that such Availability Reserves shall be limited to an amount not to exceed the sum of (x) past due rent for all of the Borrower's and the Guarantors' leased locations plus (y) (A) Availability Rent for all of the Borrower's and the Guarantors' leased locations located in the states of Washington, Virginia, Pennsylvania and all other Landlord Lien States and (B) Availability Rent for all of the Borrower's and the Guarantors' leased locations located in any other state that are distribution centers and warehouses, in each case, with respect to which the Administrative Agent has not received a Collateral Access Agreement in form and substance reasonably satisfactory to the Administrative Agent; (ii) customs duties, and other costs to release Inventory which is being imported into the United States; (iii) outstanding Taxes and other governmental charges, including, ad valorem, real estate, personal property, sales, and other Taxes which have priority over the interests of the Collateral Agent in the ABL Priority Collateral; (iv) salaries, wages and benefits due to employees of the Borrower which have priority over the interests of the Collateral Agent in the ABL Priority Collateral, (v) Customer Credit Liabilities; (vi) warehousemen's or bailee's charges and other Liens permitted under Section 9.1 which have priority over the interests of the Collateral Agent in the ABL Priority Collateral; (vii) reserves in respect of Cash Management Obligations, provided that reserves of the type described in this clause (vii) in respect of such Cash Management Obligations shall require the consent of the Borrower; (viii) reserves in respect of Obligations in respect of Secured Hedge Agreements, provided that, if such Obligations in respect of Secured Hedge Agreements shall constitute Specified Secured Hedge Obligations, then reserves of the type described in this clause (viii) shall require the consent of the Borrower; (ix) subject to the limitations set forth above, customer deposit and similar reserves and (x) additional reserves in the Administrative Agent's Permitted Discretion.

"*Average Historical Excess Availability*" means, at any Adjustment Date, the average daily Excess Availability for the three month period immediately preceding such Adjustment Date.

"*Average Revolving Loan Utilization*" means the fraction, expressed as a percentage as of the most recent Adjustment Date, (a) the numerator of which is the average daily aggregate Revolving Credit Exposure (excluding any Revolving Credit Exposure resulting from any outstanding Swing Loans) for the three month period immediately preceding such Adjustment Date (or, in the case of the first Adjustment Date, the period from and including the Closing Date through the date immediately preceding such first Adjustment Date), and (b) the denominator of which is the Aggregate Commitments at such time.

"*Bail-In Action*" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"*Bail-In Legislation*" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the

European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"*Bankruptcy Code*" means Title 11, U.S.C., as now or hereafter in effect, or any successor thereto.

"*Bankruptcy Court*" means the United States Bankruptcy Court for the District of Delaware.

"*Barclays*" means Barclays Bank PLC, acting in its individual capacity, and its successors and assigns.

"*Base Rate*" means a per annum rate equal to the greatest of (a) the Federal Funds Rate plus ½ of 1.00%, (b) the rate of interest last quoted by The Wall Street Journal as the "Prime Rate" in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent) and (c) the Eurocurrency Rate for a one month Interest Period plus 1.00%.

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

"*Basel III*" means, collectively, those certain agreements on capital requirements, leverage ratios and liquidity standards contained in "Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems," "Basel III: International Framework for Liquidity Risk Measurement, Standards and Monitoring," and "Guidance for National Authorities Operating the Countercyclical Capital Buffer," each as published by the Basel Committee on Banking Supervision in December 2010 (as revised from time to time).

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

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

"*Board of Directors*" means, for any Person, the board of directors or other governing body of such Person or, if such Person does not have such a board of directors or other governing body and is owned or managed by a single entity, the Board of Directors of such entity, or, in either case, any committee thereof duly authorized to act on behalf of such Board of Directors. Unless otherwise provided, "Board of Directors" means the Board of Directors of the Borrower.

"*Borrower*" has the meaning specified in the introductory paragraph to this Agreement.

"*Borrower Materials*" has the meaning specified in Section 7.2.

"*Borrowing*" means a borrowing consisting of Loans of the same Class and Type made, converted or continued on the same date and, in the case of Eurocurrency Rate Loans, having the same Interest Period.

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

(a) the face amount of Eligible Credit Card Receivables multiplied by the Credit Card Advance Rate; plus

(b) the face amount of Eligible Accounts multiplied by the Eligible Accounts Advance Rate; plus

(c) the Net Recovery Percentage of Eligible Inventory, multiplied by the Inventory Advance Rate multiplied by the Cost of Eligible Inventory, net of Inventory Reserves attributable to Eligible Inventory; plus

(d) the Net Recovery Percentage of Eligible In-Transit Inventory multiplied by the In-Transit Advance Rate, multiplied by the Cost of Eligible In-Transit Inventory, net of Inventory Reserves attributable to Eligible In-Transit Inventory, provided that such amount shall not exceed 10% of Eligible Inventory; minus

(e) the then amount of all Availability Reserves.

The Borrowing Base at any time shall be determined by reference to the most recent Borrowing Base Certificate delivered to the Administrative Agent pursuant to Section 7.4, as adjusted to give effect to Reserves following such delivery; provided, that Administrative Agent shall notify Borrowers at least 1 Business Day prior to the date on which any such reserve is to be established or increased; provided further, that (A) the Borrowers may not obtain any new Loans (including Swing Loans) or Letters of Credit to the extent that such Loan (including Swing Loans) or Letter of Credit would cause the Revolving Credit Outstandings to exceed the Maximum Credit if Administrative Agent were to give immediate effect to the establishment or increase of such Reserve as set forth in such notice; (B) no such prior notice shall be required for changes to any Reserves resulting solely by virtue of mathematical calculations of the amount of the Reserve in accordance with the methodology of calculation set forth in this Agreement or previously utilized (such as, but not limited to, rent and Customer Credit Liabilities); and (C) the Administrative Agent shall be available to discuss any such proposed Reserve or change with the Borrower and the Borrower may take such action as may be required so that the event, condition or matter that is the basis for such Reserve or change no longer exists, in a manner and to the extent reasonably satisfactory to the Administrative Agent. The amount of any Reserve established by the Administrative Agent and any change in the amount of any Reserve, shall have a reasonable relationship to the event, condition or other matter that is the basis for such Reserve or such change (including for the avoidance of doubt, reasonable efforts by the Administrative Agent to reduce or eliminate any Reserve for which the related event, condition or other matter giving rise to such established or increased Reserve no longer exists or is continuing). Notwithstanding anything herein to the contrary, Reserves shall not duplicate eligibility criteria contained in the definition of Eligible Account, Eligible Credit Card Receivables, Eligible In-Transit Inventory, Eligible Inventory or any other Reserve then established.

"*Borrowing Base Certificate*" means a certificate of the Borrower substantially in the form of Exhibit I.

"*Budgeted Cash Receipts*" means the sum of the line items contained in the 13 Week Cash Flow Forecast labeled "operating receipts: trading receipts" for the first four weeks covered therein.

"*Budgeted Consolidated EBITDA*" means, for any Fiscal Quarter, the Borrower's projection of Consolidated EBITDA for such Fiscal Quarter as set forth on the model delivered to the Administrative Agent on October 4, 2018.

"*Business Day*" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, in New York City, New York and if such day relates to any interest rate settings as to a Eurocurrency Rate Loan, any fundings, disbursements, settlements and payments in respect of any such Eurocurrency Rate Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means any such day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurocurrency market.

"*Canadian Dollars*" means Canadian dollars, the lawful currency of Canada.

"*CAPEX Amount*" means, for any Fiscal Quarter, the amount (which amount may be positive or negative) equal to difference between Consolidated EBITDA for such Fiscal Quarter and 90% of Budgeted Consolidated EBITDA for such Fiscal Quarter.

"*CAPEX Builder Basket*" means (a) for the Fiscal Quarter ended April 2, 2019, the CAPEX Amount for such Fiscal Quarter, (b) for the Fiscal Quarter ended July 2, 2019, the sum of the CAPEX Amount for (i) such Fiscal Quarter and (ii) the Fiscal Quarter ended April 2, 2019, (c) for the Fiscal Quarter ended October 1, 2019, the sum of the CAPEX Amount for (i) such Fiscal Quarter, (ii) the Fiscal Quarter ended July 2, 2019 and (iii) the Fiscal Quarter ended April 2, 2019 and (d) thereafter, the sum of the CAPEX Amount for the immediately preceding four Fiscal Quarters.

"*Capital Expenditures*" means, for any period, the aggregate of (a) all amounts that would be reflected as additions to property, plant or equipment on a consolidated statement of cash flows of the Borrower and its Restricted Subsidiaries in accordance with GAAP and (b) the value of all assets under Capitalized Leases incurred by the Borrower and its Restricted Subsidiaries during such period; provided that the term "Capital Expenditures" shall not include (i) expenditures made in connection with the replacement, substitution, restoration or repair of assets to the extent financed with (x) insurance proceeds paid on account of the loss of or damage to the assets being replaced, substituted, restored or repaired or (y) awards of compensation arising from the taking by eminent domain or condemnation of the assets being replaced, (ii) the purchase price of equipment that is purchased simultaneously with the trade-in of existing equipment to the extent that the gross amount of such purchase price is reduced by the credit granted by the seller of such equipment for the equipment being traded in at such time, (iii) the purchase of plant, property or equipment or software to the extent financed with the proceeds of Dispositions that are not required to be applied to prepay the Loans pursuant to Section 2.9(b), prepay the Term Loans pursuant to Section 2.9 of the Term Loan Agreement or make a mandatory prepayment under the terms of any other material Indebtedness, (iv) expenditures that are accounted for as capital expenditures by the Borrower or any Restricted

Subsidiary and that actually are paid for, or reimbursed to the Borrower or any Restricted Subsidiary in cash or Cash Equivalents, by a Person other than the Borrower or any Restricted Subsidiary and for which neither the Borrower nor any Restricted Subsidiary has provided or is required to provide or incur, directly or indirectly, any consideration or obligation (other than rent) in respect of such expenditures to such Person or any other Person (whether before, during or after such period), (v) expenditures to the extent constituting any portion of a Permitted Acquisition, (vi) the purchase price of equipment purchased during such period to the extent the consideration therefor consists of any combination of (A) used or surplus equipment traded in at the time of such purchase and (B) the proceeds of a concurrent sale of used or surplus equipment, in each case, in the Ordinary Course of Business, (vii) expenditures relating to the construction, acquisition, replacement, reconstruction, development, refurbishment, renovation or improvement of any property which has been transferred to a Person other than the Borrower or a Restricted Subsidiary during the same Fiscal Year in which such expenditures were made pursuant to a Sale-Leaseback to the extent of the cash proceeds received by the Borrower or such Restricted Subsidiary pursuant to such Sale-Leaseback or (viii) expenditures financed with the proceeds of an issuance of Equity Interests of the Borrower or a capital contribution to the Borrower or Indebtedness permitted to be incurred hereunder.

"*Capitalized Lease Obligation*" means, subject to the second paragraph of Section 1.3, at the time any determination thereof is to be made, the amount of the liability in respect of a Capitalized Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with IFRS.

"*Capitalized Leases*" means, subject to the second paragraph of Section 1.3, all leases that have been or are required to be, in accordance with IFRS, recorded as capitalized leases; provided that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability in accordance with IFRS.

"*Cash Collateralize*" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Administrative Agent, an Issuer or the Swing Loan Lender (as applicable) and the Lenders, as collateral for Letter of Credit Obligations, Obligations in respect of Swing Loans, or obligations of Lenders to fund participations in respect of either thereof (as the context may require), cash (which the applicable Issuer may require to be in the same currency as the relevant Letter of Credit) or deposit account balances or, if the applicable Issuer or Swing Loan Lender benefitting from such collateral shall agree in its sole discretion, other credit support, in each case in an amount (taking into account potential currency fluctuations) and pursuant to documentation in form and substance reasonably satisfactory to (a) the Administrative Agent and (b) the applicable Issuer or the Swing Loan Lender (as applicable). "Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"*Cash Dominion Period*" means each period beginning (a) on the date that Excess Availability shall have been less than the greater of (x) 12.5% of the Maximum Credit and (y) $12,500,000, in either case, for five (5) consecutive Business Days, and ending on the date Excess Availability shall have been equal to or greater than the greater of (x) 12.5% of the Maximum Credit and (y) $12,500,000 (which amount shall automatically increase proportionately by an amount equal to the proportionate increase to the Revolving Credit

Commitments in connection with any Revolving Commitment Increase pursuant to Section 2.15), in each case, for thirty (30) consecutive calendar days, or (b) upon the occurrence of an Event of Default, the period that such Event of Default shall be continuing.

"*Cash Equivalents*" means any of the following types of Investments, to the extent owned by any Guarantor, Holdings, the Borrower or any Restricted Subsidiary:

(a) Dollars, pounds sterling, yen, Euros or Canadian Dollars;

(b) in the case of any Foreign Subsidiary that is a Restricted Subsidiary or any jurisdiction in which the Borrower or its Restricted Subsidiaries conducts business, such local currencies held by it from time to time in the Ordinary Course of Business and not for speculation;

(c) readily marketable direct obligations issued or directly and fully and unconditionally guaranteed or insured by the United States government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 12 months or less from the date of acquisition;

(d) certificates of deposit, time deposits and eurocurrency time deposits with maturities of 12 months or less from the date of acquisition, demand deposits, bankers' acceptances with maturities not exceeding 24 months and overnight bank deposits, in each case with any Approved Bank;

(e) repurchase obligations for underlying securities of the types described in clauses (c) and (d) above or clause (g) below entered into with any Approved Bank;

(f) commercial paper rated at least P-2 by Moody's or at least A-2 by S&P (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) and in each case maturing within 12 months after the date of acquisition thereof;

(g) marketable short-term money market and similar highly liquid funds having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

(h) readily marketable direct obligations issued by any state, commonwealth or territory of the United States or any political subdivision or taxing authority thereof, in each case having an Investment Grade Rating from either Moody's or S&P (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) with maturities of 12 months or less from the date of acquisition;

(i) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody's (or, if at any time neither

Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

(j) Investments, classified in accordance with IFRS as Consolidated Current Assets of the Parent Guarantors, Holdings, the Borrower or any Restricted Subsidiary, in money market investment programs which are registered under the Investment Company Act of 1940 or which are administered by an Approved Bank, and, in either case, the portfolios of which are limited such that substantially all of such Investments are of the character, quality and maturity described in clauses (a) through (i) of this definition; and

(k) investment funds investing substantially all of their assets in securities of the types described in clauses (a) through (j) above.

In the case of Investments by any Foreign Subsidiary that is a Restricted Subsidiary or Investments made in a country outside the United States, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (a) through (k) above of foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (ii) other short-term investments utilized by Foreign Subsidiaries that are Restricted Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (a) through (k) and in this paragraph.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clause (a) above, provided that such amounts are converted into Dollars as promptly as practicable and in any event within ten (10) Business Days following the receipt of such amounts.

"*Cash Management Agreement*" means any agreement among [the Parent Guarantors, Holdings,] Borrower or any Restricted Subsidiary and any Cash Management Bank and governing any "Cash Management Obligations".

"*Cash Management Bank*" means any Person that is a Lender or an Affiliate of a Lender at the time it provides any Cash Management Services, whether or not such Person subsequently ceases to be a Lender or an Affiliate of a Lender.

"*Cash Management Obligations*" means obligations owed by the Borrower or any Restricted Subsidiary to any Cash Management Bank in respect of or in connection with any Cash Management Services and designated by the Cash Management Bank and the Borrower in writing to the Administrative Agent as "Cash Management Obligations".

"*Cash Management Services*" means any agreement or arrangement to provide cash management services, including treasury, depository, overdraft, credit card processing, credit or debit card, purchase card, electronic funds transfer and other cash management arrangements.

"*Cash Receipts*" shall have the meaning specified in Section 8.12.

"*Cash Taxes*" means, with respect to any Test Period, all taxes paid or payable in cash by the Parent Guarantors, Holdings, the Borrower and its Restricted Subsidiaries during such period, including those paid by way of Restricted Payments pursuant to Section 9.6(g).

"*CFC*" means a "controlled foreign corporation" within the meaning of Section 957 of the Code.

"*CFC Holdco*" means any Domestic Subsidiary that has no material assets other than, directly or indirectly, equity interests (or equity interests and indebtedness) of one or more Foreign Subsidiaries that are CFCs or any other Domestic Subsidiary that itself is a CFC Holdco.

"*Change in Law*" means the occurrence after the date of this Agreement (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rules, guideline, requirement or directive (whether or not having the force of law) by any Governmental Authority; provided however, that notwithstanding anything herein to the contrary (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder, issued in connection therewith or in implementation thereof and (ii) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case arising under clauses (i) or (ii) be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

["*Change of Control*" means the earliest to occur of:

(a) (1) any Person (other than a Permitted Holder) or (2) Persons (other than one or more Permitted Holders) constituting a "group" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such person and its Subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), becomes the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of Equity Interests representing more than thirty five percent (35%) of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Parent;

(b) (1) Steinhoff Parent ceases to own, directly or indirectly, more than 25% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Parent, directly or indirectly, such Equity Interests, or (2) Steinhoff Parent and the Permitted Holders cease to control, directly or indirectly, the Equity Interests of Parent required to be owned by Steinhoff Parent pursuant to clause (b)(1);

(c) Steinhoff Parent and the Permitted Holders cease to own and control, directly or indirectly, more than 50.1% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Parent;

(d) Any person who is a Permitted Holder under clause (ii) of the definition thereof, (together with its Affiliates and any Person that is administered, advised or managed by (i) such

Permitted Holder, (ii) an Affiliate of such Permitted Holder or (iii) an entity or an Affiliate of an entity that administers, advises or manages such Permitted Holder), becomes the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act) of or otherwise controls, directly or indirectly, Equity Interests representing thirty-seven and a half percent (37.5%) or more of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Parent;

(e) Holdings (1) ceases to be an indirect wholly owned Subsidiary of Parent or (2) subject to Section 9.4(e), ceases to be a direct wholly owned Subsidiary of Mattress Holdco, Inc.;

(f) the Borrower ceases to be a direct wholly owned Subsidiary of Holdings;

(g) subject to Section 9.4(e), Mattress Holdco, Inc. ceases to be a direct wholly owned Subsidiary of Mattress Firm Holding Corp.;

(h) subject to Section 9.4(e), Mattress Firm Holding Corp ceases to be a direct wholly owned Subsidiary of Parent; or

(i) the occurrence of a Change of Control (as defined in the Term Loan Agreement and the Stripes PIK Facility) shall have occurred.]

"*Chapter 11 Cases*" means the cases administered under the capital *In re Mattressfirm, Inc., et al.*, Case No. 18-12241.

"*Chapter 11 Plan*" means the Joint Prepackaged Chapter 11 Plan of Reorganization for Mattress Firm, Inc., and its debtor affiliates, filed with the Bankruptcy Court on or about October 5, 2018, as amended, supplemented or otherwise modified from time to time.

"*Class*" means (i) with respect to Commitments or Loans, those of such Commitments or Loans that have the same terms and conditions (without regard to differences in the Type of Loan, Interest Period, upfront fees, OID or similar fees paid or payable in connection with such Commitments or Loans, or differences in tax treatment (e.g., "fungibility")); provided that in connection with the establishment of any Extended Revolving Credit Commitments under Section 2.17, such Extended Revolving Credit Commitments or related Loans may be designated in writing by the Borrower and Lenders holding such Commitments or Loans as a separate Class from other Commitments or Loans that have different terms and conditions to the extent permitted under this Agreement, and (ii) with respect to Lenders, those of such Lenders that have Commitments or Loans of a particular Class.

"*Closing Date*" means the first date on which all the conditions precedent in Section 4.1 are satisfied or waived in accordance with Section 12.1, which date is November [•], 2018.

"*Code*" means the U.S. Internal Revenue Code of 1986, as amended from time to time.

"*Collateral*" means all the "Collateral" (or equivalent term) as defined in any Collateral Document and shall include the Mortgaged Properties.

"*Collateral Access Agreement*" means an agreement reasonably satisfactory in form and substance to the Administrative Agent executed by, as the case may be, (a) a bailee or other Person in possession of Collateral, and (b) any landlord of any premises leased by any Loan Party, pursuant to which such Person (i) acknowledges the Collateral Agent's Lien on the Collateral, (ii) releases or subordinates such Person's Liens in the Collateral held by such Person or located on such premises, (iii) agrees to provide the Collateral Agent with access to the Collateral held by such bailee or other Person or located in or on such premises for the purpose of conducting field examinations, appraisals or Liquidation and (iv) makes such other agreements with the Collateral Agent as the Administrative Agent may reasonably require.

"*Collateral Agent*" has the meaning specified in the introductory paragraph to this Agreement.

"*Collateral and Guarantee Requirement*" means, at any time, the requirement that:

(a) the Collateral Agent shall have received each Collateral Document required to be delivered on the Closing Date pursuant to Section 4.1(a)(iv) or pursuant to Section 8.11, Section 8.12 or Section 8.13 at such time, subject, in each case, to the limitations and exceptions of this Agreement and the Collateral Documents, duly executed by each Loan Party thereto;

(b) all Obligations (other than, with respect to any Guarantor, any Excluded Swap Obligations of such Guarantor) shall have been unconditionally guaranteed by (i) Holdings and each Restricted Subsidiary of the Borrower that is a wholly owned Material Domestic Subsidiary and not an Excluded Subsidiary including those Subsidiaries that are listed on Schedule II hereto, (ii) any Subsidiary of the Borrower that Guarantees any Indebtedness incurred by the Borrower pursuant to any Junior Financing (or any Permitted Refinancing thereof) shall be a Guarantor hereunder and (iii) the Parent Guarantors and each entity that becomes a Subsidiary of any of the Parent Guarantors after the Closing Date and is a direct, or indirect, parent of the Borrower;

(c) the Obligations and the Guaranty shall have been secured by a second-priority security interest (subject to Liens permitted by Section 9.1 and the terms of the ABL/Term Intercreditor Agreement) in (i) all the Equity Interests of the Borrower, (ii) all Equity Interests of each Restricted Subsidiary that is a Domestic Subsidiary or a Foreign Subsidiary (other than a Restricted Subsidiary described in the following clause (iii)(A) or (iii)(B)) that is directly owned by the Borrower or any Subsidiary Guarantor, (iii) 65% of the issued and outstanding Equity Interests directly owned by the Borrower or by any Subsidiary Guarantor of (A) each Restricted Subsidiary that is a CFC Holdco and (B) each Restricted Subsidiary that is a CFC and (iv) all Equity Interests of the Parent (on a non-recourse basis) and each Parent Guarantor and Holdings;

(d) except to the extent otherwise provided hereunder, including subject to Liens permitted by Section 9.1, or under any Collateral Document, the Obligations and the Guaranty shall have been secured by a (x) perfected first-priority security interest in all ABL Priority Collateral and (y) perfected second-priority security interest in all Term

Priority Collateral, in each case subject to exceptions and limitations otherwise set forth in this Agreement, the ABL/Term Intercreditor Agreement and the Collateral Documents;

(e) the Collateral Agent shall have received (A) to the extent the same has been provided to the Term Agent under the Term Loan Documents (i) counterparts of a Mortgage with respect to each Material Real Property listed on Schedule 1.1D or required to be delivered pursuant to Sections 8.11 and 8.13(a)(ii) (the "*Mortgaged Properties*") duly executed and delivered by the record owner of such property, (ii) a policy or policies of title insurance issued by a nationally recognized title insurance company insuring the Lien of each such Mortgage as a valid Lien on the property described therein (the "*Mortgage Policies*"), free of any other Liens except as expressly permitted by Section 9.1, together with such endorsements, coinsurance and reinsurance as the Collateral Agent may reasonably request, (iii) surveys sufficient for the title insurance company to remove all standard survey exceptions from the title insurance policy relating to each Mortgaged Property and issue survey-related endorsements to the extent available and reasonably requested by the Collateral Agent and (iv) such existing abstracts and appraisals and such customary legal opinions and other documents as the Collateral Agent may reasonably request with respect to any such Mortgaged Property and (B) a completed "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination with respect to each Mortgaged Property (together with a notice about special flood hazard area status and flood disaster assistance duly executed by the Borrower and the applicable Loan Party relating thereto if any improvements on such Mortgaged Property are located in an area designated as a "special flood hazard area") and evidence of flood insurance in such total amount as the Administrative Agent, the Collateral Agent or the Requisite Lenders may from time to time reasonably require and in any event no less than the amount required by Flood Insurance Laws, if at any time the area in which any improvements located on any Mortgaged Property is designated a "special flood hazard area" in any Flood Insurance Rate Map published by the Federal Emergency Management Agency (or any successor agency), and otherwise comply with the Flood Insurance Laws; and

(f) unless otherwise agreed by the Administrative Agent, the Requisite Lenders and the Borrower, any assets that secure the Term Loan Obligations shall also be Collateral for the Obligations.

The foregoing definition shall not require the creation or perfection of pledges of or security interests in, or the obtaining of title insurance, surveys, abstracts or appraisals or taking other actions with respect to any Excluded Assets.

The Collateral Agent may grant extensions of time for the perfection of security interests in or the obtaining of title insurance and surveys with respect to particular assets (including extensions beyond the Closing Date for the perfection of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that perfection cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents. Notwithstanding any provision of any Loan Document to the contrary, if a mortgage tax or any similar Tax or charge will be owed on the entire amount of the Obligations evidenced hereby,

then the amount secured by the applicable Mortgage shall be limited to 100% of the fair market value of the Mortgaged Property at the time the Mortgage is entered into if such limitation results in such mortgage tax or similar Tax or charge being calculated based upon such fair market value.

No actions in any non-U.S. jurisdiction or required by the Laws of any non-U.S. jurisdiction shall be required in order to create any security interests in assets located or titled outside of the U.S. or to perfect such security interests, including any intellectual property registered in any non-U.S. jurisdiction (it being understood that there shall be no security agreements or pledge agreements governed under the Laws of any non-U.S. jurisdiction). No actions shall be required with respect to Collateral requiring perfection through control agreements or perfection by "control" (as defined in the UCC) or possession, other than in respect of (i) certificated Equity Interests of the Parent Guarantors, any Guarantor, Holdings, Borrower and Restricted Subsidiaries that are required to be pledged pursuant to the provisions of clause (c) of this definition of "Collateral and Guarantee Requirement" and not otherwise constituting an Excluded Asset, (ii) Pledged Debt to the extent required to be delivered to the Administrative Agent or Collateral Agent pursuant to the terms of the Security Agreement and (iii) Deposit Account Control Agreements and Securities Account Control Agreements to the extent required pursuant to Section 8.12; provided that none of the Indebtedness incurred under Junior Financing (or any Permitted Refinancing thereof) shall be secured by any asset or property that is not Collateral. Notwithstanding the foregoing, so long as Term Agent is acting as bailee for perfection for Collateral agent under the ABL/Term Intercreditor Agreement, the granting of control or possession to the Term Agent in respect of Term Priority Collateral (other than Deposit Account Control Agreements and Securities Account Control Agreements) shall satisfy any requirement hereunder for any Agent to have possession or control of such Collateral.

"*Collateral Documents*" means, collectively, the Security Agreement, the Intellectual Property Security Agreements, the Parent Pledge Agreement, the Mortgages, each of the collateral assignments, Security Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Agents and the Lenders pursuant to Section 4.1(a)(iv), Section 8.11, Section 8.12 or Section 8.13, the Guaranty, each Lien Acknowledgment Agreement and each of the other agreements, instruments or documents that creates or purports to create a Lien or Guarantee in favor of the Collateral Agent for the benefit of the Secured Parties.

"*Commitment Letter*" means the Exit Facilities Commitment Letter, dated as of October 4, 2018, between Barclays Bank PLC, in its capacity as Arranger, the Borrower, Holdings and the other Loan Parties party thereto, as amended, amended and restated, supplemented or otherwise modified prior to the Closing Date.

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

"*Compliance Certificate*" means a certificate substantially in the form of Exhibit O and which certificate shall in any event be a certificate of a Financial Officer (a) certifying as to whether a Default has occurred and is continuing and, if applicable, specifying the details thereof and any action taken or proposed to be taken with respect thereto, and (b) setting forth a

reasonably detailed calculation of Minimum Liquidity, the Fixed Charge Coverage Ratio and the Maximum Capital Expenditures for the most recently completed Test Period.

"*Concentration Account*" has the meaning specified in Section 8.12(d).

"*Confirmation Order*" means an order, in form and substance satisfactory to the Administrative Agent, entered by the Bankruptcy Court confirming the Chapter 11 Plan.

"*Consolidated Depreciation and Amortization Expense*" means, with respect to any Person for any period, the total amount of depreciation and amortization expense of such Person, including the amortization of intangible assets and deferred financing fees or costs for such period on a consolidated basis and otherwise determined in accordance with IFRS.

["*Consolidated EBITDA*" means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period:

(a) except with respect to clauses (vi) and (viii) below, to the extent deducted (and not added back or excluded) in arriving at Consolidated Net Income, increased by (without duplication):

(i) provision for taxes based on income or profits or capital, plus franchise or similar taxes and foreign withholding taxes, including penalties and interest related to such taxes or arising from any tax examinations, of such Person for such period, plus

(ii) (A) total interest expense of such Person for such period and (B) bank fees and costs of surety bonds, plus

(iii) Consolidated Depreciation and Amortization Expense of such Person for such period, plus

(iv) any other non-cash expenses, charges and losses (including reserves, impairment charges or asset write-offs, write-offs of deferred financing fees, losses from investments recorded using the equity method, stock-based awards compensation expense) for such period (provided that if any such non-cash charges represent an accrual or reserve for potential cash items in any future period, (1) the Borrower may determine not to add back such non-cash charge in the current period and (2) to the extent the Borrower does decide to add back such non-cash charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period), plus

(v) the amount of any minority interest expense deducted in calculating Consolidated Net Income, plus

(vi) the amount of net cost savings, operating expense reductions and synergies, including revenue synergies, related to mergers and other business combinations, acquisitions, divestitures, restructurings, Store closings, cost

savings initiatives, new or negotiated supplier relationships, net contributions from merchandising improvements (which shall be annualized when calculating Consolidated EBITDA), and other initiatives, in each case with respect to all items pursuant to this clause (vi), including, but not limited to, those arising out of or related to the implementation of the terms of, requirements of, or actions promulgated by, the Chapter 11 Plan, that are reasonably identifiable, factually supportable and projected by the Borrower in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Borrower) no later than (x) 12 months after the occurrence of such merger, other business combination, acquisition, divestiture, restructuring, cost savings initiative or other initiative or (y) 12 months after the Closing Date with respect to those arising out of or related to the implementation of the terms of, requirements of, or actions promulgated by, the Chapter 11 Plan (calculated on a pro forma basis as though such cost savings, operating expense reductions and synergies had been realized on the first day of the period for which Consolidated EBITDA is being determined), net of the amount of actual benefits realized during such period from such actions; *provided* that the aggregate amount of add backs added pursuant to this clause (vi), clause (xi) and clause (xii) below for any period, when added to the aggregate amount of add backs made pursuant to Section 1.9(d), in each case, other than those arising out of or related to the implementation of the terms of, requirements of, or actions promulgated by, the Chapter 11 Plan, shall not exceed 20% of Consolidated EBITDA for such period (calculated prior to giving effect to any adjustment), plus

(vii) [reserved], plus

(viii) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not representing Consolidated EBITDA or Consolidated Net Income in any period to the extent non-cash gains relating to such income were deducted in the calculation of Consolidated EBITDA pursuant to paragraph (b) below for any previous period and not added back, plus

(ix) any costs or expenses incurred by the Borrower or a Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or stockholders agreement, to the extent that such costs or expenses are funded with cash proceeds contributed to the capital of the Borrower or net cash proceeds of issuance of Equity Interests of the Borrower (other than Disqualified Equity Interests), plus

(x) (1) Board of Directors expenses and (2) reimbursement of expenses paid in compliance with Section 9.8(g)(i), plus

(xi) restructuring costs (including restructuring costs related to acquisitions and to closure of facilities, and excess pension charges) and reserves, duplicative running costs, transition costs, pre-opening, opening, closing and

consolidation costs for Stores (including landlord buy-outs), signing, retention and completion bonuses, costs associated with preparations for and implementation of compliance with the requirements of the Sarbanes Oxley Act of 2002 and other Public Company Costs; *provided* that, this clause (xi) shall include any of the foregoing which arise out of or relate to the implementation of the terms of, the requirements of, or actions promulgated by, the Chapter 11 Plan including the lease rejection payments required to be made under section 502(b)(6) of the Bankruptcy Code) but only to the extent (in the case of this proviso) such costs, expenses, changes or reserves are incurred or implemented within six (6) months following the Closing Date; *provided*, further, that that the aggregate amount of add backs added pursuant to this clause (xi), clause (vi) above and clause (xii) below above for any period, when added to the aggregate amount of add backs made pursuant to Section 1.9(d), in each case, other than those arising out of or related to the implementation of the terms of, requirements of, or actions promulgated by, the Chapter 11 Plan, shall not exceed 20% of Consolidated EBITDA for such period (calculated prior to giving effect to any adjustment); plus

(xii) any net loss from operations expected to be disposed or discontinued within twelve months after the end of such period; *provided* that the aggregate amount of add backs added pursuant to this clause (xii), clause (vi) above and clause (xi) above for any period, when added to the aggregate amount of add backs made pursuant to Section 1.9(d), in each case, other than those arising out of or related to the implementation of the terms of, requirements of, or actions promulgated by, the Chapter 11 Plan, shall not exceed 20% of Consolidated EBITDA for such period (calculated prior to giving effect to any adjustment), plus

(xiii) any non-cash losses in such period with respect to reserves recorded in prior periods for Onerous Lease Reserves and Purchase Price Adjustments (as each such term is defined in accordance with IFRS),

(b) decreased by (without duplication):

(i) any non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any gains that represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period (other than such cash charges that have been added back to Consolidated Net Income in calculating Consolidated EBITDA in accordance with this definition), plus

(ii) any non-cash gains with respect to cash actually received in a prior period unless such cash did not increase Consolidated EBITDA in such prior period, plus

(iii) any net gain from operations expected to be disposed or discontinued within twelve months after the end of such period, plus

(iv) any non-cash gains in such period with respect to reserves recorded in prior periods for Onerous Lease Reserves and Purchase Price Adjustments (as each such term is defined in accordance with IFRS),

Notwithstanding anything to the contrary contained herein, for purposes of determining Consolidated EBITDA under this Agreement for any period that includes any of the fiscal quarters ended on or about January 2, 2018, April 3, 2018, July 3, 2018 and October 2, 2018 Consolidated EBITDA for such fiscal quarters shall be $(59,175,200), $(89,540,600), $(53,220,800), and $[18,295,900], respectively, in each case, as may be subject to addbacks and adjustments (without duplication) for the applicable Test Period pursuant clause (vi), (xi) and (xii) of the definition of "Consolidated EBITDA" and Section 1.9(d).]

"*Consolidated Net Cash Interest Expense*" means, for any period, the sum, without duplication, of

(i) the cash interest expense (including that attributable to Capitalized Leases), net of cash interest income, of the Parent Guarantors, Holdings, the Borrower and its Restricted Subsidiaries, determined on a consolidated basis in accordance with IFRS, with respect to all outstanding Indebtedness of the Borrower and its Restricted Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing and net cash costs under Swap Contracts, and

(ii) any cash payments made during such period in respect of obligations referred to in clause (b) below relating to Funded Debt that were amortized or accrued in a previous period;

provided that there shall be excluded from Consolidated Net Cash Interest Expense for any period:

(a) deferred financing costs, debt issuance costs, commissions, fees (including amendment and contract fees) and expenses and, in each case, the amortization thereof, and any other amounts of non-cash interest,

(b) the accretion or accrual of discounted liabilities and any prepayment premium or penalty during such period,

(c) non-cash interest expense attributable to the movement of the mark-to-market valuation of obligations under Swap Contracts or other derivative instruments pursuant to FASB Accounting Standards Codification 815,

(d) any cash costs associated with breakage in respect of hedging agreements for interest rates,

(e) all non-recurring cash interest expense consisting of liquidated damages for failure to timely comply with registration rights obligations and financing fees, all as calculated on a consolidated basis in accordance with IFRS,

(f) Transaction Expenses,

(g) annual agency fees paid to the Administrative Agent,

(h) costs associated with obtaining Swap Contracts,

(i) any expense resulting from the discounting of any Indebtedness in connection with the application of recapitalization accounting or, if applicable, acquisition accounting in connection with the Transaction or any acquisition, and

(j) the cash interest expense (or income) of all Unrestricted Subsidiaries for such period to the extent otherwise included in Consolidated Net Cash Interest Expense.

Notwithstanding anything to the contrary contained herein, for purposes of determining Consolidated Net Cash Interest Expense for any period ending prior to the first anniversary of the Closing Date, Consolidated Net Cash Interest Expense shall (i) be an amount equal to actual Consolidated Net Cash Interest Expense from the Closing Date through the date of determination multiplied by a fraction the numerator of which is 365 and the denominator of which is the number of days from the Closing Date through the date of determination and (ii) exclude the acquisition accounting effects described in clause (c) of the definition of Consolidated Net Income.

"*Consolidated Net Income*" means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with IFRS; *provided, however*, that, without duplication,

(a) any net after-tax extraordinary, non-recurring or unusual gains or losses (including all fees and expenses relating thereto), Transaction Expenses, expenses in connection with the Term Loan Documents, relocation costs, integration costs, facility consolidation and closing costs (other than with respect to Stores), severance costs and expenses and one-time compensation charges, shall be excluded,

(b) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period, whether effected through a cumulative effect adjustment or a retroactive application in each case in accordance with IFRS,

(c) effects of adjustments (including the effects of such adjustments pushed down to the Parent Guarantors, Holdings, the Borrower and the Restricted Subsidiaries) in such Person's consolidated financial statements pursuant to IFRS (including in the inventory, property and equipment, software, goodwill, intangible assets, in-process research and development, deferred revenue and debt line items thereof) resulting from the application of recapitalization accounting or acquisition accounting, as the case may be, in relation to the Transaction or any consummated acquisition or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded,

(d) (i) any net after-tax income (loss) from disposed or discontinued operations and (ii) any net after-tax gains or losses on disposal of disposed, or discontinued operations, in each case, other than any after-tax income (loss) or after tax gains or losses resulting from the closing of Stores, shall be excluded,

(e) any net after-tax gains or losses (less all fees and expenses relating thereto) attributable to asset dispositions or the sale or other disposition of any Equity Interests of any Person other than in the Ordinary Course of Business, as determined in good faith by the Borrower, shall be excluded,

(f) the Net Income for such period of any Person that is an Unrestricted Subsidiary shall be excluded; provided that Consolidated Net Income of the Parent shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash or Cash Equivalents (or to the extent converted into cash or Cash Equivalents) to the referent Person or a Restricted Subsidiary thereof in respect of such period,

(g) **[reserved]**,

(h) (i) any net unrealized gain or loss (after any offset) resulting in such period from obligations in respect of Swap Contracts and the application of Financial Accounting Standards Board Accounting Standards Codification 815 (Derivatives and Hedging), (ii) any net gain or loss resulting in such period from currency translation gains or losses related to currency remeasurements of Indebtedness (including the net loss or gain (A) resulting from Swap Contracts for currency exchange risk and (B) resulting from intercompany Indebtedness) and all other foreign currency translation gains or losses to the extent such gain or losses are non-cash items, and (iii) any net after-tax income (loss) for such period attributable to the early extinguishment or conversion of (A) Indebtedness, (B) obligations under any Swap Contracts or (C) other derivative instruments, shall be excluded,

(i) any impairment charge or asset write-off, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case pursuant to IFRS, and the amortization of intangibles arising pursuant to IFRS shall be excluded,

(j) any expenses, charges or losses that are covered by indemnification or other reimbursement provisions in connection with any Investment, Permitted Acquisition or any sale, conveyance, transfer or other disposition of assets permitted under this Agreement, to the extent actually reimbursed, or, so long as the Borrower has made a determination that a reasonable basis exists for indemnification or reimbursement and only to the extent that such amount is in fact indemnified or reimbursed within 365 days of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so indemnified or reimbursed within such 365 days), shall be excluded,

(k) to the extent covered by insurance and actually reimbursed, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed within 365 days of the date of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so reimbursed within such 365 days), expenses, charges or losses with respect to liability or casualty events or business interruption shall be excluded,

(l) any non-cash (for such period and all other periods) compensation charge or expense, including any such charge or expense arising from the grants of stock appreciation or similar rights, stock options, restricted stock or other rights or equity incentive programs shall be excluded, and any cash charges associated with the rollover, acceleration or payout of Equity Interests by, or to, management of the Parent Guarantors, Holdings, the Borrower or any of its Restricted Subsidiaries in connection with the Transaction, shall be excluded,

(m) earn-out and contingent consideration obligations (including to the extent accounted for as bonuses or otherwise) and adjustments thereof and purchase price adjustments shall be excluded,

(n) any fees and expenses incurred during such period (including, without limitation, any premiums, make-whole or penalty payments), or any amortization thereof for such period, in connection with any acquisition, investment, asset disposition, issuance or repayment of debt, issuance of equity securities, refinancing transaction or amendment or other modification of any debt instrument (in each case, including any such transaction consummated on or prior to the Closing Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction, in each case whether or not successful (including, for the avoidance of doubt the effects of expensing all transaction related expenses in accordance with FASB Accounting Standards Codification 805 and gains or losses associated with FASB Accounting Standards Codification 460) shall be excluded, and

(o) any expenses, charges or losses resulting from payments to, or on behalf of, holders of Equity Interests of Holdings (or any direct or indirect parent thereof) with respect to customary fees and expenses incurred by such holders in connection with any secondary offering of Equity Interests of Holdings (or any direct or indirect parent thereof) shall be excluded.

"*Consolidated Total Debt*" means, as of any date of determination, the aggregate principal amount of Indebtedness of the Parent Guarantors, Holdings, the Borrower and the Restricted Subsidiaries outstanding on such date, in an amount that would be reflected on a balance sheet prepared as of such date on a consolidated basis in accordance with IFRS (but excluding the effects of any discounting of Indebtedness resulting from the application of acquisition accounting in connection with the Transaction, any Permitted Acquisition or any other Investment permitted hereunder), consisting of Indebtedness for borrowed money, Attributable Indebtedness, and all Guarantees of Indebtedness of such type that is owed by a Person that is not the Parent Guarantors, Holdings, the Borrower or a Restricted Subsidiary;

provided that Consolidated Total Debt shall not include Indebtedness in respect of (i) any letter of credit, except to the extent of unreimbursed obligations in respect of drawn letters of credit (provided that any unreimbursed amount under commercial letters of credit shall not be counted as Consolidated Total Debt until three (3) Business Days after such amount is drawn (it being understood that any borrowing, whether automatic or otherwise, to fund such reimbursement shall be counted)) and (ii) obligations under Swap Contracts.

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

"*Cost*" means the cost of purchases of Inventory determined according to the accounting policies used in the preparation of the Borrower's financial statements.

"*Covenant Testing Period*" means the period commencing on the last day of the most recently ended Fiscal Quarter of the Borrower for which financial statements have been delivered prior to the occurrence of a Covenant Trigger Event and continuing until the Borrower has had Excess Availability for 30 consecutive calendar days after the occurrence of such Covenant Trigger Event, of greater than or equal to the greater of (A) $10,000,000 and (B) 12.5% of the Maximum Credit.

"*Covenant Trigger Event*" means Excess Availability shall at any time be less than the greater of (A) $10,000,000 and (B) 12.5% of the Maximum Credit.

"*Credit Card Advance Rate*" means 90%.

"*Credit Card Agreements*" means all agreements now or hereafter entered into by the Borrower or any Guarantor for the benefit of the Borrower or a Subsidiary Guarantor, in each case with any Credit Card Issuer or any Credit Card Processor, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, including, but not limited to, the agreements set forth on Schedule 1.1E hereto.

"*Credit Card Issuer*" means any Person (other than the Borrower or a Guarantor) who issues or whose members issue credit cards, including MasterCard or VISA bank credit or debit cards or other bank credit or debit cards issued through MasterCard International, Inc., Visa, U.S.A., Inc. or Visa International and American Express, Discover, Diners Club, Carte Blanche and other non-bank credit or debit cards, including credit or debit cards issued by or through American Express Travel Related Services Company, Inc., Novus Services, Inc. and the Mattress Firm Card.

"*Credit Card Notification*" means, collectively, the notices to Credit Card Issuers or Credit Card Processors who are parties to Credit Card Agreements in substantially the form of Exhibit P and which Credit Card Notifications shall require the ACH or wire transfer no less frequently than each Business Day (and whether or not there are then any outstanding Obligations) to an Approved Deposit Account of all payments due from Credit Card Processors.

"*Credit Card Processor*" means any servicing or processing agent or any factor or financial intermediary, in each case, other than a Credit Card Issuer, who facilitates, services,

processes or manages the credit authorization, billing transfer and/or payment procedures with respect to the Borrower's or any Guarantor's sales transactions involving credit card or debit card purchases by customers using credit cards or debit cards issued by any Credit Card Issuer.

"*Credit Card Receivables*" means, collectively, but without duplication, (a) all present and future rights of the Borrower or any Guarantor to payment from any Credit Card Issuer (other than the issuer of the Mattress Firm Card), Credit Card Processor or other third party arising from sales of goods or rendition of services to customers who have purchased such goods or services using a credit or debit card and (b) all present and future rights of the Borrower or any Guarantor to payment from any Credit Card Issuer (other than the issuer of the Mattress Firm Card), Credit Card Processor or other third party in connection with the sale or transfer of Accounts arising pursuant to the sale of goods or rendition of services to customers who have purchased such goods or services using a credit card or a debit card, including, but not limited to, all amounts at any time due or to become due from any Credit Card Issuer (other than the issuer of the Mattress Firm Card) or Credit Card Processor under the Credit Card Agreements or otherwise, in each case above calculated net of prevailing interchange charges.

"*Credit Extension*" means each of the following: (a) a Borrowing and (b) a L/C Credit Extension.

"*Cure Amount*" has the meaning specified in Section 10.4(b).

"*Customary Intercreditor Agreement*" means an intercreditor agreement executed in connection with the incurrence of Indebtedness secured by Liens on the Collateral which (a) are intended to rank junior to the Liens on the Collateral securing the Obligations or (b) with respect to Liens incurred pursuant to Sections 9.1(y) or 9.1(ii), which are intended to rank junior to the Liens on the ABL Priority Collateral, in each case, in form and substance reasonably acceptable to the Administrative Agent which agreement shall provide that (i) the Liens on the Collateral securing such Indebtedness shall rank junior to the Liens on the Collateral securing the Obligations or (ii) the Liens on the ABL Priority Collateral securing such Indebtedness shall rank junior to the Liens on the ABL Priority Collateral, as the case may be.

"*Customer Credit Liabilities*" means, at any time, the aggregate remaining balance at such time of (a) outstanding gift certificates and gift cards of the Borrower entitling the holder thereof to use all or a portion of the certificate or gift card to pay all or a portion of the purchase price for any Inventory and (b) outstanding merchandise credits of the Borrower, in each case, net of any dormancy reserves maintained by the Borrower on its books and records in the Ordinary Course of Business consistent with past practices.

"*Customs Broker Agreement*" means an agreement in substantially the form attached hereto as Exhibit Q (or such other form as may be reasonably satisfactory to the Administrative Agent) among a Loan Party, a customs broker, freight forwarder or other carrier, and the Collateral Agent, in which the customs broker, freight forwarder or other carrier acknowledges that it has control over and holds the documents evidencing ownership of, or other shipping documents relating to, the subject Inventory or other property for the benefit of the Collateral Agent, and agrees, upon notice from the Collateral Agent (which notice shall be delivered only

upon the occurrence and during the continuance of an Event of Default), to hold and dispose of the subject Inventory and other property solely as directed by the Collateral Agent.

"*Debtor Relief Laws*" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

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

"*Default Rate*" means an interest rate equal to (a) the Base Rate plus (b) the Applicable Rate applicable to Base Rate Loans plus (c) 2.0% per annum; provided that with respect to the outstanding principal amount of any Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan (giving effect to Section 2.11) plus 2.0% per annum, in each case, to the fullest extent permitted by applicable Laws.

"*Defaulting Lender*" means, subject to Section 2.16(b), any Lender that, as determined by the Administrative Agent, (a) has failed to perform any of its funding obligations hereunder, including in respect of its Loans or participations in respect of Letters of Credit or Swing Loans, within three (3) Business Days of the date required to be funded by it hereunder, (b) has notified the Borrower or the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by the Administrative Agent, to confirm in a manner satisfactory to the Administrative Agent that it will comply with its funding obligations (provided that any Lender that has failed to give such timely confirmation shall cease to be a Defaulting Lender under this clause (c) upon receipt of such confirmation by the Administrative Agent), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, (iii) become the subject of a Bail-In Action or (iv) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority.

"*Deposit Account*" means any checking or other demand deposit account maintained by the Loan Parties, including any "deposit accounts" under Article 9 of the UCC. All funds in such Deposit Accounts shall be conclusively presumed to be Collateral and proceeds of Collateral and the Agent and the Lenders shall have no duty to inquire as to the source of the amounts on deposit in the Deposit Accounts, subject to the Security Agreement.

"*Deposit Account Control Agreement*" has the meaning specified in Section 8.12(a).

"*Designated Non-Cash Consideration*" means the fair market value of non-cash consideration received by the Borrower or a Restricted Subsidiary in connection with a Disposition pursuant to Section 9.5(j) that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer, setting forth the basis of such valuation (which amount will be reduced by the fair market value of the portion of the non-cash consideration converted to cash within one-hundred eighty (180) days following the consummation of the applicable Disposition).

"*DIP ABL Credit Agreement*" means that certain Senior Secured Super-Priority Debtor-In-Possession ABL Credit Agreement dated as of October 10, 2018 among the Borrower, the lenders party thereto, Barclays Bank PLC, as administrative agent and collateral agent, and the other parties thereto, as amended and in effect prior to the Closing Date.

"*DIP Term Loan Agreement*" means that certain Senior Secured Super-Priority Debtor-In-Possession Term Loan Credit Agreement dated as of October 10, 2018 among the Borrower, the lenders party thereto, Barclays Bank PLC, as administrative agent and collateral agent, and the other parties thereto, as amended and in effect prior to the Closing Date.

"*Disclosure Statement*" shall mean that certain Disclosure Statement of the debtors under the Chapter 11 Plan filed with the Bankruptcy Court on October 4, 2018, as may be amended, supplemented or otherwise modified from time to time.

"*Disposition*" or "*Dispose*" means the sale, transfer, license, lease or other disposition (including any Sale-Leaseback, any sale or issuance of Equity Interests in a Restricted Subsidiary and, for the avoidance of doubt, by allocation of assets by division or allocation of assets to any series of a limited liability company that constitutes a separate legal entity or Person, as specified in Section 1.2(g)) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith. For purpose of determining whether any Disposition meets any thresholds under this Agreement, to the extent such Disposition is part of a series of related Dispositions, such series of related Dispositions shall be taken into account.

"*Disqualified Equity Interests*" means any Equity Interest that, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) Cash Management Obligations or obligations under Secured Hedge Agreements) that are accrued and payable and the termination of the Revolving Credit Commitments and the termination of all outstanding Letters of Credit (unless the Outstanding Amount of the Letter of Credit Obligations related thereto has been Cash Collateralized, back-stopped by a letter of credit reasonably satisfactory to the applicable Issuer or deemed reissued under another agreement reasonably acceptable to the applicable Issuer)), (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests and other than as a result of a change of control or asset

sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) Cash Management Obligations or obligations under Secured Hedge Agreements) that are accrued and payable and the termination of the Revolving Credit Commitments and the termination of all outstanding Letters of Credit (unless the Outstanding Amount of the Letter of Credit Obligations related thereto has been Cash Collateralized, back-stopped by a letter of credit reasonably satisfactory to the applicable Issuer or deemed reissued under another agreement reasonably acceptable to the applicable Issuer)), in whole or in part, (c) provides for the scheduled payments of dividends in cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is ninety-one (91) days after the Latest Maturity Date at the time of issuance of such Equity Interests; provided, that if such Equity Interests are issued pursuant to a plan for the benefit of future, current or former employees, directors, officers, members of management or consultants of Holdings (or any direct or indirect parent thereof), the Borrower or the Restricted Subsidiaries or by any such plan to such employees, directors, officers, members of management or consultants, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be permitted to be repurchased by the Borrower or its Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's, director's, officer's, management member's or consultant's termination of employment or service, as applicable, death or disability.

"*Disqualified Institutions*" means those Persons (the list of all such Persons, the "*Disqualified Institutions List*") that are (i) identified in writing by the Borrower to the Arranger prior to October 4, 2018, (ii) competitors of the Borrower and its Subsidiaries (other than bona fide fixed income investors or debt funds) that are identified in writing by the Borrower from time to time or (iii) Affiliates of such Persons set forth in clauses (i) and (ii) above (in the case of Affiliates of such Persons set forth in clause (ii) above, other than bona fide fixed income investors or debt funds) that are either (a) identified in writing by the Borrower from time to time or (b) clearly identifiable on the basis of such Affiliate's name; provided, that, to the extent Persons are identified as Disqualified Institutions in writing by the Borrower to the Administrative Agent after the Closing Date pursuant to clauses (ii) or (iii)(a), the inclusion of such Persons as Disqualified Institutions shall not retroactively apply to prior assignments or participations in respect of any Loan under this Agreement. Until the disclosure of the identity of a Disqualified Institution to the Lenders generally by the Administrative Agent, such Person shall not constitute a Disqualified Institution for purposes of a sale of a participation in a Loan (as opposed to an assignment of a Loan) by a Lender. Notwithstanding the foregoing, the Borrower, by written notice to the Administrative Agent, may from time to time in its sole discretion remove any entity from the Disqualified Institutions List (or otherwise modify such list to exclude any particular entity), and such entity removed or excluded from the Disqualified Institutions List shall no longer be a Disqualified Institution for any purpose under this Agreement or any other Loan Document.

"*Disqualified Institutions List*" has the meaning specified in the definition of "Disqualified Institutions".

"*Document*" has the meaning set forth in Article 9 of the UCC.

"*Documentary Letter of Credit*" means any Letter of Credit that is drawable upon presentation of documents evidencing the sale or shipment of goods purchased by the Borrower or a Guarantor in the ordinary course of its business.

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

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

"*EEA Financial Institution*" means (a) any 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.

"*Eligible Accounts*" means, as of any date of determination thereof, the aggregate amount of all Accounts (which, for the avoidance of doubt, shall include the Mattress Firm Card Receivables) due to the Borrower and each Subsidiary Guarantor, except in each case to the extent that (determined without duplication):

(a) such Account (i) does not arise from the sale of goods or the performance of services by the Borrower or any Subsidiary Guarantor in the ordinary course of its business or (ii) arises out of arrangements with franchisees; provided that up to $4 million in Accounts owed to the Borrower or any Subsidiary Guarantor by franchisees, so long as any such Account satisfies clauses (b) through (z) of this definition of "*Eligible Accounts*", shall be deemed Eligible Accounts notwithstanding this clause (a);

(b) (i) the Borrower's or Subsidiary Guarantor's right to receive payment is not absolute or is contingent upon the fulfillment of any condition whatsoever (other than the preparation and delivery of an invoice) or (ii) as to which such Person is not able to bring suit or otherwise enforce its remedies against the Account Debtor through judicial process;

(c) any defense, counterclaim, set-off or dispute exists as to such Account, but only to the extent of such defense, counterclaim, set-off or dispute;

(d) such Account is not a true and correct statement of bona fide indebtedness incurred in the amount of the Account for merchandise sold to or services rendered and accepted by the applicable Account Debtor;

(e) an invoice, reasonably acceptable to the Administrative Agent, in form and substance or otherwise in the form otherwise required by any Account Debtor, has not been sent to the applicable Account Debtor in respect of such Account on or before the date as of which such Account is first included in the Borrowing Base Certificate or otherwise reported to the Administrative Agent as Collateral;

(f) such Account (i) is not owned by the Borrower or Subsidiary Guarantor or (ii) is not subject to the first priority, valid and perfected security interest and Lien of Collateral Agent, for and on behalf of itself and the Lenders (subject to Liens permitted under Section 9.1 having priority by operation of applicable Law over the Liens of the Collateral Agent) or (iii) is subject to any other Lien (other than Liens permitted hereunder pursuant to clauses (a), (c), (d), (h), (y), (dd) and (ii) of Section 9.1) (the foregoing clauses (ii) and (iii) (other than in respect of the immediately foregoing clauses (y) and (ii)) not being intended to limit the ability of the Administrative Agent to change, establish or eliminate any Reserves in its Permitted Discretion on account of any such permitted Liens);

(g) such Account is the obligation of an Account Debtor that is (i) a director, officer, other employee or Affiliate of the Borrower or any Guarantor or (ii) a natural person;

(h) such Account is the obligation of an Account Debtor that is any Governmental Authority;

(i) Accounts subject to a partial payment plan;

(j) the Borrower or Subsidiary Guarantor is liable for goods sold or services rendered by the applicable Account Debtor to the Borrower but only to the extent of the potential offset;

(k) (i) if such Account constitutes third-party financing receivables or Mattress Firm Card Receivables, such Account is unpaid for more than fifteen (15) days after the date of sale of Inventory giving rise to such third-party financing receivables or such Mattress Firm Card Receivables or (ii) if such Account does not constitute third-party financing receivables or Mattress Firm Card Receivables, the Account is not paid on or prior to (x) ninety (90) days following the original invoice date or (y) sixty (60) days following the date on which such Account was due;

(l) **[reserved]**;

(m) such Account is the obligation of an Account Debtor from whom 50% or more of the amount of all Accounts owing by that Account Debtor are ineligible under the criteria set forth in this definition;

(n) any of the representations or warranties in the Loan Documents with respect to such Account are untrue in any material respect with respect to such Account (or, with respect to representations or warranties that are qualified by materiality, any of such representations and warranties are untrue);

(o) such Account is evidenced by chattel paper or an instrument of any kind, or has been reduced to judgment;

(p) such Account, together with all other Accounts owing by such Account Debtor and its Affiliates as of any date of determination, exceeds the greater of (i) 15% of all Eligible Accounts and (ii) 10% of the Borrowing Base (but, in each case, only to the extent of such excess) (the "*Account Concentration Limits*"); provided, that for purposes of this clause (p), Accounts owing by any third-party financing source that has an Investment Grade Rating shall not be subject to the Account Concentration Limits;

(q) such Account is payable in any currency other than Dollars;

(r) such Account has been redated, extended, compromised, settled or otherwise modified or discounted, except discounts or modifications that are granted by the Borrower or Subsidiary Guarantor in the Ordinary Course of Business and that are reflected in the calculation of the Borrowing Base;

(s) such Account is of an Account Debtor that is located in a state requiring the filing of a notice of business activities report or similar report in order to permit the Borrower or Subsidiary Guarantor to seek judicial enforcement in such state of payment of such Account, unless the Borrower or Subsidiary Guarantor has qualified to do business in such state or has filed a notice of business activities report or equivalent report for the then-current year or if such failure to file and inability to seek judicial enforcement is capable of being remedied without any material delay or material cost;

(t) such Account was acquired or originated by a Person acquired in a Permitted Acquisition (until such time as the Administrative Agent have completed a customary due diligence investigation as to such Accounts and such Person, which investigation may, at the sole discretion of the Administrative Agent, include a field examination, and the Administrative Agent are satisfied with the results thereof in its Permitted Discretion);

(u) Account Debtor is subject to an event of the type described in Section 10.1(f);

(v) such Account represents a sale on a bill-and-hold, guaranteed sale, sale and return, sale on approval, consignment or other repurchase or return basis;

(w) the Account Debtor is organized or has its principal offices or assets outside the United States, unless such Account is backed by a letter of credit reasonably acceptable to the Administrative Agent (which is issued by a bank reasonably acceptable to the Administrative Agent) and such letter of credit is subject to a first priority perfected Lien in favor of the Collateral Agent;

(x) Accounts that are subject to any factoring or receivables finance program or constitute proceeds thereof;

(y) the portion, if any, of any Account that includes a billing for interest, fees or late charges; or

(z) such Account constitutes a Credit Card Receivable.

"*Eligible Accounts Advance Rate*" means 90%.

"*Eligible Assignee*" means any Person that meets the requirements to be an assignee under Section 12.2(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 12.2(b)(ii)).

"*Eligible Credit Card Receivables*" means, as to the Borrower and each Subsidiary Guarantor, Credit Card Receivables of such Person which satisfy the criteria set forth below:

(a) such Credit Card Receivables arise from the actual and bona fide sale and delivery of goods or rendition of services by such Person in the ordinary course of the business of such Person;

(b) such Credit Card Receivables are not past due (beyond any stated applicable grace period, if any, therefor) pursuant to the terms set forth in the Credit Card Agreements with the Credit Card Issuer or Credit Card Processor of the credit card or debit card used in the purchase which gave rise to such Credit Card Receivables;

(c) such Credit Card Receivables are not unpaid more than five (5) Business Days after the date of the sale of Inventory giving rise to such Credit Card Receivables;

(d) the Credit Card Issuer or Credit Card Processor obligated in respect of such Credit Card Receivable has not failed to remit any monthly payment in respect of any Credit Card Receivable owing to a Loan Party;

(e) the Credit Card Issuer or Credit Card Processor with respect to such Credit Card Receivables has not asserted a counterclaim, defense or dispute against such Credit Card Receivables (other than customary set-offs to fees and chargebacks consistent with the practices of such Credit Card Issuer or Credit Card Processor with such Person from time to time), but the portion of the Credit Card Receivables owing by such Credit Card Issuer or Credit Card Processor in excess of the amount owing by such Person to such Credit Card Issuer or Credit Card Processor pursuant to such fees and chargebacks shall be deemed Eligible Credit Card Receivables;

(f) the Credit Card Issuer or Credit Card Processor with respect to such Credit Card Receivables has not set off against amounts otherwise payable by such Credit Card Issuer or Credit Card Processor to such Person for the purpose of establishing a reserve or collateral for obligations of such Person to such Credit Card Issuer or Credit Card Processor (other than customary set-offs and chargebacks consistent with the practices of such Credit Card Issuer or Credit Card Processor from time to time) but the portion of the

Credit Card Receivables owing by such Credit Card Issuer or Credit Card Processor in excess of the set-off amounts shall be deemed Eligible Credit Card Receivables;

(g) such Credit Card Receivables (x) are owned by the Borrower or a Subsidiary Guarantor and such Person has a good title to such Credit Card Receivables, (y) are subject to the first priority, valid and perfected security interest and Lien of Collateral Agent (subject only to Liens permitted under Section 9.1 having priority by operation of applicable Law over the Liens of the Collateral Agent), for and on behalf of itself and Lenders, as to such Credit Card Receivables of such Person and (z) are not subject to any other Lien (other than Liens permitted hereunder pursuant to clauses (a), (c), (d), (h), (y), (dd) and (ii) of Section 9.1) (the foregoing clauses (y) and (z) (other than in respect of the immediately foregoing clauses (y) and (ii)) not being intended to limit the ability of the Administrative Agent to change, establish or eliminate any Reserves in its Permitted Discretion on account of any such permitted Liens);

(h) the Credit Card Issuer or Credit Card Processor with respect to such Credit Card Receivables is not subject to an event of the type described in Section 10.1(f);

(i) no event of default has occurred under the Credit Card Agreement of such Person with the Credit Card Issuer or Credit Card Processor who has issued the credit card or debit card or handles payments under the credit card or debit card used in the sale which gave rise to such Credit Card Receivables which event of default gives such Credit Card Issuer or Credit Card Processor the right to cease or suspend payments to such Person;

(j) the customer using the credit card or debit card giving rise to such Credit Card Receivable shall not have returned the merchandise purchased giving rise to such Credit Card Receivable;

(k) to the extent required by Section 8.12(c), the Credit Card Receivables are subject to Credit Card Notifications;

(l) the Credit Card Processor is organized and has its principal offices or assets within the United States or is otherwise acceptable to the Administrative Agent in its Permitted Discretion;

(m) such Credit Card Receivables are not evidenced by chattel paper or an instrument of any kind, and have not been reduced to judgment;

(n) the portion of such Credit Card Receivables that does not include a billing for interest, fees or late charges; and

(o) in the case of a Credit Card Receivable due from a Credit Card Processor (other than an Agent, Paymentech, LLC, First Data, Alliance Data or any of their respective Affiliates), the Administrative Agent has not notified the Borrower that the Administrative Agent has determined in its Permitted Discretion that such Credit Card Receivable is unlikely to be collected.

Credit Card Receivables which would otherwise constitute Eligible Credit Card Receivables pursuant to this Section will not be deemed ineligible solely by virtue of the Credit Card Agreements with respect thereto having been entered into by any Subsidiary Guarantor, for the benefit of Borrower. Any Credit Card Receivables which are not Eligible Credit Card Receivables shall, to the extent not constituting Excluded Assets, nevertheless be part of the Collateral.

"*Eligible In-Transit Inventory*" means, as of any date of determination, without duplication of other Eligible Inventory, Inventory of the Borrower or a Subsidiary Guarantor which meets the following criteria:

(a) such Inventory has been shipped from any foreign location to a United States location for receipt by the Borrower or a Subsidiary Guarantor within sixty (60) days of the date of determination and has not yet been received by the Borrower or a Subsidiary Guarantor,

(b) the purchase order for such Inventory is in the name of the Borrower or a Subsidiary Guarantor and title has passed to the Borrower or a Subsidiary Guarantor,

(c) either (i) such Inventory is subject to a negotiable document of title, in form reasonably satisfactory to the Administrative Agent, which shall, except as otherwise agreed by the Administrative Agent, in its Permitted Discretion, have been endorsed to the Collateral Agent or an agent acting on its behalf or (ii) such Inventory is evidenced by a non-negotiable document of title in form reasonably acceptable to the Administrative Agent, or other shipping document reasonably acceptable to the Administrative Agent, which names the Borrower or a Subsidiary Guarantor as consignee,

(d) during the continuation of any In-Transit Trigger Period, (i) each relevant freight carrier, freight forwarder, customs broker, shipping company or other Person in possession of such Inventory and/or the documents relating to such Inventory, in each case, as reasonably requested by Administrative Agent, shall have entered into a Customs Broker Agreement and (ii) as reasonably requested by the Administrative Agent, the documents relating to such Inventory shall be in the possession of the Administrative Agent or an agent (or sub-agent) acting on its behalf,

(e) such Inventory is insured in accordance with the provisions of this Agreement and the other Loan Documents, including marine cargo insurance,

(f) such Inventory is subject, to the reasonable satisfaction of the Administrative Agent, to a first priority perfected security interest in and lien upon such Inventory in favor of the Collateral Agent (except for any possessory lien upon such goods in the possession of a freight carrier or shipping company securing only the freight charges for the transportation of such goods to the Borrower or Subsidiary Guarantor), and

(g) such Inventory is not excluded from the definition of Eligible Inventory (except solely pursuant to clauses (f), (j), (o), (p), (x) and (y) thereof); provided that the

Administrative Agent may, in its Permitted Discretion and upon notice to the Borrower, exclude any particular Inventory from the definition of "Eligible In-Transit Inventory" in the event that the Administrative Agent determines in its Permitted Discretion and upon notice to the Borrower that such Inventory is subject to any Person's right or claim which is (or is capable of being) senior to, or pari passu with, the Lien of the Collateral Agent (such as, without limitation, a right of reclamation or stoppage in transit), as applicable, or may otherwise adversely impact the ability of the Collateral Agent to realize upon such Inventory.

Eligible In-Transit Inventory shall not include Inventory accounted for as "in transit" by the Borrower by virtue of such Inventory's being in transit between the Loan Parties' locations or in storage trailers at Loan Parties' locations; rather such Inventory shall be treated as "Eligible Inventory" if it satisfies the conditions therefor.

"*Eligible Inventory*" means, as to the Borrower and each Subsidiary Guarantor, Inventory consisting of finished goods merchantable and readily saleable to the public in the ordinary course of the business of such Person but shall not include:

(a) work-in-process;

(b) raw materials;

(c) spare parts for equipment;

(d) packaging and shipping materials;

(e) supplies used or consumed in such Person's business;

(f) Inventory (other than In-Transit Inventory as described in clause (x) below) located at premises owned and operated by a Person other than, and not leased by, the Borrower or any Subsidiary Guarantor, if the Administrative Agent shall not have received a Collateral Access Agreement from the owner and operator with respect to such location, duly authorized, executed and delivered by such owner and operator (or the Administrative Agent shall determine to accept a Collateral Access Agreement that does not include all required provisions or provisions in the form otherwise required by the Administrative Agent), unless the Administrative Agent has, at its option, established such Availability Reserves in respect of amounts at any time due or to become due to the owner and operator thereof as the Administrative Agent shall determine in its Permitted Discretion;

(g) **[reserved]**;

(h) bill and hold goods;

(i) obsolete, unmerchantable, "seconds", used, unfit for sale or slow moving Inventory;

(j) Inventory (i) which is not subject to the first priority, valid and perfected security interest of the Collateral Agent (subject only to Liens permitted under Section 9.1 having priority by operation of applicable Law over the Liens of the Collateral Agent) or (ii) which is subject to any other Lien (other than Liens permitted hereunder pursuant to clauses (a), (c), (d), (h), (q), (y), (dd) and (ii) of Section 9.1) (the foregoing clauses (i) and (ii) (other than in respect of the immediately foregoing clauses (y) and (ii)) not being intended to limit the ability of the Administrative Agent to change, establish or eliminate any Reserves in its Permitted Discretion on account of any such permitted Liens);

(k) damaged and/or defective Inventory;

(l) returned Inventory which is not held for sale in the Ordinary Course of Business;

(m) Inventory purchased or sold on consignment;

(n) Inventory acquired in a Permitted Acquisition, unless (i) such Inventory otherwise meets the requirements of Eligible Inventory and (ii) either (x) such Inventory does not exceed 15% of all Eligible Inventory or (y) the Administrative Agent has completed or received (A) an appraisal of such Inventory from appraisers reasonably satisfactory to the Administrative Agent, and established Inventory Reserves (if applicable) therefor and (B) such other due diligence as the Administrative Agent may require in its Permitted Discretion, all of the results of the foregoing to be satisfactory to the Administrative Agent in its Permitted Discretion (provided, it is agreed that so long as the Administrative Agent has received reasonable prior notice of such Permitted Acquisition and the Loan Parties reasonably cooperate (and cause the Person being acquired to reasonably cooperate) with the Administrative Agent, then the Administrative Agent shall use reasonable best efforts to complete such due diligence and a related appraisal on or prior to the closing date of such Permitted Acquisition);

(o) Inventory that is not solely owned by the applicable Loan Party or the applicable Loan Party does not have good and valid title thereto;

(p) Inventory that is not located in the United States (excluding territories or possessions of the United States);

(q) custom items;

(r) spare parts, promotional, marketing, packaging and shipping materials or supplies used or consumed in a Loan Party's business;

(s) samples, labels, bags, packaging, and other similar non-merchandise categories;

(t) are not in material compliance with all standards imposed by any Governmental Authority having regulatory authority over such Inventory, its use or sale;

(u) Inventory that is not insured in compliance with this Agreement;

(v) Inventory that has been sold but not yet delivered or as to which the Borrower has accepted a deposit;

(w) Inventory that is subject to any licensing, patent, royalty, trademark, trade name or copyright agreement with any third party from which the Borrower or any of its Subsidiaries has received notice of a dispute in respect of any such agreement (but ineligibility shall be limited to the amount of such dispute);

(x) In-Transit Inventory; and

(y) Except as otherwise agreed by the Administrative Agent in its Permitted Discretion, Inventory that represents goods that do not conform in all material respects to the representations and warranties contained in this Agreement or any of the Collateral Documents.

Any Inventory which is not Eligible Inventory shall, to the extent not constituting Excluded Assets, nevertheless be part of the Collateral.

"*EMU*" means the economic and monetary union as contemplated in the Treaty on European Union.

"*EMU Legislation*" means the legislative measures of the European Council for the introduction of, changeover to or operation of a single or unified European currency.

"*Entitlement Holder*" has the meaning given to such term in Article 8 of the UCC.

"*Entitlement Order*" has the meaning given to such term in Article 8 of the UCC.

"*Environmental Claim*" means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations (other than internal reports prepared by any Loan Party or any of its Subsidiaries (a) in the Ordinary Course of Business of such Person or (b) as required in connection with a financing transaction or an acquisition or disposition of real estate) or proceedings with respect to any Environmental Liability (hereinafter "*Claims*"), including (i) any and all Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief pursuant to any Environmental Law.

"*Environmental Laws*" means any and all Laws relating to the protection of the environment or, to the extent relating to exposure to Hazardous Materials, human health.

"*Environmental Liability*" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities) of any Loan Party or any of its Restricted Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment

or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"*Environmental Permit*" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"*Equity Interests*" means, with respect to any Person, all of the shares, interests, rights, participations or other equivalents (however designated) of capital stock of (or other ownership or profit interests or units in) such Person and all of the warrants, options or other rights for the purchase, acquisition or exchange from such Person of any of the foregoing (including through convertible securities).

"*ERISA*" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"*ERISA Affiliate*" means any trade or business (whether or not incorporated) that together with any Loan Party is under common control with or treated as a single employer within the meaning of Sections 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"*ERISA Event*" means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as a termination under Section 4062(e) of ERISA; (c) a written notification to any Loan Party or any of their respective ERISA Affiliates concerning the imposition of Withdrawal Liability, a complete or partial withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Multiemployer Plan (within the meaning of Sections 4203 and 4205 of ERISA), or written notification that a Multiemployer Plan is insolvent or is in reorganization, within the meaning of Title IV of ERISA; (d) the filing under Section 4041(c) of ERISA of a notice of intent to terminate a Pension Plan, the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Sections 4041 or 4041A of ERISA; (e) the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan or to appoint a trustee to administer a Pension Plan; (f) the imposition of any liability under Title IV of ERISA with respect to the termination of any Pension Plan or Multiemployer Plan, other than for the payment of plan contributions or PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any of their respective ERISA Affiliates; (g) the application for a minimum funding waiver under Section 302(c) of ERISA or Section 412(c) of the Code with respect to a Pension Plan; (h) the imposition of a lien under Section 303(k) of ERISA or Section 430(k) of the Code with respect to any Pension Plan; or (i) the imposition of liability on any of the Loan Parties or any of their respective ERISA Affiliates pursuant to Sections 4069 or 4212(c) of ERISA.

"*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.

"*Eurocurrency Rate*" means for any Interest Period as to any Eurocurrency Rate Loan, (i) the rate per annum determined by the Administrative Agent to be the offered rate which appears on the page of the Reuters Screen which displays the London interbank offered rate administered by ICE Benchmark Administration Limited (such page currently being the LIBOR01 page) (the "*LIBO Rate*") for deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period in Dollars, determined as of approximately 11:00 a.m. (London, England time), two Business Days prior to the commencement of such Interest Period, or (ii) in the event the rate referenced in the preceding clause (i) does not appear on such page or service or if such page or service shall cease to be available, the rate determined by the Administrative Agent to be the offered rate on such other page or other service which displays the LIBO Rate for deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period in Dollars, determined as of approximately 11:00 a.m. (London, England time) two Business Days prior to the commencement of such Interest Period; provided that if LIBO Rates are quoted under either of the preceding clauses (i) or (ii), but there is no such quotation for the Interest Period elected, the LIBO Rate shall be equal to the Interpolated Rate; and provided, further, that if any such rate determined pursuant to the preceding clauses (i) or (ii) is less than zero, the Eurocurrency Rate will be deemed to be zero.

"*Eurocurrency Rate Loan*" means a Loan that bears interest at a rate determined by reference to the Eurocurrency Rate.

"*Eurocurrency Reserve Percentage*" means, for any day during any Interest Period, the reserve percentage in effect on such day applicable to the Administrative Agent under regulations issued from time to time by the Federal Reserve Board for determining the maximum reserve requirement (including any emergency, special, supplemental or other marginal reserve requirement) with respect to eurocurrency funding (currently referred to as "Eurocurrency liabilities" in Regulation D). The Adjusted Eurocurrency Rate for each outstanding Eurocurrency Rate Loan shall be adjusted automatically as of the effective date of any change in the Eurocurrency Reserve Percentage.

"*Euros*" means the lawful currency of the Participating Member States introduced in accordance with the EMU Legislation.

"*Event of Default*" has the meaning specified in Section 10.1.

"*Excess Availability*" means, at any time, (a) the Maximum Credit at such time minus (b) the aggregate Revolving Credit Outstandings at such time.

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended.

"*Excluded Accounts*" means (a) any Deposit Account specifically, solely and exclusively used for escrow arrangements, fiduciary arrangements, or trust arrangements, in each case, for the benefit of unaffiliated third parties or for making payments in respect of payroll, employee wage and benefit payments or taxes, and (b) any Deposit Account so long as the balance in each such account, individually, does not exceed $5,000,000 at any time and the aggregate balance of all such Deposit Accounts under this clause (b) does not at any time exceed $5,000,000.

"*Excluded Assets*" means (i) any fee owned real property (other than Material Real Properties) and any leasehold rights and interests in real property (including landlord waivers, estoppels and collateral access letters), (ii) motor vehicles, aircraft and other assets subject to certificates of title, except to the extent a security interest therein can be perfected by the filing of a UCC financing statement, (iii) commercial tort claims where the amount of damages claimed by the applicable Loan Party is less than $5,000,000, (iv) governmental licenses or state or local franchises, charters and authorizations and any other property and assets to the extent that the Collateral Agent cannot validly possess a security interest therein under applicable Laws or the pledge or creation of a security interest therein would require governmental consent, approval, license or authorization, in each case, other than to the extent such prohibition or limitation is rendered ineffective under the UCC or other applicable Law, in each case, notwithstanding such prohibition and other than proceeds and receivables thereof, (v) any particular asset or right under contract, if the pledge thereof or the security interest therein is prohibited or restricted by applicable Law, or any agreement so long as such agreement exists on the Closing Date, or, if after the Closing Date, so long as any agreement with such third party that provides for such prohibition or restriction was not entered into in contemplation of the acquisition of such assets or entering into of such contract or for the purpose of creating such prohibition or restriction, other than to the extent such prohibition or restriction is rendered ineffective under the UCC or other applicable Law, notwithstanding such prohibition and, in each case, other than proceeds and receivables thereof, (vi) any written agreement, license or lease or any property subject to a purchase money security interest, Capitalized Lease Obligation or similar arrangement, in each case, permitted hereunder, in each case, to the extent the grant of a security interest therein would violate or invalidate such lease, license or agreement or purchase money or similar arrangement or would give rise to a termination right in favor of any other party thereto (other than Holdings or any of its Subsidiaries) after giving effect to the applicable anti-assignment provisions of the UCC or other applicable Laws, in each case, only to the extent that such limitation on such pledge or security interest is otherwise permitted under Section 9.9, other than proceeds and receivable thereof, the assignment of which is expressly deemed effective under the UCC or other applicable Laws, notwithstanding such prohibition, (vii) (A) Margin Stock and (B) Equity Interests in any Unrestricted Subsidiaries and (C) Equity Interests in any non-wholly owned Subsidiaries and any entities which do not constitute Subsidiaries, but only to the extent that (x) the Organization Documents or other agreements with equity holders of such non-wholly owned Restricted Subsidiaries or other entities do not permit or restrict the pledge of such Equity Interests, or (y) the pledge of such Equity Interests (including any exercise of remedies) would result in a change of control, repurchase obligation or other adverse consequence to any of the Loan Parties or such non-wholly owned Restricted Subsidiary or other entity, (viii) any property or assets for which the creation or perfection of pledges of, or security interests in, pursuant to the Collateral Documents would result in material adverse tax consequences to Holdings, the Borrower or any of its Subsidiaries, as reasonably determined by the Borrower in consultation with the Administrative Agent, (ix) letter of credit rights, except to the extent perfected by the filing of a UCC financing statement or to the extent constituting supporting obligations for other Collateral as to which perfection of the security interest in such other Collateral is accomplished by the filing of a UCC financing statement (it being understood that no actions shall be required to perfect a security interest in letter of credit rights, other than the filing of a UCC financing statement), (x) any intent-to-use trademark application prior to the filing of a "Statement of Use" or "Amendment to Allege Use" with respect thereto, to the extent, if any, that, and solely during

the period, if any, in which the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark application under applicable federal law, (xi) Excluded Accounts of the type described in clause (a) of the definition thereof and the funds or property held or maintained in any such account, and (xii) assets in circumstances where the cost of obtaining a security interest in such assets, including, without limitation, the cost of title insurance, surveys or flood insurance (if necessary) would be excessive in light of the practical benefit to the Lenders afforded thereby as reasonably determined by the Borrower and the Administrative Agent; *provided*, *however*, that Excluded Assets shall not include any proceeds, substitutions or replacements of any Excluded Assets referred to in clause (i) through (xii) (unless such proceeds, substitutions or replacements would independently constitute Excluded Assets referred to in clauses (i) through (xii).

"*Excluded Subsidiary*" means (a) any Subsidiary that is not a wholly owned Subsidiary of the Borrower or a Guarantor, (b) any CFC, (c) any CFC Holdco, (d) any Domestic Subsidiary that is a direct or indirect Subsidiary of a Foreign Subsidiary of the Borrower that is a CFC, (e) any Subsidiary that is prohibited or restricted by applicable Law or by Contractual Obligations existing on the Closing Date (or, in the case of any newly acquired Subsidiary, in existence at the time of acquisition but not entered into in contemplation thereof) from providing a Guaranty or if such Guaranty would require governmental (including regulatory) consent, approval, license or authorization, (f) any Subsidiary that is a not-for-profit organization, (g) any Subsidiary, the obtaining of a Guarantee with respect to which would result in material adverse tax consequences as reasonably determined by the Borrower in good faith consultation with the Administrative Agent (including as a result of the operation of Section 956 of the Code), (i) any Restricted Subsidiary acquired pursuant to a Permitted Acquisition or permitted investment financed with secured Indebtedness permitted to be incurred hereunder as Acquired Indebtedness (but not incurred in contemplation of such Permitted Acquisition) and any Restricted Subsidiary thereof that Guarantees such Indebtedness, in each case to the extent such secured Indebtedness prohibits such Subsidiary from becoming a Guarantor (*provided* that such restriction existed at the time of such acquisition or Investment and was not created in contemplation thereof), (h) each Unrestricted Subsidiary, (i) any captive insurance Subsidiary, and (j) any other Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent and the Borrower, the cost or other consequences (including any adverse tax consequences) of providing the Guaranty outweighs the benefits to be obtained by the Lenders therefrom.

"*Excluded Swap Obligation*" means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, as applicable, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) (a) by virtue of such Guarantor's failure to constitute an "eligible contract participant," as defined in the Commodity Exchange Act and the regulations thereunder, at the time the guarantee of (or grant of such security interest by, as applicable) such Guarantor becomes or would become effective with respect to such Swap Obligation or (b) in the case of a Swap Obligation that is subject to a clearing requirement pursuant to section 2(h) of the Commodity Exchange Act, because such Guarantor is a "financial entity," as defined in section 2(h)(7)(C) of the Commodity Exchange Act, at the time the guarantee of (or grant of such security interest by, as applicable) such Guarantor becomes or would become effective with

respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one Swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to Swaps for which such guarantee or security interest is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof).

"*Existing Letters of Credit*" has the meaning specified in Section 2.4(l).

"*Existing Revolver Tranche*" has the meaning specified in Section 2.17(a).

"*Extended Revolving Credit Commitments*" has the meaning specified in Section 2.17(a).

"*Extending Revolving Credit Lender*" has the meaning specified in Section 2.17(b).

"*Extension*" means any establishment of Extended Revolving Credit Commitments pursuant to Section 2.17 and the applicable Extension Amendment.

"*Extension Amendment*" has the meaning specified in Section 2.17(c).

"*Extension Election*" has the meaning specified in Section 2.17(b).

"*Extension Request*" has the meaning specified in Section 2.17(a).

"*Extension Series*" has the meaning specified in Section 2.17(a).

"*fair market value*" means, with respect to any asset or liability, the fair market value of such asset or liability as determined by a Responsible Officer of the Borrower in good faith.

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

"*FCPA*" has the meaning set forth in Section 5.18(b).

"*Federal Funds Rate*" means, for any day, the rate calculated by the Federal Reserve Bank of New York based on such day's federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate; provided, that if the Federal Funds Effective Rate for any day is less than zero, the Federal Funds Effective Rate for such day will be deemed to be zero.

"*Federal Reserve Board*" means the Board of Governors of the United States Federal Reserve System, or any successor thereto.

"*Fee Letter*" means that certain Exit Facilities Fee Letter, dated as of October 4, 2018, among Barclays, in its capacity as Arranger, the Borrower, Holdings and the other Loan Parties party thereto.

"*Field Examination*" has the meaning specified in Section 7.4(d).

"*Financial Asset*" has the meaning given to such term in Article 8 of the UCC.

"*Financial Covenants*" shall mean the covenants set forth in Section 6.1, Section 6.2 and Section 6.3.

"*Financial Officer*" means the chief financial officer, chief accounting officer or other Responsible Officer of the Borrower with equivalent duties with financial reporting responsibilities.

"*Fiscal Quarter*" means a fiscal quarter of any Fiscal Year.

"*Fiscal Year*" means the fiscal year of the Borrower and its Subsidiaries ending on the Tuesday closest to September 30 in the following calendar year.

"*Fixed Charge Coverage Ratio*" means, with respect to any Person for any Test Period, the ratio of (a) (i) Consolidated EBITDA of such Person for such period minus (ii) Capital Expenditures minus (iii) Cash Taxes, in each case in this clause (a), for such Test Period, to (b) the Fixed Charges of such Person for such period.

"*Fixed Charges*" means, with respect to any Person for any Test Period, the sum, determined on a consolidated basis, of (a) the Consolidated Net Cash Interest Expense of such Person and its Subsidiaries for such period plus (b) scheduled payments of principal on Indebtedness for borrowed money of such Person and its Subsidiaries due and payable during such period plus (c) any Restricted Payment made pursuant to Section 9.6(m) during such period.

"*Flood Insurance Laws*" shall mean, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statue thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto, (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (v) Biggert- Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

"*Foreign Lender*" has the meaning specified in Section 3.1(b).

"*Foreign Official*" has the meaning specified in Section 5.18(d)(i).

"*Foreign Subsidiary*" means any direct or indirect Subsidiary of the Borrower that is not a Domestic Subsidiary.

"*Fronting Exposure*" means, at any time there is a Defaulting Lender, (a) with respect to an Issuer, such Defaulting Lender's Applicable Percentage of the outstanding Letter of Credit Obligations to the extent that such Defaulting Lender's Applicable Percentage of such outstanding Letter of Credit Obligations has not been reallocated pursuant to Section 2.16(a)(iv) or Cash Collateralized pursuant to Section 2.16(c), and (b) with respect to the Swing Loan Lender, such Defaulting Lender's Applicable Percentage of Swing Loans to the extent that such Defaulting Lender's Applicable Percentage of Swing Loans has not been reallocated pursuant to Section 2.16(a)(iv) or Cash Collateralized pursuant to Section 2.16(c).

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

"*Funded Debt*" means all Indebtedness of the Parent Guarantors, Holdings, the Borrower and the Restricted Subsidiaries for borrowed money that matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of such Person, to a date more than one year from such date or arises under a term loan, revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including Indebtedness in respect of the Loans.

"*GAAP*" means generally accepted accounting principles in the United States, as in effect from time to time; *provided*, *however*, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Requisite Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

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

"*Granting Lender*" has the meaning specified in Section 12.2(g).

"*Guarantee*" means, as to any Person, without duplication, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation payable or performable by another Person (the "*primary obligor*") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation, (ii) to purchase or lease

property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance of such Indebtedness or other monetary obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or other monetary obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); provided that the term "Guarantee" shall not include endorsements for collection or deposit, in either case in the Ordinary Course of Business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"*Guarantors*" means (a) the Parent, (b) Mattress Firm Holding Corp., (c) Mattress Holdco, Inc., (d) Holdings, (e) the Persons party to the Guaranty as a "Guarantor" on the Closing Date, (f) each Person that becomes a Subsidiary of any Parent Guarantor after the Closing Date and is a direct, or indirect, parent of the Borrower and delivers a guaranty or supplement pursuant to the requirements of the Guarantee and Collateral Requirement, Section 8.11, or any other requirement of this Agreement, and (g) each other Person that becomes a guarantor of the Obligations after the Closing Date pursuant to the requirements of the Collateral and Guarantee Requirement, Section 8.11, or any other requirement of this Agreement. For avoidance of doubt, the Borrower may cause any Restricted Subsidiary that is not an Unrestricted Subsidiary to Guarantee the Obligations by causing such Restricted Subsidiary to execute a supplement to the Guaranty in substantially the form attached thereto, and any such Restricted Subsidiary shall be a Guarantor hereunder and thereunder for all purposes.

"*Guaranty*" means (a) the guaranty made by Holdings and the other Guarantors in favor of the Administrative Agent on behalf of the Secured Parties pursuant to clause (b) of the definition of "Collateral and Guarantee Requirement," substantially in the form of Exhibit G, and (b) each other guaranty and guaranty supplement delivered pursuant to Section 8.11.

"*Hazardous Materials*" means all explosive or radioactive substances or wastes, all hazardous or toxic substances, and all wastes or pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas and infectious or medical wastes regulated pursuant to any Environmental Law.

"*Hedge Bank*" means, with respect to any Swap Contract, as of any date of determination, (a) any Person that is a Lender or an Affiliate of a Lender on such date or (b) any Person who (i) was a Lender or an Affiliate of a Lender at the time such Swap Contract was

entered into and who is no longer a Lender or an Affiliate of a Lender, (ii) is, and at all times remains, in compliance with the provisions of Section 11.13(b)(i) and (iii) agrees in writing that the Agents and the other Secured Parties shall have no duty to such Person (other than the payment of any amounts to which such Person may be entitled under Section 10.3) and acknowledges that the Agents and the other Secured Parties may deal with the Loan Parties and the Collateral as they deem appropriate (including the release of any Loan Party or all or any portion of the Collateral) without notice or consent from such Person, whether or not such action impairs the ability of such Person to be repaid Obligations owing to it in respect of the Secured Hedge Agreements to which it is a party) and agrees to be bound by Section 11.13(b)(ii).

"*Holdings*" has the meaning specified in the introductory paragraph to this Agreement.

"*IFRS*" means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements; provided, however, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in IFRS or in the application thereof (including through the adoption of GAAP) on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Requisite Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in IFRS or in the application thereof (including through the adoption of GAAP), then such provision shall be interpreted on the basis of IFRS as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith

"*In-Transit Advance Rate*" means 90%.

"*In-Transit Inventory*" means Inventory located outside of the United States or in transit within or outside of the United States to the Borrower or any Subsidiary Guarantor from vendors and suppliers that has not yet been received into a distribution center or store of such Person.

"*In-Transit Trigger Period*" means the period beginning on the date on which the Borrower has failed to maintain Excess Availability at least equal to the greater of (a) 20% of the Maximum Credit or (b) $12,500,000 in either case, for five (5) consecutive Business Days, and ending on the date Excess Availability shall have been equal to or greater than the greater of (x) 20% of the Maximum Credit and (y) $12,500,000, in each case, for thirty (30) consecutive calendar days.

"*Incremental Amendment*" has the meaning specified in Section 2.15(a).

"*Incremental Availability*" has the meaning specified in Section 2.15(a).

"*Indebtedness*" means, as to any Person at a particular time, without duplication, all of the following:

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

(b) the maximum amount (after giving effect to any prior drawings or reductions that may have been reimbursed) of all outstanding letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;

(c) net obligations of such Person under any Swap Contract;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts and accrued expenses payable in the Ordinary Course of Business, (ii) any earn-out obligation until such obligation is not paid within 30 days after becoming due and payable and becomes a liability on the balance sheet of such Person in accordance with IFRS and (iii) accruals for payroll and other liabilities accrued in the Ordinary Course of Business);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements and mortgage, industrial revenue bond, industrial development bond and similar financings), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(f) all Attributable Indebtedness;

(g) all obligations of such Person in respect of Disqualified Equity Interests if and to the extent that the foregoing would constitute indebtedness or a liability in accordance with IFRS; and

(h) to the extent not otherwise included above, all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall (A) include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, except to the extent such Person's liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would be included in the calculation of Consolidated Total Debt and (B) in the case of the Parent and its Subsidiaries, exclude all intercompany Indebtedness having a term not exceeding 364 days (inclusive of any roll over or extensions of terms) and made in the Ordinary Course of Business. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of clause (e) shall be deemed to be equal to the lesser of (i) the aggregate unpaid amount of such Indebtedness and (ii) the fair market value (as determined by such Person in good faith) of the property encumbered thereby as determined by such Person in good faith.

"*Indemnified Liabilities*" has the meaning specified in Section 12.4.

"*Indemnitees*" has the meaning specified in Section 12.4.

"*Independent Financial Advisor*" means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of the Borrower, qualified to perform the task for which it has been engaged and that is independent of the Borrower and its Affiliates.

"*Information*" has the meaning specified in Section 12.19.

"*Intellectual Property Security Agreements*" has the meaning specified in the Security Agreement.

"*Intercompany Subordination Agreement*" means an agreement executed by each Loan Party and each Restricted Subsidiary of the Borrower and the other Loan Parties, in substantially the form of Exhibit K, as amended, restated, supplemented or otherwise modified from time to time.

"*Interest Period*" means, as to each Eurocurrency Rate Loan, the period commencing on the date such Eurocurrency Rate Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan and ending on the date one, two, three or six months thereafter, or to the extent consented to by each applicable Lender, twelve months (or such period of less than one month as may be consented to by each applicable Lender), as selected by the Borrower in its Notice of Borrowing or Notice of Conversion or Continuation; provided that:

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

(b) any Interest Period (other than an Interest Period having a duration of less than one month) that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period shall extend beyond the applicable Scheduled Termination Date of the Class of Loans of which the Eurocurrency Rate Loan is a part.

"*Interpolated Rate*" means, in relation to the LIBO Rate, the rate which results from interpolating on a linear basis between:

(a) the applicable LIBO Rate for the longest period (for which that LIBO Rate is available) which is less than the Interest Period of that Loan; and

(b) the applicable LIBO Rate for the shortest period (for which that LIBO Rate is available) which exceeds the Interest Period of that Loan,

each as of approximately 11:00 a.m. (London, England time) two Business Days prior to the commencement of such Interest Period of that Loan.

"*Inventory*" has the meaning given to such term in Article 9 of the UCC.

"*Inventory Advance Rate*" means 90%.

"*Inventory Appraisal*" has the meaning specified in Section 7.4.

["*Inventory Reserves*" means (a) such reserves as may be established from time to time by the Administrative Agent, in its Permitted Discretion, with respect to changes in the determination of the saleability, at retail, of the Eligible Inventory or which reflect such other factors as negatively affect the market value of the Eligible Inventory, (b) such reserves as may be established from time to time by the Administrative Agent, in its Permitted Discretion, with respect to the closing of any Store (including, without limitation, in respect to transportation and refurbishment costs and expenses), the termination of any Store lease or a proposed going out of business sale at any Store, in each case, to the extent (i) a third party, liquidator, processor, agent, advisor or other representative has been engaged by any Loan Party in connection with the foregoing, (ii) the sale of any Inventory related thereto is being conducted by or through any third party, lquidator, processor, agent, or other Person who is not a Loan Party, or (iii) such Store closures, termination of Store leases or proposed going out of business sale at such Stores (or series of related transactions) affect ten percent (10%) or more of the number of the Loan Parties' Stores as of the last day of the twelve month period most recently ended, and (c) Shrink Reserves.]

"*Investment*" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition (including without limitation by merger or otherwise) of Equity Interests or debt or other securities of another Person, (b) a loan, advance or capital contribution (excluding accounts receivable, credit card and debit card receivables, trade credit, advances to customers, commission, travel and similar advances to employees, directors, officers, members of management, manufacturers and consultants, in each case made in the Ordinary Course of Business) to, Guarantee or assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person or (c) the purchase or other acquisition (in one transaction or a series of transactions, including without limitation by merger or otherwise) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. For purposes of the definition of "Unrestricted Subsidiary" and the covenants described under Section 8.3:

(1) "Investments" shall include the portion (proportionate to the Borrower's Equity Interest in such Subsidiary) of the fair market value of the net assets of a Subsidiary of the Borrower at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Borrower shall be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary in an amount (if positive) equal to:

(a) the Borrower's "Investment" in such Subsidiary at the time of such redesignation; less

(b) the portion (proportionate to the Borrower's Equity Interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its fair market value at the time of such transfer.

The amount of any Investment outstanding at any time (including for purposes of calculating the amount of any Investment outstanding at any time under any provision of the covenant described Section 9.2 and otherwise determining compliance with such covenant) shall be the original cost of such Investment (determined, in the case of any Investment made with assets of the Borrower or any Restricted Subsidiary, based on the fair market value of the assets invested and without taking into account subsequent increases or decreases in value), reduced (but not in excess of the original amount of such Investment) by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash by the Borrower or a Restricted Subsidiary in respect of such Investment. Any Investment in the form of a loan or an advance shall be the principal amount thereof outstanding on such date, minus any cash payments actually received by such investor representing interest in respect of such Investment (to the extent any such payment to be deducted does not exceed the remaining principal amount of such Investment), but without any adjustment for write-downs or write-offs (including as a result of forgiveness of any portion thereof) with respect to such loan or advance after the date thereof. Any Investment in the form of a Guarantee shall be equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof.

"*Investment Grade Rating*" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P, or an equivalent rating by any other nationally recognized statistical rating agency selected by the Borrower.

"*IP Rights*" has the meaning specified in Section 5.15.

"*IRS*" means the Internal Revenue Service of the United States.

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

"*Issue*" means, with respect to any Letter of Credit, to issue, extend the expiry of, amend, renew or increase the maximum face amount (including by deleting or reducing any scheduled decrease in such maximum face amount) of, such Letter of Credit. The terms "Issued", "Issuing" and "Issuance" shall have a corresponding meaning.

"*Issuer*" means Barclays and each other Lender or Affiliate of a Lender that (a) is listed on the signature pages hereof as an "Issuer" and (b) hereafter becomes an Issuer with the approval of the Administrative Agent and the Borrower by agreeing pursuant to an agreement with and in form and substance satisfactory to the Administrative Agent and the Borrower to be bound by the terms hereof applicable to Issuers (and in the case of any resignation, subject to and

in accordance with Section 12.2(h)). Notwithstanding anything herein to the contrary, neither Barclays nor any of its branches or Affiliates shall be required to issue any commercial or documentary letters of credit hereunder.

"*Issuer Documents*" means, with respect to any Letter of Credit, the Letter of Credit Request, and any other document, agreement and instrument entered into by an Issuer and the Borrower (or any of its Subsidiaries) or in favor of such Issuer and relating to such Letter of Credit.

"*Joint Venture*" means (a) any Person which would constitute an "equity method investee" of the Borrower or any of the Restricted Subsidiaries and (b) any Person in whom the Borrower or any of the Restricted Subsidiaries beneficially owns any Equity Interest that is not a Restricted Subsidiary (other than an Unrestricted Subsidiary).

"*Judgment Currency*" has the meaning specified in Section 12.10.

"*Junior Financing*" has the meaning specified in Section 9.12(a)(i).

"*Junior Financing Documentation*" means any documentation governing any Junior Financing.

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

"*Landlord Lien State*" means any state in which, at any time, a landlord's claim for rent has priority notwithstanding any contractual provision to the contrary by operation of applicable Law over the lien of the Collateral Agent in any of the Collateral.

"*Latest Maturity Date*" means, at any date of determination, the latest Scheduled Termination Date applicable to any Loan or Revolving Credit Commitment hereunder at such time, including the latest termination date of any Extended Revolving Credit Commitment or New Revolving Credit Commitment, as applicable, as extended in accordance with this Agreement from time to time.

"*Laws*" means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities and executive orders, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority.

"*Lender*" means the Swing Loan Lender, Revolving Credit Lender and each other financial institution or other entity that (a) is listed on the signature pages hereof as a "Lender" or (b) from time to time becomes a party hereto by execution of an Assignment and Assumption or, in connection with a Revolving Commitment Increase, an Incremental Amendment or, in connection with an Extended Revolving Credit Commitment, a New Revolving Credit Commitment or an Extension Amendment.

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

"*Letter of Credit*" means any letter of credit Issued (or deemed Issued) pursuant to Section 2.4. A Letter of Credit may be a Documentary Letter of Credit or a Standby Letter of Credit. The Existing Letters of Credit shall constitute Letters of Credit hereunder.

"*Letter of Credit Borrowing*" means an extension of credit resulting from a drawing under any Letter of Credit that has not been reimbursed on the applicable Reimbursement Date or refinanced as a Revolving Loan.

"*Letter of Credit Fee*" has the meaning specified in Section 2.12(b).

"*Letter of Credit Obligations*" means, at any time, the aggregate of all liabilities at such time of any Loan Party to all Issuers with respect to Letters of Credit, whether or not any such liability is contingent, including, without duplication, the sum of (a) the Reimbursement Obligations at such time and (b) the Letter of Credit Undrawn Amounts at such time.

"*Letter of Credit Reimbursement Agreement*" has the meaning specified in clause (v) of the proviso to clause (a) of Section 2.4.

"*Letter of Credit Request*" has the meaning specified in Section 2.4(c).

"*Letter of Credit Sublimit*" means the lesser of (i) $30,000,000 and (ii) the principal amount of Barclays' Revolving Credit Commitment. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Credit Commitments.

"*Letter of Credit Undrawn Amounts*" means, at any time, the aggregate undrawn face amount of all Letters of Credit outstanding at such time.

"*LIBO Rate*" has the meaning specified in the definition of "Eurocurrency Rate".

"*Lien*" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capitalized Lease having substantially the same economic effect as any of the foregoing); provided, that in no event shall an operating lease in and of itself be deemed a Lien.

"*Lien Acknowledgment Agreement*" means each Collateral Access Agreement and Customs Broker Agreement.

"*Liquidation*" means the exercise by the Collateral Agent or the Administrative Agent of those rights and remedies accorded to the Collateral Agent or the Administrative Agent under the Loan Documents and applicable Law as a creditor of the Loan Parties with respect to the realization on the Collateral, including (after the occurrence and continuation of an Event of Default) the conduct by the Loan Parties acting with the consent of the Collateral Agent or the

Administrative Agent, of any public, private or "going out of business" sale or other disposition of the Collateral for the purpose of liquidating the Collateral. Derivations of the word "Liquidation" (such as "Liquidate") are used with like meaning in this Agreement.

"*Loan*" means any loan made by any Lender pursuant to this Agreement, including Swing Loans and any Loans made in respect of any Revolving Commitment Increase.

"*Loan Documents*" means, collectively, (a) this Agreement, (b) the Revolving Credit Notes, (c) any Incremental Amendment and any Extension Amendment, (d) the Guaranty, (e) the Commitment Letter, (f) the Fee Letter (solely as it pertains to the revolving credit facility established under this Agreement), (g) each Letter of Credit Reimbursement Agreement, (h) the Collateral Documents, (i) the Issuer Documents, (j) any Customary Intercreditor Agreement, (k) the Borrowing Base Certificates, (l) the Parent Pledge Agreement and (m) the ABL/Term Intercreditor Agreement.

"*Loan Parties*" means, collectively, (a) Holdings, (b) the Borrower and (c) each other Guarantor.

"*Margin Stock*" has the meaning set forth in Regulation U of the Board of Governors of the United States Federal Reserve System, or any successor thereto.

"*Master Agreement*" has the meaning specified in the definition of "Swap Contract".

"*Material Adverse Effect*" means any event, circumstance or condition that has had a materially adverse effect on (a) the business, operations, assets, liabilities (actual or contingent) or financial condition of the Loan Parties, taken as a whole, (b) the ability of the Loan Parties (taken as a whole) to perform their respective payment obligations under any Loan Document to which any of the Loan Parties is a party or (c) the rights and remedies of the Lenders, the Collateral Agent, the Administrative Agent, or any other Agent under any Loan Document.

"*Material Domestic Subsidiary*" means, at any date of determination, each of the Loan Parties' Domestic Subsidiaries (a) whose total assets at the last day of the most recent Test Period were equal to or greater than 2.5% of Total Assets at such date or (b) whose gross revenues for such Test Period were equal to or greater than 2.5% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such period, in each case determined in accordance with IFRS; *provided* that if, at any time and from time to time after the Closing Date, Domestic Subsidiaries that are not Guarantors solely because they do not meet the thresholds set forth in clauses (a) or (b) comprise in the aggregate more than 5.0% of Total Assets as of the end of the most recently ended Fiscal Quarter of the Borrower for which financial statements have been delivered pursuant to Section 7.1 or more than 5.0% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for the period of four consecutive Fiscal Quarters ending as of the last day of such Fiscal Quarter, then the Loan Parties shall, not later than forty-five (45) days after the date by which financial statements for such quarter are required to be delivered pursuant to this Agreement (or such longer period as may be agreed by the Administrative Agent in its reasonable discretion), (i) designate in writing to the Administrative Agent one or more of such Domestic Subsidiaries as "Material Domestic

Subsidiaries" to the extent required such that the foregoing condition ceases to be true and (ii) comply with the provisions of Sections 8.11, 8.12 and 8.13 applicable to such Subsidiary.

"*Material Foreign Subsidiary*" means, at any date of determination, each of the Loan Parties' Foreign Subsidiaries (a) whose total assets at the last day of the most recent Test Period were equal to or greater than 2.5% of Total Assets at such date or (b) whose gross revenues for such Test Period were equal to or greater than 2.5% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such period, in each case determined in accordance with IFRS.

"*Material Real Property*" means any fee-owned real property located in the United States that is owned by any Loan Party with a fair market value in excess of $5,000,000 (at the Closing Date or, with respect to fee-owned real property located in the United States acquired after the Closing Date, at the time of acquisition), or such larger amount (x) not to exceed $10,000,000 as may be approved by the Administrative Agent in its Permitted Discretion or (y) in excess of $10,000,000 as may be approved by the Required Lenders.

"*Material Subsidiary*" means any Material Domestic Subsidiary or any Material Foreign Subsidiary.

"*Mattress Firm Card*" means the private label credit card issued by Synchrony Bank pursuant to the Credit Card Agreement of the Borrower or any Subsidiary Guarantor with such bank (or any subsequent Credit Card Issuer with respect to such private label credit card) to customers or prospective customers of the Borrower or a Subsidiary Guarantor.

"*Mattress Firm Card Receivables*" means, collectively, but without duplication, (a) all present and future rights of the Borrower or any Guarantor to payment from the issuer of the Mattress Firm Card arising from sales of goods or rendition of services to customers who have purchased such goods or services using the Mattress Firm Card and (b) all present and future rights of the Borrower or any Guarantor to payment from the issuer of the Mattress Firm Card in connection with the sale or transfer of Accounts arising pursuant to the sale of goods or rendition of services to customers who have purchased such goods or services using the Mattress Firm Card, including, but not limited to, all amounts at any time due or to become due from the issuer of the Mattress Firm Card under the Credit Card Agreement of the Borrower or any Subsidiary Guarantor with such issuer or otherwise, in each case above calculated net of prevailing interchange charges.

"*Maximum Capital Expenditures*" has the meaning specified in Section 6.3.

"*Maximum Credit*" means, at any time, the lesser of (i) the Revolving Credit Commitments in effect at such time and (ii) the Borrowing Base at such time.

"*Maximum Rate*" has the meaning specified in Section 12.27.

"*Minimum Liquidity*" has the meaning specified in Section 6.2.

"*Monthly Borrowing Base Certificate*" shall have the meaning specified in Section 7.4(a).

"*Moody's*" means Moody's Investors Service, Inc. and any successor thereto.

"*Mortgage Policies*" has the meaning specified in paragraph (e) of the definition of "Collateral and Guarantee Requirement".

"*Mortgaged Properties*" has the meaning specified in paragraph (e) of the definition of "Collateral and Guarantee Requirement".

"*Mortgages*" means, collectively, the deeds of trust, trust deeds, hypothecs and mortgages made by the Loan Parties in favor or for the benefit of the Collateral Agent on behalf of the Lenders in form and substance reasonably satisfactory to the Collateral Agent (taking account of relevant local Law matters), and any other mortgages executed and delivered pursuant to Sections 8.11or 8.13.

"*Multiemployer Plan*" means any multiemployer plan as defined in Section 4001(a)(3) of ERISA and subject to Title IV of ERISA, to which any Loan Party or any of their respective ERISA Affiliates makes or is obligated to make contributions, or during the preceding five plan years has made or been obligated to make contributions.

"*Net Cash Proceeds*" means:

(a) with respect to (x) the Disposition of any asset by the Borrower or any of the Restricted Subsidiaries or (y) with respect to any casualty or condemnation event, (i) insurance proceeds paid on account of any loss of or damage to or (ii) awards of compensation arising from the taking by eminent domain or condemnation of, in each case, any assets of the Borrower or any of the Restricted Subsidiaries (any such event in this clause (y), a "*C&C Event*"), the excess, if any, of (i) the sum of cash and Cash Equivalents received by the Borrower or any of the Restricted Subsidiaries in connection with such Disposition (including any cash and Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) or C&C Event, as applicable, over (ii) the sum of (A) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness that is secured by the asset subject to such Disposition or C&C Event and that is required to be repaid in connection with such Disposition or C&C Event (other than Indebtedness under the Loan Documents), (B) the out-of-pocket fees and expenses (including attorneys' fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees) actually incurred by the Borrower or such Restricted Subsidiary in connection with such Disposition or C&C Event, (C) taxes paid or reasonably estimated to be payable, in connection therewith (including any tax distribution pursuant to Section 9.6(g)(A) and any taxes imposed on the distribution or repatriation of any such Net Cash Proceeds), (D) in the case of any Disposition or C&C Event by a non-wholly owned Restricted Subsidiary, the pro-rata portion of the Net Cash Proceeds thereof (calculated without regard to this clause (D)) attributable to minority interests and not available for distribution to or for the account of the Borrower or a wholly owned Restricted Subsidiary as a result thereof, and (E) any reserve for adjustment in respect of (x) the sale

price of such asset or assets established in accordance with IFRS and (y) any liabilities associated with such asset or assets and retained by the Borrower or any Restricted Subsidiary after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction, it being understood that "Net Cash Proceeds" shall include the amount of any reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in this clause (E) as of the date of such reversal; and

(b) (i) with respect to the incurrence or issuance of any Indebtedness by the Borrower or any Restricted Subsidiary or any Permitted Equity Issuance by the Borrower or any direct or indirect parent of the Borrower, the excess, if any, of (A) the sum of the cash and Cash Equivalents received in connection with such incurrence or issuance over (B) the investment banking fees, underwriting discounts, commissions, costs and other out-of-pocket expenses and other customary expenses, incurred by the Borrower or such Restricted Subsidiary in connection with such incurrence or issuance and (ii) with respect to any Permitted Equity Issuance by any direct or indirect parent of the Borrower, the amount of cash from such Permitted Equity Issuance contributed to the capital of the Borrower.

"*Net Income*" means, with respect to any Person, the net income (loss) of such Person, determined in accordance with IFRS and before any reduction in respect of preferred stock dividends.

"*Net Recovery Percentage*" means the fraction, expressed as a percentage, (a) the numerator of which is the amount equal to the recovery on the aggregate amount of the Inventory at such time on a "going out of business sale" basis as set forth in the most recent appraisal of Inventory received by the Administrative Agent in accordance with Section 7.4, net of operating expenses, liquidation expenses and commissions, and (b) the denominator of which is the applicable original cost of the aggregate amount of the Inventory subject to appraisal. The Net Recovery Percentage for any category of Inventory used in determining the Borrowing Base shall be based on the applicable percentage in the most recent appraisal conducted as set forth in Section 7.4. The foregoing to the contrary notwithstanding, until such time as the Administrative Agent shall have received the results of any Inventory Appraisal conducted after the Closing Date, the Net Recovery Percentage shall be (i) for January 2019, [•]%, (ii) for February 2019, [•]% and (iii) for any month thereafter, the percentage set forth for any such applicable month in the Hilco Inventory Appraisal of Mattress Firm, Inc. dated August 4, 2018.

"*New Revolving Commitment Lenders*" has the meaning specified in Section 2.17(c).

"*New Store*" means, with respect to any Person for any period, any newly constructed store that is in operation on the last day of such period, but that has not been in operation for more than eleven (11) full fiscal months, and that is owned by such Person or any of its Restricted Subsidiaries.

"*Non-Bank Certificate*" has the meaning specified in Section 3.1(b).

"*Non-Consenting Lender*" has the meaning specified in Section 3.7.

"*Non-Loan Party*" means any Subsidiary of the Borrower that is not a Loan Party.

"*Notice of Borrowing*" has the meaning specified in Section 2.2(a).

"*Notice of Conversion or Continuation*" has the meaning specified in Section 2.11(a).

"*Notice of Intent to Cure*" has the meaning specified in Section 7.2.

"*Obligations*" means all (a) advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding, (b) obligations of any Loan Party arising under any Secured Hedge Agreement and (c) obligations of any Loan Party arising under any Cash Management Obligations, other than, in each case, Excluded Swap Obligations. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and any of their Restricted Subsidiaries to the extent they have obligations under the Loan Documents) include the obligation (including guarantee obligations) to pay principal, interest, Letter of Credit, reimbursement obligations, charges, expenses, fees, Attorney Costs, indemnities and other amounts payable by any Loan Party under any Loan Document; *provided* that obligations under Secured Hedge Agreements and Cash Management Obligations shall not also constitute Term Loan Obligations.

"*OFAC*" has the meaning specified in the definition of "Sanctions".

"*OID*" means original issue discount.

"*Ordinary Course of Business*" shall mean, with respect to any Person, any ordinary course business practices engaged in by such Person or other business practice reasonably related thereto or that is a reasonable extension, development or expansion thereof.

"*Organization Documents*" means (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"*Other Taxes*" has the meaning specified in Section 3.1(h).

"*Outstanding Amount*" means (a) with respect to the Revolving Loans and Swing Loans on any date, the amount thereof after giving effect to any borrowings and prepayments or repayments of Revolving Loans (including any refinancing of Letter of Credit Obligations as a Revolving Loan) and Swing Loans, as the case may be, occurring on such date; and (b) with respect to any Letter of Credit Obligations on any date, the amount thereof on such date after giving effect to any related extension of any Letter of Credit occurring on such date and any other changes thereto as of such date, including as a result of any reimbursements of outstanding Letter of Credit Obligations (including any refinancing of outstanding Letter of Credit Obligations under related Letters of Credit or related extensions of any Letters of Credit as a Revolving Loan) or any reductions in the maximum amount available for drawing under related Letters of Credit taking effect on such date.

"*Overnight Rate*" means, for any day, the greater of (a) the Federal Funds Rate and (b) an overnight rate determined by the Administrative Agent, an Issuer, or the Swing Loan Lender, as applicable, in accordance with banking industry rules on interbank compensation.

"*Parent*" means Stripes US Holding, Inc.

"*Parent Guarantors*" means (a) the Parent, (b) Mattress Firm Holding Corp., (c) Mattress Holdco, Inc., and (d) any entity that becomes Subsidiary of any of the foregoing after the Closing Date and is a direct, or indirect, parent of the Borrower.

"*Parent Pledge Agreement*" means that certain Pledge Agreement, dated as of [•], 2018, by and among Steinhoff Europe AG, the Collateral Agent and the other Pledgors (as defined therein), as may be amended from time to time.

"*Participant*" has the meaning specified in Section 12.2(d).

"*Participant Register*" has the meaning specified in Section 12.2(e).

"*Participating Member State*" means each state so described in any EMU Legislation.

"*Payment Conditions*" means, at any time of determination, that:

(a) no Default or Event of Default exists or would arise as a result of the making of the subject payment of Junior Financing,

(b) the Parent Guarantors, Holdings, the Borrower and its Restricted Subsidiaries' Fixed Charge Coverage Ratio as of the end of the most recently ended trailing twelve month period for which financial statements have been or are required to have been delivered pursuant to Section 7.1(a) or (b) shall be greater than or equal to 1.10 to 1.00 after giving Pro Forma Effect to such payment of Junior Financing as if such payment of Junior Financing (if applicable to such calculation) had been made as of the first day of such Test Period,

(c) the Revolving Credit Outstandings (other than Letter of Credit Obligations in respect of undrawn Letters of Credit) immediately after giving effect to the making of such payment of Junior Financing shall be $0,

(d) the Borrower shall have Excess Availability of not less than $50,000,000 on a Pro Forma Basis after giving effect to such payment of Junior Financing,

and, in each case, the Borrower shall have delivered to the Administrative Agent a certificate from a Responsible Officer of the Borrower, certifying that the conditions contained in the foregoing clauses (a) through (d) have been satisfied, with reasonably detailed supporting calculations with respect to clauses (b) and (d) thereto.

"*Payroll Account*" shall mean any Deposit Account used by the Loan Parties solely and exclusively for the purpose of making payroll, other employee wage and benefit payments to employees and withholding tax payments on behalf of employees.

"*PBGC*" means the Pension Benefit Guaranty Corporation.

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

"*Permitted Acquisition*" means the purchase or other acquisition by Borrower or any of its Restricted Subsidiaries of property and assets or businesses of any Person or of assets constituting a business unit, a line of business or division of such Person, a Store or Equity Interests in a Person that, upon the consummation thereof, will be a wholly owned Restricted Subsidiary of the Borrower (including as a result of a merger or consolidation); *provided* that no Default or Event of Default shall exist, or would result therefrom.

"*Permitted Discretion*" means a determination made by the Administrative Agent or the Collateral Agent (as applicable) in good faith in the exercise of its reasonable (from the perspective of an asset-based lender) business judgment.

"*Permitted Equity Issuance*" means any sale or issuance of any Qualified Equity Interests of the Borrower or any direct or indirect parent of the Borrower (in which case the Net Cash Proceeds have been received by the Borrower as cash common equity), in each case to the extent permitted hereunder.

"*Permitted Holders*" means (i) Steinhoff International Holdings N.V. and any direct or indirect wholly owned subsidiary thereof and (ii) any Person party to the Shareholders Agreement as a Lender Stockholder (as defined in the Shareholder Agreement as of the date hereof) as of the Closing Date (and, with respect to any Permitted Holder under this clause (ii), such Person's Affiliates and any Person that is administered, advised or managed by (A) such Permitted Holder, (B) an Affiliate of such Permitted Holder or (C) an entity or an Affiliate of an entity that administers, advises or manages such Permitted Holder).

"*Permitted Refinancing*" means, with respect to any Person, any modification, refinancing, refunding, renewal or extension of any Indebtedness of such Person; provided that (a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal

amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, renewed or extended except by an amount equal to unpaid accrued interest and premium (including tender premiums) thereon, plus other amounts owing or paid related to such Indebtedness plus other fees and expenses reasonably incurred, in each case, in connection with such modification, refinancing, refunding, renewal or extension and by an amount equal to any existing commitments unutilized thereunder, (b) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Sections 9.3(b) or 9.3(e), such modification, refinancing, refunding, renewal or extension has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, renewed or extended, (c) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 9.3(e), at the time thereof, no Event of Default shall have occurred and be continuing, (d) if the Indebtedness being modified, refinanced, refunded, renewed, replaced, exchanged or extended is (i) unsecured, such modification, refinancing, refunding, renewal, replacement, exchange or extension is unsecured, or (ii) secured by Liens on the Collateral, such modification, refinancing, refunding, replacement, renewal or extension is either unsecured or secured to the same extent, including with respect to any subordination provisions, and subject to intercreditor arrangements reasonably satisfactory to the Administrative Agent and (e) if such Indebtedness being modified, refinanced, refunded, renewed, replaced or extended is Junior Financing, (i) to the extent such Indebtedness being modified, refinanced, refunded, renewed, replaced or extended is subordinated in right of payment to the Obligations, such modification, refinancing, refunding, renewal, replacement or extension is subordinated in right of payment to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, renewed or extended, (ii) the terms and conditions (including, if applicable, as to collateral security therefor but excluding as to subordination, pricing, premiums and optional prepayment or redemption provisions) of any such modified, refinanced, refunded, renewed or extended Indebtedness, taken as a whole, are not materially less favorable to the Loan Parties or the Lenders than the terms and conditions of the Indebtedness being modified, refinanced, refunded, renewed or extended; provided that a certificate of a Responsible Officer delivered to the Administrative Agent at least five Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Borrower within five Business Days that it disagrees with such determination (including a description of the basis upon which it disagrees) and (iii) such modification, refinancing, refunding, renewal or extension is incurred by the Person who is the obligor of the Indebtedness being modified, refinanced, refunded, renewed or extended and no additional obligors become liable for such Indebtedness. Any reference to a Permitted Refinancing in this Agreement or any other Loan Document shall be interpreted to mean (a) a Permitted Refinancing of the subject Indebtedness and (b) any further refinancings constituting a Permitted Refinancing of the Indebtedness resulting from a prior Permitted Refinancing.

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

"*Petition Date*" means October 5, 2018.

"*Plan*" means any material "employee benefit plan" (as such term is defined in Section 3(3) of ERISA, whether or not such plan is subject to ERISA) established or contributed to by any Loan Party or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any of their respective ERISA Affiliates.

"*Platform*" has the meaning specified in Section 7.2.

"*Pledged Debt*" has the meaning specified in the Security Agreement.

"*Pledged Equity*" has the meaning specified in the Security Agreement.

"*Pro Forma Basis*" and "Pro Forma Effect" mean, with respect to compliance with any test or covenant or calculation hereunder, the determination or calculation of such test, covenant or ratio (including in connection with Specified Transactions) in accordance with Section 1.9.

"*Proceeds*" has the meaning given to such term in Article 9 of the UCC.

"*Projections*" shall have the meaning specified in Section 7.1(d).

"*Protective Advances*" means an overadvance made or deemed to exist by the Administrative Agent, in its discretion, which:

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

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

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

(d) together with all other Protective Advances then outstanding, shall not (i) exceed five percent (5%) of the Borrowing Base at any time or (ii) unless a Liquidation is taking place, remain outstanding for more than forty-five (45) consecutive Business Days, unless in each case, the Requisite Lenders otherwise agree.

"*PSA*" means that certain Plan Support Agreement, dated as of [•], 2018, among [__].

"*Public Company Costs*" means costs relating to compliance with the provisions of the Securities Act and the Exchange Act, in each case as applicable to companies with equity or debt securities held by the public, the rules of national securities exchange companies with listed equity or debt securities, directors' compensation, fees and expense reimbursement, costs relating to investor relations, shareholder meetings and reports to shareholders or debtholders, directors' and officers' insurance, listing fees and all executive, legal and professional fees related to the foregoing.

"*Public Lender*" has the meaning specified in Section 7.2.

"*Qualified Equity Interests*" means any Equity Interests that are not Disqualified Equity Interests.

"*Ratable Portion*", "*Pro Rata Share*", "*ratable share*" or (other than in the expression "equally and ratably") "*ratably*" means, with respect to each Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Revolving Credit Commitments and, if applicable and without duplication, Loans of such Lender under the applicable Class or Classes at such time and the denominator of which is the amount of the Aggregate Commitments and, if applicable and without duplication, Loans under the applicable Class or Classes at such time.

"*Receipts Variance Report*" has the meaning specified in Section 7.1(g).

"*Refinancing*" the Arranger shall have received evidence satisfactory to it of the repayment in full of obligations outstanding under the DIP ABL Credit Agreement and the DIP Term Loan Agreement (and of any other indebtedness for borrowed money outstanding (or commitments with respect thereto)), termination of the commitments thereunder and release of all liens granted thereunder (with such repayment in full, termination and release being evidenced by one or more payoff letters acceptable to the Arranger); provided, that, the letters of credit issued under the DIP ABL Credit Agreement shall constitute Existing Letters of Credit hereunder.

"*Register*" has the meaning specified in Section 12.2(c).

"*Reimbursement Date*" has the meaning specified in Section 2.4(h).

"*Reimbursement Obligations*" means, as and when matured, the obligation of any Loan Party to pay, on the date payment is made or scheduled to be made to the beneficiary under each such Letter of Credit (or at such other date as may be specified in the applicable Letter of Credit Reimbursement Agreement) and in the currency drawn (or in such other currency as may be specified in the applicable Letter of Credit Reimbursement Agreement), all amounts of each drafts and other requests for payments drawn under Letters of Credit, and all other matured reimbursement or repayment obligations of any Loan Party to any Issuer with respect to amounts drawn under Letters of Credit.

"*Related Indemnified Person*" of an Indemnitee means (a) any controlling person or controlled affiliate of such Indemnitee, (b) the respective directors, officers, or employees of such Indemnitee or any of its controlling persons or controlled affiliates and (c) the respective agents of such Indemnitee or any of its controlling persons or controlled affiliates, in the case of this clause (c), acting at the instructions of such Indemnitee, controlling person or such controlled affiliate; provided that each reference to a controlled affiliate or controlling person in this definition shall pertain to a controlled affiliate or controlling person involved in the negotiation or syndication of the Revolving Credit Commitments.

"*Reportable Event*" means, with respect to any Pension Plan, any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the thirty (30) day notice period has been waived under applicable regulation or guidance.

"*Requisite Class Lenders*" shall mean, with respect to any Class on any date of determination, Lenders having more than 50% of (i) the aggregate outstanding amount of the Revolving Credit Commitments of such Class or, after the Revolving Credit Termination Date, more than fifty percent (50%) of the aggregate Revolving Credit Outstandings of such Class; provided that the unused Revolving Credit Commitment of, and the portion of the Loans and outstanding Letters of Credit held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Requisite Class Lenders; provided, however, that, with respect any Class, at any time that there are at least two, but not more than three, Lenders in such Class that are not Affiliates or Approved Funds of one another, "Requisite Class Lenders" for such Class shall include at least two (2) Lenders that are not Affiliates or Approved Funds of one another.

"*Requisite Lenders*" means, collectively, Lenders having more than fifty percent (50%) of the aggregate outstanding amount of the Revolving Credit Commitments or, after the Revolving Credit Termination Date, more than fifty percent (50%) of the aggregate Revolving Credit Outstandings; *provided* that the unused Revolving Credit Commitment of, and the portion of the Loans and outstanding Letters of Credit held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Requisite Lenders; provided, however, that, at any time that there are at least two, but not more than three, Lenders that are not Affiliates or Approved Funds of one another, "Requisite Lenders" shall include at least two (2) Lenders that are not Affiliates or Approved Funds of one another.

"*Reserves*" means any Inventory Reserves and Availability Reserves.

"*Responsible Officer*" means the chief executive officer, president, vice president, chief financial officer, chief operating officer, chief administrative officer, secretary or assistant secretary, treasurer or assistant treasurer or other similar officer or Person performing similar functions of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party. Unless otherwise specified, all references herein to a "Responsible Officer" shall refer to a Responsible Officer of the Borrower.

"*Restricted Payment*" means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of the Loan Parties or any Restricted Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such Equity Interest, or on account of any return of capital to any Loan Party's or Restricted Subsidiary's stockholders, partners or members (or the equivalent Persons thereof).

"*Restricted Subsidiary*" means any Subsidiary of the Borrower other than an Unrestricted Subsidiary.

"*Revolving Commitment Increase*" has the meaning specified in Section 2.15(a).

"*Revolving Commitment Increase Lender*" has the meaning specified in Section 2.15(a).

"*Revolving Credit Commitment*" means, with respect to each Lender, the commitment of such Lender to make Loans and acquire interests in other Revolving Credit Outstandings expressed as an amount representing the maximum principal amount of the Loans to be made by such Lender under this Agreement, as such commitment may be (a) reduced from time to time pursuant to this Agreement and (b) reduced or increased from time to time pursuant to (i) assignments by or to such Lender pursuant to an Assignment and Assumption, (ii) a Revolving Commitment Increase, (iii) a New Revolving Credit Commitment or (iv) an Extension. The initial amount of each Lender's Revolving Credit Commitment is set forth on Schedule I under the caption "Revolving Credit Commitment," as amended to reflect each Assignment and Assumption, Incremental Agreement or Extension Amendment, in each case executed by such Lender. The aggregate amount of the Revolving Credit Commitment on the Closing Date was $125,000,000.

"*Revolving Credit Exposure*" means, as to each Lender, the sum of the Outstanding Amount of such Lender's Revolving Loans, its Pro Rata Share of the Letter of Credit Obligations and its Pro Rata Share of the Swing Loan Obligations at such time.

"*Revolving Credit Lender*" means each Lender that (a) has a Revolving Credit Commitment, (b) holds a Revolving Loan or (c) participates in any Letter of Credit.

"*Revolving Credit Note*" means a promissory note of the Borrower payable to any Revolving Credit Lender in a principal amount equal to the amount of such Lender's Revolving Credit Commitment evidencing the aggregate Indebtedness of the Borrower to such Lender resulting from the Loans of a given Class owing to such Lender.

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

"*Revolving Credit Termination Date*" means the earliest of (a) the Scheduled Termination Date, (b) the date of termination of all of the Revolving Credit Commitments pursuant to Section 2.5 and (c) the date on which the Obligations become due and payable pursuant to Section 10.2.

"*Revolving Loan*" has the meaning specified in Section 2.1(a).

"*S&P*" means Standard & Poor's Ratings Services, a division of S&P Global Inc., and any successor thereto.

"*Sale-Leaseback*" means any transaction or series of related transactions pursuant to which the Borrower or any of the Restricted Subsidiaries (a) sells, transfers or otherwise Disposes of any property, real or personal, whether now owned or hereafter acquired, and (b) as part of such transaction, thereafter rents or leases such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold, transferred or otherwise Disposed.

"*Same Day Funds*" means disbursements and payments in immediately available funds.

"*Sanctioned Country*" means, at any time, a country or territory which is the subject or target of any Sanctions (as of the date of this Agreement, Cuba, Iran, North Korea, Sudan and Syria).

"*Sanctioned Person*" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State and (b) any other Person operating or organized in a Sanctioned Country or controlled (as determined by applicable law) by any Person that is a Sanctioned Person.

"*Sanctions*" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("*OFAC*") or the U.S. Department of State.

"*Scheduled Termination Date*" means the date that is the earliest of (a) [__], 2021,[1] as may be extended pursuant to Section 12.1(b) or Section 2.17 hereof or (b) the date that is 91 days prior to the Scheduled Termination Date (as defined in the Term Loan Agreement), after giving effect to any extension of such date or waiver of the applicability thereof under the Term Loan Agreement.

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

"*Second Lien Credit Agreement*" means that certain Term Loan Agreement, dated as of March 26, 2018 by and among the Borrower, Holdings and Steinhoff Parent, as lender thereunder.

"*Secured Cash Management Agreement*" means any Cash Management Agreement that is entered into by and between the Borrower or any Subsidiary and any Cash Management Bank.

"*Secured Hedge Agreement*" means any Swap Contract permitted under Section 9.3(f) that is entered into by and between the Borrower or any Restricted Subsidiary and any Hedge Bank; and designated in writing by the Hedge Bank and the Borrower to the Administrative Agent as a "Secured Hedge Agreement".

[1] NTD: To be the date 36 months after the Closing Date.

"*Secured Obligations*" means, in the case of the Borrower, the Obligations and, in the case of any other Loan Party, the "Guaranteed Obligations" under the Guaranty and any of such Loan Party's other obligations under the other Loan Documents to which it is a party.

"*Secured Parties*" means, collectively, the Lenders, the Issuers, the Administrative Agent, the Collateral Agent, each Hedge Bank with respect to any Secured Hedge Agreement, each Cash Management Bank with respect to any Secured Cash Management Agreement, the Supplemental Administrative Agent and each co-agent or sub-agent (if any) appointed by the Administrative Agent from time to time pursuant to Section 11.5.

"*Securities Account*" means all securities accounts of any Loan Party, including "securities accounts" within the meaning given to such term in Article 8 of the UCC.

"*Securities Account Control Agreement*" means an effective securities account control agreement with an Approved Securities Intermediary, in each case in the form and substance reasonably satisfactory to the Administrative Agent.

"*Securities Act*" means the Securities Act of 1933, as amended.

"*Security*" means any Equity Interest, voting trust certificate, bond, debenture, note or other evidence of Indebtedness, whether secured, unsecured, convertible or subordinated, or any certificate of interest, share or participation in, any temporary or interim certificate for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing, but shall not include any evidence of the Obligations.

"*Security Agreement*" means, collectively, the Security Agreement executed by the Loan Parties, substantially in the form of Exhibit H, as amended, restated, supplemented or otherwise modified from time to time, together with each other Security Agreement Supplement executed and delivered pursuant to Section 8.11.

"*Security Agreement Supplement*" has the meaning specified in the Security Agreement.

"*Shareholders Agreement*" means the Stockholders Agreement of the Parent dated as of [●], 2018 between the Parent, Steinhoff Europe AG, and the Lender Stockholders (as defined therein).

"*Shrink Reserve*" means an amount reasonably estimated by the Administrative Agent to be equal to that amount which is required in order that the shrink reflected in current books and records of the Borrower and its Subsidiaries would be reasonably equivalent to the shrink calculated as part of the Borrower's most recent physical Inventory (it being understood and agreed that no Shrink Reserve established by the Administrative Agent shall be duplicative of any shrink as so reflected in the current books and records of the Borrower and its Subsidiaries or estimated by the Borrower for purposes of computing the Borrowing Base).

"*Solvent*" and "*Solvency*" mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the assets of such Person and its Restricted Subsidiaries, on a consolidated basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise, (b) the present fair saleable value of the property of such Person and its

Restricted Subsidiaries, on a consolidated basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured, (c) such Person and its Restricted Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured and (d) such Person and its Restricted Subsidiaries, on a consolidated basis, are not engaged in, and are not about to engage in, business for which they have unreasonably small capital. The amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability.

"*SPC*" has the meaning specified in Section 12.2(g).

"*Specified Secured Hedge Obligations*" means Obligations under any Secured Hedge Agreement which provides by its terms that such Obligations shall only be payable pursuant to Section 10.3 pursuant to clause "Ninth" thereof. Any applicable Hedge Bank may, with the consent of the Borrower, designate or cancel such designation of Obligations under any applicable Secured Hedge Agreement as "Specified Secured Hedge Obligations" by delivering notice in writing to the Administrative Agent of such designation or cancellation of designation.

"*Specified Transaction*" means (u) the Transaction, (v) any Investment that results in a Person becoming a Restricted Subsidiary, (w) any designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary, (x) any Permitted Acquisition and any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or a Store, (y) any Disposition that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Borrower, and any Disposition of a business unit, line of business or division or a Store of the Borrower or a Restricted Subsidiary, in each case whether by merger, consolidation, amalgamation or otherwise or (z) any incurrence or repayment of Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility or line of credit), Restricted Payment or Revolving Commitment Increase, in each case, that by the terms of this Agreement requires a financial ratio or test to be calculated on a "Pro Forma Basis" or after giving "Pro Forma Effect."

"*Standby Letter of Credit*" means any Letter of Credit that is not a Documentary Letter of Credit.

"*Steinhoff Parent*" means Steinhoff International Holdings, N.V.

"*Store*" means any retail store (which includes any real property, fixtures, equipment, Inventory and other property related thereto) operated, or to be operated, by the Borrower or any Restricted Subsidiary.

"*Stripes Intra-Group Loan Agreement*" means the Intra-Group Loan Agreement dated September 16, 2016 originally made by and among Stripes US Holding, Inc. as borrower and Steinhoff Finance Holding GMBH and Steinhoff Mobel Holding Alpha GMBH as lenders (as amended or supplemented from time to time prior to the Closing Date).

"*Stripes PIK Facility*" means that certain $150,000,000 unsecured term loan facility pursuant to that certain [PIK Term Loan Agreement], dated as of the date hereof by and among [ ], on substantially the terms and conditions set forth in Exhibit B-2 to the Commitment Letter, and in any event, otherwise in form and substance satisfactory to the Administrative Agent.

"*Subsidiary*" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity (excluding, for the avoidance of doubt, charitable foundations and any other Person that meets the requirements of Section 501(c)(3) of the Code) (i) of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned by such Person, or (ii) the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, by such Person, to the extent such entity's financial results are required to be included in such Person's consolidated financial statements under IFRS. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Borrower.

"*Subsidiary Guarantor*" means any Guarantor that is a Restricted Subsidiary of the Borrower.

"*Successor Borrower*" has the meaning specified in Section 9.4(d).

"*Supermajority Lenders*" means, as of any date of determination, Lenders having 66.67% or more of the sum of the (a) Revolving Credit Outstandings (with the aggregate principal amount of each Lender's risk participation and funded participation in Letter of Credit Obligations and Swing Loans being deemed "held" by such Lender for purposes of this definition) and (b) aggregate unused Revolving Credit Commitments; provided that the unused Revolving Credit Commitment of, and the portion of the Loans and outstanding Letters of Credit held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Supermajority Lenders; provided, however, that, at any time that there are at least two, but not more than three, Lenders that are not Affiliates or Approved Funds of one another, "Supermajority Lenders" shall include at least two (2) Lenders that are not Affiliates or Approved Funds of one another.

"*Supplemental Administrative Agent*" and "Supplemental Administrative Agents" have the meanings specified in Section 11.12(a).

"*Swap*" means any agreement, contract, or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act.

"*Swap Contract*" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any

combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "*Master Agreement*"), including any such obligations or liabilities under any Master Agreement.

"*Swap Obligation*" means, with respect to any person, any obligation to pay or perform under any Swap.

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

"*Swing Loan*" has the meaning specified in Section 2.3(a).

"*Swing Loan Lender*" means Barclays in its capacity as the Swing Loan Lender hereunder.

"*Swing Loan Obligations*" means, as at any date of determination, the aggregate Outstanding Amount of all Swing Loans.

"*Swing Loan Request*" has the meaning specified in Section 2.3(b).

"*Swing Loan Sublimit*" means the lesser of (a) $20,000,000 and (b) the aggregate principal amount of the Revolving Credit Commitments. The Swing Loan Sublimit is part of, and not in addition to, the Revolving Credit Commitments.

"*Taxes*" has the meaning specified in Section 3.1(a).

"*Term Agent*" means Barclays, as administrative agent for the holders of the Term Loans, together with any successor thereto or assignees of such role.

"*Term Collateral Proceeds Account*" means, as of any date of determination, any Deposit Account or Securities Account that satisfies the following conditions: (a) it solely and exclusively contains proceeds of Term Priority Collateral, and (b) it has been identified in advance in writing to the Administrative Agent as a Deposit Account or Securities Account that will be used solely and exclusively for holding proceeds of Term Priority Collateral.

"*Term Loan Agreement*" means that certain Term Loan Credit Agreement, dated as of [•], 2018, among the Borrower, the lenders party thereto, the Term Agent and the other parties

thereto, as amended and in effect from time to time in accordance with the terms of the ABL/Term Intercreditor Agreement and any refinancing or replacement thereof in whole or in part (in accordance with the terms of the ABL/Term Intercreditor Agreement).

"*Term Loan Documents*" means "Loan Documents" as such term in defined in the Term Loan Agreement.

"*Term Loan Obligations*" means "Obligations" as such term in defined in the Term Loan Agreement.

"*Term Loans*" has the meaning assigned to such term in the Term Loan Agreement.

"*Test Period*" in effect at any time means the most recent period of four consecutive Fiscal Quarters of the Borrower ended on or prior to such time (taken as one accounting period); *provided* that, prior to the first date that financial statements have been or are required to be delivered pursuant to Section 7.1(a) or (b), the Test Period in effect shall be the period of four consecutive Fiscal Quarters of the Borrower ended October **2**, 2018. A Test Period may be designated by reference to the last day thereof (i.e., the "October 2, 2018 Test Period" refers to the period of four consecutive Fiscal Quarters of the Borrower ended October 2, 2018), and a Test Period shall be deemed to end on the last day thereof.

"*Term Priority Collateral*" has the meaning given to such term in the ABL/Term Intercreditor Agreement.

"*Threshold Amount*" means $18,500,000.

"*Total Assets*" means the total assets of the Borrower and the Restricted Subsidiaries on a consolidated basis in accordance with IFRS, as shown on the most recent balance sheet of the Borrower delivered pursuant to Sections 7.1(a) or 7.1(b) or, for the period prior to the time any such statements are so delivered pursuant to Sections 7.1(a) or 7.1(b), the Pro Forma Financial Statements.

"*Transaction*" means, collectively, (a) the funding of the Loans on the Closing Date, if any, (b) the funding of the Term Loan under the Term Loan Agreement, (c) the funding (or deemed funding) of the loan under the Stripes PIK Facility, (d) the filing of the Chapter 11 Cases and the seeking confirmation and consummation of the Chapter 11 Plan, (e) the Refinancing and the prepayment of outstanding amounts under the Second Lien Credit Agreement and (f) the payment of the fees and expenses incurred in connection with any of the foregoing.

"*Transaction Expenses*" means any fees or expenses incurred or paid by any direct or indirect parent of the Borrower, the Borrower or any of its (or their) Subsidiaries in connection with the Transactions (including expenses in connection with close-out fees in connection with the termination of hedging transactions, if any, and payments to officers, employees and directors as change of control payments, severance payments, special or retention bonuses and charges for repurchase or rollover of, or modifications to, stock options and/or restricted stock), this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby.

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

"*Uniform Commercial Code*" or "*UCC*" means the Uniform Commercial Code or any successor provision thereof as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code or any successor provision thereof (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

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

"*Unrestricted Subsidiary*" means any Subsidiary of the Borrower designated by the Board of Directors of the Borrower as an Unrestricted Subsidiary pursuant to Section 8.3 subsequent to the Closing Date, in each case, until such Person ceases to be an Unrestricted Subsidiary of the Borrower in accordance with Section 8.3 or ceases to be a Subsidiary of the Borrower. There are no Unrestricted Subsidiaries as of the Closing Date.

"*Unused Commitment Fee*" has the meaning specified in Section 2.12(a).

"*U.S. Lender*" has the meaning specified in Section 3.1(d).

"*USA PATRIOT Act*" means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

"*Weighted Average Life to Maturity*" means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining scheduled installment, sinking fund, serial maturity or other required scheduled payments of principal, including payment at final scheduled maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (b) the then outstanding principal amount of such Indebtedness; provided, that for purposes of determining the Weighted Average Life to Maturity of any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended (the "*Applicable Indebtedness*"), the effects of any amortization or prepayments made on such Applicable Indebtedness prior to the date of the applicable modification, refinancing, refunding, renewal, replacement or extension shall be disregarded.

"*wholly owned*" means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (x) director's qualifying shares and (y) nominal shares issued to foreign nationals to the extent required by applicable Law) are owned by such Person and/or by one or more wholly owned Subsidiaries of such Person.

"*Withdrawal Liability*" means the liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"*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.

SECTION 1.2 Other Interpretive Provisions.

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) (i) The words "herein," "hereto," "hereof" and "hereunder" and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

(ii) References in this Agreement to an Exhibit, Schedule, Article, Section, clause or sub-clause refer (A) to the appropriate Exhibit or Schedule to, or Article, Section, clause or sub-clause in this Agreement or (B) to the extent such references are not present in this Agreement, to the Loan Document in which such reference appears,

(iii) The term "including" is by way of example and not limitation,

(iv) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form, and

(v) Unless otherwise expressly indicated herein, the words "above" and "below", when following a reference to a clause or a sub-clause of any Loan Document, refer to a clause or sub-clause within, respectively, the same Section or clause.

(c) The terms "Lender," "Issuer" and "Administrative Agent" include, without limitation, their respective successors.

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

(e) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(f) For purposes of determining compliance with any Section of Article IX at any time, except as otherwise expressly set forth herein, in the event that any Lien, Investment, Indebtedness (whether at the time of incurrence or upon application of all or a portion of the proceeds thereof), Disposition, Restricted Payment, Affiliate transaction, Contractual Obligation, or prepayment of Indebtedness meets the criteria of one or more than one of the categories of transactions permitted pursuant to any clause of such Sections, such transaction (or portion

thereof) at any time, shall be permitted under one or more of such clauses as determined by the Borrower in its sole discretion at such time.

(g) For the avoidance of doubt, any reference herein or in any Loan Document to an assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company or other entity whose jurisdiction of organization permits divisions of such entity, or an allocation of assets to a series of a limited liability company or other entity (or the unwinding of such a division or allocation), as if it were an assignment, sale or transfer, or similar term, as applicable, to a separate Person. Any division of a limited liability company or other entity whose jurisdiction of organization permits the formation of a series of such type of entity shall constitute a new separate Person hereunder (and each division of any limited liability company or other entity that is a Subsidiary, Restricted Subsidiary, Unrestricted Subsidiary, joint venture or any other like term shall also constitute such a Person), and such new Person shall be deemed to have been formed on the first date of its existence by the holders of its equity interests at such time.

SECTION 1.3 Accounting Terms.

All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, IFRS (or, if the Borrower has elected to report under GAAP, GAAP), except as otherwise specifically prescribed herein.

Notwithstanding any changes in GAAP or IFRS after the Closing Date, any lease of the Loan Parties and their Subsidiaries that would be characterized as an operating lease under GAAP or IFRS in effect on the Closing Date (whether such lease is entered into before or after the Closing Date) shall not constitute Indebtedness, Attributable Indebtedness or a Capitalized Lease Obligation under this Agreement or any other Loan Document as a result of such changes in GAAP or IFRS.

SECTION 1.4 Rounding.

Any financial ratios required to be satisfied in order for a specific action to be permitted under this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number)

SECTION 1.5 **[Reserved]**.

SECTION 1.6 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all appendices, exhibits and schedules thereto and all subsequent amendments, restatements, extensions, supplements and other modifications thereto (but only to the extent that such amendments, restatements, extensions, supplements and other modifications are permitted by any Loan

Document); and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

SECTION 1.7 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

SECTION 1.8 Timing of Payment of Performance. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day.

SECTION 1.9 Pro Forma Calculations.

(a) Notwithstanding anything to the contrary herein, financial ratios and tests, including the Fixed Charge Coverage Ratio and compliance with covenants determined by reference to Consolidated EBITDA, shall be calculated in the manner prescribed by this Section 1.9; provided that, notwithstanding anything to the contrary in clauses (b), (c), (d), (e) or (f) of this Section 1.9, (A) when calculating the Fixed Charge Coverage Ratio for purposes of determining actual compliance (and not compliance on a Pro Forma Basis) with Section 6.1, the events described in this Section 1.9 that occurred subsequent to the end of the applicable Test Period shall not be given pro forma effect and (B) when calculating any such ratio or test for purposes of the incurrence of any Indebtedness, cash and Cash Equivalents resulting from the incurrence of any such Indebtedness shall be excluded from the pro forma calculation of any applicable ratio or test. In addition, whenever a financial ratio or test is to be calculated on a pro forma basis, the reference to the "Test Period" for purposes of calculating such financial ratio or test shall be deemed to be a reference to, and shall be based on, the most recently ended Test Period for which financial statements have been delivered pursuant to Section 7.1(a) or (b), as applicable, for the relevant Test Period (except in the case of the Fixed Charge Coverage Ratio, in which case such incurrence, assumption, guarantee, redemption, repayment, retirement or extinguishment of Indebtedness will be given effect as if the same had occurred on the first day of the applicable Test Period).

(b) For purposes of calculating any financial ratio or test or compliance with any covenant determined by reference to Consolidated EBITDA or Total Assets, Specified Transactions (with any incurrence or repayment of any Indebtedness in connection therewith to be subject to clause (d) of this Section 1.9) that have been made (i) during the applicable Test Period or (ii) if applicable as described in clause (a) above, subsequent to such Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a pro forma basis assuming that all such Specified Transactions (and any increase or decrease in Consolidated EBITDA, Total Assets and the component financial definitions used therein attributable to any Specified Transaction) had occurred on the first day of the applicable Test Period (or, in the case of Total Assets, on the last day of the applicable Test Period). If since the beginning of any applicable Test Period any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into the Borrower or any of its Restricted Subsidiaries since the beginning of such Test Period shall have made any Specified Transaction that would have required adjustment pursuant to this Section

1.9, then such financial ratio or test (or Total Assets) shall be calculated to give pro forma effect thereto in accordance with this Section 1.9.

(c) In the event that the Borrower or any Restricted Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility unless such Indebtedness has been permanently repaid and not replaced), (i) during the applicable Test Period or (ii) subject to paragraph (a), subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then such financial ratio or test shall be calculated giving pro forma effect to such incurrence or repayment of Indebtedness, in each case to the extent required, as if the same had occurred on the last day of the applicable Test Period.

(d) Whenever pro forma effect is to be given to a Specified Transaction after the Closing Date, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Borrower and, other than Excess Availability calculations, may include, for the avoidance of doubt, the amount of "run-rate" cost savings, operating expense reductions and synergies resulting from or relating to any Specified Transaction (including the Transactions) which is being given pro forma effect that have been realized or are expected to be realized and for which the actions necessary to realize such cost savings, operating expense reductions and synergies are taken, committed to be taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Borrower) (calculated on a pro forma basis as though such cost savings, operating expense reductions and synergies had been realized on the first day of such period and as if such cost savings, operating expense reductions and synergies were realized during the entirety of such period and "run-rate" means the full recurring benefit for a period that is associated with any action taken, committed to be taken or with respect to which substantial steps have been taken or are expected to be taken (including any savings expected to result from the elimination of a public target's Public Company Costs) net of the amount of actual benefits realized during such period from such actions, and any such adjustments shall be included in the initial pro forma calculations of any financial ratios or tests (and in respect of any subsequent pro forma calculations in which such Specified Transaction is given pro forma effect) and during any applicable subsequent Test Period in which the effects thereof are expected to be realized) relating to such Specified Transaction; provided that (A) such amounts are reasonably identifiable and factually supportable in the good faith judgment of the Borrower, (B) such actions are taken, committed to be taken or with respect to which substantial steps have been taken or are expected to be taken no later than twelve (12) months after the date of such Specified Transaction, and (C) no amounts shall be added pursuant to this clause (d) to the extent duplicative of any amounts that are otherwise added back in computing Consolidated EBITDA (or any other components thereof), whether through a pro forma adjustment or otherwise, with respect to such period; *provided* that any increase to Consolidated EBITDA as a result of add backs pursuant to this Section 1.9(d) shall be subject to the limitation set forth in the final proviso of clause (vi), (xi) and (xii) of the definition of Consolidated EBITDA (including the cap set forth therein).

(e) [**Reserved]**.

(f) If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of the event for which the calculation of the Fixed Charge Coverage Ratio is made had been the applicable rate for the entire period (taking into account any interest hedging arrangements applicable to such Indebtedness); provided, in the case of repayment of any Indebtedness, to the extent actual interest related thereto was included during all or any portion of the applicable Test Period, the actual interest may be used for the applicable portion of such Test Period. Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a Responsible Officer of the Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with IFRS. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a London interbank offered rate, or other rate, shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Borrower or Restricted Subsidiary may designate.

SECTION 1.10 Currency Equivalents Generally.

(a) For purposes of determining compliance with Sections 9.1, 9.2 and 9.3 with respect to any amount of Indebtedness or Investment in a currency other than Dollars, no Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Indebtedness or Investment is incurred (so long as such Indebtedness or Investment, at the time incurred, made or acquired, was permitted hereunder).

(b) For purposes of determining the Fixed Charge Coverage Ratio, amounts denominated in a currency other than Dollars will be converted to Dollars at the currency exchange rates used in preparing the Borrower's financial statements corresponding to the Test Period with respect to the applicable date of determination and will, in the case of Indebtedness, reflect the currency translation effects, determined in accordance with IFRS, of Swap Contracts permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness.

ARTICLE II

THE FACILITY

SECTION 2.1 The Revolving Credit Commitments.

(a) On the terms and subject to the conditions contained in this Agreement, each Lender severally agrees to make loans in Dollars (each, a "*Revolving Loan*") to the Borrower from time to time on any Business Day during the period from the Closing Date until the Revolving Credit Termination Date in an aggregate principal amount at any time outstanding for all such loans by such Lender not to exceed such Lender's Revolving Credit Commitment; *provided, however*, that at no time shall any Lender be obligated to make a Revolving Loan in excess of such Lender's Ratable Portion of the Maximum Credit. Within the limits of the Revolving Credit Commitment of each Lender, amounts of Loans repaid may be reborrowed under this Section 2.1. The foregoing to the contrary notwithstanding, Borrower shall not be permitted to obtain, and no Lender shall be obligated to advance, a Revolving Loan at any time

after the seventh Business Day following the Closing Date, if Excess Availability is less than $40,000,000 and the Loan Parties have cash or Cash Equivalents in excess of $15,000,000 in the aggregate (other than Cash and Cash Equivalents in (A) any Payroll Account, but only to the extent that such amounts of Cash and Cash Equivalents are expected by the Borrower in good faith to be paid to employees within three Business Days of the applicable date of determination, or (B) any Deposit Account that is subject to a Deposit Account Control Agreement or any Securities Account that is subject to a Securities Account Control Agreement).

(b) Subject to the limitations set forth below (and notwithstanding anything to the contrary in Section 4.2), the Administrative Agent is authorized by the Borrower and the Lenders, from time to time in the Administrative Agent's sole discretion (but shall have absolutely no obligation), to make Revolving Loans to the Borrower, on behalf of all Lenders at any time that any condition precedent set forth in Section 4.2 has not been satisfied or waived, which the Administrative Agent, in its Permitted Discretion, deems necessary or desirable for the purposes specified in the definition of "Protective Advances". Any Protective Advance may be made in a principal amount that would cause the aggregate Revolving Credit Exposure to exceed the Borrowing Base; provided that the aggregate amount of outstanding Protective Advances plus the aggregate of all other Revolving Credit Exposure shall not exceed the Aggregate Commitments. Protective Advances may be made even if the conditions precedent set forth in Section 4.2 have not been satisfied or waived. Each Protective Advance shall be secured by the Liens in favor of the Collateral Agent in and to the Collateral and shall constitute Obligations hereunder. The Administrative Agent's authorization to make Protective Advances may be revoked at any time by the Requisite Lenders. Any such revocation must be in writing and shall become effective prospectively upon the Administrative Agent's receipt thereof. The making of a Protective Advance on any one occasion shall not obligate the Administrative Agent to make any Protective Advance on any other occasion. At any time that the conditions precedent set forth in Section 4.2 have been satisfied or waived, the Administrative Agent may request the Lenders to make a Revolving Loan to repay a Protective Advance. At any other time, the Administrative Agent may require the Lenders to fund their risk participations described in Section 2.1(c).

(c) Upon the making of a Protective Advance by the Administrative Agent (whether before or after the occurrence of a Default), each Lender shall be deemed, without further action by any party hereto, unconditionally and irrevocably to have purchased from the Administrative Agent without recourse or warranty, an undivided interest and participation in such Protective Advance in proportion to its Applicable Percentage. From and after the date, if any, on which any Lender is required to fund its participation in any Protective Advance purchased hereunder, the Administrative Agent shall promptly distribute to such Lender, such Lender's Applicable Percentage of all payments of principal and interest and all proceeds of Collateral received by the Administrative Agent in respect of such Protective Advance.

(d) Each Borrowing shall be comprised entirely of Base Rate Loans or Eurocurrency Rate Loans as the Borrower may request in accordance herewith.

SECTION 2.2 Borrowing Procedure.

(a) Each Borrowing shall be made on notice given by the Borrower to the Administrative Agent (i) not later than 9:00 a.m. (New York, New York time) on the requested date of such Borrowing, in the case of a Borrowing of Base Rate Loans or (ii) not later than 12:00 noon (New York, New York time) three (3) Business Days prior to the requested date of such Borrowing, in the case of a Borrowing of Eurocurrency Rate Loans; *provided* that such notice may be delivered as provided in Section 4.1(a)(i) in the case of any Borrowing on the Closing Date. Each such notice shall be in substantially the form of Exhibit C (a "*Notice of Borrowing*"), specifying (A) the date of such proposed Borrowing, which shall be a Business Day, (B) the aggregate amount of such proposed Borrowing, (C) whether any portion of the proposed Borrowing will be of Base Rate Loans or Eurocurrency Rate Loans, (D) the initial Interest Period or Interest Periods for any Eurocurrency Rate Loans and (E) the Class of such proposed Borrowing. The Loans shall be made as Base Rate Loans, unless, subject to Section 2.14, the Notice of Borrowing specifies that all or a portion thereof shall be Eurocurrency Rate Loans. Each Borrowing shall be in an aggregate amount of not less than $500,000 or an integral multiple of $100,000 in excess thereof.

(b) The Administrative Agent shall give to each Appropriate Lender prompt notice of the Administrative Agent's receipt of a Notice of Borrowing and, if Eurocurrency Rate Loans are properly requested in such Notice of Borrowing, the applicable interest rate determined pursuant to Section 2.14(a). Each Lender shall, before 2:00 p.m. on the date of the proposed Borrowing, make available to the Administrative Agent at its address referred to in Section 12.8, in Same Day Funds in the applicable currency, such Lender's Ratable Portion of such proposed Borrowing. Upon fulfillment (or due waiver in accordance with Section 12.1) (i) on the Closing Date, of the applicable conditions set forth in Section 4.1 and (ii) at any time (including the Closing Date), of the applicable conditions set forth in Section 4.2, and, subject to clause (c) below, after the Administrative Agent's receipt of such funds, the Administrative Agent shall make such funds available to the Borrower as promptly as reasonably practicable.

(c) Unless the Administrative Agent shall have received notice from a Lender prior to the date of any proposed Borrowing that such Lender will not make available to the Administrative Agent such Lender's Ratable Portion of such Borrowing (or any portion thereof), the Administrative Agent may assume that such Lender has made such Ratable Portion available to the Administrative Agent on the date of such Borrowing in accordance with this Section 2.2 and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If and to the extent that such Lender shall not have so made such Ratable Portion available to the Administrative Agent, such Lender and the Borrower severally agrees to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Administrative Agent, at (i) in the case of the Borrower, the interest rate applicable at the time to the Loans comprising such Borrowing and (ii) in the case of such Lender, the Federal Funds Rate for the first Business Day and thereafter at the interest rate applicable at the time to the Loans comprising such Borrowing. If such Lender shall repay to the Administrative Agent such corresponding amount, such corresponding amount so repaid shall constitute such Lender's Loan as part of such Borrowing for purposes of this Agreement. If the Borrower shall repay to the Administrative Agent such corresponding amount, such payment shall not relieve such Lender of any obligation it may have hereunder to the Borrower.

(d) The failure of any Defaulting Lender to make on the date specified any Loan or any payment required by it, including any payment in respect of its participation in Swing Loans and Letter of Credit Obligations, shall not relieve any other Lender of its obligations to make such Loan or payment on such date but, except to the extent otherwise provided herein, no such other Lender shall be responsible for the failure of any Defaulting Lender to make a Loan or payment required under this Agreement.

(e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten (10) Interest Periods in effect unless otherwise agreed between the Borrower and the Administrative Agent; provided that after the establishment of any new Class of Loans pursuant to an Extension Amendment, the number of Interest Periods otherwise permitted by this Section 2.2(e) shall increase by three (3) Interest Periods for each applicable Class so established.

SECTION 2.3 Swing Loans.

(a) On the terms and subject to the conditions contained in this Agreement, the Swing Loan Lender shall make, in Dollars, loans (each, a "*Swing Loan*") otherwise available to the Borrower under the Revolving Credit Commitments from time to time on any Business Day during the period from the Closing Date until the Revolving Credit Termination Date in an aggregate principal amount at any time outstanding (together with the aggregate outstanding principal amount of any other Loan made by the Swing Loan Lender hereunder in its capacity as the Swing Loan Lender) not to exceed the Swing Loan Sublimit; provided, however, that at no time shall the Swing Loan Lender make any Swing Loan to the extent that, after giving effect to such Swing Loan, the aggregate Revolving Credit Outstandings would exceed the Maximum Credit; provided further that in the event that the Swing Loan Lender and the Administrative Agent are not the same Person, then the Swing Loan Lender shall only make a Swing Loan after having given prior notice thereof to the Administrative Agent; provided further that the Swing Loan Lender shall not be required to make any Swing Loan to the extent that such Swing Loan Lender reasonably believes that any Lender is a Defaulting Lender, unless after giving effect to the requested Swing Loans, there would exist no Fronting Exposure (in the good faith determination of the Swing Loan Lender). Each Swing Loan shall be a Base Rate Loan and must be repaid in full in Dollars within seven (7) days after its making or, if sooner, upon any Borrowing hereunder and shall in any event mature no later than the Revolving Credit Termination Date (without giving effect to any extensions of the type referred to in the proviso to Section 12.1(b) hereof). Within the limits set forth in the first sentence of this clause (a), amounts of Swing Loans repaid may be reborrowed under this clause (a).

(b) In order to request a Swing Loan, the Borrower shall telecopy (or forward by electronic mail or similar means) to the Administrative Agent a duly completed request in substantially the form of Exhibit D, setting forth the requested amount and date of such Swing Loan (a "*Swing Loan Request*"), to be received by the Administrative Agent not later than 1:00 p.m. on the day of the proposed borrowing. The Administrative Agent shall promptly notify the Swing Loan Lender of the details of the requested Swing Loan. Subject to the terms of this Agreement, the Swing Loan Lender shall make a Swing Loan available to the Administrative Agent and, in turn, the Administrative Agent shall make such amounts available to the Borrower as promptly as reasonably practicable on the date set forth in the relevant Swing Loan Request.

The Swing Loan Lender shall not make any Swing Loan (other than a Protective Advance) in the period commencing on the first Business Day after it receives written notice from the Administrative Agent or any Lender that one or more of the conditions precedent contained in Section 4.2 shall not on such date be satisfied, and ending when such conditions are satisfied. The Swing Loan Lender shall not otherwise be required to determine that, or take notice whether, the conditions precedent set forth in Section 4.2 have been satisfied in connection with the making of any Swing Loan.

(c) The Swing Loan Lender may demand at any time, and shall demand on a least a weekly basis, that each Lender pay to the Administrative Agent, for the account of the Swing Loan Lender, in the manner provided in clause (d) below, such Lender's Ratable Portion of all or a portion of the outstanding Swing Loans, which demand shall be made through the Administrative Agent, shall be in writing and shall specify the outstanding principal amount of Swing Loans demanded to be paid.

(d) The Administrative Agent shall forward each demand referred to in clause (c) above to each Lender on the day such notice or such demand is received by the Administrative Agent (except that any such notice or demand received by the Administrative Agent after 2:00 p.m. on any Business Day or any such notice or demand received on a day that is not a Business Day shall not be required to be forwarded to the Lenders by the Administrative Agent until the next succeeding Business Day), together with a statement prepared by the Administrative Agent specifying the amount of each Lender's Ratable Portion of the aggregate principal amount of the Swing Loans stated to be outstanding in such notice or demanded to be paid pursuant to such demand, and, notwithstanding whether or not the conditions precedent set forth in Sections 4.2 and 2.1 shall have been satisfied (which conditions precedent the Lenders hereby irrevocably waive), each Lender shall, before 11:00 a.m. on the Business Day next succeeding the date of such Lender's receipt of such notice or demand, make available to the Administrative Agent, in Same Day Funds in Dollars, for the account of the Swing Loan Lender, the amount specified in such statement. Upon such payment by a Lender, such Lender shall, except as provided in clause (e) below, be deemed to have made a Revolving Loan to the Borrower in the amount of such payment. The Administrative Agent shall use such funds to repay the Swing Loans to the Swing Loan Lender.

(e) Upon the occurrence of a Default under Section 10.1(f), each Lender shall acquire, without recourse or warranty, an undivided participation in each Swing Loan otherwise required to be repaid by such Lender pursuant to clause (d) above, which participation shall be in a principal amount equal to such Lender's Ratable Portion of such Swing Loan, by paying to the Swing Loan Lender on the date on which such Lender would otherwise have been required to make a payment in respect of such Swing Loan pursuant to clause (d) above, in Same Day Funds, an amount equal to such Lender's Ratable Portion of such Swing Loan. If all or part of such amount is not in fact made available by such Lender to the Swing Loan Lender on such date, the Swing Loan Lender shall be entitled to recover any such unpaid amount on demand from such Lender together with interest accrued from such date at the Federal Funds Rate for the first Business Day after such payment was due and thereafter at the rate of interest then applicable to Base Rate Loans.

(f) From and after the date on which any Lender (i) is deemed to have made a Revolving Loan pursuant to clause (d) above with respect to any Swing Loan or (ii) purchases an undivided participation interest in a Swing Loan pursuant to clause (e) above, the Swing Loan Lender shall promptly distribute to such Lender such Lender's Ratable Portion of all payments of principal and interest received by the Swing Loan Lender on account of such Swing Loan other than those received from a Lender pursuant to clause (d) or (e) above.

SECTION 2.4 Letters of Credit.

(a) Subject to the terms and subject to the conditions contained in this Agreement, each Issuer agrees to Issue at the request of the Borrower, for the account of the Borrower or a Restricted Subsidiary (provided that any Letter of Credit issued for the benefit of any Restricted Subsidiary that is not the Borrower shall be issued naming the Borrower as the account party on any such Letter of Credit but such Letter of Credit may contain a statement that it is being issued for the benefit of such Restricted Subsidiary), one or more Letters of Credit from time to time on any Business Day during the period commencing on the Closing Date and ending on the earlier of the Revolving Credit Termination Date and five (5) Business Days prior to the Scheduled Termination Date (without giving effect to any extension of the type referred to in the proviso to Section 12.1(b) hereof) (or, if such day is not a Business Day, the next preceding Business Day), or such later date as agreed to by the Administrative Agent in its sole discretion; provided, however, that no Issuer shall be under any obligation to Issue (and, upon the occurrence of any of the events described in clauses (ii), (iii), (iv) and (v)(A) below, shall not Issue) any Letter of Credit upon the occurrence of any of the following:

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

(ii) such Issuer shall have received any written notice of the type described in clause (d) below;

(iii) after giving effect to the Issuance of such Letter of Credit, (A) the aggregate Revolving Credit Outstandings would exceed the Maximum Credit at such time, (B) the Revolving Credit Outstandings of any Lender would exceed such Lender's Revolving Credit Commitment, (C) the Outstanding Amount of the Letter of Credit Obligations would exceed the Aggregate Letter of Credit Sublimit or (D) with respect to the Issuer of such Letter of Credit, the Outstanding Amount of the Letter of Credit Obligations with respect to such Issuer would exceed the Letter of Credit Sublimit for such Issuer;

(iv) such Letter of Credit is requested to be denominated in any currency other than Dollars, except as may be approved by the Administrative Agent and such Issuer, each in their sole discretion;

(v) (A) any fees due in connection with a requested Issuance have not been paid, (B) such Letter of Credit is requested to be Issued in a form that is not acceptable to such Issuer or (C) the Issuer for such Letter of Credit shall not have received, in form and substance reasonably acceptable to it and, if applicable, duly executed by the Borrower, applications, agreements and other documentation (collectively, a "*Letter of Credit Reimbursement Agreement*") such Issuer generally employs in the ordinary course of its business for the Issuance of letters of credit of the type of such Letter of Credit; or

(vi) any Lender is at that time a Defaulting Lender, unless (i) after giving effect to the requested Issuance, there would exist no Fronting Exposure (in the good faith determination of the applicable Issuer) or (ii) the applicable Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to the applicable Issuer (in its good faith determination) with the Borrower or such Lender to eliminate such Issuer's actual or potential Fronting Exposure (after giving effect to Section 2.16(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or any other Letter of Credit Obligations as to which such Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(vii) None of the Lenders (other than the Issuers in their capacity as such) shall have any obligation to Issue any Letter of Credit. Any Letter of Credit which has been or deemed Issued hereunder may be amended at any time to reduce the amount outstanding thereunder.

(b) In no event shall the expiration date of any Letter of Credit be more than one (1) year after the date of issuance thereof unless the Administrative Agent and the applicable Issuer have approved such later expiry date; provided, however, that any Letter of Credit with a term less than or equal to one (1) year may provide for the renewal thereof for additional periods less than or equal to one (1) year, as long as, on or before the expiration of each such term and each such period, the Borrower and the Issuer of such Letter of Credit shall have the option to prevent such renewal; provided further, that, for any Letter of Credit having an expiration date after the Scheduled Termination Date, the Borrower agrees to deliver to the applicable Issuer on or prior to the date that occurs five (5) Business Days prior to the Scheduled Termination Date a letter of credit or letters of credit in form and substance reasonably acceptable to the Administrative Agent and the applicable Issuer issued by a bank acceptable to the Administrative Agent and the applicable Issuer, in each case in their sole discretion, and/or cash collateral in an amount equal to 101% of the maximum drawable amount of any such Letter of Credit.

(c) In connection with the Issuance of each Letter of Credit, the Borrower shall give the relevant Issuer and the Administrative Agent at least three (3) Business Days' (or such shorter period as may be agreed by the relevant Issuer) prior written notice for Letters of Credit denominated in Dollars (and at least five (5) Business Days' prior written notice for Letters of Credit denominated in currencies other than Dollars), in substantially the form of Exhibit E (or in such other written or electronic form as is acceptable to such Issuer), of the requested Issuance of

such Letter of Credit (a "*Letter of Credit Request*"). Such notice shall specify the Issuer of such Letter of Credit, the face amount and currency of the Letter of Credit requested, the date on which such Letter of Credit is to expire (which date shall be a Business Day) and, in the case of an issuance, the Person for whose benefit the requested Letter of Credit is to be issued. Such notice, to be effective, must be received by the relevant Issuer and the Administrative Agent not later than 11:00 a.m. on the last Business Day on which such notice can be given under the first sentence of this clause (c); provided that the relevant Issuer and the Administrative Agent may agree in a particular instance in their sole discretion to a later time and date.

(d) Subject to the satisfaction of the conditions set forth in this Section 2.4, the relevant Issuer shall, on the requested date, Issue a Letter of Credit on behalf of the Borrower in accordance with such Issuer's usual and customary business practices. No Issuer shall Issue any Letter of Credit in the period commencing on the first Business Day after it receives written notice from any Lender that one or more of the conditions precedent contained in Section 4.2 or clause (a) above (other than those conditions set forth in clauses (a)(i), (a)(v)(B) and (C) above and, to the extent such clause relates to fees owing to the Issuer of such Letter of Credit and its Affiliates, clause (a)(v)(A) above) are not on such date satisfied or duly waived and ending when such conditions are satisfied or duly waived. No Issuer shall otherwise be required to determine that, or take notice whether, the conditions precedent set forth in Section 4.2 have been satisfied in connection with the Issuance of any Letter of Credit.

(e) The Borrower agrees that, if requested by the Issuer of any Letter of Credit prior to the issuance of a Letter of Credit, it shall execute a Letter of Credit Reimbursement Agreement in respect to any Letter of Credit Issued hereunder. In the event of any conflict between the terms of any Letter of Credit Reimbursement Agreement and this Agreement, the terms of this Agreement shall govern.

(f) Each Issuer shall comply with the following:

(i) give the Administrative Agent written notice (or telephonic notice confirmed promptly thereafter in writing), which writing may be a telecopy or electronic mail, of the Issuance of any Letter of Credit Issued by it (including the applicable currency), all drawings under any Letter of Credit Issued by it and of the payment (or the failure to pay when due) by the Borrower of any Reimbursement Obligation when due (which notice the Administrative Agent shall promptly transmit by telecopy, electronic mail or similar transmission to each Lender);

(ii) upon the request of any Lender, furnish to such Lender copies of any Letter of Credit Reimbursement Agreement to which such Issuer is a party and such other documentation as may reasonably be requested by such Lender; and

(iii) on the first Business Day of each calendar week, provide to the Administrative Agent (and the Administrative Agent shall provide a copy to each Lender requesting the same) and the Borrower separate schedules for Documentary Letters of Credit and Standby Letters of Credit issued by it, in form and substance reasonably satisfactory to the Administrative Agent, setting forth the aggregate Letter of Credit Obligations and applicable currencies, in each case outstanding at the end of each month,

and any information requested by the Borrower or the Administrative Agent relating thereto.

(g) Immediately upon the issuance by an Issuer of a Letter of Credit in accordance with the terms and conditions of this Agreement, such Issuer shall be deemed to have sold and transferred to each Lender, and each Lender shall be deemed irrevocably and unconditionally to have purchased and received from such Issuer, without recourse or warranty, an undivided interest and participation, to the extent of such Lender's Ratable Portion, in such Letter of Credit and the obligations of the Borrower with respect thereto (including all Letter of Credit Obligations with respect thereto) and any security therefor and guaranty pertaining thereto.

(h) The Borrower agrees to pay to the Issuer of any Letter of Credit, in each case in the same currency and in an equivalent amount, and, to the extent so financed, all Reimbursement Obligations owing to such Issuer under any Letter of Credit issued for its account no later than (x) on the same Business Day that the Borrower receives written notice from such Issuer that payment has been made under such Letter of Credit in accordance with its terms if such notice is received by the Borrower by 11:00 a.m. and (y) on the next succeeding Business Day after which the Borrower receives written notice from such Issuer that payment has been made under such Letter of Credit in accordance with its terms if such notice is received by the Borrower after 11:00 a.m. (such date described in clause (x) or (y) above, the "*Reimbursement Date*"), irrespective of any claim, set off, defense or other right that the Borrower may have at any time against such Issuer or any other Person. In the event that any Issuer makes any payment under any Letter of Credit in accordance with its terms and the Borrower shall not have repaid such amount to such Issuer pursuant to this clause (h) (directly or by application of the deemed Loans described below in this clause (h) or by virtue of the penultimate sentence of this clause (h)) or any such payment by the Borrower is rescinded or set aside for any reason, such Reimbursement Obligation shall be payable on demand with interest thereon computed (i) from the date on which such Reimbursement Obligation arose to the Reimbursement Date, at the rate of interest applicable during such period to Loans that are Base Rate Loans and (ii) from the Reimbursement Date until the date of repayment in full, at the rate of interest applicable during such period to past due Loans that are Base Rate Loans, and such Issuer shall promptly notify the Administrative Agent, which shall promptly notify each Lender of such failure, and each Lender shall promptly and unconditionally pay to the Administrative Agent for the account of such Issuer the amount of such Lender's Ratable Portion of such payment in Same Day Funds. If the Administrative Agent so notifies such Lender prior to 11:00 a.m. on any Business Day, such Lender shall make available to the Administrative Agent for the account of such Issuer its Ratable Portion of the amount of such payment on such Business Day in Same Day Funds. Upon such payment by a Lender, such Lender shall, except during the continuance of a Default or Event of Default under Section 10.1(f) and notwithstanding whether or not the conditions precedent set forth in Section 4.2 shall have been satisfied (which conditions precedent the Lenders hereby irrevocably waive), be deemed to have made a Revolving Loan to the Borrower in the principal amount of such payment. Whenever any Issuer receives from the Borrower a payment of a Reimbursement Obligation as to which the Administrative Agent has received for the account of such Issuer any payment from a Lender pursuant to this clause (h), such Issuer shall pay over to the Administrative Agent any amount received in excess of such Reimbursement Obligation and, upon receipt of such amount, the Administrative Agent shall promptly pay over to each Lender, in Same Day Funds in the

applicable currency, an amount equal to such Lender's Ratable Portion of the amount of such payment adjusted, if necessary, to reflect the respective amounts the Lenders have paid in respect of such Reimbursement Obligation. (A) In the absence of written notice to the contrary from the Borrower, and subject to the other provisions of this Agreement (but without regard to the conditions to borrowing set forth in Section 4.2), Reimbursement Obligations shall be financed when due with Swing Loans or Base Rate Loans, in each case to the Borrower in an equivalent amount and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting Base Rate Loan or Swing Loan, as the case may be, and (B) in the event that the Borrower has notified the Administrative Agent that it will not so finance any such payments, the Borrower will make payment directly to the applicable Issuer when due. The Administrative Agent shall promptly remit the proceeds from any Loans made pursuant to clause (A) above in reimbursement of a draw under a Letter of Credit to the applicable Issuer.

(i) Each Defaulting Lender agrees to pay to the Administrative Agent for the account of such Issuer forthwith on demand any such unpaid amount together with interest thereon, for the first Business Day after payment was first due at the Federal Funds Rate and, thereafter, until such amount is repaid to the Administrative Agent for the account of such Issuer, at a rate per annum equal to the rate applicable to Base Rate Loans.

(j) The Borrower's obligations to pay each Reimbursement Obligation and the obligations of the Lenders to make payments to the Administrative Agent for the account of the Issuers with respect to Letters of Credit shall be absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement, under any and all circumstances whatsoever, including the occurrence of any Default or Event of Default, and irrespective of any of the following:

(i) any lack of validity or enforceability of any Letter of Credit or any Loan Document, or any term or provision therein;

(ii) any amendment or waiver of or any consent to departure from all or any of the provisions of any Letter of Credit or any Loan Document;

(iii) the existence of any claim, set-off, defense or other right that the Borrower, any other party guaranteeing, or otherwise obligated with, the Borrower, any Subsidiary or other Affiliate thereof or any other Person may at any time have against the beneficiary under any Letter of Credit, any Issuer, the Administrative Agent or any Lender or any other Person, whether in connection with this Agreement, any other Loan Document or any other related or unrelated agreement or transaction;

(iv) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(v) payment by the Issuer under a Letter of Credit against presentation of a draft or other document that does not strictly comply, but that does substantially comply, with the terms of such Letter of Credit; and

(vi) any other act or omission to act or delay of any kind of any Issuer, the Lenders, the Administrative Agent or any other Person or any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section 2.4, constitute a legal or equitable discharge of the Borrower's obligations hereunder.

Any action taken or omitted to be taken by the relevant Issuer under or in connection with any Letter of Credit, if taken or omitted in the absence of gross negligence or willful misconduct, shall not result in any liability of such Issuer to the Borrower or any Lender. In determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof, the Issuers may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary and, in making any payment under any Letter of Credit, the Issuers may rely exclusively on the documents presented to it under such Letter of Credit as to any and all matters set forth therein, including reliance on the amount of any draft presented under such Letter of Credit, whether or not the amount due to the beneficiary thereunder equals the amount of such draft and whether or not any document presented pursuant to such Letter of Credit proves to be insufficient in any respect, if such document on its face appears to be in order, and whether or not any other statement or any other document presented pursuant to such Letter of Credit proves to be forged or invalid or any statement therein proves to be inaccurate or untrue in any respect whatsoever, and any noncompliance in any immaterial respect of the documents presented under such Letter of Credit with the terms thereof shall, in each case, be deemed not to constitute willful misconduct or gross negligence of the applicable Issuer.

(k) Applicability of ISP and UCP. Unless otherwise expressly agreed by the relevant Issuer and the Borrower when a Letter of Credit is issued, (i) the rules of the ISP shall apply to each Standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce at the time of issuance, shall apply to each Documentary Letter of Credit.

(l) Notwithstanding anything to the contrary contained in this Section 2.4, it is hereby acknowledged and agreed that each of the letters of credit described in Schedule 2.4 (each an "*Exiting Letters of Credit*") shall constitute a "Letter of Credit" for all purposes of this Agreement and shall be deemed issued under this Agreement on the Closing Date.

SECTION 2.5 Reduction and Termination of the Revolving Credit Commitments.

The Borrower may, upon at least three (3) Business Days' prior notice to the Administrative Agent, terminate in whole or reduce in part ratably the unused portions of any Class of Revolving Credit Commitments of the Lenders without premium or penalty other than any amount required to be paid by the Borrower pursuant to Section 3.5; provided, however, that each partial reduction shall be in an aggregate amount of not less than $1,000,000 or an integral multiple of $500,000 in excess thereof; provided, further, that no reduction or termination of Commitments having a later maturity shall be permitted on a greater than pro rata basis with commitments having an earlier maturity. Notwithstanding the foregoing, the Borrower may rescind or postpone any notice of termination of the Revolving Credit Commitments if such

termination would have resulted from a refinancing of all of the applicable Class, which refinancing shall not be consummated or otherwise shall be delayed.

SECTION 2.6 Repayment of Loans.

The Borrower promises to repay to the Administrative Agent for the ratable account of the Lenders the aggregate unpaid principal amount of the Loans (including any Letter of Credit Borrowings) and the Swing Loans on the Revolving Credit Termination Date or earlier, if otherwise required by the terms hereof.

SECTION 2.7 Evidence of Indebtedness.

(a) The Loans made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c) and Proposed Treasury Regulation 1.163-5(b), as a non-fiduciary agent for the Borrower, in each case in the Ordinary Course of Business. Subject to Section 12.2(c), accounts or records maintained by the Administrative Agent and each Lender shall be prima facie evidence absent manifest error of the amount of the Loans made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

(b) (i) Subject to Section 12.2(c), entries made in good faith by the Administrative Agent in the Register pursuant to Sections 2.7(a) and by each Lender in its account or accounts pursuant to Section 2.7(a) shall be prima facie evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; provided that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

(ii) Notwithstanding anything to the contrary contained in this Agreement, the Loans (including the Revolving Credit Notes evidencing such Loans) and the drawn Letters of Credit are registered obligations and the right, title, and interest of the Lenders and the Issuers and their assignees in and to such Loans or drawn Letters of Credit, as the case may be, shall be transferable only upon notation of such transfer in the Register. A Revolving Credit Note shall only evidence the Lender's or a registered assignee's right, title and interest in and to the related Loan, and in no event is any such Revolving Credit Note to be considered a bearer instrument or obligation. This Section 2.7(b) and Section 12.2 shall be construed so that the Loans and drawn Letters of Credit are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and

881(c)(2) of the Code and any related Treasury regulations (or any successor provisions of the Code or such regulations).

(c) Notwithstanding any other provision of the Agreement, in the event that any Lender requests that the Borrower execute and deliver a promissory note or notes payable to such Lender in order to evidence the Indebtedness owing to such Lender by the Borrower hereunder, the Borrower shall promptly execute and deliver a Revolving Credit Note or Revolving Credit Notes to such Lender evidencing the Loans of such Lender, substantially in the form of Exhibit B. Each Lender may attach schedules to its Revolving Credit Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto; provided that the failure to do so shall in no way affect the obligations of the Borrower or any other Loan Party under any Loan Document.

SECTION 2.8 Optional Prepayments.

The Borrower may prepay, in the applicable currency, the outstanding principal amount of the Loans and Swing Loans in whole or in part at any time; provided, however, that if any prepayment of any Eurocurrency Rate Loan is made by the Borrower other than on the last day of an Interest Period for such Loan, the Borrower shall also pay any amount owing pursuant to Section 3.5.

SECTION 2.9 Mandatory Prepayments.

(a) If at any time, the aggregate principal amount of Revolving Credit Outstandings exceeds the aggregate Maximum Credit at such time (including as a result of any currency fluctuation), the Borrower shall, within one (1) Business Day of such occurrence (or within two (2) Business Days in the event that such circumstances arise solely as a result of the imposition of a new Reserve by Administrative Agent), in each case, prepay, in the applicable currency, the Swing Loans first and then the other Loans then outstanding in an amount equal to such excess. If any such excess remains after repayment in full of the aggregate outstanding Swing Loans and the other Loans, the Borrower shall Cash Collateralize the Letter of Credit Obligations in the manner set forth in Section 10.5 in an amount equal to 101% of such excess.

(b) If (x) at any time during a Cash Dominion Period or (y) in respect of any Disposition that would result in the occurrence of a Cash Dominion Period, any Loan Party or any of its Subsidiaries receives any Net Cash Proceeds arising from any Disposition in respect of any ABL Priority Collateral outside of the Ordinary Course of Business, the Borrower shall promptly (but in any event within five (5) Business Days of such receipt) prepay the Loans in an amount equal to 100% of such Net Cash Proceeds (and, to the extent such Net Cash Proceeds exceed the aggregate principal amount of Loans outstanding, Cash Collateralize Letters of Credit in an amount equal to up to 101% of the aggregate maximum drawable amount of such Letters of Credit).

(c) Subject to Section 3.5 hereof, all such payments in respect of the Loans pursuant to this Section 2.9 shall be without premium or penalty. All interest accrued on the principal amount of the Loans paid pursuant to this Section 2.9 shall be paid, or may be charged by the Administrative Agent to any loan account(s) of the Borrower, at the Administrative Agent's

option, on the date of such payment. Interest shall accrue and be due, until the next Business Day, if the amount so paid by the Borrower to the bank account designated by the Administrative Agent for such purpose is received in such bank account after 3:00 p.m.

(d) At all times after the occurrence and during the continuance of Cash Dominion Period and notification thereof by the Administrative Agent to the Borrower (subject to the provisions of Section 10.3 and to the terms of the Security Agreement), on each Business Day, at or before 1:00 p.m., the Agent shall apply all Same Day Funds credited to the Concentration Account and all amounts received pursuant to Section 2.9(b), first to pay any fees or expense reimbursements then due to the Administrative Agent, the Issuers and the Lenders (other than in connection with Cash Management Obligations, Obligations in respect of Secured Hedge Agreements), pro rata, second to pay interest due and payable in respect of any Loans (including Swing Loans) and any Protective Advances that may be outstanding, pro rata, third to prepay the principal of any Protective Advances that may be outstanding, pro rata, and fourth to prepay the principal of the Loans (including Swing Loans) and to Cash Collateralize outstanding Letter of Credit Obligations, pro rata.

(e) From and after the seventh Business Day following the Closing Date, if Excess Availability is less than $40,000,000 and the Loan Parties have cash or Cash Equivalents in excess of $15,000,000 in the aggregate at any time (other than Cash and Cash Equivalents in any (i) any Payroll Account, but only to the extent that such amounts of Cash and Cash Equivalents are expected by the Borrower in good faith to be paid to employees within three Business Days of the applicable date of determination, or (ii) Deposit Account that is subject to a Deposit Account Control Agreement or any Securities Account that is subject to a Securities Account Control Agreement), the Borrower shall within one (1) Business Day thereof either (x) prepay, in the applicable currency, the Swing Loans first and then the other Loans then outstanding in an amount equal to such excess and if any such excess remains after repayment in full of the aggregate outstanding Swing Loans and the other Loans, then the Borrower shall Cash Collateralize the Letter of Credit Obligations in the manner set forth in Section 10.5 in an amount equal to 101% of such excess, (y) deposit such excess amount of cash or Cash Equivalents into either a Deposit Account of a Loan Party that is the subject of a Deposit Account Control Agreement or Securities Account of a Loan Party that is the subject of a Securities Account Control Agreement, or (z) apply such excess amount in some combination of clause (x) or (y) above.

(f) If a Change of Control shall have occurred, the Borrower shall within [one (1) Business Day] from the date of such Change of Control, prepay in full the aggregate outstanding Swing Loans and the other Loans and Cash Collateralize the Letter of Credit Obligations in the manner set forth in Section 10.5 in an amount equal to 101% of such Letter of Credit Obligations.

SECTION 2.10 Interest.

(a) Rate of Interest. All Loans and the outstanding amount of all other Obligations owing under the Loan Documents shall bear interest, in the case of any Class of Loans, on the unpaid principal amount thereof from the date such Loans are made and, in the case of such other

Obligations, from the date such other Obligations are due and payable until, in all cases, paid in full, except as otherwise provided in clause (c) below, as follows:

(i) if a Base Rate Loan or such other Obligation (except as otherwise provided in this Section 2.10(a)), at a rate per annum equal to the sum of (A) the Base Rate as in effect from time to time and (B) the Applicable Rate for Base Rate Loans; and

(ii) if a Eurocurrency Rate Loan, at a rate per annum equal to the sum of (A) the Adjusted Eurocurrency Rate determined for the applicable Interest Period and (B) the Applicable Rate applicable to Eurocurrency Rate Loans in effect from time to time during such Interest Period.

(b) Interest Payments. (i) Interest accrued on each Base Rate Loan (other than Swing Loans) shall be payable in arrears (A) on the first Business Day of each February, May, August and November, commencing on the first such day following the making of such Base Rate Loan and (B) if not previously paid in full, at maturity (whether by acceleration or otherwise) of such Base Rate Loan, (ii) interest accrued on Swing Loans shall be payable in arrears on the first Business Day of the immediately succeeding calendar month, (iii) interest accrued on each Eurocurrency Rate Loan shall be payable in arrears (A) on the last day of each Interest Period applicable to such Loan and, if such Interest Period has a duration of more than three (3) months, on each date during such Interest Period occurring every three (3) months from the first day of such Interest Period, (B) upon the payment or prepayment thereof in full or in part and (C) if not previously paid in full, at maturity (whether by acceleration or otherwise) of such Eurocurrency Rate Loan and (iv) interest accrued on the amount of all other Obligations shall be payable on demand from and after the time such Obligation becomes due and payable (whether by acceleration or otherwise).

(c) Default Interest. The Borrower shall pay interest on past due amounts hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

SECTION 2.11 Conversion/Continuation Option.

(a) The Borrower may elect (i) at any time on any Business Day, to convert Base Rate Loans (other than Swing Loans) or any portion thereof to Eurocurrency Rate Loans and (ii) at the end of any applicable Interest Period, to convert Eurocurrency Rate Loans or any portion thereof into Base Rate Loans, or to continue such Eurocurrency Rate Loans or any portion thereof for an additional Interest Period; provided, however, that the aggregate amount of the Eurocurrency Rate Loans for each Interest Period must be in the amount of at least $500,000 or an integral multiple of $100,000 in excess thereof. Each conversion or continuation shall be allocated among the Loans of each Lender in accordance with such Lender's Ratable Portion. Each such election shall be in substantially the form of Exhibit F (a "*Notice of Conversion or Continuation*") and shall be made by giving the Administrative Agent at least three (3) Business Days' prior written notice specifying (A) the amount and type of Loan being converted or continued, (B) in the case of a conversion to or a continuation of Eurocurrency Rate Loans, the applicable Interest Period and (C) in the case of a conversion, the date of such conversion.

(b) The Administrative Agent shall promptly notify each Lender of its receipt of a Notice of Conversion or Continuation and of the options selected therein. Notwithstanding the foregoing, the Administrative Agent or the Requisite Lenders may require by notice to the Borrower that no conversion in whole or in part of Base Rate Loans to Eurocurrency Rate Loans and no continuation in whole or in part of Eurocurrency Rate Loans upon the expiration of any applicable Interest Period shall be permitted at any time at which (A) an Event of Default shall have occurred and be continuing or (B) the continuation of, or conversion into, a Eurocurrency Rate Loan would violate any provision of Section 2.14. If, within the time period required under the terms of this Section 2.11, the Administrative Agent does not receive a Notice of Conversion or Continuation from the Borrower containing a permitted election to continue any Eurocurrency Rate Loans for an additional Interest Period or to convert any such Loans, then, upon the expiration of the applicable Interest Period, such Loans shall be automatically converted to Base Rate Loans. Each Notice of Conversion or Continuation shall be irrevocable.

SECTION 2.12 Fees.

(a) Unused Commitment Fee. The Borrower agrees to pay in Same Day Funds in Dollars to the Administrative Agent for the account of each Lender a commitment fee (the "*Unused Commitment Fee*") on the average daily amount by which the Revolving Credit Commitment of such Lender exceeds such Lender's Ratable Portion of the sum of (i) the aggregate outstanding principal amount of Loans for the applicable Class and (ii) the outstanding amount of the aggregate Letter of Credit Undrawn Amounts from the Closing Date through the Revolving Credit Termination Date at the Applicable Unused Commitment Fee Rate, payable in arrears (x) on the first Business Day of each fiscal quarter, commencing on the first such Business Day following the Closing Date and (y) on the Revolving Credit Termination Date. For the avoidance of doubt, any Swing Loans outstanding shall reduce the Revolving Credit Commitment of the Swing Loan Lender in its capacity as a Lender.

(b) Letter of Credit Fees. The Borrower agrees to pay the following amounts with respect to Letters of Credit issued by any Issuer:

(i) to the Administrative Agent for the account of each Issuer of a Letter of Credit, with respect to each Letter of Credit issued by such Issuer, an issuance fee equal to 0.125% per annum of the average daily maximum undrawn face amount of such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount increases periodically pursuant to the terms of such Letter of Credit) for the immediately preceding fiscal quarter (or portion thereof), payable in arrears (A) on the first Business Day of each fiscal quarter, commencing on the first such Business Day following the issuance of such Letter of Credit and (B) on the Revolving Credit Termination Date;

(ii) to the Administrative Agent for the ratable benefit of the Lenders, with respect to each Letter of Credit, a fee accruing in Dollars at a rate per annum equal to the Applicable Rate for Eurocurrency Rate Loans (each such fee, a "*Letter of Credit Fee*"), in each case multiplied by the average daily maximum undrawn face amount of such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount increases periodically pursuant to the terms of such

Letter of Credit) for the immediately preceding fiscal quarter (or portion thereof), payable in arrears (A) on the first Business Day of each fiscal quarter, commencing on the first such Business Day following the issuance of such Letter of Credit and (B) on the Revolving Credit Termination Date; provided, however, that any Letter of Credit Fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the applicable Issuer pursuant to Section 2.4 shall be payable, to the maximum extent permitted by applicable Law, to the other Lenders in accordance with the upward adjustments in their respective Applicable Percentages allocable to such Letter of Credit pursuant to Section 2.16(a)(iv), with the balance of such fee, if any, payable to the applicable Issuer for its own account; and

(iii) to the Issuer of any Letter of Credit, with respect to the issuance, amendment or transfer of each Letter of Credit and each drawing made thereunder, customary documentary and processing charges in accordance with such Issuer's standard schedule for such charges in effect at the time of issuance, amendment, transfer or drawing, as the case may be.

(c) Additional Fees. The Borrower has agreed to pay additional fees, the amount and dates of payment of which are embodied in the Fee Letter.

SECTION 2.13 Payments and Computations.

(a) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. The Borrower shall make each payment and prepayment hereunder (including fees and expenses) not later than 2:00 p.m. on the day when due, (i) in the case of Loans, in the currency in which such Loan is denominated, (ii) in the case of Reimbursement Obligations, in the currency of the applicable Letter of Credit, (iii) in the case of any accrued interest payable on a Loan or Reimbursement Obligation, in the currency of such Loan or Reimbursement Obligation, as applicable, and (iv) in the case of all other payments under each Loan Document, in Dollars except as otherwise expressly provided herein or therein, in each case to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office for payment and in Same Day Funds without condition or deduction for any defense, recoupment, set-off or counterclaim. The Administrative Agent will promptly distribute to each Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall, in each case be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) All computations of interest for Base Rate Loans shall be made on the basis of a year of 365 days or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365 day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; provided that any Loan that is repaid on the same day on which it is made

shall bear interest for one (1) day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(c) **[Reserved]**

(d) Whenever any payment hereunder shall be stated to be due on a day other than a Business Day, the due date for such payment shall be extended to the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest or fees, as the case may be; provided, however, that if such extension would cause payment of interest on or principal of any Eurocurrency Rate Loan to be made in the next calendar month, such payment shall be made on the immediately preceding Business Day. All repayments of any Loans shall be applied as follows: first, to repay any such Loans outstanding as Base Rate Loans and then, to repay any such Loans outstanding as Eurocurrency Rate Loans, with those Eurocurrency Rate Loans having earlier expiring Interest Periods being repaid prior to those having later expiring Interest Periods.

(e) Unless the Administrative Agent shall have received notice from the Borrower to the Lenders prior to the date on which any payment is due hereunder that the Borrower will not make such payment in full, the Administrative Agent may assume that the Borrower has made such payment in full to the Administrative Agent on such date and the Administrative Agent may (but shall not be so required to), in reliance upon such assumption, cause to be distributed to each Lender on such due date an amount equal to the amount then due such Lender. If and to the extent that the Borrower shall not have made such payment to the Administrative Agent in Same Day Funds in the applicable currency, then each Lender shall repay to the Administrative Agent forthwith on demand the portion of such assumed payment that was made available to such Lender in Same Day Funds in the applicable currency, together with interest thereon in respect of each day from and including the date such amount was made available to such Lender to the date such amount is repaid to the Administrative Agent in Same Day Funds in the applicable currency at the applicable Overnight Rate from time to time in effect.

(f) Except for payments and other amounts received by the Administrative Agent and applied in accordance with the provisions of Section 10.2(b) below (or required to be applied in accordance with Section 2.9), all payments and any other amounts received by the Administrative Agent from or for the benefit of the Borrower shall be applied as follows: first, to pay principal of, and interest on, any portion of the Loans the Administrative Agent may have advanced pursuant to the express provisions of this Agreement on behalf of any Lender, for which the Administrative Agent has not then been reimbursed by such Lender or the Borrower, second, to pay all other Obligations then due and payable and third, as the Borrower so designates. Payments in respect of Swing Loans received by the Administrative Agent shall be distributed to the Swing Loan Lender; payments in respect of Loans received by the Administrative Agent shall be distributed to each Lender in accordance with such Lender's Ratable Portion; and all payments of fees and all other payments in respect of any other Obligation shall be allocated among such of the Lenders and Issuers as are entitled thereto and, for such payments allocated to the Lenders, in proportion to their respective Ratable Portions.

(g) At the option of the Administrative Agent, principal on the Swing Loans, Reimbursement Obligations, interest, fees, expenses and other sums due and payable in respect

of the Loans and Protective Advances may be paid from the proceeds of Swing Loans or the Revolving Loans unless the Borrower makes such payments on the next succeeding Business Day after the Borrower receives written notice from the Administrative Agent requesting such payments. The Borrower hereby authorizes the Swing Loan Lender to make such Swing Loans pursuant to Section 2.3(a) and the Lenders to make such Loans pursuant to Section 2.2(a) from time to time in the amounts of any and all principal payable with respect to the Swing Loans, Reimbursement Obligations, interest, fees, expenses and other sums payable in respect of the Loans and Protective Advances, and further authorizes the Administrative Agent to give the Lenders notice of any Borrowing with respect to such Swing Loans and the Revolving Loans and to distribute the proceeds of such Swing Loans and the Revolving Loans to pay such amounts. The Borrower agrees that all such Swing Loans and the Revolving Loans so made shall be deemed to have been requested by it (irrespective of the satisfaction of the conditions in Section 4.2, which conditions the Lenders irrevocably waive) and directs that all proceeds thereof shall be used to pay such amounts.

(h) No Loan may be converted into or continued as a Loan denominated in a different currency, but instead must be repaid or prepaid in the original currency of such Loan and reborrowed in the other currency.

SECTION 2.14 Special Provisions Governing Eurocurrency Rate Loans.

(a) Determination of Interest Rate. The Adjusted Eurocurrency Rate for each Interest Period for Eurocurrency Rate Loans shall be determined by the Administrative Agent pursuant to the procedures set forth in the definition of "Eurocurrency Rate". The Administrative Agent's determination shall be presumed to be correct and binding on the Loan Parties, absent manifest error.

(b) Interest Rate Unascertainable, Inadequate or Unfair. In the event that (i) the Administrative Agent reasonably determines that adequate and fair means do not exist for ascertaining the applicable interest rates by reference to which the Eurocurrency Rate then being determined is to be fixed or (ii) the Requisite Lenders reasonably determine and notify the Administrative Agent that the Eurocurrency Rate for any Interest Period will not adequately reflect the cost to the Lenders of making or maintaining such Loans for such Interest Period, the Administrative Agent shall forthwith so notify the Borrower and the Lenders, whereupon each Eurocurrency Rate Loan shall automatically, on the last day of the current Interest Period for such Loan, convert into a Base Rate Loan, and the obligations of the Lenders to make Eurocurrency Rate Loans or to convert Base Rate Loans into Eurocurrency Rate Loans shall be suspended until the Administrative Agent shall notify the Borrower that the Requisite Lenders have determined that the circumstances causing such suspension no longer exist.

SECTION 2.15 Revolving Commitment Increase.

(a) The Borrower may at any time or from time to time after the Closing Date, by notice to the Administrative Agent (whereupon the Administrative Agent shall promptly deliver a copy to each of the Lenders), request one or more increases in the amount of any Class of Revolving Credit Commitments (each such increase, a "*Revolving Commitment Increase*"); provided that upon the effectiveness of any Incremental Amendment referred to below, (i) no

Default or Event of Default shall exist and (ii) each Revolving Commitment Increase shall have interest rate margins as determined by the Borrower and the lenders thereunder; *provided* that if the Applicable Rate (which, for such purposes only, shall be deemed to include all upfront or similar fees payable to all lenders providing such Revolving Commitment Increase (but excluding customary arrangement or commitment fees payable to any arranger or bookrunner or their Affiliates in connection therewith or fees not generally paid to all participating Lenders)) relating to any Revolving Commitment Increase exceeds the Applicable Rate (which, for such purposes only, shall be deemed to include all upfront or similar fees payable to all lenders providing the Revolving Commitment Increase (but excluding customary arrangement or commitment fees payable to any arranger or bookrunner or their Affiliates in connection therewith or fees not generally paid to all participating Lenders)) relating to the Revolving Credit Commitments and Revolving Loans immediately prior to the effectiveness of the Incremental Amendment, the Applicable Rate relating to the Revolving Credit Commitments and Revolving Loans immediately prior to the effectiveness of the Incremental Amendment shall be adjusted to be equal to the Applicable Rate (which, for such purposes only, shall be deemed to include all upfront or similar fees) payable to all lenders providing such Revolving Commitment Increase (but excluding customary arrangement or commitment fees payable to any arranger or bookrunner or their Affiliates in connection therewith or fees not generally paid to all participating Lenders)) relating to such Revolving Credit Commitments. Each Revolving Commitment Increase shall be in an aggregate principal amount that is not less than $10,000,000 (provided that such amount may be less than $10,000,000 if such amount represents all remaining availability under the limit set forth in the next sentence). Notwithstanding anything to the contrary herein, the aggregate amount of the Revolving Commitment Increases shall not exceed $50,000,000 (the "*Incremental Availability*"). Each notice from the Borrower pursuant to this Section shall set forth the requested amount and proposed terms of the relevant Revolving Commitment Increases. Revolving Commitment Increases may be provided by any existing Lender (it being understood that no existing Lender will have an obligation to provide a portion of any Revolving Commitment Increase), or by any other bank or other financial institution or institutional lender or investor (any such other bank or other financial institution or institutional lender or investor being called an "*Additional Lender*"), provided that the Administrative Agent, each Issuer and the Swing Loan Lender shall have consented (in each case, such consent not to be unreasonably withheld) to such Lender's or Additional Lender's providing such Revolving Commitment Increases if such consent by the Administrative Agent, the applicable Issuer and the Swing Loan Lender, as the case may be, would be required under Section 12.2(b) for an assignment of Loans or Revolving Credit Commitments to such Lender or Additional Lender. Revolving Credit Commitments in respect of Revolving Commitment Increases shall become Revolving Credit Commitments (or in the case of a Revolving Commitment Increase to be provided by an existing Lender, an increase in such Lender's applicable Revolving Credit Commitment) under this Agreement pursuant to an amendment (an "*Incremental Amendment*") to this Agreement and, as appropriate, the other Loan Documents, executed by Holdings, the Borrower, each Lender agreeing to provide such Revolving Credit Commitment, if any, each Additional Lender, if any, and the Administrative Agent. The Incremental Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section. The effectiveness of any Incremental Amendment shall be subject to the satisfaction on the date

thereof of each of the conditions set forth in Section 4.2 (it being understood that all references to "the date of such Loan or Issuance" or similar language in such Section 4.2 shall be deemed to refer to the effective date of such Incremental Amendment) and such other conditions as the parties thereto shall agree. Any Revolving Commitment Increase shall be documented as an increase to the applicable Class of Loans and shall be on terms identical to those applicable to such Class, except with respect to any commitment, arrangement, upfront or similar fees that may be agreed to among the Borrower and the lenders agreeing to participate in such Revolving Commitment Increase. The Borrower shall use Revolving Commitment Increases for any purpose not prohibited by this Agreement. Upon each increase in the Revolving Credit Commitments pursuant to this Section 2.15, (x) each Lender of the applicable Class immediately prior to such increase will automatically and without further act be deemed to have assigned to each Lender providing a portion of the Revolving Commitment Increase of the applicable Class (each a "*Revolving Commitment Increase Lender*") in respect of such increase, and each such Revolving Commitment Increase Lender will automatically and without further act be deemed to have assumed, a portion of such Lender's participations hereunder in outstanding Letters of Credit and Swing Loans such that, after giving effect to each such deemed assignment and assumption of participations, the percentage of the aggregate outstanding (i) participations hereunder in Letters of Credit, (ii) participations hereunder in Swing Loans held by each Lender of the applicable Class and (iii) participations in Protective Advances held by each Lender of the applicable Class (including each such Revolving Commitment Increase Lender) will equal the percentage of the aggregate Revolving Credit Commitments of all Lenders of such Class represented by such Lender's Revolving Credit Commitment, (y) if, on the date of such increase, there are any Revolving Loans of such Class outstanding, such Revolving Loans shall on or prior to the effectiveness of such Revolving Commitment Increase be prepaid from the proceeds of additional Revolving Loans of such Class made hereunder (reflecting such increase in Revolving Credit Commitments of such Class), which prepayment shall be accompanied by accrued interest on the Revolving Loans of such Class being prepaid and any costs incurred by any Lender in accordance with Section 3.5 and (z) the dollar thresholds set forth in the definitions of "Cash Dominion Period", "Covenant Testing Period", "Covenant Trigger Event," "In-Transit Trigger Period," the Payment Conditions, Section 6.2, Section 7.1(h), Section 8.3(iii)(x), Section 9.5(j), Section 9.5(t), Section 9.5(w), Section 9.6(m) and Section 9.12(a)(D) shall be increased in proportion to the amount of Revolving Commitment Increase. The Administrative Agent and the Lenders hereby agree that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence.

(b) This Section 2.15 shall supersede any provisions in Section 12.1 or Section 12.7 to the contrary.

SECTION 2.16 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) Waivers and Amendments. That Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 12.1.

(ii) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article X or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 12.6), shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to any Issuer or the Swing Loan Lender hereunder; third, if so determined by the Administrative Agent or requested by any Issuer or the Swing Loan Lender, to be held as cash collateral for future funding obligations of that Defaulting Lender of any participation in any Swing Loan or Letter of Credit; fourth, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Agreement; sixth, to the payment of any amounts owing to the Lenders, any Issuer or the Swing Loan Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any Issuer or the Swing Loan Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and eighth, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or Letter of Credit Borrowings in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans or Letter of Credit Borrowings were made at a time when the conditions set forth in Section 4.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and Letter of Credit Borrowings owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or Letter of Credit Borrowings owed to, that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post cash collateral pursuant to this Section 2.16(a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. That Defaulting Lender (x) shall not be entitled to receive any commitment fee pursuant to Section 2.12(a) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender for such

period) and (y) shall be limited in its right to receive Letter of Credit Fees as provided in Section 2.12(b).

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. During any period in which there is a Defaulting Lender, for purposes of computing the amount of the obligation of each non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit or Swing Loans pursuant to Sections 2.3 and 2.4, the "Applicable Percentage" of each non-Defaulting Lender shall be computed without giving effect to the Revolving Credit Commitment of that Defaulting Lender; provided that (i) each such reallocation shall be given effect only if, at the date the applicable Lender becomes a Defaulting Lender, no Default or Event of Default exists; and (ii) the aggregate obligation of each non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit and Swing Loans shall not exceed the positive difference, if any, of (1) the Revolving Credit Commitment of that non Defaulting Lender minus (2) the aggregate Outstanding Amount of the Revolving Loans of that Lender.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent, Swing Loan Lender and the Issuers agree in writing in their reasonable discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Revolving Loans and funded and unfunded participations in Letters of Credit and Swing Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.16(a)(iv)), whereupon that Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower for the period that such Lender was a Defaulting Lender; and provided further that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) Cash Collateral. At any time that there shall exist a Defaulting Lender, immediately upon the request of the Administrative Agent, the applicable Issuer or the Swing Loan Lender, the Borrower shall deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover all Fronting Exposure (after giving effect to Section 2.16(a)(iv) and any Cash Collateral provided by the Defaulting Lender).

SECTION 2.17 Extensions of Loans.

(a) Extension of Revolving Credit Commitments. The Borrower may at any time and from time to time request that all or a portion of the Revolving Credit Commitments of a given Class (each, an "*Existing Revolver Tranche*") be amended to extend the Scheduled Termination Date with respect to all or a portion of any principal amount of such Revolving Credit Commitments (any such Revolving Credit Commitments which have been so amended, "*Extended Revolving Credit Commitments*") and to provide for other terms consistent with this

Section 2.17; provided that there shall be no more than three (3) Classes of Loans and Commitments outstanding at any time. In order to establish any Extended Revolving Credit Commitments, the Borrower shall provide a notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders under the applicable Existing Revolver Tranche) (each, a "*Extension Request*") setting forth the proposed terms (which shall be determined in consultation with the Administrative Agent) of the Extended Revolving Credit Commitments to be established, which shall (x) be identical as offered to each Lender under such Existing Revolver Tranche (including as to the proposed interest rates and fees payable) and offered pro rata to each Lender under such Existing Revolver Tranche and (y) be identical to the Revolving Credit Commitments under the Existing Revolver Tranche from which such Extended Revolving Credit Commitments are to be amended, except that: (i) the Scheduled Termination Date of the Extended Revolving Credit Commitments shall be later than the Scheduled Termination Date of the Revolving Credit Commitments of such Existing Revolver Tranche, (ii) the Extension Amendment may provide for other covenants and terms that apply solely to any period after the Latest Maturity Date that is in effect on the effective date of the Extension Amendment (immediately prior to the establishment of such Extended Revolving Credit Commitments); and (iii) all borrowings under the Revolving Credit Commitments and repayments thereunder shall be made on a pro rata basis (except for (I) payments of interest and fees at different rates on Extended Revolving Credit Commitments (and related outstandings) and (II) repayments required upon the Revolving Credit Termination Date of the non-extending Revolving Credit Commitments); provided, further, that (A) the conditions precedent to a Borrowing set forth in Section 4.2 shall be satisfied as of the date of such Extension Amendment and at the time when any Loans are made in respect of any Extended Revolving Credit Commitment, (B) in no event shall the final maturity date of any Extended Revolving Credit Commitments of a given Extension Series at the time of establishment thereof be earlier than the then Latest Maturity Date of any other Revolving Credit Commitments hereunder, (C) **[reserved]** and (D) all documentation in respect of the such Extension Amendment shall be consistent with the foregoing. Any Extended Revolving Credit Commitments amended pursuant to any Extension Request shall be designated a series (each, a "*Extension Series*") of Extended Revolving Credit Commitments for all purposes of this Agreement; provided that any Extended Revolving Credit Commitments amended from an Existing Revolver Tranche may, to the extent provided in the applicable Extension Amendment, be designated as an increase in any previously established Extension Series with respect to such Existing Revolver Tranche. Each Extension Series of Extended Revolving Credit Commitments incurred under this Section 2.17 shall be in an aggregate principal amount equal to not less than $25,000,000.

(b) Extension Request. The Borrower shall provide the applicable Extension Request at least five (5) Business Days (or such shorter period as may be agreed by the Administrative Agent) prior to the date on which Lenders under the Existing Revolver Tranche are requested to respond, and shall agree to such procedures, if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably, to accomplish the purposes of this Section 2.17. No Lender shall have any obligation to agree to provide any Extended Revolving Credit Commitment pursuant to any Extension Request. Any Revolving Credit Lender (each, an "*Extending Revolving Credit Lender*") wishing to have all or a portion of its Revolving Credit Commitments under the Existing Revolver Tranche subject to such Extension Request amended into Extended Revolving Credit Commitments shall notify the Administrative Agent (each, an "*Extension Election*") on or prior to the date specified in such Extension Request of the amount

of its Revolving Credit Commitments under the Existing Revolver Tranche which it has elected to request be amended into Extended Revolving Credit Commitments (subject to any minimum denomination requirements imposed by the Administrative Agent). In the event that the aggregate principal amount of Revolving Credit Commitments under the Existing Revolver Tranche in respect of which applicable Revolving Credit Lenders shall have accepted the relevant Extension Request exceeds the amount of Extended Revolving Credit Commitments requested to be extended pursuant to the Extension Request, Revolving Credit Commitments subject to Extension Elections shall be amended to reflect allocations of the Extended Revolving Credit Commitments, which Extended Revolving Credit Commitments shall be allocated as agreed by Administrative Agent and the Borrower.

(c) New Revolving Commitment Lenders. Following any Extension Request made by the Borrower in accordance with Sections 2.17(a) and 2.17(b), if the Lenders shall have declined to agree during the period specified in Section 2.17(b) above to provide Extended Revolving Credit Commitments in an aggregate principal amount equal to the amount requested by the Borrower in such Extension Request, the Borrower may request that banks, financial institutions or other institutional lenders or investors other than the Lenders or Extended Revolving Credit Lenders (the "*New Revolving Commitment Lenders*"), which New Revolving Commitment Lenders may elect to provide an Extended Revolving Credit Commitment hereunder; provided that such Extended Revolving Credit Commitments of such New Revolving Commitment Lenders (i) shall be in an aggregate principal amount for all such New Revolving Commitment Lenders not to exceed the aggregate principal amount of Extended Revolving Credit Commitments so declined to be provided by the existing Lenders and (ii) shall be on identical terms to the terms applicable to the terms specified in the applicable Extension Request (and any Extended Revolving Credit Commitments provided by existing Lenders in respect thereof); provided further that, as a condition to the effectiveness of any Extended Revolving Credit Commitment of any New Revolving Commitment Lender, the Administrative Agent, each Issuer and the Swing Loan Lender shall have consented (such consent not to be unreasonably withheld) to each New Revolving Commitment Lender if such consent would be required under Section 12.2(b)(iii) for an assignment of Revolving Credit Commitments to such Person. Notwithstanding anything herein to the contrary, any Extended Revolving Credit Commitment provided by New Revolving Commitment Lenders shall be pro rata to each New Revolving Commitment Lender. Upon effectiveness of the Extension Amendment to which each such New Revolving Commitment Lender is a party, (a) the Revolving Credit Commitments of all existing Revolving Credit Lenders of each Class specified in the Extension Amendment in accordance with this Section 2.17 will be permanently reduced pro rata by an aggregate amount equal to the aggregate principal amount of the Extended Revolving Credit Commitments of such New Revolving Commitment Lenders and (b) the Revolving Credit Commitment of each such New Revolving Commitment Lender will become effective. The Extended Revolving Credit Commitments of New Revolving Commitment Lenders will be incorporated as Revolving Credit Commitments hereunder in the same manner in which Extended Revolving Credit Commitments of existing Lenders are incorporated hereunder pursuant to this Section 2.17, and for the avoidance of doubt, all Borrowings and repayments of Revolving Loans from and after the effectiveness of such Extension Amendment shall be made pro rata across all Classes of Revolving Credit Commitments including such New Revolving Commitment Lenders (based on the outstanding principal amounts of the respective Classes of Revolving Credit Commitments) except for (x) payments of interest and fees at different rates for each Class of Revolving Credit

Commitments (and related Outstanding Amounts) and (y) repayments required on the Revolving Credit Termination Date for any particular Class of Revolving Credit Commitments. Upon the effectiveness of each New Revolving Credit Commitment pursuant to this Section 2.17(c), (a) each Revolving Credit Lender of all applicable existing Classes of Revolving Credit Commitments immediately prior to such effectiveness will automatically and without further act be deemed to have assigned to each New Revolving Commitment Lender, and each such New Revolving Commitment Lender will automatically and without further act be deemed to have assumed, a portion of such Revolving Credit Lender's participations hereunder in outstanding Letters of Credit and Swing Loans such that, after giving effect to each such deemed assignment and assumption of participations, subject to Section 2.16, the percentage of the outstanding (i) participations hereunder in Letters of Credit and (ii) participations hereunder in Swing Loans held by each Revolving Credit Lender of each Class of Revolving Credit Commitments (including each such New Revolving Commitment Lender) will equal the percentage of the aggregate Revolving Credit Commitments of all Classes of Revolving Credit Lenders represented by such Revolving Credit Lender's Revolving Credit Commitment and (b) if, on the date of such effectiveness, there are any Revolving Loans outstanding, such Revolving Loans shall on or prior to the effectiveness of such New Revolving Credit Commitment be prepaid from the proceeds of Loans outstanding after giving effect to such New Revolving Credit Commitments, which prepayment shall be accompanied by accrued interest on the Revolving Loans being prepaid and any costs incurred by any Lender in accordance with Section 3.5. The Administrative Agent and the Lenders hereby agree that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence.

(d) Extension Amendment. Extended Revolving Credit Commitments and New Revolving Credit Commitments shall be established pursuant to an amendment (each, an "*Extension Amendment*") to this Agreement among the Borrower, the Administrative Agent and each Extending Revolving Credit Lender and each New Revolving Commitment Lender, if any, providing an Extended Revolving Credit Commitment or a New Revolving Credit Commitment, as applicable, thereunder, which shall be consistent with the provisions set forth in Sections 2.17(a), (b) and (c) above (but which shall not require the consent of any other Lender). The effectiveness of any Extension Amendment shall be subject to the satisfaction on the date thereof of each of the conditions set forth in Sections 4.2(a) and (b) and, to the extent reasonably requested by the Administrative Agent, receipt by the Administrative Agent of (i) legal opinions, board resolutions and officers' certificates consistent with those delivered on the Closing Date other than changes to such legal opinion resulting from a Change in Law, change in fact or change to counsel's form of opinion reasonably satisfactory to the Administrative Agent and (ii) reaffirmation agreements and/or such amendments to the Collateral Documents as may be reasonably requested by the Collateral Agent in order to ensure that the Extended Revolving Credit Commitments or the New Revolving Credit Commitments, as the case may be, are provided with the benefit of the applicable Loan Documents. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Extension Amendment. Each of the parties hereto hereby agrees that this Agreement and the other Loan Documents may be amended pursuant to an Extension Amendment, without the consent of any other Lenders, to the extent (but only to the extent) necessary to (i) reflect the existence and terms of the Extended Revolving Credit Commitments or the New Revolving Credit Commitments, as the case may be, incurred pursuant thereto, (ii) make such other changes to this Agreement and the other Loan Documents

(without the consent of the Requisite Lenders) and (iii) effect such other amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section, and the Requisite Lenders hereby expressly authorize the Administrative Agent to enter into any such Extension Amendment.

(e) No conversion of Loans pursuant to any Extension in accordance with this Section 2.17 shall constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

ARTICLE III

TAXES, INCREASED COSTS PROTECTION AND ILLEGALITY

SECTION 3.1 Taxes.

(a) Except as required by law, any and all payments by or on behalf of the Borrower (the term "Borrower" under this Article III being deemed to include any Subsidiary for whose account a Letter of Credit is issued) or any Guarantor under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings (including backup withholding) or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto (collectively, "*Taxes*"), excluding, in the case of each Agent and each Lender, (i) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (A) imposed as a result of such Agent or Lender being organized under the laws of, or having its principal office in or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax or (B) imposed on such Agent or Lender as a result of a present or former connection between such Agent or Lender and the jurisdiction imposing such Tax (other than connections arising from such Agent or Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document), (ii) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (A) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 3.7) or (B) such Lender changes its lending office, except in each case to the extent that, pursuant to this Section 3.1, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (iii) any U.S. federal withholding Taxes imposed as a result of the failure of any Lender to comply with, in the case of any Foreign Lender, as defined below, the provisions of Sections 3.1(b) and 3.1(c) or, in the case of any U.S. Lender, as defined below, the provisions of Section 3.1(d), and (iv) any U.S. federal withholding taxes imposed pursuant to FATCA (all Taxes described in this Section 3.1(a)(i)-(iv) being hereinafter referred to as "*Excluded Taxes*"; all Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Loan Parties under any Loan Document being hereinafter referred to as "*Indemnified Taxes*"). If the Borrower, a

Guarantor or the Administrative Agent is required by Law (as determined in the good faith discretion of the Borrower, Guarantor or Administrative Agent) to deduct or withhold any Indemnified Taxes or Other Taxes (as defined below) from or in respect of any sum payable under any Loan Document to any Agent or any Lender, (i) the sum payable by the Borrower or the applicable Guarantor shall be increased as necessary so that after making all required deductions or withholdings (including deductions or withholdings applicable to additional sums payable under this Section 3.1(a)), each of such Agent and such Lender receives an amount equal to the sum it would have received had no such deductions or withholdings been made, (ii) the Borrower, Guarantor or Administrative Agent, as applicable, shall make such deductions or withholdings, (iii) the Borrower, Guarantor or Administrative Agent, as applicable, shall timely pay the full amount deducted or withheld to the relevant taxing authority, and (iv) as soon as practicable after any payment of Taxes pursuant to this Section 3.1 by the Borrower or a Guarantor, the Borrower or Guarantor shall furnish to such Agent or Lender (as the case may be) the original or a certified copy of a receipt evidencing payment thereof to the extent such a receipt has been made available to the Borrower or Guarantor (or other evidence of payment reasonably satisfactory to the Administrative Agent). If the Borrower or Guarantor fails to pay any Indemnified Taxes or Other Taxes when due to the appropriate taxing authority or fails to remit to any Agent or any Lender the required receipts or other required documentary evidence that has been made available to the Borrower or Guarantor, the Borrower or Guarantor shall indemnify such Agent and such Lender for any incremental Indemnified Taxes and Other Taxes that may become payable by such Agent or such Lender arising out of such failure.

(b) To the extent it is legally able to do so, each Agent or Lender (including an Eligible Assignee to which a Lender assigns its interest in accordance with Section 12.2) that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code (each, a "*Foreign Lender*") agrees to complete and deliver to the Borrower and the Administrative Agent on or prior to the date on which the Agent or Lender (or Eligible Assignee) becomes a party hereto, two (2) accurate, complete signed copies of whichever of the following is applicable: (i) IRS Form W-8BEN or IRS Form W-8BEN-E certifying that it is entitled to benefits under an income tax treaty to which the United States is a party; (ii) IRS Form W-8ECI certifying that the income receivable pursuant to any Loan Document is effectively connected with the conduct of a trade or business in the United States; (iii) if the Foreign Lender is not (A) a bank described in Section 881(c)(3)(A) of the Code, (B) a 10-percent shareholder described in Section 871(h)(3)(B) of the Code, or (C) a controlled foreign corporation related to the Borrower within the meaning of Section 864(d) of the Code, a certificate to that effect in substantially the form attached hereto as Exhibit N (a "*Non-Bank Certificate*") and an IRS Form W-8BEN or IRS Form W-8BEN-E, certifying that the Foreign Lender is not a United States person; (iv) to the extent a Lender is not the beneficial owner for U.S. federal income tax purposes, IRS Form W-8IMY (or any successor forms) of the Lender, accompanied by, as and to the extent applicable, an IRS Form W-8BEN or IRS Form W-8BEN-E, IRS Form W-8ECI, IRS Form W-9, IRS Form W-8IMY (or other successor forms), Non-Bank Certificate and any other required supporting information from each beneficial owner (it being understood that a Lender need not provide certificates or supporting documentation from beneficial owners if (x) the Lender is a "qualified intermediary" or "withholding foreign partnership" for U.S. federal income tax purposes and (y) such Lender is as a result able to establish, and does establish, that payments to such Lender are, to the extent applicable, entitled to an exemption from or, if an exemption is not available, a reduction in the rate of, U.S. federal withholding taxes without providing such certificates or

supporting documentation); provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a Non-Bank Certificate on behalf of each such direct and indirect partner; or (v) any other form reasonably requested by the Administrative Agent or the Borrower and prescribed by applicable requirements of U.S. federal income tax law as a basis for claiming exemption from or a reduction in U.S. federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable requirements of law to permit the Borrower and the Administrative Agent to determine the withholding or deduction required to be made; provided, that a Lender shall not be required to deliver any form described in this clause (v) if, in the Lender's reasonable judgment the completion, execution, provision or submission of such form would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(c) In addition, each such Lender shall, to the extent it is legally entitled to do so, (i) update any form, certificate or other evidence previously provided by such Lender pursuant to Section 3.1(b) (A) on or before the date that such Lender's most recently delivered form, certificate or other evidence expires or becomes obsolete or inaccurate in any material respect, (B) after the occurrence of a change in the Foreign Lender's circumstances requiring a change in the most recent form, certificate or evidence previously delivered by it to the Borrower and the Administrative Agent, and (C) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent, and (ii) promptly notify the Borrower and the Administrative Agent of any change in the Foreign Lender's circumstances which would modify or render invalid any claimed exemption or reduction.

(d) Each Agent or Lender that is a "United States person" (within the meaning of Section 7701(a)(30) of the Code) (each a "*U.S. Lender*") agrees to complete and deliver to the Borrower and the Administrative Agent two (2) copies of accurate, complete and signed IRS Form W-9 or successor form certifying that such Agent or Lender is not subject to United States backup withholding tax (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) on or before the date that such form expires or becomes obsolete or inaccurate in any material respect, (iii) after the occurrence of a change in the Agent's or Lender's circumstances requiring a change in the most recent form previously delivered by it to the Borrower and the Administrative Agent, and (iv) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent.

(e) If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Agent as may be necessary for the Borrower and the Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 3.1(e), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(f) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made hereunder shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Agent as will enable the Borrower or the Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.1(b)(i) through (iv), (d) and (e) above) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(g) On or before the date the Administrative Agent becomes a party to this Agreement, the Administrative Agent shall provide to the Borrower, two duly-signed, properly completed copies of the documentation prescribed in clause (i) or (ii) below, as applicable (together with all required attachments thereto): (i) IRS Form W-9 or any successor thereto, or (ii) (A) IRS Form W-8ECI or any successor thereto with respect to any amounts payable to the Administrative Agent for its own account, and (B) with respect to payments received on account of any Lender, a U.S. branch withholding certificate on IRS Form W-8IMY or any successor thereto evidencing its agreement with the Borrower to be treated as a U.S. Person for U.S. federal withholding purposes. At any time thereafter, the Administrative Agent shall provide updated documentation previously provided (or a successor form thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower.

(h) The Borrower agrees to pay any and all present or future stamp, court or documentary Taxes and any other similar excise, property, intangible or mortgage recording Taxes or charges or similar levies which arise from any payment made under any Loan Document or from the execution, delivery, performance, from the receipt or perfection of a security interest under, enforcement or registration of, or otherwise with respect to, any Loan Document (including additions to tax, penalties and interest related thereto) excluding, in each case, such Taxes that are described in Section 3.1(a)(ii) imposed with respect to an Assignment and Assumption, except to the extent that any such change is requested in writing by the Borrower (all such non-excluded Taxes described in this Section 3.1(h) being hereinafter referred to as "*Other Taxes*").

(i) If any Indemnified Taxes or Other Taxes are payable or paid by any Agent or Lender or required to be withheld or deducted from a payment to such Agent or Lender with respect to any payment received by such Agent or Lender in respect of any Loan Document, such Agent or Lender may pay such Indemnified Taxes or Other Taxes and the Loan Parties will, jointly and severally, promptly indemnify and hold harmless such Agent or Lender for the full amount of such Indemnified Taxes and Other Taxes (and any Indemnified Taxes and Other Taxes imposed on amounts payable under this Section 3.1), and any reasonable expenses arising

therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted. Payments under this Section 3.1(i) shall be made within ten (10) days after the date Borrower receives demand for payment from such Agent or Lender. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by an Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(j) Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (x) any Indemnified Taxes or Other Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes or Other Taxes pursuant to this Agreement and without limiting the obligation of the Borrower to do so), (y) any Indemnified Taxes or Other Taxes attributable to such Lender's failure to comply with the provisions of Section 12.2(e) relating to the maintenance of a Participant Register and (z) any Taxes excluded from Indemnified Taxes or Other Taxes that are attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off an apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (j).

(k) **[Reserved]**.

(l) **[Reserved]**.

(m) If any Administrative Agent or any Lender determines, in its sole discretion exercised in good faith, that it has received a refund in respect of any Indemnified Taxes or Other Taxes as to which it has been indemnified by the Borrower or any Guarantor, as the case may be or with respect to which the Borrower or any Guarantor, as the case may be has paid additional amounts pursuant to this Section 3.1, it shall remit such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower or any Guarantor, as the case may be under this Section 3.1 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower or Guarantor, as the case may be, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower or such Guarantor, as the case may be (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph 3.1(m), in no event will the Administrative Agent or any Lender be required to pay any amount to an indemnifying party pursuant to this paragraph 3.1(m) the payment of which would place the Administrative Agent or Lender in a less favorable net after-tax position than such Administrative Agent or Lender would have been in if the Tax subject to indemnification

and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its Taxes that it deems confidential) to the Borrower or any other Person.

(n) Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.1(a) or (i) with respect to such Lender, it will, if requested by the Borrower, use commercially reasonable efforts (subject to legal and regulatory restrictions) to mitigate the effect of any such event and by completing and delivering or filing any tax related forms which such lender is legally able to deliver and which would reduce or eliminate any amount of Taxes or Other Taxes required to be deducted or withheld or paid by the Borrower, including by designating another Lending Office for any Loan affected by such event; provided that such efforts (including the completion, execution, provision or submission of any tax related form) are made at the Borrower's expense and on terms that, in the reasonable judgment of such Lender, cause such Lender and its Lending Office(s) to suffer no material economic, legal, commercial or regulatory disadvantage, and provided further that nothing in this paragraph 3.1(n) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.1(a) or (i).

(o) Notwithstanding any other provision of this Agreement, the Borrower and the Administrative Agent may deduct and withhold any taxes required by any Laws to be deducted and withheld from any payment under any of the Loan Documents, subject to the provisions of this Section 3.1.

(p) With respect to any Lender's claim for compensation under this clause 3.1, the Borrower shall not be required to compensate such Lender for any amount incurred more than one hundred and eighty (180) days prior to the date that such Lender notifies the Borrower of the event that gives rise to such claim; provided that, if the circumstances that give rise to such claim is retroactive, then such one hundred and eighty (180) day period referred to above shall be extended to include the period of retroactive effect thereof.

(q) Each party's obligations under this Section 3.1 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

SECTION 3.2 Illegality. If any Lender reasonably determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurocurrency Rate, or to determine or charge interest rates based upon the Eurocurrency Rate or Adjusted Eurocurrency Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurocurrency Rate Loans or to convert Base Rate Loans to Eurocurrency Rate Loans shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining

Base Rate Loans the interest rate on which is determined by reference to the Adjusted Eurocurrency Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Eurocurrency Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans and shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurocurrency Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Eurocurrency Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Rate Loans to such day, or promptly, if such Lender may not lawfully continue to maintain such Eurocurrency Rate Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Adjusted Eurocurrency Rate component of the Base Rate with respect to any Base Rate Loans, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Adjusted Eurocurrency Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurocurrency Rate. Each Lender agrees to designate a different Lending Office if such designation will avoid the need for such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

SECTION 3.3 Inability to Determine Rates. If the Requisite Lenders reasonably determine that for any reason in connection with any request for a Eurocurrency Rate Loan or a conversion to or continuation thereof that (a) Dollar deposits are not being offered to banks in the London interbank eurocurrency market for the applicable amount and Interest Period of such Eurocurrency Rate Loan, (b) adequate and reasonable means do not exist for determining the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan or in connection with an existing or proposed Base Rate Loan; provided that the Administrative Agent and the Borrower shall endeavor to establish an alternate rate of interest to the Eurocurrency Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable, and notwithstanding anything to the contrary in Section 12.1, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five (5) Business Days of the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Requisite Lenders stating that such Requisite Lenders object to such amendment, or (c) the Eurocurrency Rate, for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurocurrency Rate Loans shall be suspended, and (y) in the event of a determination described in

the preceding sentence with respect to the Adjusted Eurocurrency Rate component of the Base Rate, the utilization of the Adjusted Eurocurrency Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (upon the instruction of the Requisite Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

SECTION 3.4 Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurocurrency Rate Loans.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender or any Issuer;

(ii) subject any Lender or the Administrative Agent or any 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 Eurocurrency Rate Loan made by it, or change the basis of taxation of payments to such Lender or the Administrative Agent or the Issuer in respect thereof (except for Indemnified Taxes, Other Taxes or Excluded Taxes); or

(iii) impose on any Lender or any Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or Eurocurrency Rate Loans made by such Lender or any Letter of Credit or participation therein, in each case that is not otherwise accounted for in the definition of Adjusted Eurocurrency Rate or this clause (a);

and the result of any of the foregoing shall be to increase the cost to such Lender (or, in the case of clause (ii) above, the Administrative Agent) of making or maintaining any Loan the interest on which is determined by reference to the Eurocurrency Rate (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender (or, in the case of clause (ii) above, the Administrative Agent) or such Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or Issuer hereunder (or, in the case of clause (ii) above, the Administrative Agent) (whether of principal, interest or any other amount) then, from time to time within fifteen (15) days after receipt of the certificate referred to in Section 3.4(c) below setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent), the Borrower will pay to such Lender or Issuer (or, in the case of clause (ii) above, the Administrative Agent), as the case may be, such additional amount or amounts as will compensate such Lender or Issuer (or, in the case of clause (ii) above, the Administrative Agent), as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or any Issuer reasonably determines that any Change in Law affecting such Lender or such Issuer or any Lending Office of such Lender or such Lender's or such Issuer's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or such Issuer's capital or on the capital of such Lender's or such Issuer's holding company, if any, as a consequence of this Agreement, the Revolving Credit Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuer, to a level below that which such Lender or such Issuer or such Lender's or such Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuer's policies and the policies of such Lender's or such Issuer's holding company with respect to capital adequacy and liquidity requirements), then from time to time upon demand of such Lender or such Issuer setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent), the Borrower will pay to such Lender or such Issuer, as the case may be, within fifteen (15) days after receipt of the certificate referred to in Section 3.4(c) below, such additional amount or amounts as will compensate such Lender or such Issuer or such Lender's or such Issuer's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or an Issuer setting forth the amount or amounts necessary to compensate such Lender or such Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section 3.4 and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or such Issuer, as the case may be, the amount shown as due on any such certificate within fifteen (15) days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or any Issuer to demand compensation pursuant to the foregoing provisions of this Section 3.4 shall not constitute a waiver of such Lender's or such Issuer's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or an Issuer pursuant to the foregoing provisions of this Section 3.4 for any increased costs incurred or reductions suffered more than one hundred and eighty (180) days prior to the date that such Lender or such Issuer, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof).

SECTION 3.5 Funding Losses. Upon written demand of any Lender (with a copy to the Administrative Agent) from time to time, which demand shall set forth in reasonable detail the basis for requesting such amount, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense actually incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day prior to the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a Eurocurrency Rate Loan on a day prior to the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 3.7;

(d) including any loss or expense (excluding loss of anticipated profits or margin) actually incurred by reason of the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained (and, for the avoidance of doubt, excluding the impact of clause (b) of the definition of "*Adjusted Eurocurrency Rate*").

SECTION 3.6 Matters Applicable to All Requests for Compensation.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.4, or the Borrower is required to pay any additional amount to any Lender, any Issuer, or any Governmental Authority for the account of any Lender or any Issuer pursuant to Section 3.1, or if any Lender gives a notice pursuant to Section 3.2, then such Lender or such Issuer shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or such Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.1 or 3.4, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.2, as applicable, and (ii) in each case, would not subject such Lender or such Issuer, as the case may be, to any material unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or such Issuer, as the case may be in any material economic, legal or regulatory respect.

(b) Suspension of Lender Obligations. If any Lender requests compensation by the Borrower under Section 3.4, the Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue Eurocurrency Rate Loans from one Interest Period to another Interest Period, or to convert Base Rate Loans into Eurocurrency Rate Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.6(c) shall be applicable); provided that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(c) Conversion of Eurocurrency Rate Loans. If any Lender gives notice to the Borrower (with a copy to the Administrative Agent) that the circumstances specified in Sections 3.2, 3.3 or 3.4 hereof that gave rise to the conversion of such Lender's Eurocurrency Rate Loans no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurocurrency Rate Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurocurrency Rate Loans, to the extent necessary so that, after giving effect thereto, all Loans of a given Class held by the Lenders of such Class holding Eurocurrency Rate Loans and by such Lender are held pro rata (as to

principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Pro Rata Shares.

SECTION 3.7 Replacement of Lenders under Certain Circumstances.

If (i) any Lender requests compensation under Section 3.4 or ceases to make Eurocurrency Rate Loans as a result of any condition described in Section 3.2 or Section 3.4, (ii) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.1 or 3.4, (iii) any Lender is a Non-Consenting Lender or (iv) any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 12.2), all of its interests, rights and obligations under this Agreement (or, with respect to clause (iii) above, all of its interests, rights and obligations with respect to the Class of Loans or Commitments that is the subject of the related consent, waiver and amendment) and the related Loan Documents to one or more Eligible Assignees that shall assume such obligations (any of which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 12.2(b)(iv);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.5) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower;

(c) such Lender being replaced pursuant to this Section 3.7 shall (i) execute and deliver an Assignment and Assumption with respect to all, or a portion as applicable, of such Lender's Commitment and outstanding Loans, and (ii) deliver any Revolving Credit Notes evidencing such Loans to the Borrower or Administrative Agent (or a lost or destroyed note indemnity in lieu thereof); provided that the failure of any such Lender to execute an Assignment and Assumption or deliver such Revolving Credit Notes shall not render such sale and purchase (and the corresponding assignment) invalid and such assignment shall be recorded in the Register and the Revolving Credit Notes shall be deemed to be canceled upon such failure;

(d) the Eligible Assignee shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Revolving Credit Commitments and participations, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender (and, if such assigning Lender is a Non-Consenting Lender, such Eligible Assignee shall agree to the applicable consent, waiver or amendment to which such Non-Consenting Lender has not agreed);

(e) in the case of any such assignment resulting from a claim for compensation under Section 3.4 or payments required to be made pursuant to Section 3.1, such assignment will result in a reduction in such compensation or payments thereafter;

(f) such assignment does not conflict with applicable Laws; and

(g) the Lender that acts as the Administrative Agent cannot be replaced in its capacity as Administrative Agent other than in accordance with Section 11.6.

In the event that (i) the Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment thereto, (ii) the consent, waiver or amendment in question requires the agreement of each Lender, all affected Lenders or all the Lenders or all affected Lenders with respect to a certain Class or Classes of the Loans and/or Revolving Commitments and (iii) the Requisite Lenders or the Requisite Class Lenders, as applicable, have agreed (but solely to the extent required by Section 12.1) to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a "Non-Consenting Lender".

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

SECTION 3.8 Survival. All of the Borrower's obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder and resignation or removal of the Administrative Agent, the Collateral Agent, the Swing Loan Lender or any Issuer.

ARTICLE IV

CONDITIONS PRECEDENT

SECTION 4.1 Conditions Precedent to Closing Date.

The Agreement shall become effective on the Closing Date upon the satisfaction or due waiver in accordance with Section 12.1 of each of the following conditions precedent, except as otherwise agreed between the Borrower, the Administrative Agent and the Collateral Agent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or pdf copies or other facsimiles (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party each in form and substance reasonably satisfactory to the Administrative Agent and its legal counsel:

(i) to the extent applicable, a Notice of Borrowing no less than (x) two (2) Business Days prior to the Closing Date in the case of a Borrowing of Eurocurrency Loans on the Closing Date or (y) one (1) Business Day prior to the Closing Date in the case of a Borrowing of Base Rate Loans on the Closing Date;

(ii) executed counterparts of this Agreement, the Guaranty, the Parent Pledge Agreement and the ABL/Term Intercreditor Agreement;

(iii) a Revolving Credit Note executed by the Borrower in favor of each Lender that has requested a Note at least two (2) Business Days in advance of the Closing Date;

(iv) each Collateral Document set forth on Schedule 1.1A required to be executed on the Closing Date as indicated on such schedule, duly executed by each Loan Party thereto, together with:

(A) copies of certificates, if any, representing the Pledged Equity referred to therein accompanied by undated stock powers executed in blank and instruments evidencing the Pledged Debt indorsed in blank;

(B) evidence that all other actions, recordings and filings required by the Collateral Documents that the Administrative Agent and the Collateral Agent may deem reasonably necessary to satisfy the Collateral and Guarantee Requirement shall have been taken, completed or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent;

(v) all governmental consents and approvals necessary in connection with the Transactions shall have been obtained and be effective, other than those which the failure to obtain, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect;

(vi) such certificates of good standing from the applicable secretary of state of the state of organization of each Loan Party, certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party on the Closing Date;

(vii) an opinion from Sidley Austin LLP, New York counsel to the Loan Parties in form and substance reasonably satisfactory to the Administrative Agent;

(viii) a solvency certificate from a Financial Officer (after giving effect to the Transactions) substantially in the form attached hereto as Exhibit L;

(ix) evidence that all insurance required to be maintained pursuant to the Loan Documents has been obtained and is in effect and that the Collateral Agent has been named as loss payee or mortgagee and/or additional insured, as applicable, under each insurance policy with respect to such insurance as to which the Collateral Agent shall have reasonably requested to be so named;

(x) evidence that the Refinancing has been consummated or, substantially simultaneously with the initial Credit Extension hereunder shall be consummated;

(xi) copies of a recent Lien and judgment search in each jurisdiction reasonably requested by the Administrative Agent with respect to the Loan Parties; and

(xii) copies of the most recent Borrowing Base Certificate (as defined in the DIP ABL Credit Agreement) required to be delivered by the Borrower under the DIP ABL Credit Agreement.

(b) All accrued fees and other payments under the Fee Letter and all accrued reasonable and documented out-of-pocket costs and expenses under the Commitment Letter and the Loan Documents (including legal fees and expenses), in each case required to be paid on the Closing Date pursuant to the Fee Letter, the Commitment Letter and the Loan Documents, as applicable, shall, upon the initial Credit Extension, have been paid (which amounts may be offset against the proceeds of the initial Credit Extension).

(c) The Term Loan Documents shall be acceptable to the Administrative Agent and shall have been executed by each of the parties thereto and delivered to the Administrative Agent.

(d) (i) Each of the conditions precedent under Section 4.1 of the Term Loan Agreement shall have been (or, substantially simultaneously with the initial Credit Extension hereunder, shall be) satisfied to the satisfaction of the Term Agent and the gross proceeds of the Term Loans shall have been (or substantially simultaneously with the initial Credit Extension hereunder, shall be) funded in an amount of not less than $400,000,000, (ii) the Transactions shall have closed and been consummated substantially in the manner contemplated by the Approved Plan; and (iii) the Stripes PIK Facility shall have been (or, substantially simultaneously with the initial Credit Extension hereunder, shall be) consummated, in each case, on terms and conditions satisfactory to the Administrative Agent.

(e) The Arranger shall have received (i) audited consolidated balance sheets and related statements of income and cash flows for the Borrower and its Subsidiaries for the Fiscal Year ended October 3, 2017 and copies of the most recent audited annual financial statements required to be delivered by the Borrower under the DIP ABL Credit Agreement for the Fiscal Year immediately preceding the Closing Date to the extent ended at least 120 days prior to the Closing Date, (ii) unaudited consolidated balance sheets and related statements of income and cash flows for the Borrower and its Subsidiaries for each Fiscal Quarter subsequent to October 3, 2017 and ended at least 45 days prior to the Closing Date, (iii) copies of the most recent monthly financial statements required to be delivered by the Borrower under the DIP ABL Credit Agreement for the calendar months of year 2018 ended at least 30 days prior to the Closing Date, and (iv) quarterly projections of the operating results of the Borrower and its Subsidiaries for the period commencing [ ] and ending on the Scheduled Termination Date.

(f) The Arranger shall have received at least three (3) Business Days prior to the Closing Date all documentation and other information reasonably requested in writing by them at least ten (10) Business Days prior to the Closing Date in order to allow the Arranger and the Lenders to comply with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and a certification regarding beneficial ownership required by 31 C.F.R. § 1010.230.

(g) The Administrative Agent shall have received fully executed release letters or other documentation reasonably satisfactory to Administrative Agent confirming that, or otherwise be reasonably satisfied that, all obligations owing by any Loan Party to the lenders of the Stripes Intra-Group Loan Agreement will be released (or in the case of Stripes US Holding, Inc. contributed by such lenders to the capital of Stripes US Holding Inc. and concurrently cancelled and released or extinguished in connection therewith).

(h) Delivery of a Responsible Officer's Certificate certifying as to the conditions set forth in Sections 4.1(i), 4.1(j), 4.1(k), 4.1(m), 4.1(q), 4.1(r), 4.1(v), 4.2(b) and 4.2(c).

(i) After giving effect to the Transactions, Excess Availability on the Closing Date shall be not less than $75,000,000.

(j) (1) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects; provided that any representation and warranty that is qualified as to "materiality," "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects and (2) no Default or Event of Default shall have occurred and be continuing.

(k) The order entered by the Bankruptcy Court as Docket No. 444 on October 29, 2018 in the Chapter 11 Cases approving the Commitment Letter and the Commitment Fee shall have become a final order of the Bankruptcy Court, for which the time for taking of any appeal or petition for writ of certiorari shall have passed, and shall not have been stayed, reversed, vacated, amended, supplemented or modified without the prior written consent of the Administrative Agent and the Lenders. The Borrower shall have paid all fees required to be paid on the Closing Date under the Fee Letter or the Commitment Letter to Administrative Agent, the Arranger and the Lenders and shall have reimbursed the Administrative Agent, the Arranger and the Lenders for all costs and expenses required to be paid under the Commitment Letter as of the Closing Date.

(l) The Disclosure Statement shall be satisfactory to the Arranger and shall have been approved by the Bankruptcy Court.

(m) Except as disclosed in the Disclosure Statement, other than the filing and pendency of the Chapter 11 Cases and the consequences thereof, since the Petition Date, there has not been any event, occurrence, development or state of circumstances or facts that has had or would reasonably be expected to have, individually or in the aggregate a Material Adverse Effect.

(n) The Chapter 11 Plan and all other related documentation (a) shall be satisfactory to the Arranger in all respects, (b) shall have been confirmed by the Confirmation Order on or before the date that is 75 days after the Petition Date, which order shall be satisfactory to the Arranger in all respects, which order shall be in full force and effect, unstayed, final and non-appealable, and shall not have been modified or amended without the written consent of the Arranger, reversed or vacated, (c) all conditions precedent to the effectiveness of the Chapter 11 Plan as set forth therein shall have been satisfied or waived (the waiver thereof having been

approved by the Arranger), (d) the Chapter 11 Plan shall have become effective in accordance with its terms and all conditions precedent to the effectiveness of the Chapter 11 Plan shall have been satisfied or waived with the prior written consent of the Administrative Agent, and (e) the transactions contemplated by the Chapter 11 Plan to occur on the effective date of the Chapter 11 Plan shall have been substantially consummated (as defined in Section 1101 of the Bankruptcy Code) on the Closing Date substantially contemporaneously with the initial funding hereunder in accordance with the terms of the Chapter 11 Plan and in compliance with applicable law and Bankruptcy Court and regulatory approvals.

(o) The corporate structure, capital structure, other debt instruments and governing documents of the Parent and its Subsidiaries, and the tax effects resulting from the Chapter 11 Plan and the Transactions shall be reasonably satisfactory to the Administrative Agent.

(p) **[Reserved]**.

(q) The Loan Parties shall have rejected the leases with respect to not less than 500 Stores on or before the date that is 60 days after the Petition Date in accordance with a Bankruptcy Court order in form and substance satisfactory to the Administrative Agent.

(r) The Loan Parties shall have secured rent reductions from landlords of the non-closed Stores in an aggregate amount of at least $35,000,000.

(s) **[Reserved]**.

(t) The Second Lien Credit Agreement shall be repaid in full with the proceeds of the Term Loans.

(u) **[Reserved]**.

(v) No event of default or other defaults shall have occurred and be continuing under the DIP ABL Credit Agreement, DIP Term Loan Agreement or the PSA.

(w) The existing Series A Preferred Stock of Parent shall be extinguished in form and substance acceptable to the Lenders in their sole and absolute discretion.

Without limiting the generality of the provisions of the last paragraph of Section 9.3, for purposes of determining compliance with the conditions specified in this Section 4.1, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

SECTION 4.2 Conditions Precedent to Each Loan and Letter of Credit.

The obligation of each Lender on and after the Closing Date to honor a Notice of Borrowing (but not a Notice of Conversion or Continuation) and of each Issuer on any date to

Issue any Letter of Credit is subject to the satisfaction of each of the following conditions precedent:

(a) Request for Borrowing or Issuance of Letter of Credit. With respect to any Loan, the Administrative Agent shall have received a duly executed Notice of Borrowing (or, in the case of Swing Loans, a duly executed Swing Loan Request), and, with respect to any Letter of Credit, the Administrative Agent and the applicable Issuer shall have received a duly executed Letter of Credit Request.

(b) Representations and Warranties; No Defaults. The following statements shall be true on the date of such Credit Extension, both immediately before and immediately after giving effect thereto and, in the case of any Loan, giving effect to the application of the proceeds thereof:

(i) the representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Borrowing; provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided, further that, any representation and warranty that is qualified as to "materiality," "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates; and

(ii) no Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds therefrom.

(c) Borrowing Base. After giving effect to the Loans or Letters of Credit requested to be made or Issued on any such date and the use of proceeds thereof, the Revolving Credit Outstandings shall not exceed the Maximum Credit at such time.

Each submission by the Borrower to the Administrative Agent of a Notice of Borrowing (but not a Notice of Conversion or Continuation) or a Swing Loan Request and the acceptance by the Borrower of the proceeds of each Loan requested therein, and each submission by the Borrower to an Issuer of a Letter of Credit Request, and the Issuance of each Letter of Credit requested therein, shall be deemed to constitute a representation and warranty by the Borrower that the conditions specified in clause (b) and clause (d) above have been satisfied on and as of the date of the making of such Loan or the Issuance of such Letter of Credit.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

Each Loan Party signatory hereto represents and warrants to the Agents and the Lenders that:

SECTION 5.1 Existence, Qualification and Power; Compliance with Laws Each Loan Party and each of its Restricted Subsidiaries that is a Material Subsidiary (a) is a Person duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of

its incorporation or organization (to the extent such concept exists in such jurisdiction), (b) has all requisite power and authority to (i) own or lease its assets and carry on its business as currently conducted and (ii) in the case of the Loan Parties, execute, deliver and perform its obligations under the Loan Documents to which it is a party, (c) is duly qualified and in good standing (to the extent such concept exists in such jurisdiction) under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, (d) is in compliance with all applicable Laws, orders, writs and injunctions and (e) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted; except in each case referred to in clause (c), (d) or (e), to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect. Each Loan Party and each of its Restricted Subsidiaries (a) is in compliance in all material respects with applicable Laws related to the maintenance of accurate books and records and (b) maintains effective systems of internal controls to ensure maintenance of accurate books and records.

SECTION 5.2 Authorization; No Contravention. (a) The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party have been duly authorized by all necessary corporate or other organizational action.

(b) Neither the execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party, the consummation of the Transaction, nor the incurrence of any Obligations or the granting of Lien to secure the Obligations will (i) contravene the terms of any of such Person's Organization Documents, (ii) result in any breach or contravention of, or the creation of any Lien upon any of the property or assets of such Person or any of the Restricted Subsidiaries (other than as permitted by Section 9.1) under (A) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (B) any material order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (iii) violate any applicable Law; except with respect to any breach, contravention or violation (but not creation of Liens) referred to in clauses (ii) and (iii), to the extent that such breach, contravention or violation would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.3 Governmental Authorization. No material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, except for (i) filings necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties, (ii) the approvals, consents, exemptions, authorizations, actions, notices and filings that have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral and Guarantee Requirement) and (iii) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.4 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party thereto. This Agreement and each

other Loan Document constitutes a legal, valid and binding obligation of such Loan Party, enforceable against such Loan Party that is party thereto in accordance with its terms, except as such enforceability may be limited by (i) Debtor Relief Laws and by general principles of equity and principles of good faith and fair dealing, (ii) the need for filings and registrations necessary to create or perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties and (iii) the effect of foreign Laws, rules and regulations as they relate to pledges of Equity Interests in Foreign Subsidiaries.

SECTION 5.5 Financial Statements; No Material Adverse Effect.

(a) The financial statements delivered pursuant to Section 4.1(e) present in all material respects the financial condition of the Borrower and its Subsidiaries as of the dates thereof and their results of operations for the period covered thereby in accordance with GAAP or IFRS, as applicable, consistently applied throughout the periods covered thereby, (A) except as otherwise expressly noted therein and (B) subject, in the case of the quarterly financial statements, to changes resulting from normal year-end adjustments and the absence of footnotes.

(b) Since the Closing Date there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect.

(c) All Projections delivered pursuant to Section 7.1(d) have been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time made, it being understood that projections as to future events are not to be viewed as facts and actual results may vary materially from such forecasts.

SECTION 5.6 Litigation. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, overtly threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against any Loan Party or any of the Restricted Subsidiaries that would reasonably be expected to have a Material Adverse Effect.

SECTION 5.7 Labor Matters. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) there are no strikes or other labor disputes against any Loan Party or its Restricted Subsidiaries pending or, to the knowledge of the Borrower, overtly threatened in writing and (b) hours worked by and payment made based on hours worked to employees of each of the Loan Parties or their Restricted Subsidiaries have not been in material violation of the Fair Labor Standards Act or any other applicable Laws dealing with wage and hour matters.

SECTION 5.8 Ownership of Property; Liens. Each Loan Party and each of their Restricted Subsidiaries has good record title to, or valid leasehold interests in, or easements or other limited property interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except as set forth in Schedule 5.8 and except for minor defects in title that do not materially interfere with its ability to conduct its business or to utilize such assets for their intended purposes and except for Liens permitted by Section 9.1 and except where the failure to have such title or other interest would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.9 Environmental Matters.

Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) (i) each Loan Party and its respective properties and operations are, and for the past three years have been, in compliance with all Environmental Laws in all jurisdictions in which each Loan Party is currently doing business, which includes obtaining and maintaining all applicable Environmental Permits required under such Environmental Laws to carry on the business of the Loan Parties, and (ii) none of the Loan Parties is subject to any pending Environmental Claim or any other Environmental Liability, or to the knowledge of the Borrower, any Environmental Claim or any other Environmental Liability threatened in writing; and

(b) none of the Loan Parties or any of their respective Subsidiaries has released, treated, stored, transported or disposed of Hazardous Materials at or from any currently or, to the knowledge of the Borrower, formerly operated real estate or facility relating to its business except in compliance with Environmental Laws.

SECTION 5.10 Taxes. Except as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Loan Parties and their Restricted Subsidiaries have timely filed all Federal and state and other tax returns and reports required to be filed by them, and have timely paid all Federal and state and other Taxes, assessments, fees and other governmental charges (including satisfying its withholding tax obligations) levied or imposed on their properties, income or assets or otherwise due and payable, except those which are being contested in good faith by appropriate actions diligently conducted and for which adequate reserves have been provided in accordance with IFRS.

SECTION 5.11 ERISA Compliance.

(a) Except as set forth in Schedule 5.11(a) or as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Plan is in compliance with the applicable provisions of ERISA and the Code.

(b) (i) No ERISA Event has occurred prior to the date on which this representation is made or deemed made; and (ii) no Pension Plan has failed to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan, except, with respect to each of the foregoing clauses of this Section 5.11(b), as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.12 Subsidiaries. As of the Closing Date (after giving effect to the Transaction), no Loan Party has any Material Subsidiaries other than those specifically disclosed in Schedule 5.12, and all of the outstanding Equity Interests owned by the Loan Parties in such Material Subsidiaries have been validly issued and are fully paid and (if applicable) nonassessable, and all Equity Interests owned by a Loan Party are owned free and clear of all Liens except (i) those created under the Collateral Documents and (ii) any Lien that is permitted under Section 9.1. As of the Closing Date, Schedule 5.12 (a) sets forth the name and jurisdiction of each Loan Party, (b) sets forth the ownership interest of each Loan Party and any other

Subsidiary in each Subsidiary, including the percentage of such ownership and (c) identifies each Subsidiary that is a Subsidiary the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral and Guarantee Requirement.

SECTION 5.13 Margin Regulations; Investment Company Act.

(a) No Loan Party is engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying Margin Stock, or extending credit for the purpose of purchasing or carrying Margin Stock, and no proceeds of any Borrowings will be used for any purpose that violates Regulation U of the Board of Governors of the United States Federal Reserve System.

(b) No Loan Party is registered as an "investment company" under the Investment Company Act of 1940.

SECTION 5.14 Disclosure. None of the information and data heretofore or contemporaneously furnished in writing by or on behalf of any Loan Party (other than financial estimates, forecasts and other forward-looking information, pro forma financial information and information of a general economic or industry-specific nature) to any Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document (as modified or supplemented by other information so furnished) when taken as a whole contains any material misstatement of fact or omits to state any material fact necessary to make such information and data (taken as a whole), in the light of the circumstances under which it was delivered, not materially misleading. With respect to any financial estimates, forecasts and other forward-looking information or any pro forma financial information, the Borrower represents that such information was prepared in good faith based upon assumptions believed to be reasonable at the time of preparation; it being understood that such projections may vary from actual results and that such variances may be material.

SECTION 5.15 Intellectual Property; Licenses, Etc. The Loan Parties and the Restricted Subsidiaries have good and marketable title to, or a valid license or right to use, all patents, patent rights, trademarks, servicemarks, trade names, copyrights, technology, software, know-how database rights, rights of privacy and publicity, licenses and other intellectual property rights (collectively, "*IP Rights*") that are reasonably necessary for the operation of their respective businesses as currently conducted and as proposed to be conducted, except where the failure to have any such rights, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. To the knowledge of the Borrower, the operation of the respective businesses of the Loan Parties and their Restricted Subsidiaries as currently conducted does not infringe upon, misuse, misappropriate or violate any rights held by any Person except for such infringements, misuse, misappropriations or violations individually or in the aggregate, that would not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any IP Rights is pending or, to the knowledge of the Borrower, threatened in writing against any Loan Party or Restricted Subsidiary, that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

SECTION 5.16 Solvency. On the Closing Date after giving effect to the Transaction, the Loan Parties and their Restricted Subsidiaries, on a consolidated basis, are Solvent.

SECTION 5.17 Subordination of Junior Financing. The Obligations are "Designated Senior Debt", "Senior Debt", "Senior Indebtedness", "Guarantor Senior Debt" or "Senior Secured Financing" (or any comparable term) under, and as defined in, any indenture or document governing any applicable Junior Financing Documentation in respect of Indebtedness that is subordinated in right of payment to the Obligations.

SECTION 5.18 USA PATRIOT Act; OFAC; FCPA; Anti-Corruption Laws.

(a) To the extent applicable, each the Loan Parties and its Subsidiaries is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (ii) the USA PATRIOT Act.

(b) No part of the proceeds of the Loans or Letters of Credit will be used, directly or, to the knowledge of any Loan Party or its Subsidiaries, indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended (the "*FCPA*") and any other anti-bribery and anti-corruption laws of those jurisdictions in which such Persons conduct business (collectively, "*Anti-Corruption Laws*").

(c) (i) None of the Loan Parties or their Subsidiaries will directly or, to the knowledge of such Loan Party or such Subsidiary, indirectly, use the proceeds of the Loans or Letters of Credit in violation of applicable Sanctions or otherwise knowingly make available such proceeds to any Person for the purpose of financing the activities of any Sanctioned Person, except to the extent licensed, exempted or otherwise approved by a competent governmental body responsible for enforcing such Sanctions, (ii) none of the Loan Parties, their Subsidiaries or to the knowledge of the Loan Parties or such Subsidiary, their respective directors, officers or employees or, to the knowledge of the Borrower, any controlled Affiliate of the Loan Parties or its Subsidiaries that will act in any capacity in connection with or benefit from any Class, is a Sanctioned Person and (iii) none of the Loan Parties, their Subsidiaries or, to the knowledge of any Loan Party or such Subsidiary, their respective directors, officers and employees, are in violation of applicable Sanctions in any material respects.

(d) The Loan Parties shall have adopted, implemented and maintain anti-bribery and anti-corruption policies and procedures that are designed to ensure compliance in all material respects with the Anti-Corruption Laws.

SECTION 5.19 Collateral Documents. Except as otherwise contemplated hereby or under any other Loan Documents, the provisions of the Collateral Documents, together with such filings and other actions required to be taken hereby or by the applicable Collateral

Documents (including the delivery to Collateral Agent of any Pledged Debt and any Pledged Equity required to be delivered to the Collateral Agent pursuant to the applicable Collateral Documents), are effective to create in favor of the Collateral Agent for the benefit of the Secured Parties a legal, valid and enforceable (x) first priority Lien (subject to Liens permitted by Section 9.1) on all right, title and interest of the respective Loan Parties in the ABL Priority Collateral described therein and (y) second priority Lien (subject to Liens permitted by Section 9.1) on all right, title and interest of the respective Loan Parties in the Term Priority Collateral described therein.

Notwithstanding anything herein (including this Section 5.19) or in any other Loan Document to the contrary, neither the Borrower nor any other Loan Party makes any representation or warranty as to (A) the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest in any Equity Interests of any Foreign Subsidiary, or as to the rights and remedies of the Agents or any Lender with respect thereto, under foreign Law, (B) the pledge or creation of any security interest, or the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest to the extent such pledge, security interest, perfection or priority is not required pursuant to the Collateral and Guarantee Requirement or (C) on the Closing Date and until required pursuant to Section 8.11 or 4.1(a)(iv), the pledge or creation of any security interest, or the effects of perfection or non-perfection, the priority or enforceability of any pledge or security interest to the extent not required on the Closing Date pursuant to Section 4.1(a)(iv).

SECTION 5.20 Insurance. The Loan Parties and their Restricted Subsidiaries maintain with insurance companies that the Borrower believes (in the good faith judgment of its management) are financially sound and reputable at the time the relevant coverage is placed or renewed, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Loan Parties and their Restricted Subsidiaries) as are customarily carried under similar circumstances by such other Persons.

SECTION 5.21 Beneficial Ownership Certification. The information included in the Beneficial Ownership Certification delivered to the Administrative Agent prior to the Closing Date is true and correct in all material respects.

SECTION 5.22 Use of Proceeds. The Borrower will (or will cause each Loan Party to) use the proceeds of the Credit Extensions for the purposes set forth in Section 8.9.

SECTION 5.23 No Default. No Default or Event of Default has occurred and is continuing.

SECTION 5.24 Corporate Separateness. Each Loan Party shall

(a) satisfy, and cause each of its Restricted Subsidiaries and Unrestricted Subsidiaries to satisfy, customary corporate formalities, including, as applicable, the holding of regular board

of directors' and shareholders' meetings or action by directors or shareholders without a meeting, in each case, to the extent required by law and the maintenance of corporate records.

(b) ensure that any financial statements distributed to any creditors of any Unrestricted Subsidiary shall clearly establish or indicate the corporate separateness of such Unrestricted Subsidiary from the Borrower, Holdings or any direct or indirect parent of the Borrower or any of their Restricted Subsidiaries.

SECTION 5.25 Confirmation Order. The Confirmation Order has been entered by the Bankruptcy Court and is Effective.

ARTICLE VI

FINANCIAL COVENANTS

So long as any Lender shall have any Revolving Credit Commitment hereunder, any Loan or other Obligation hereunder (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements and Cash Management Obligations) shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding (unless the Outstanding Amount of the Letter of Credit Obligations related thereto has been Cash Collateralized or back-stopped by a letter of credit in form and substance reasonably satisfactory to the Administrative Agent), the Parent Guarantors, the other Guarantors, Holdings and the Borrower agree with the Lenders, the Issuers and the Administrative Agent to the following:

SECTION 6.1 Minimum Fixed Charge Coverage Ratio. During a Covenant Testing Period, the Fixed Charge Coverage Ratio of the Parent Guarantors, Holdings, the Borrower and its Restricted Subsidiaries (on a consolidated basis) on the last day of the most recent Fiscal Quarter commencing the Covenant Testing Period and continuing on each subsequent Test Period during the Covenant Testing Period, as applicable, shall be not less than 1.00 to 1.00 and the Borrower shall immediately deliver to the Administrative Agent a certificate of a Financial Officer setting forth reasonably detailed calculations of the Fixed Charge Coverage Ratio upon the occurrence of any Covenant Testing Period.

SECTION 6.2 Minimum Liquidity. Excess Availability shall not be less than $10,000,000 ("*Minimum Liquidity*").

SECTION 6.3 Maximum Capital Expenditures. Capital Expenditures of the Parent Guarantors, Holdings, the Borrower and its Restricted Subsidiaries shall not exceed $60,000,000 in the aggregate for any Fiscal Year, plus, commencing with the Fiscal Quarter ended April 2, 2019, if such amount is greater than zero, the CAPEX Builder Basket (the "*Maximum Capital Expenditures Amount*"). For the avoidance of doubt, in no event will the Parent Guarantors, Holdings, the Borrower or any of its Restricted Subsidiaries be deemed to be in breach of this Section 6.3 if, at the time any Capital Expenditure was made (or in good faith committed to be made) in an amount not in excess of Maximum Capital Expenditures Amount, regardless of any subsequent reduction in the CAPEX Builder Basket which results in a reduction of the Maximum Capital Expenditures Amount thereafter.

ARTICLE VII

REPORTING COVENANTS

So long as any Lender shall have any Commitment hereunder or any Loan or other Obligation hereunder (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements and Cash Management Obligations) shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding (unless the Outstanding Amount of the Letter of Credit Obligations related thereto has been Cash Collateralized or back-stopped by a letter of credit in form and substance reasonably satisfactory to the Administrative Agent), the Parent Guarantors, the other Guarantors, Holdings and the Borrower shall, and shall (except in the case of the covenants set forth in Sections 7.1, 7.2 and 7.3) cause each of the Restricted Subsidiaries to:

SECTION 7.1 Financial Statements, Etc. Deliver to the Administrative Agent for prompt further distribution to each Lender each of the following and shall take the following actions:

(a) as soon as available, but in any event within one-hundred and twenty (120) days after the end of the Fiscal Year of the Borrower ending October 2, 2018 and, as soon as available, but in any event within ninety (90) days after the end of each Fiscal Year of the Borrower thereafter, a consolidated balance sheet of the Parent and its Subsidiaries as at the end of such Fiscal Year, and the related consolidated statements of income, stockholders' equity and cash flows for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year, all in reasonable detail and prepared in accordance with IFRS (or, if the Parent has then elected to be governed by GAAP, GAAP), audited and accompanied by a report and opinion of Deloitte & Touche LLP or any other independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit (except as may be required as a result of (x) the impending maturity of any Loans or the Term Loans or (y) any prospective or actual Event of Default under the Financial Covenants or the financial covenants under the Term Loan Agreement);

(b) as soon as available, but in any event within forty-five (45) days after the end of each of the first three (3) Fiscal Quarters of each Fiscal Year of the Borrower, a consolidated balance sheet of the Parent and its Subsidiaries as at the end of such Fiscal Quarter, and the related (i) consolidated statements of income for such Fiscal Quarter and for the portion of the Fiscal Year then ended and (ii) consolidated statements of cash flows for such Fiscal Quarter and for the portion of the Fiscal Year then ended, setting forth in each case in comparative form the figures for the corresponding Fiscal Quarter of the previous Fiscal Year and the corresponding portion of the previous Fiscal Year, all in reasonable detail and certified by a Responsible Officer of the Parent as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Parent and its Subsidiaries in accordance with IFRS (or, if the Parent has then elected to be governed by GAAP, GAAP), subject to normal year-end adjustments and the absence of footnotes, together with a management's discussion and analysis ("*MD&A*") describing results of operations for such period (which MD&A shall be deemed

delivered hereunder upon the filing with the SEC (or equivalent) of a Form 10-Q (or equivalent) by the Borrower or any direct or indirect parent of the Borrower);

(c) as soon as available, but in any event within 30 days after the end of each month, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such month, and the related consolidated statements of income and consolidated statements of cash flows for such month, all in reasonable detail and certified by a Responsible Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in accordance with IFRS (or, if the Borrower has then elected to be governed by GAAP, GAAP), subject to normal year-end and quarter-end adjustments and the absence of footnotes, together with high-level commentary from a Responsible Officer of the Borrower with respect thereto;

(d) as soon as available, but in any event within one hundred and twenty (120) days after the end of each Fiscal Year of the Borrower ending October 1, 2019, and, as soon as available, but in any event within ninety (90) days after the end of each Fiscal Year of the Borrower thereafter, a reasonably detailed consolidated budget for the following Fiscal Year (including a projected consolidated balance sheet of the Parent and its Subsidiaries as of the end of the following Fiscal Year, the related consolidated statements of projected income and projected cash flow and setting forth the material underlying assumptions applicable thereto) (collectively, the "*Projections*"), which Projections shall in each case be accompanied by a certificate of a Responsible Officer stating that such Projections have been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time of preparation of such Projections, it being understood that actual results may vary from such Projections and that such variations may be material;

(e) simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 7.1(a), 7.1(b) and 7.1(c) above, the related unaudited consolidating financial statements reflecting the adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) (which may be in footnote form only) from such consolidated financial statements;

(f) upon request of the Administrative Agent, within ten Business Days after the delivery of each set of financial statements referred to in Section 7.1(a) and (b) above, a conference call (which may be password protected) to discuss such financial statements and operations for the relevant period (with the time and date of such conference call, together with all information necessary to access the call, to be provided to the Administrative Agent no fewer than three Business Days (or such shorter time as to which the Administrative Agent may agree) prior to the date of such conference call, for posting on the Platform);

(g) within 33 days after the delivery of any 13 Week Cash Flow Forecast, the Borrower shall furnish to the Administrative Agent, (i) a variance report certified by a Responsible Officer of the Borrower (the "*Receipts Variance Report*") setting forth actual Cash Receipts of the Loan Parties for the first four weeks of such 13 Week Cash Flow Forecast, setting forth the variances to Budgeted Cash Receipts, on a line-item and aggregate basis, from the amount set forth for each such periods or as of such dates (and each Receipts Variance Report shall include reasonably detailed explanations for all material variances);

(h) on the last Business Day of each fiscal month if the Excess Availability on the last Business Day of such fiscal month is less than $20,000,000, (i) a rolling 13-week cash flow forecast and cash projection for the subsequent 13-week period (the "*13 Week Cash Flow Forecast*"), to be delivered no later than three (3) Business Days after the last Business Day of such fiscal month and prepared by a Financial Officer, in form, scope and detail reasonably acceptable to the Administrative Agent, which shall be certified by a Responsible Officer of Borrower stating that such forecast has been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time of preparation of such forecast, it being understood that actual results may vary from such forecast and that such variations may be material;

(i) the extent delivered to the Term Agent under the Term Loan Agreement, the report required by Section 7.1(i) thereof substantially simultaneously with such delivery; and

(j) simultaneously with the delivery of each set of consolidated financial statements referred to in Section 7.1(a) or (b) above, an updated rolling 6-month cash flow forecast and cash projection for the subsequent 6-month period, calculated on normalized vendor payment terms, and prepared by a Financial Officer, which shall be certified by a Responsible Officer of Borrower stating that such forecast has been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time of preparation of such forecast, it being understood that actual results may vary from such forecast and that such variations may be material.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 7.1 may be satisfied with respect to financial information of the Parent Guarantors, Holdings, the Borrower and its Restricted Subsidiaries (including the provision of any MD&A) by furnishing (A) the applicable financial statements of any direct or indirect parent of the Parent that holds all of the Equity Interests of the Parent or (B) the Parent's or such entity's Form 10-K or 10-Q (or equivalent), as applicable, filed with the SEC (or equivalent Governmental Authority applicable to such indirect parent company); *provided* that, with respect to each of clauses (A) and (B), (i) to the extent such information relates to a parent of the Parent, the financial statements are accompanied by unaudited consolidating information that explains in reasonable detail the differences between the information relating to the Parent (or such parent), on the one hand, and the information relating to the Parent Guarantors, Holdings, the Borrower and the Restricted Subsidiaries on a standalone basis, on the other hand and (ii) to the extent the financial statements are in lieu of financial statements required to be provided under Section 7.1(a), such materials are, to the extent applicable, accompanied by a report and opinion of Deloitte & Touche LLP or any other independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit (except as may be required as a result of (x) the impending maturity of any Loans or the Term Loans or (y) any prospective or actual Event of Default under the Financial Covenants or the financial covenants under the Term Loan Agreement).

Any financial statements required to be delivered pursuant to Sections 7.1(a), (b) and (c) shall not be required to contain all acquisition accounting adjustments relating to any Permitted

Acquisition to the extent it is not practicable to include any such adjustments in such financial statements.

SECTION 7.2 Certificates; Other Information. Deliver to the Administrative Agent for prompt further distribution to each Lender:

(a) no later than five (5) days after the delivery of the financial statements referred to in Section 7.1(a), Section 7.1(b) and Section 7.1(c), a duly completed Compliance Certificate signed by the chief financial officer of the Borrower; provided that if such Compliance Certificate demonstrates an Event of Default of any financial covenant pursuant to Section 6.1, any of the equity holders of the Parent may deliver, prior to, after, or together with such Compliance Certificate, a notice of their intent to cure (a "*Notice of Intent to Cure*") pursuant to Section 10.4 to the extent permitted thereunder;

(b) promptly after the same are publicly available, copies of all annual, regular, periodic and special reports, proxy statements and registration statements which any Loan Party or any Restricted Subsidiary files with the SEC or with any Governmental Authority that may be substituted therefor or with any national securities exchange, as the case may be (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statement on Form S-8), and in any case not otherwise required to be delivered to the Administrative Agent pursuant to any other clause of this Section 7.2;

(c) promptly after the furnishing thereof, copies of any material notices (other than notices furnished in the ordinary course) furnished to any holder of any class or series of debt securities of any Loan Party having an aggregate outstanding principal amount greater than the Threshold Amount, so long as the aggregate outstanding principal amount thereunder is greater than the Threshold Amount and not otherwise required to be furnished to the Administrative Agent pursuant to any other clause of this Section 7.2;

(d) together with the delivery of each Compliance Certificate delivered pursuant to Section 7.2(a), (i) a report setting forth the information required by Section 3.3(c) of the Security Agreement (or confirming that there has been no change in such information since the Closing Date or the date of the last such report), (ii) a description of each event, condition or circumstance during the last Fiscal Quarter covered by such Compliance Certificate requiring a mandatory prepayment under Section 2.9, if any, and (iii) a list of each Subsidiary of the Loan Parties that identifies each Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary as of the date of delivery of such Compliance Certificate or a confirmation that there is no change in such information since the later of the Closing Date and the date of the last such list;

(e) prior to or concurrent with the consummation of any designation of Subsidiaries pursuant to Section 8.3(iii)(x) or any Disposition pursuant to Section 9.5(t), a detailed calculation of projected Excess Availability as required pursuant to such definition or Section, as applicable, together with a certification that no Event of Default exists or would arise as a result thereof;

(f) within [15 Business Days] after any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in parts (c) or (d) of such certification, updated information for such parts of such certification; and

(g) promptly, such additional information regarding the business, legal, financial or corporate affairs (including information regarding leases and stores, notwithstanding any limitation under Section 8.6 regarding the ability to exercise inspection rights) of any Loan Party or any Restricted Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent may from time to time on its own behalf or on behalf of any Lender reasonably request.

Documents required to be delivered pursuant to Section 7.1(a), (b) or (c) or Section 7.2(c) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower (or any direct or indirect parent of the Borrower) posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 12.8; or (ii) on which such documents are posted on the Borrower's behalf on IntraLinks/IntraAgency or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents (which may be electronic copies delivered via electronic mail) to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arranger will make available to the Lenders and the Issuers materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "*Borrower Materials*") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "*Platform*") and (b) certain of the Lenders (each, a "*Public Lender*") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Subsidiaries, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Arranger, the Issuers and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Borrower or its securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 12.19); (y) all Borrower

Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information"; and (z) the Administrative Agent and the Arranger shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information." Notwithstanding the foregoing, the Borrower shall be under no obligation to mark the Borrower Materials "PUBLIC".

SECTION 7.3 Notices. Promptly after a Responsible Officer obtains actual knowledge thereof, notify the Administrative Agent:

(a) of the occurrence of any Default;

(b) of (i) any dispute, litigation, investigation or proceeding between any Loan Party and any arbitrator or Governmental Authority, (ii) the filing or commencement of, or any material development in, any litigation or proceeding affecting any Loan Party or any Subsidiary, including pursuant to any applicable Environmental Laws or in respect of IP Rights, the occurrence of any noncompliance by any Loan Party or any of its Subsidiaries with, or liability under, any Environmental Law or Environmental Permit, (iii) the occurrence of any ERISA Event or (iv) any allegation (or determination) of non-compliance with Anti-Corruption Laws or other applicable Laws that, in any such case referred to in clauses (i), (ii), (iii) or (iv), has resulted or would reasonably be expected to result in a Material Adverse Effect;

(c) of the occurrence of any other event that could reasonably be expected to have a Material Adverse Effect; and

(d) of any allegation in writing of or investigation, in each case, by any Governmental Authority of which any Responsible Officer of the Borrower has actual knowledge of non-compliance with Anti-Corruption Laws or any other applicable Laws but only to the extent the Borrower (or any Loan Party or any of their Subsidiaries) is not prohibited by applicable law, rule or regulation from disclosing the existence of the same.

Each notice pursuant to this Section 7.3 shall be accompanied by a written statement of a Responsible Officer of the Borrower (x) that such notice is being delivered pursuant to Section 7.3(a), (b) or (c) (as applicable) and (y) setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto.

SECTION 7.4 Borrowing Base Certificate.

(a) Borrower shall provide the Administrative Agent with the following documents in a form and detail reasonably satisfactory to Administrative Agent: as soon as possible after the end of each fiscal month (but in any event within fifteen (15) Business Days after the end thereof) a Borrowing Base Certificate setting forth the calculation of the Borrowing Base and of Excess Availability as of the last Business Day of the immediately preceding fiscal month, duly completed and executed by a Responsible Officer of the Borrower, together with all schedules required pursuant to the terms of the Borrowing Base Certificate duly completed (such certification, a "*Monthly Borrowing Base Certificate*"); provided that the Borrower may elect, at its option, to deliver more frequent Borrowing Base Certificates, in which case such Borrowing Base Certificates shall be computed in accordance with the requirements in respect of Borrowing

Base Certificates required to be delivered during the continuance of a Cash Dominion Period and the Borrower shall continue to deliver Borrowing Base Certificates on such more frequent basis until the date that is 60 days after the date of such election.

(b) At any time during the occurrence and continuation of a Cash Dominion Period, the Borrower shall furnish to the Administrative Agent a Borrowing Base Certificate calculated as of the close of business on the last day of the immediately preceding fiscal week, not later than the third (3rd) Business Day after the end of each such fiscal week.

(c) The Borrower shall also cooperate with (and cause its Subsidiaries to cooperate with) the Administrative Agent in connection with inventory appraisal reports that shall be in form and detail and from third-party appraisers reasonably acceptable to the Administrative Agent (the "*Inventory Appraisal*"), for the purpose of determining the amount of the Borrowing Base attributable to Inventory and the Administrative Agent may carry out, at the Borrower's expense, two (2) Inventory Appraisals in any period of 12 consecutive months; provided, however, (i) the Administrative Agent may carry out, at the Lenders' expense, one (1) additional Inventory Appraisal in any period of 12 consecutive months, and (ii) at any time during the continuation of an Event of Default, the Administrative Agent may carry out, at the Borrower's expense, Inventory Appraisals as frequently as determined by the Administrative Agent in its reasonable discretion. The Borrower shall furnish to the Administrative Agent any information that the Administrative Agent may reasonably request regarding the determination and calculation of the Borrowing Base including correct and complete copies of any invoices, underlying agreements, instruments or other documents and the identity of all Account Debtors in respect of Accounts or Inventory referred to therein.

(d) The Administrative Agent may carry out investigations and reviews of each Loan Party's property at the reasonable expense of the Borrower (including field audits conducted by the Administrative Agent) ("*Field Examination*") and the Administrative Agent may carry out, at the Borrower's expense, two (2) Field Examinations in any period of 12 consecutive months; provided, however, (i) the Administrative Agent may carry out, at the Lenders' expense, one (1) additional Field Examination in any period of 12 consecutive months, and (ii) at any time during the continuation of an Event of Default, the Administrative Agent may carry out, at the Borrower's expense, Field Examinations as frequently as determined by the Administrative Agent in its reasonable discretion. The Borrower shall furnish to the Administrative Agent any information that the Administrative Agent may reasonably request regarding the determination and calculation of the Borrowing Base including correct and complete copies of any invoices, underlying agreements, instruments or other documents and the identity of all Account Debtors in respect of Accounts referred to therein.

(e) The Borrower shall provide the Administrative Agent with an updated Borrowing Base Certificate at the times required under Section 9.5 and at any other time when ABL Priority Collateral with a fair market value of $5,000,000 or more has been disposed of outside the Ordinary Course of Business (whether by Disposition, Investment, Restricted Payment, designation of an Unrestricted Subsidiary, or otherwise) by any Loan Party since the date of the most recently delivered Borrowing Base Certificate.

ARTICLE VIII

AFFIRMATIVE COVENANTS

So long as any Lender shall have any Revolving Credit Commitment hereunder or any Loan or other Obligation hereunder (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements and Cash Management Obligations) shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding (unless the Outstanding Amount of the Letter of Credit Obligations related thereto has been Cash Collateralized or back-stopped by a letter of credit in form and substance reasonably satisfactory to the Administrative Agent), the Loan Parties shall, and shall cause each of the Restricted Subsidiaries to:

SECTION 8.1 Preservation of Existence, Etc.

(a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization and (b) take all reasonable action to obtain, preserve, renew and keep in full force and effect its rights, licenses, permits and franchises material to the ordinary conduct of its business, except in the case of clause (a) or (b) to the extent (other than with respect to the preservation of the existence of Holdings and the Borrower) that failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or pursuant to any merger, consolidation, liquidation, dissolution or Disposition permitted by Article IX.

SECTION 8.2 Compliance with Laws, Etc.

Comply in all material respects with its Organization Documents and the requirements of all Laws (including, for the avoidance of doubt, ERISA) and all orders, writs, injunctions and decrees of any Governmental Authority applicable to it or to its business or property, except if the failure to comply therewith would not reasonably be expected individually or in the aggregate to have a Material Adverse Effect.

SECTION 8.3 Designation of Subsidiaries.

The Borrower may at any time designate any Restricted Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; provided that (i) immediately before and after such designation, no Default shall have occurred and be continuing, (ii) no Subsidiary may be designated as an Unrestricted Subsidiary if, after such designation, it would be a "Restricted Subsidiary" for the purpose of the Term Loan Documents, any Junior Financing or any Permitted Refinancing thereof, (iii) no Subsidiary may be designated as an Unrestricted Subsidiary unless, Borrower (x) has Excess Availability on a Pro Forma Basis giving effect to such designation as an Unrestricted Subsidiary on the date thereof and (y) would have had Excess Availability (calculated on a Pro Forma Basis as though such designation as an Unrestricted Subsidiary were consummated on the first date of such 30 day period) on each day during the 30 day period immediately prior giving effect to such designation as an Unrestricted Subsidiary, in each case, in excess of $30,000,000 (which amount shall automatically increase proportionately by an amount equal to the proportionate increase to the Revolving Credit

Commitments in connection with any Revolving Commitment Increase pursuant to Section 2.15), (iv) no Subsidiary may be designated as an Unrestricted Subsidiary unless, after such designation the Consolidated EBITDA of all Unrestricted Subsidiaries shall not exceed 10% of the Consolidated EBITDA of the Parent Guarantors, Holdings, the Borrower and its Restricted Subsidiaries, (v) no Subsidiary may be designated as an Unrestricted Subsidiary if such Subsidiary proposed to be designated as an Unrestricted Subsidiary owns, licenses or holds other rights in any intellectual property that is material to the business of Borrower and its Restricted Subsidiaries taken as a whole, and (vi) if such designation is of a Subsidiary with ABL Priority Collateral with a fair market value in excess of $5,000,000, the Administrative Agent and the Collateral Agent shall have received an updated Borrowing Base Certificate after giving pro forma effect thereto. The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Borrower therein at the date of designation as set forth in the definition of Investment. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute (i) the incurrence at the time of designation of any Indebtedness or Liens of such Subsidiary existing at such time and (ii) a return on any Investment by the Borrower in Unrestricted Subsidiaries pursuant to the definition of Investment.

Notwithstanding the foregoing, any Unrestricted Subsidiary that has been re-designated a Restricted Subsidiary may not be subsequently re-designated as an Unrestricted Subsidiary.

SECTION 8.4 Payment of Taxes, Etc.

Timely pay, discharge or otherwise satisfy, as the same shall become due and payable in the normal conduct of its business, all of its obligations and liabilities in respect of Taxes imposed upon it or upon its income or profits or in respect of its property, except, in each case, to the extent (i) any such Tax is being contested in good faith and by appropriate actions for which appropriate reserves have been established in accordance with IFRS or (ii) the failure to pay or discharge the same would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

SECTION 8.5 Maintenance of Insurance.

Maintain with insurance companies that the Borrower believes (in the good faith judgment of its management) are financially sound and reputable at the time the relevant coverage is placed or renewed, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Borrower and the Restricted Subsidiaries) as are customarily carried under similar circumstances by such other Persons, and will furnish to the Lenders, upon written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried. Each such policy of insurance shall, as appropriate, (i) name the Collateral Agent, on behalf of the Lenders, as an additional insured thereunder as its interests may appear and/or (ii) in the case of each casualty insurance policy, contain a lender loss payable clause or endorsement that names the Collateral Agent, on behalf of the Lenders as the lender loss payee thereunder.

SECTION 8.6 Inspection Rights.

In addition to the requirements pursuant to Section 7.4, permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants (subject to such accountants' customary policies and procedures), all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided that, only the Administrative Agent on behalf of the Lenders may elect to exercise rights of the Administrative Agent and the Lenders under this Section 8.6 and the Administrative Agent shall not exercise such rights more often than two (2) times during any calendar year and only one (1) such time shall be at the Borrower's expense; provided, further, that when an Event of Default exists and is continuing, the Administrative Agent (or any of its respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice. The Administrative Agent and the Lenders shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent public accountants. Notwithstanding anything to the contrary in this Section 8.6, at any time and from time to time, upon the reasonable request of any Lender through the Administrative Agent, the Loan Parties (on behalf of themselves and their Subsidiaries) shall (i) cause their directors and executive officers to discuss the policies and procedures maintained by the Loan Parties and the Subsidiaries to ensure effective compliance with Anti-Corruption Laws and all other applicable Laws and (ii) provide to the Lenders documents, records or other information as such Lenders may deem reasonably necessary or desirable to monitor the effectiveness of such policies and procedures. Notwithstanding anything to the contrary in this Section 8.6, none of the Borrower or any of the Restricted Subsidiaries will be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter that (a) constitutes non-financial trade secrets or non-financial proprietary information (other than with respect to any non-financial trade secrets or non-financial proprietary information related to Eligible Accounts, Eligible Credit Card Receivables, Eligible In-Transit Inventory or Eligible Inventory), (b) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by Law or any binding agreement or (c) is subject to attorney-client or similar privilege or constitutes attorney work product.

SECTION 8.7 Books and Records.

Maintain (a) proper books of record and account, in which entries that are full, true and correct in all material respects and are in conformity with IFRS shall be made of all material financial transactions and matters involving the assets and business of the Loan Parties or such Restricted Subsidiary, as the case may be and (b) effective systems of internal control to ensure compliance with the foregoing clause (a).

SECTION 8.8 Maintenance of Properties.

Except if the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, maintain, preserve and protect all of its material

properties and equipment used in the operation of its business in good working order, repair and condition, ordinary wear and tear excepted and fire, casualty or condemnation excepted.

SECTION 8.9 Use of Proceeds.

Use the proceeds of the Loans, together with the Term Loans, for the funding of amounts payable under the Chapter 11 Plan and for working capital and general corporate purposes, and for any other purpose not prohibited by the Loan Documents, and in any event only in compliance with (and not in contravention of) applicable Laws and each Loan Document.

SECTION 8.10 Compliance with Environmental Laws.

Except, in each case, to the extent that the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (a) comply, and take all reasonable actions to cause any lessees and other Persons operating or occupying its properties to comply with all applicable Environmental Laws and Environmental Permits; (b) obtain and renew all Environmental Permits necessary for its operations and properties; and, (c) in each case to the extent required by applicable Environmental Laws, conduct any investigation, remedial or other corrective action necessary to address all releases of Hazardous Materials on or from any of its properties, in accordance with the requirements of all applicable Environmental Laws.

SECTION 8.11 Covenant to Guarantee Obligations and Give Security.

At the Borrower's expense, subject to the limitations and exceptions of this Agreement, including, without limitation, the provisions of the Collateral and Guarantee Requirement and any applicable limitation in any Collateral Document or the ABL/Term Intercreditor Agreement, take all action necessary or reasonably requested by the Administrative Agent to ensure that the Collateral and Guarantee Requirement continues to be satisfied, including:

(a) (x) upon the formation or acquisition of any new Parent Guarantor or of any direct or indirect wholly owned Material Domestic Subsidiary (in each case, other than an Excluded Subsidiary) by any Loan Party, the designation in accordance with Section 8.3, of any existing direct or indirect wholly owned Material Domestic Subsidiary as a Restricted Subsidiary (in each case, other than an Excluded Subsidiary) or any Subsidiary becoming a wholly owned Material Domestic Subsidiary (in each case, other than an Excluded Subsidiary):

(i) within sixty (60) days (or such greater number of days specified below) after such formation, acquisition or designation or, in each case, such longer period as the Administrative Agent may agree in its reasonable discretion:

(A) cause each such new Parent Guarantor and any Material Domestic Subsidiary that is required to become a Guarantor under the Collateral and Guarantee Requirement to furnish to the Collateral Agent a description of the Material Real Properties owned by such Material Domestic Subsidiary in detail reasonably satisfactory to the Collateral Agent;

(B) within sixty (60) days (or within ninety (90) days in the case of documents listed in Section 8.13(a)(ii)) after such formation, acquisition or designation (i) cause each new Parent Guarantor and any such Material Domestic Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to duly execute and deliver to the Collateral Agent, other than with respect to any Excluded Assets, Security Agreement Supplements, Intellectual Property Security Agreements and other security agreements and documents (including, with respect to Mortgages, the documents listed in Section 8.13(a)(ii) to the extent required by the Term Loan Documents), as reasonably requested by and in form and substance reasonably satisfactory to the Collateral Agent (consistent with the Mortgages, Security Agreement, Intellectual Property Security Agreements and other Collateral Documents in effect on the Closing Date), in each case granting Liens required by the Collateral and Guarantee Requirement and (ii) to the extent applicable, to clause each direct or indirect parent of such applicable new Parent Guarantor and any Material Domestic Subsidiary that is a Loan Party, in each case, to take customary action(s) (including the recording of Mortgages, the filing of UCC financing statements and delivery of stock and membership interest certificates to the extent certificated) as may be necessary in the reasonable opinion of the Collateral Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) valid and perfected (subject to Liens permitted by Section 9.01) Liens required by the Collateral and Guarantee Requirement, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law);

(C) cause each such new Parent Guarantor and any Material Domestic Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to deliver any and all certificates representing Equity Interests (to the extent certificated) that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank (or any other documents customary under local law) and instruments evidencing the intercompany Indebtedness held by such new Parent Guarantor and any Material Domestic Subsidiary and required to be pledged pursuant to the Collateral Documents, indorsed in blank to the Collateral Agent;

(D) within sixty (60) days (or within ninety (90) days in the case of documents listed in Section 8.13(a)(ii)) cause such new Parent Guarantor and any Material Domestic Subsidiary to comply with the requirements of Section 8.12 with respect to all Deposit Accounts and Securities Accounts; and

(ii) within sixty (60) days (or within ninety (90) days in the case of documents listed in Section 8.13(a)(ii)) after the reasonable request therefor by the Administrative Agent (or such longer period as the Administrative Agent may agree in its reasonable discretion), deliver to the Administrative Agent a signed copy of an opinion, addressed to the Administrative Agent and the other Secured Parties, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to such matters set forth in this Section 8.11(a) as the Administrative Agent may reasonably request; and

(iii) to the extent requested by the Term Agent under the Term Loan Agreement, deliver to the Collateral Agent with respect to each Material Real Property, any existing title reports, abstracts or environmental assessment reports, to the extent available and in the possession or control of the Borrower; provided that the Collateral Agent may in its reasonable discretion accept any such existing report or survey to the extent prepared as of a date reasonably satisfactory to the Collateral Agent; provided, however, that there shall be no obligation to deliver to the Collateral Agent any existing environmental assessment report whose disclosure to the Collateral Agent would require the consent of a Person other than a Loan Party or one of their Subsidiaries, where, despite the commercially reasonable efforts of the Borrower to obtain such consent, such consent cannot be obtained; and

(b) after the Closing Date, promptly after the acquisition of any Material Real Property by any Loan Party, and such Material Real Property shall not already be subject to a perfected Lien pursuant to the Collateral and Guarantee Requirement, the Borrower shall give notice thereof to the Collateral Agent and will take, or cause the relevant Loan Party to take, the actions referred to in Section 8.13(a)(ii).

SECTION 8.12 Cash Receipts.

(a) As soon as possible after the Closing Date, enter into an effective account control agreement (a "*Deposit Account Control Agreement*") with each Approved Account Bank, in each case in form and substance reasonably satisfactory to the Administrative Agent, with respect to each Deposit Account (including those existing as of the Closing Date and listed on Schedule 8.12 attached hereto, and excluding Excluded Accounts); provided further that, if on or prior to thirty (30) days after the Closing Date (or such longer period following such date as the Administrative Agent may agree in its reasonable discretion), the Borrower or any other Loan Party shall not have entered into a Deposit Account Control Agreement with respect to any Deposit Account required to be subject to a Deposit Account Control Agreement under this Section 8.12(a), such Deposit Account shall be closed and all funds therein transferred to a Deposit Account at the Administrative Agent, an Affiliate of the Administrative Agent, or another financial institution reasonably acceptable to the Administrative Agent that will execute a Deposit Account Control Agreement. Notwithstanding anything in this Section to the contrary, the provisions of this Section 8.12(a) shall not apply to any Deposit Account acquired by a Loan Party in connection with a Permitted Acquisition prior to the date that is thirty (30) days (or such later date as the Administrative Agent may agree) following the consummation of such Permitted Acquisition.

(b) As soon as possible after the Closing Date, enter into Securities Account Control Agreements with each Approved Securities Intermediary, with respect to each Securities Account (including those existing as of the Closing Date and listed on Schedule 8.12 attached hereto, other than Excluded Accounts); provided that, if on or prior to thirty (30) days after the Closing Date (or such longer period following such date as the Administrative Agent may agree in its reasonable discretion), the Borrower or any other Loan Party shall not have entered into a Securities Account Control Agreement with respect to any Securities Account required to be subject to a Securities Account Control Agreement under this Section 8.12(b), such Securities Account shall be closed and all securities therein transferred to a Securities Account at the

Administrative Agent, an Affiliate of the Administrative Agent, or another financial institution reasonably acceptable to the Administrative Agent that will execute a Securities Account Control Agreement. Notwithstanding anything in this Section to the contrary, the provisions of this Section 8.12(b) shall not apply to any Securities Account acquired by a Loan Party in connection with a Permitted Acquisition prior to the date that is thirty (30) days (or such later date as the Administrative Agent may agree) following the consummation of such Permitted Acquisition.

(c) Each Loan Party shall (i) instruct each Account Debtor or other Person obligated to make a payment to any of them under any Account to make payment, or to continue to make payment, to an Approved Deposit Account (other than an Excluded Account), (ii) deposit in an Approved Deposit Account promptly upon receipt all Cash Receipts (as defined below) received by any Loan Party from any other Person (provided that any Cash Receipts may be deposited into an Excluded Account to the extent that such deposit would not cause such Excluded Account to cease to qualify as an Excluded Account), (iii) deliver to the Administrative Agent, within thirty (30) Business Days following the Closing Date (or such longer period following such date as the Administrative Agent may agree) or, with respect to Credit Card Agreements acquired or entered into after the Closing Date, thirty (30) Business Days after entering into or acquiring such Credit Card Agreements (or such longer period following such date as the Administrative Agent may agree), in each case, evidence that the Credit Card Notifications have been sent to each Credit Card Issuer and Credit Card Processor and (iv) instruct each depository institution for a Deposit Account (other than any Term Collateral Proceeds Account) to cause all amounts on deposit and available at the close of each Business Day in such Deposit Account (other than any Excluded Account) to be swept to one of the Loan Parties' concentration accounts no less frequently than on a daily basis, such instructions to be irrevocable unless otherwise agreed to by the Administrative Agent.

(d) Each Credit Card Notification and, except with respect to any Term Collateral Proceeds Account, Deposit Account Control Agreement (and, in the case of clause (iii) below, Securities Account Control Agreement) shall require (in each case, without further consent of the Loan Parties), and the Loan Parties shall cause, after the occurrence and during the continuance of a Cash Dominion Period, the ACH or wire transfer no less frequently than daily (and whether or not there are then any outstanding Obligations) to the concentration account maintained by, in the name of and under the sole dominion and control of the Administrative Agent and identified by the Administrative Agent to the Borrower from time to time (the "*Concentration Account*"), of all cash receipts and collections, including the following (collectively, the "*Cash Receipts*"):

(i) all available cash receipts from the sale of Inventory and other Collateral or casualty insurance proceeds arising from any of the foregoing;

(ii) all proceeds of collections of Accounts (including, without limitation, Credit Card Receivables);

(iii) the then contents of each Approved Deposit Account and each Approved Securities Account (other than, in each case, the Term Collateral Proceeds Accounts) (in each case, net of any minimum balance as may be required to be kept in the subject Deposit Account or Securities Account, as the case may be, by the institution at which such Deposit Account or Securities Account, as applicable, is maintained); and

(iv) the cash proceeds of all credit card charges.

(e) The Concentration Account shall at all times be under the sole dominion and control of the Administrative Agent. The Loan Parties hereby acknowledge and agree that (i) the Loan Parties have no right of withdrawal from the Concentration Account, (ii) the funds on deposit in the Concentration Account shall at all times be collateral security for all of the Obligations and (iii) the funds on deposit in the Concentration Account shall be applied as provided in this Agreement. In the event that, notwithstanding the provisions of this Section, during the continuation of any Cash Dominion Period, any Loan Party receives or otherwise has dominion and control of any such proceeds or collections (other than proceeds or collections which are to be deposited in a Term Collateral Proceeds Account), such proceeds and collections shall be held in trust by such Loan Party for the Administrative Agent, shall not be commingled with any of such Loan Party's other funds or deposited in any account of such Loan Party and shall, not later than the Business Day after receipt thereof, be deposited into the Concentration Account or dealt with in such other fashion as such Loan Party may be instructed by the Administrative Agent.

(f) So long as no Cash Dominion Period is continuing, the Loan Parties may direct, and shall have sole control over, the manner of disposition of funds in the Approved Securities Accounts and Approved Deposit Accounts. For the avoidance of doubt, the Term Collateral Proceeds Account shall be subject to a control agreement between the Term Agent, the Administrative Agent, each Approved Account Bank and the Loan Parties[; *provided* that, notwithstanding anything to the contrary in this Section 8.12, if a Cash Dominion Period has occurred and is continuing under clause (a) of the definition of "Cash Dominion Period," the Loan Parties may direct and, subject to the terms of the Term Loan Agreement, shall have sole dominion and control over, the manner of disposition of funds in the Term Collateral Proceeds Account; *provided* further, if a Cash Dominion Period has occurred and is continuing under clause (b) of the definition of "Cash Dominion Period," subject to the terms of the ABL/Term Intercreditor Agreement, the Term Collateral Proceeds Account shall be subject to the terms of this Section 8.12.]

(g) The Loan Parties shall instruct their Credit Card Issuers and Credit Card Processors to make payments due to any Loan Party to an Approved Deposit Account and Collateral Agent agrees not to change such payment instructions unless a Cash Dominion Period is continuing.

(h) Any amounts received in the Concentration Account at any time when no Cash Dominion Period is continuing or all of the Obligations have been paid in full shall be remitted to the operating account of the Loan Parties maintained with the Administrative Agent or to an operating account otherwise designated by the Borrower.

(i) The Administrative Agent shall promptly (but in any event within five (5) Business Days) furnish written notice to each Approved Account Bank and each Approved Securities Intermediary, as applicable, of any termination of a Cash Dominion Period.

SECTION 8.13 Further Assurances and Post-Closing Covenants.

(a) Subject to the provisions of the Collateral and Guarantee Requirement and any applicable limitations in any Collateral Document and in each case at the expense of the Loan Parties:

(i) Promptly upon reasonable request by the Administrative Agent or the Collateral Agent or as may be required by applicable law (i) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral, and (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or the Collateral Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Collateral Documents.

(ii) Not later than ninety (90) days after the acquisition by any Loan Party of Material Real Property as determined by the Borrower (acting reasonably and in good faith) (or such longer period as the Term Agent may agree in its discretion) that is required to be provided as Collateral pursuant to the Collateral and Guarantee Requirement, which property would not be automatically subject to another Lien pursuant to pre-existing Collateral Documents, cause such property to be subject to a Lien and Mortgage in favor of the Collateral Agent for the benefit of the Secured Parties and take, or cause the relevant Loan Party to take, such actions as shall be necessary or reasonably requested by the Administrative Agent or the Collateral Agent to grant and perfect or record such Lien, in each case to the extent required by, and subject to the limitations and exceptions of this Agreement, including, without limitation, the Collateral and Guarantee Requirement, and to otherwise comply with the requirements of the Collateral and Guarantee Requirement. If the Administrative Agent or the Collateral Agent reasonably determines that it is required by applicable Law to have appraisals prepared in respect of the real property of any Loan Party subject to a mortgage constituting Collateral, the Borrower shall provide to the Administrative Agent and the Collateral Agent appraisals that satisfy the applicable requirements of the Real Estate Appraisal Reform Amendments of FIRREA (or other applicable law).

(b) Complete and/or deliver to Administrative Agent, or cause to be completed or so delivered, in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent, the actions and items described on Schedule 8.13(b) hereof on or before the dates specified with respect to such actions and items, or such later dates as may be agreed to by Administrative Agent in its sole discretion.

SECTION 8.14 USA PATRIOT Act; OFAC; FCPA; Anti-Corruption Laws.

(a) To the extent applicable, each the Loan Parties and its Subsidiaries is, and shall remain, in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (ii) the USA PATRIOT Act.

(b) No part of the proceeds of the Loans will be used, directly or, to the knowledge of any Loan Party or its Subsidiaries, indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of Anti-Corruption Laws.

(c) (i) None of the Loan Parties or their Subsidiaries will directly or, to the knowledge of such Loan Party or such Subsidiary, indirectly, use the proceeds of the Loans in violation of applicable Sanctions or otherwise knowingly make available such proceeds to any Person for the purpose of financing the activities of any Sanctioned Person, except to the extent licensed, exempted or otherwise approved by a competent governmental body responsible for enforcing such Sanctions, (ii) none of the Loan Parties, their Subsidiaries or to the knowledge of the Loan Parties or such Subsidiary, their respective directors, officers or employees or, to the knowledge of Holdings, the Borrower, any controlled Affiliate of the Loan Parties or its Subsidiaries that will act in any capacity in connection with or benefit from any Class, is a Sanctioned Person and (iii) none of the Loan Parties, their Subsidiaries or, to the knowledge of any Loan Party or such Subsidiary, their respective directors, officers and employees, are in violation of applicable Sanctions in any material respects.

(d) The Loan Parties shall have adopted and implemented and shall maintain anti-bribery and anti-corruption effective policies and procedures designed to ensure compliance in all material respects with the Anti-Corruption Laws.

ARTICLE IX

NEGATIVE COVENANTS

So long as any Lender shall have any Revolving Credit Commitment hereunder or any Loan or other Obligation hereunder (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements and Cash Management Obligations) shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding (unless the Outstanding Amount of the Letter of Credit Obligations related thereto has been Cash Collateralized or back-stopped by a letter of credit in form and substance reasonably satisfactory to the Administrative Agent), the Loan Parties shall not, nor shall the Borrower permit any Restricted Subsidiary to:

SECTION 9.1 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

(a) Liens created pursuant to any Loan Document;

(b) Liens existing on the Closing Date and set forth on Schedule 9.1(b);

(c) Liens for Taxes, assessments or governmental charges that are not overdue for a period of more than thirty (30) days or that are being contested in good faith and by appropriate actions for which appropriate reserves have been established in accordance with IFRS;

(d) statutory or common law Liens of landlords, sublandlords, carriers, warehousemen, mechanics, materialmen, repairmen, construction contractors or other like Liens, or other customary Liens (other than in respect of Indebtedness) in favor of landlords, so long as, in each case, such Liens secure amounts not overdue for a period of more than thirty (30) days or, if more than thirty (30) days overdue, are unfiled and no other action has been taken to enforce such Lien or that are being contested in good faith and by appropriate actions, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with IFRS or the equivalent accounting principles in the relevant local jurisdiction;

(e) (i) pledges or deposits in the Ordinary Course of Business in connection with workers' compensation, health, disability or employee benefits, unemployment insurance and other social security laws or similar legislation or regulation or other insurance-related obligations (including, but not limited to, in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto) and (ii) pledges and deposits in the Ordinary Course of Business securing liability for reimbursement or indemnification obligations of insurance carriers providing property, casualty or liability insurance to any Loan Party or any Restricted Subsidiaries;

(f) Liens to secure the performance of bids, trade contracts, governmental contracts and leases (other than Indebtedness for borrowed money), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the Ordinary Course of Business or consistent with past practice or industry practice;

(g) easements, rights-of-way, covenants, conditions, restrictions (including zoning restrictions), encroachments, protrusions and other similar encumbrances and title defects affecting real property that, in the aggregate, do not in any case materially interfere with the ordinary conduct of the business of the Loan Parties and their Restricted Subsidiaries taken as a whole, or the use of the property for its intended purpose, and any other exceptions to title on the final Mortgage Policies issued to the Collateral Agent in connection with the Mortgaged Properties;

(h) Liens arising from judgments or orders for the payment of money not constituting an Event of Default under Section 10.1(g);

(i) Liens securing obligations in respect of Indebtedness permitted under Section 9.3(e); provided that (A) such Liens attach concurrently with or within two hundred and seventy (270) days after completion of the acquisition, construction, repair, replacement or improvement (as applicable) of the property subject to such Liens, (B) such Liens do not at any time encumber any property other than the property financed by such Indebtedness, replacements thereof and additions and accessions to such property and the proceeds and the products thereof and customary security deposits and (C) with respect to Capitalized Leases, such Liens do not at any time extend to or cover any assets (except for replacements, additions and accessions to such assets) other than the assets subject to such Capitalized Leases and the proceeds and products thereof and customary security deposits; provided that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender;

(j) leases, non-exclusive licenses, cross-licenses, subleases or non-exclusive sublicenses granted to others in the Ordinary Course of Business which (i) do not interfere in any material respect with the business of the Borrower and its Subsidiaries, taken as a whole, (ii) do not secure any Indebtedness or (iii) are permitted by Section 9.5;

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

(l) Liens (i) of a collection bank arising under Section 4-208 of the Uniform Commercial Code on the items in the course of collection, (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the Ordinary Course of Business in connection with the maintenance of such accounts and not for speculative purposes so long as such liens do not secure Indebtedness for borrowed money (other than for overdraft obligations in an aggregate amount not to exceed, taken together with overdrafts permitted under clause (iii) below, $5,000,000), and (iii) in favor of a banking or other financial institution arising as a matter of Law or under customary general terms and conditions encumbering deposits or other funds maintained with a financial institution (including the right of setoff) and that are within the general parameters customary in the banking industry or arising pursuant to such banking institution's general terms and conditions, which liens secure obligations related to the maintenance of such accounts and do not secure Indebtedness for borrowed money (other than for overdraft obligations in an aggregate amount not to exceed, taken together with overdrafts permitted under clause (i) above, $5,000,000);

(m) Liens (i) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to Section 9.2 to be applied against the purchase price for such Investment or other acquisition or (ii) consisting of an agreement to Dispose of any property in a Disposition permitted under Section 9.5, in each case, solely to the extent such Investment or other acquisition or Disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(n) Liens on property of any Non-Loan Party, which Liens secure Indebtedness of any Non-Loan Party permitted under Section 9.3 or other obligations of any Non-Loan Party not constituting Indebtedness;

(o) Liens in favor of the Borrower or a Restricted Subsidiary securing Indebtedness permitted under Section 9.3(d);

(p) Liens (other than on ABL Priority Collateral unless the Liens (subject to customary bifurcation to be agreed relative to proceeds of non-ABL Priority Collateral) thereon are subordinated to the Lien of the Collateral Agent in a manner consistent with the terms of a Customary Intercreditor Agreement) existing on property at the time of its acquisition or existing on the property of any Person at the time such Person becomes a Restricted Subsidiary (other than by designation as a Restricted Subsidiary pursuant to Section 8.3), in each case after the Closing Date (other than Liens on the Equity Interests of any Person that becomes a Restricted Subsidiary); provided that (i) such Lien does not extend to or cover any other assets or property (other than the proceeds or products thereof and other than after-acquired property of such

acquired Restricted Subsidiary), and (ii) the Indebtedness secured thereby is permitted under Section 9.3(e) or (g);

(q) any interest or title (and all encumbrances and other matters affecting such interest or title) of a lessor, sublessor, licensor or sublicensor or secured by a lessor's, sublessor's, licensor's or sublicensor's interest under leases, subleases, licenses, cross-licenses or sublicenses entered into by the Borrower or any of the Restricted Subsidiaries in the Ordinary Course of Business;

(r) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower or any of the Restricted Subsidiaries in the Ordinary Course of Business;

(s) Liens deemed to exist in connection with Investments in repurchase agreements under Section 9.2 and reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts maintained in the Ordinary Course of Business and not for speculative purposes;

(t) Liens that are contractual rights of setoff or rights of pledge (i) relating solely to the establishment of depository relations with banks or other deposit-taking financial institutions and not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Guarantors (other than the Parent), Holdings, the Borrower or any of the Restricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the Ordinary Course of Business of Holdings, the Borrower or any of the Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any of the Restricted Subsidiaries in the Ordinary Course of Business;

(u) Liens solely on any cash earnest money deposits made by the Parent Guarantors, the Borrower or any of the Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;

(v) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located;

(w) purported Liens evidenced by the filing of precautionary Uniform Commercial Code financing statements or similar public filings;

(x) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(y) Liens securing obligations in respect of Indebtedness permitted by Section 9.3(y); provided that such Liens shall be (i) junior to the Liens on ABL Priority Collateral securing the Obligations and (ii) subject to a Customary Intercreditor Agreement in form and substance satisfactory to the Administrative Agent;

(z) **[reserved]**;

(aa) (i) zoning, building, entitlement and other land use regulations by Governmental Authorities with which the normal operation of the business complies, and (ii) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(bb) the modification, replacement, renewal or extension of any Lien permitted by clauses (b), (i) and (p) of this Section 9.1; provided that (i) the Lien does not extend to any additional property other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien or financed by Indebtedness permitted under Section 9.3(e), and (B) proceeds and products thereof, (ii) the renewal, extension or refinancing of the obligations secured or benefited by such Liens is permitted by Section 9.3 (to the extent constituting Indebtedness) and (iii) if the Lien being modified, replaced, renewed or extended was subject to (A) the ABL/Term Intercreditor Agreement, then any modification, replacement, renewal or extension thereof shall be subject to the ABL/Term Intercreditor Agreement, (B) a Customary Intercreditor Agreement, then any modification, replacement, renewal or extension thereof shall be subject to a Customary Intercreditor Agreement or (C) other intercreditor arrangements, then any modification, replacement, renewal or extension thereof shall be subject to intercreditor arrangements not materially less favorable (taken as a whole) than the intercreditor arrangements governing the Liens being modified, replaced, renewed or extended or otherwise be reasonably acceptable to the Administrative Agent;

(cc) **[reserved]**;

(dd) Liens or rights of setoff against credit balances of the Borrower or any of its Subsidiaries with Credit Card Issuers or Credit Card Processors or amounts owing by such Credit Card Issuers or Credit Card Processors to the Borrower or any of its Subsidiaries in the Ordinary Course of Business, but not Liens on or rights of setoff against any other property or assets of any Borrower or any of its Subsidiaries pursuant to the Credit Card Agreements, as in effect on the Closing Date, to secure the obligations of the Borrower or any of its Subsidiaries to the Credit Card Issuers or Credit Card Processors as a result of fees and chargebacks;

(ee) **[reserved]**;

(ff) deposits of cash with the owner or lessor of premises leased and operated by the Borrower or any of its Subsidiaries to secure the performance of the Borrower's or such Subsidiary's obligations under the terms of the lease for such premises;

(gg) Liens in respect of Sale-Leasebacks;

(hh) Liens on Collateral securing the Term Loan Obligations permitted by Section 9.3(r), which are subject to the ABL/Term Intercreditor Agreement; and

(ii) other Liens (other than on ABL Priority Collateral unless the Liens thereon are subordinated to the Lien (subject to customary bifurcation to be agreed relative to proceeds of non-ABL Priority Collateral) of the Collateral Agent on the ABL Priority Collateral in a manner consistent with the terms of a Customary Intercreditor Agreement) securing Indebtedness or

other obligations in an aggregate principal amount at any time outstanding not to exceed $25,000,000.

The expansion of Liens by virtue of accrual of interest, the accretion of accreted value, the payment of interest or dividends in the form of additional Indebtedness, amortization of original issue discount and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an incurrence of Liens for purposes of this Section 9.1.

SECTION 9.2 Investments.

Make or hold any Investments, except:

(a) Investments in assets that are Cash Equivalents;

(b) loans or advances to officers, directors and employees of the Loan Parties or any of their Restricted Subsidiaries (i) for reasonable and customary business-related travel, entertainment, relocation and analogous ordinary business purposes, (ii) in connection with such Person's purchase of Equity Interests of Parent (or any direct or indirect parent thereof; provided that, to the extent such loans or advances are made in cash, the amount of such loans and advances used to acquire such Equity Interests shall be contributed to the Loan Party making such loans or advances in cash) and (iii) for any other purpose, in an aggregate principal amount outstanding at any time not to exceed $5,000,000;

(c) Investments (i) by the Borrower or any Restricted Subsidiary that is a Loan Party in the Borrower or any Restricted Subsidiary that is a Loan Party, (ii) by any Non-Loan Party in any other Non-Loan Party that is a Restricted Subsidiary, (iii) by any Non-Loan Party in the Borrower or any Restricted Subsidiary that is a Loan Party and (iv) by any Loan Party in any Non-Loan Party that is a Restricted Subsidiary; provided that (A) any such Investments made pursuant to this clause (iv) in the form of intercompany loans shall be evidenced by notes that have been pledged (individually or pursuant to a global note) to the Collateral Agent for the benefit of the Lenders (it being understood and agreed that any Investments permitted under this clause (iv) that are not so evidenced as of the Closing Date are not required to be so evidenced and pledged until the date that is sixty (60) days after the Closing Date (or such later date as may be acceptable to the Administrative Agent and the Collateral Agent)) and (B) the aggregate amount of Investments made pursuant to this clause (iv), together with amounts set forth in the proviso to clause (i) of this Section 9.2, shall not exceed at any time outstanding the greater of (x) $15,000,000 and (y) 5% of Consolidated EBITDA.

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the Ordinary Course of Business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors and other credits to suppliers in the Ordinary Course of Business;

(e) Investments consisting of Liens, Indebtedness, fundamental changes, Dispositions and Restricted Payments permitted under Sections 9.1, 9.3 (other than Sections 9.3(c)(ii) or (d)), 9.4 (other than Sections 9.4(c)(ii) or (f)), 9.5 (other than Sections 9.5(d) or (e)) and 9.6 (other than Sections 9.6(d) or (g)(D)), respectively;

(f) Investments existing on the Closing Date or made pursuant to legally binding written contracts in existence on the Closing Date, in each case, set forth on Schedule 9.2(f) and any modification, replacement, renewal, reinvestment or extension of any of the foregoing; provided that the amount of any Investment permitted pursuant to this Section 9.2(f) is not increased from the amount of such Investment on the Closing Date except pursuant to the terms of such Investment as of the Closing Date or as otherwise permitted by another clause of this Section 9.2;

(g) Investments in Swap Contracts permitted under Section 9.3;

(h) promissory notes and other non-cash consideration that is permitted to be received in connection with Dispositions permitted by Section 9.5;

(i) Permitted Acquisitions that do not, in the aggregate for all such Permitted Acquisitions since the Closing Date, involve purchase consideration in excess of $25,000,000; *provided* that the aggregate amount of such Investment made in Persons that do not become Loan Parties, together with amounts set forth in clause (c)(iv) of this Section 9.2, shall not exceed an aggregate amount equal to the greater of $15,000,000 and 5% of Consolidated EBITDA;

(j) so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom, Investments in an amount not to exceed the amount of any portion of the Net Cash Proceeds of any issuance of common Equity Interests of Parent that is contributed to the Borrower as a cash capital contribution, or any cash capital contribution to the common equity of Parent that is contributed to Borrower as a cash capital contribution, in each case, after the Closing Date, and applied for usage pursuant to this clause (j) within thirty (30) days of receipt of such amounts in cash by the Borrower, but excluding all proceeds from the issuance of Disqualified Equity Interests and Cure Amounts;

(k) Investments in the Ordinary Course of Business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Uniform Commercial Code Article 4 customary trade arrangements with customers consistent with past practices;

(l) Investments (including debt obligations and Equity Interests) received in connection with the bankruptcy or reorganization of suppliers and customers or in settlement of delinquent obligations of, or other disputes with, customers and suppliers arising in the Ordinary Course of Business or upon the foreclosure with respect to any secured Investment;

(m) loans and advances to Holdings (or any direct or indirect parent thereof) in lieu of, and not in excess of the amount of (after giving effect to any other loans, advances or Restricted Payments in respect thereof), Restricted Payments to the extent permitted to be made to Holdings (or such direct or indirect parent) in accordance with Section 9.6(f) or (g);

(n) so long as no Event of Default exists or would result therefrom, other Investments that do not exceed in the aggregate at any time outstanding $15,000,000;

(o) advances of payroll payments to employees of the Loan Parties and the Restricted Subsidiaries in the Ordinary Course of Business;

(p) Investments to the extent that payment for such Investments is made solely with Qualified Equity Interests of Holdings (or any direct or indirect parent thereof);

(q) Investments held by a Restricted Subsidiary acquired after the Closing Date or of a Person merged into the Borrower or merged or consolidated with a Restricted Subsidiary in accordance with Section 9.4 after the Closing Date (other than existing Investments in subsidiaries of such Subsidiary or Person, which must comply with the requirements of Sections 9.2(i) or (n)) to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;

(r) Guarantees by the Parent Guarantors, Holdings, the Borrower or any of the Restricted Subsidiaries of leases (other than Capitalized Leases) or of other obligations of the Borrower or its Restricted Subsidiaries that do not constitute Indebtedness, in each case entered into in the Ordinary Course of Business;

(s) **[reserved]**; and

(t) Investments made by any Restricted Subsidiary that is not a Loan Party to the extent such Investments are financed with the proceeds received by such Restricted Subsidiary from an Investment in such Restricted Subsidiary made pursuant to Sections 9.2(c)(iv), (i), (j) or (n), in each case, to the extent such Investments are permitted under such Sections at such time.

SECTION 9.3 Indebtedness.

Create, incur, assume or suffer to exist any Indebtedness or issue any Disqualified Equity Interest, other than:

(a) Indebtedness under the Loan Documents;

(b) Indebtedness existing on the Closing Date set forth on Schedule 9.3(b) and any Permitted Refinancing thereof; provided that all such Indebtedness of any Loan Party owed to any Non-Loan Party or any other Loan Party shall be subject to the Intercompany Subordination Agreement;

(c) (i) Guarantees by the Parent Guarantors, Holdings, the Borrower and the Restricted Subsidiaries in respect of Indebtedness of the Borrower or any of the Restricted Subsidiaries otherwise permitted hereunder (except that a Restricted Subsidiary that is not a Loan Party may not, by virtue of this Section 9.3(c), Guarantee Indebtedness that such Restricted Subsidiary could not otherwise incur under this Section 9.3); provided that (A) no Guarantee by any Restricted Subsidiary of any Junior Financing shall be permitted unless such Restricted Subsidiary shall have also provided a Guarantee of the Obligations substantially on the terms set forth in the Guaranty and (B) if the Indebtedness being Guaranteed is subordinated to the Obligations, such Guarantee shall be subordinated to the Guaranty on terms at least as favorable to the Lenders as those contained in the subordination of such Indebtedness and (ii) any Guaranty by a Loan Party of Indebtedness of a Restricted Subsidiary that would have been permitted as an Investment by such Loan Party in such Restricted Subsidiary under Section 9.2(c);

(d) Indebtedness of the Borrower or any of the Restricted Subsidiaries owing to the Borrower or any other Restricted Subsidiary (or issued or transferred to any direct or indirect parent of a Loan Party (other than a Parent Guarantor)) which is substantially contemporaneously transferred to a Loan Party (other than a Parent Guarantor) or any Restricted Subsidiary of a Loan Party (other than a Parent Guarantor) to the extent constituting an Investment permitted by Section 9.2; provided that (i) all such Indebtedness of any Loan Party owed to any Person that is not a Loan Party shall be subject to the Intercompany Subordination Agreement and (ii) such Indebtedness shall be duly noted on the books and records of the Loan Parties as being owing in respect of Collateral;

(e) (i) Attributable Indebtedness and other Indebtedness (including Capitalized Leases) of the Borrower and the Restricted Subsidiaries financing the acquisition, construction, repair, replacement or improvement of fixed or capital assets; provided that such Indebtedness is incurred concurrently with or within two hundred and seventy (270) days after the applicable acquisition, construction, repair, replacement or improvement and (ii) Attributable Indebtedness arising out of Sale-Leasebacks, and, in each case, any Permitted Refinancing thereof; provided that the aggregate principal amount of Indebtedness at any one time outstanding incurred pursuant to this clause (e) shall not exceed the greater of $25,000,000 and 10% of Consolidated EBITDA, in each case determined at the time of incurrence;

(f) Indebtedness in respect of Swap Contracts designed to hedge against Holdings', the Borrower's or any Restricted Subsidiary's exposure to interest rates, foreign exchange rates or commodities pricing risks incurred in the Ordinary Course of Business and not for speculative purposes and Guarantees thereof so long as such Indebtedness to the extent secured does not exceed $5,000,000;

(g) Acquired Indebtedness of the Borrower or any Restricted Subsidiary assumed in connection with any Permitted Acquisition and any Permitted Refinancing of any such Indebtedness, in an aggregate principal amount at any time outstanding not to exceed $25,000,000; provided that in no event shall the aggregate amount of Indebtedness incurred by Non-Loan Parties under this clause (g), together with all Indebtedness of Non-Loan Parties incurred under clauses (n) of this Section 9.3, exceed at any time outstanding $12,500,000;

(h) Indebtedness outstanding under the Stripes PIK Facility so long as no Loan Party (other than the Parent) or any Subsidiary of a Loan Party is liable for the obligations thereunder;

(i) Indebtedness representing deferred compensation to employees of the Borrower (and any direct or indirect parent thereof) and its Subsidiaries incurred in the Ordinary Course of Business;

(j) Indebtedness to current or former officers, directors, managers, consultants and employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests or other equity based awards of Holdings (or any direct or indirect parent thereof) permitted by Section 9.6;

(k) unsecured Indebtedness incurred by any Parent Guarantor, Holdings, the Borrower or any of the Restricted Subsidiaries in a Permitted Acquisition, any other Investment

expressly permitted hereunder or any Disposition, in each case to the extent constituting indemnification obligations or obligations in respect of purchase price (including earn-outs) or other similar adjustments so long as such Indebtedness in respect of earn-outs or similar adjustments (other than those existing on the Closing Date) does not exceed $5,000,000;

(l) unsecured Indebtedness consisting of obligations of any Parent Guarantor, Holdings, the Borrower and the Restricted Subsidiaries under deferred compensation or other similar arrangements with employees incurred by such Person in connection with Permitted Acquisitions or any other Investment expressly permitted hereunder so long as such Indebtedness does not exceed $5,000,000;

(m) Cash Management Obligations and other Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs and other cash management and similar arrangements in the Ordinary Course of Business and any Guarantees thereof;

(n) Indebtedness of the Borrower and the Restricted Subsidiaries in an aggregate principal amount at any time outstanding not to exceed $30,000,000; *provided* that in no event shall the aggregate amount of Indebtedness incurred by Non-Loan Parties under this clause (n), together with all Indebtedness of Non-Loan Parties incurred under clause (g) of this Section 9.3, exceed at any time outstanding $12,500,000;

(o) Indebtedness consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case, in the Ordinary Course of Business;

(p) Indebtedness incurred by the Borrower or any of the Restricted Subsidiaries in respect of warehouse receipts or similar instruments issued or created in the Ordinary Course of Business in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims;

(q) obligations in respect of performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by the Borrower or any of the Restricted Subsidiaries, in each case in the Ordinary Course of Business or consistent with past practice;

(r) Indebtedness of the Parent Guarantors, Holdings, the Borrower, and the other Guarantors incurred under the Term Loan Agreement so long as (i) such Indebtedness is subject to (and in compliance with) the terms of the ABL/Term Intercreditor Agreement and (ii) the aggregate principal amount of Indebtedness thereunder does not exceed the sum of (x) $400,000,000, (y) the original principal amount of Incremental Term Facilities (as defined in the Term Loan Agreement as in effect on the date hereof) up to the amount of the Incremental Cap (as defined in the Term Loan Agreement as in effect on the date hereof) made pursuant to and in accordance with the terms and conditions of the Term Loan Agreement as in effect on the date hereof, and (z) fees and interest that are paid in kind thereon (and any Permitted Refinancing thereof);

(s) **[reserved]**;

(t) **[reserved]**;

(u) **[reserved]**;

(v) **[reserved]**;

(w) **[reserved]**;

(x) **[reserved]**;

(y) secured Indebtedness in an aggregate principal amount outstanding at any time not to exceed $50,000,000; provided that any Liens securing such Indebtedness shall be permitted under Section 9.1(y); and

(z) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (a) through (z) above.

For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; provided that if such Indebtedness is incurred to extend, replace, refund, refinance, renew or defease other Indebtedness denominated in a foreign currency, and such extension, replacement, refunding, refinancing, renewal or defeasance would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such extension, replacement, refunding, refinancing, renewal or defeasance, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being extended, replaced, refunded, refinanced, renewed or defeased, plus the aggregate amount of fees, underwriting discounts, premiums (including tender premiums) and other costs and expenses (including OID) incurred in connection with such refinancing.

The accrual of interest, the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 9.3. The principal amount of any non-interest bearing Indebtedness or other discount security constituting Indebtedness at any date shall be the principal amount thereof that would be shown on a balance sheet of the Borrower dated such date prepared in accordance with IFRS.

SECTION 9.4 Fundamental Changes. Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that:

(a) Holdings or any Restricted Subsidiary may merge or consolidate with the Borrower (including a merger, the purpose of which is to reorganize the Borrower into a new jurisdiction); provided that (x) the Borrower shall be the continuing or surviving Person, (y) such merger or consolidation does not result in the Borrower ceasing to be organized under the Laws of the United States, any state thereof or the District of Columbia and (z) in the case of a merger or consolidation of Holdings with and into the Borrower, Holdings shall not be an obligor in respect of any Indebtedness that is not permitted to be Indebtedness of the Borrower under this Agreement, shall have no direct Subsidiaries at the time of such merger or consolidation other than the Borrower and, after giving effect to such merger or consolidation, the direct parent of the Borrower shall expressly assume all the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent; provided that, notwithstanding anything to the contrary contained in this Section 9.4(a), there shall at all times be at least one intermediate holding company that (i) is directly or indirectly owned by the Parent (or any permitted successor entity) and (ii) directly holds the Equity Interests of the Borrower (or any permitted successor entity);

(b) (i) any Restricted Subsidiary that is not a Loan Party may merge or consolidate with or into any other Restricted Subsidiary of the Borrower that is not a Loan Party, (ii) any Restricted Subsidiary may merge or consolidate with or into any other Restricted Subsidiary of the Borrower that is a Loan Party, (iii) any merger the sole purpose of which is to reincorporate or reorganize a Loan Party in another jurisdiction in the United States shall be permitted subject to the conditions set forth in clause (d) below with respect thereto if it relates to the Borrower, or if it relates to any other Loan Party, subject to the conditions set forth in clause (d) below with each reference to "Borrower" being deemed to be a reference to "Guarantor" and (iv) any Restricted Subsidiary may liquidate or dissolve or change its legal form if the Borrower determines in good faith that such action is in the best interests of the Borrower and its Restricted Subsidiaries and is not materially disadvantageous to the Lenders; provided, in the case of any change in legal form or jurisdiction, the Borrower will remain the Borrower and a Subsidiary that is a Guarantor will remain a Guarantor unless such Guarantor is otherwise permitted to cease being a Guarantor hereunder;

(c) any Restricted Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Borrower or another Restricted Subsidiary; provided that if the transferor in such a transaction is a Loan Party, then (i) the transferee must be a Loan Party (other than Parent Guarantors) or (ii) such Investment must be a permitted Investment in a Restricted Subsidiary which is not a Loan Party in accordance with Section 9.2 (other than clause (e) thereof);

(d) so long as no Default exists or would result therefrom, the Borrower may merge or consolidate with any other Person (other than Parent or Holdings) or consummate a division or become a series of entities; provided that (i) the Borrower shall be the continuing or surviving corporation or (ii) if the Person formed by or surviving any such merger, consolidation, division or series is not the Borrower (any such Person, the "*Successor Borrower*"), (A) the Successor Borrower shall be an entity organized or existing under the laws of the United States, any state thereof or the District of Columbia, (B) the Successor Borrower shall expressly assume all the obligations of the Borrower under this Agreement and the other Loan Documents to which the

Borrower is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent, (C) each Guarantor, unless it is the other party to such merger or consolidation, shall have by a supplement to the Guaranty confirmed that its Guarantee of the Obligations shall apply to the Successor Borrower's obligations under this Agreement, (D) each Loan Party, unless it is the other party to such merger or consolidation, shall have by a supplement to the Security Agreement confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement, (E) each mortgagor of a Mortgaged Property, unless it is the other party to such merger or consolidation, shall have by an amendment to or restatement of the applicable Mortgage (or other instrument reasonably satisfactory to the Collateral Agent) confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement, and (F) the Borrower shall have delivered to the Administrative Agent an officer's certificate and an opinion of counsel, each stating that such merger or consolidation and such supplement to this Agreement or any Collateral Document comply with this Agreement; provided, further, that if the foregoing are satisfied, the Successor Borrower will succeed to, and be substituted for, the Borrower under this Agreement;

(e) Holdings or any Parent Guarantor may merge or consolidate with or into one other or (in the case of any such Person other than Parent) liquidate into its direct parent company (including a merger, the purpose of which is to reorganize any such Person into a new jurisdiction); provided that (x) if the merger or consolidation involves the Parent, the Parent shall be the continuing or surviving Person and if such Person involves a Loan Party then the continuing or surviving Person shall be a Loan Party, (y) if the merger or consolidation involves the direct holder of the Equity Interests of the Borrower, the continuing or surviving Person shall become the direct holder of the Equity Interests of the Borrower (and shall constitute "Holdings" for all purposes under the Loan Documents), and (z) such merger or consolidation does not result in such Person ceasing to be organized under the Laws of the United States, any state thereof or the District of Columbia; *provided* that, notwithstanding, anything to the contrary contained in this Section 9.4(e), there shall at all times be at least one intermediate holding company that (i) is directly, or indirectly, owned by the Parent (or any permitted successor entity) and (ii) directly holds the Equity Interests of the Borrower (or any permitted successor entity).

(f) so long as no Event of Default exists or would result therefrom (in the case of a merger, amalgamation or consolidation involving a Loan Party), any Restricted Subsidiary may merge or consolidate with any other Person in order to effect an Investment permitted pursuant to Section 9.2 (other than Section 9.2(e)); provided that the continuing or surviving Person shall be the Borrower or a Restricted Subsidiary, which together with each of its Restricted Subsidiaries, shall have complied with the applicable requirements of Sections 8.11, 8.12 and 8.13 and if such merger, amalgamation or consolidation involves a Loan Party, the surviving Person shall be a Loan Party (other than a Parent Guarantor) (or become a Loan Party substantially simultaneously therewith) or such transaction shall constitute an Investment otherwise permitted by Section 9.2;

(g) **[reserved]**; and

(h) so long as no Event of Default exists or would result therefrom, a merger, dissolution, liquidation, consolidation or Disposition, the purpose of which is to effect a Disposition permitted pursuant to Section 9.5 (other than Section 9.5(e)).

SECTION 9.5 Dispositions. Make any Disposition, except:

(a) (w) Dispositions of obsolete, worn out, used or surplus property, whether now owned or hereafter acquired, in the Ordinary Course of Business, (x) Dispositions of property no longer used or useful in the conduct of the business of the Borrower and the Restricted Subsidiaries in the Ordinary Course of Business and (y) Dispositions to landlords of improvements made to leased real property pursuant to customary terms of leases entered into in the Ordinary Course of Business;

(b) Dispositions of inventory held for sale in the Ordinary Course of Business and Dispositions of goods that constitute immaterial assets in connection with promotional activities of the Loan Parties in the Ordinary Course of Business;

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

(d) Dispositions of property from a Loan Party to another Loan Party (other than a Parent Guarantor);

(e) Dispositions permitted by Sections 9.2 (other than Section 9.2(e)), 9.4 (other than Section 9.4(h)) and 9.6 (other Section 9.6(d)) and Liens permitted by Section 9.1 (other than Section 9.1(m)(ii));

(f) Dispositions of property (other than ABL Priority Collateral) pursuant to Sale-Leasebacks;

(g) Dispositions of Cash Equivalents;

(h) (i) leases, subleases, non-exclusive licenses, cross-licenses or non-exclusive sublicenses (including the provision of software under an open source license), in each case in the Ordinary Course of Business and which do not materially interfere with the business of the Borrower and the Restricted Subsidiaries, taken as a whole and (ii) Dispositions of intellectual property that are not material to the business of the Borrower and the Restricted Subsidiaries taken as a whole;

(i) Dispositions constituting casualty or condemnation events;

(j) Dispositions of property (other than Intellectual Property (as defined in the Security Agreement) that is material to the business of the Loan Parties and the Restricted Subsidiaries taken as a whole) not otherwise permitted under this Section 9.5; provided that (i) at the time of such Disposition (other than any such Disposition made pursuant to a legally binding commitment entered into at a time when no Default exists), no Default shall exist or would result from such Disposition, (ii) with respect to any Disposition pursuant to this clause (j) for a

purchase price in excess of $10,000,000 or with respect to any Disposition of ABL Priority Collateral regardless of the purchase price, the Borrower or any of the Restricted Subsidiaries shall receive not less than 75% of such consideration in the form of cash or Cash Equivalents (in each case, free and clear of all Liens at the time received, other than Liens permitted by Section 9.1); provided, however, that for the purposes of this clause (ii), (A) any liabilities (as shown on the Borrower's or such Restricted Subsidiary's most recent balance sheet provided hereunder or in the footnotes thereto) of the Borrower or such Restricted Subsidiary, other than liabilities that are by their terms unsecured debt for borrowed money, debt subject to junior liens or debt subordinated to the payment in cash of the Obligations, that (I) are assumed by the transferee with respect to the applicable Disposition, or (II) are otherwise cancelled or terminated in connection with the transaction and such transferee (other than intercompany debt owed to the Borrower or its Restricted Subsidiaries) and, in each case, for which the Borrower and all of the Restricted Subsidiaries shall have been validly released by all applicable creditors in writing, (B) any securities, notes or other obligations or assets received by the Borrower or the applicable Restricted Subsidiary from such transferee that are converted by the Borrower or such Restricted Subsidiary into cash or Cash Equivalents (to the extent of the cash received) within one hundred and eighty (180) days following the closing of the applicable Disposition and (C) any Designated Non-Cash Consideration received in respect of such Disposition having an aggregate fair market value as determined by the Borrower in good faith, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (C) that is at that time outstanding, not in excess of $5,000,000 at the time of the receipt of such Designated Non-Cash Consideration, with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value, shall be deemed to be cash, (iii) Excess Availability is not less than $15,000,000 after giving effect to such Disposition, and (iv) if Dispositions of ABL Priority Collateral under this clause (j), or otherwise outside the Ordinary Course of Business, with fair market value in excess of $5,000,000 in the aggregate would have occurred since the most recent Borrowing Base Certificate was delivered to the Administrative Agent upon giving effect to such Disposition, the Administrative Agent shall receive an updated Borrowing Base Certificate after giving pro forma effect thereto as a condition thereto;

(k) Dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements, *provided* that no disposition of ABL Priority Collateral which is part of the Borrowing Base shall be permitted pursuant to this clause (k) unless the Borrower shall have (i) delivered to the Administrative Agent written notice of such disposition in reasonable detail and (ii) if requested by the Administrative Agent, delivered to the Administrative Agent an updated Borrowing Base Certificate; provided further, that if Dispositions of ABL Priority Collateral under this clause (k), or otherwise outside the Ordinary Course of Business, with fair market value in excess of $5,000,000 in the aggregate would have occurred since the most recent Borrowing Base Certificate was delivered to the Administrative Agent upon giving effect to such Disposition, the Administrative Agent shall receive an updated Borrowing Base Certificate giving pro forma effect thereto as a condition thereto;

(l) Dispositions or discounts without recourse of accounts receivable (other than Eligible Accounts and Eligible Credit Card Receivables) in connection with the collection or compromise thereof;

(m) any issuance or sale of Equity Interests in, or sale of Indebtedness or other securities of, an Unrestricted Subsidiary;

(n) to the extent allowable under Section 1031 of the Code (or comparable or successor provision), any exchange of like property (excluding any boot thereon permitted by such provision) for use in any business conducted by the Borrower or any of its Restricted Subsidiaries that is not in contravention of Section 9.7; provided that (x) to the extent the property being transferred constitutes Collateral, such replacement property shall constitute Collateral and (y) to the extent the property being transferred constitutes ABL Priority Collateral, such replacement property shall constitute ABL Priority Collateral; *provided further* that (x) such Disposition shall not be permitted, if at the time of or as a result of such Disposition, a Cash Dominion Period shall exist or would exist after the passage of the five (5) consecutive Business Days immediately succeeding such Disposition and (y) if the aggregate fair market value of the property subject to any such Disposition under this clause (n), or otherwise outside the Ordinary Course of Business, exceeds $5,000,000, the Borrower shall promptly deliver to the Administrative Agent an updated Borrowing Base Certificate giving Pro Forma Effect to such Disposition and shall permit the Administrative Agent to conduct a field exam and inventory appraisal (each at the Borrower's sole cost and expense);

(o) the unwinding of any Swap Contract;

(p) [sales or other dispositions by the Borrower or any Restricted Subsidiary of assets in connection with the closing or sale of a Store (including a factory Store) either (i) in connection with or related to the implementation of, or the requirements under, the Chapter 11 Plan, which closures have been disclosed to the Administrative Agent in writing prior to the Closing Date and identified as proposed closures pursuant to this sub-clause (i), or (ii) in the Ordinary Course of Business of the Borrower and its Subsidiaries, in each case, which consist of leasehold interests in the premises of such Store, the equipment and fixtures located at such premises and the books and records relating exclusively and directly to the operations of such Store; provided that with respect to clause (ii) only as to each and all such sales and closings, (A) no Event of Default shall result therefrom and (B) such store closures and related asset dispositions, together with any store closures and related inventory dispositions under clause (q) of this Section 9.5, shall not exceed since the Closing Date ten percent (10%) of the number of the Loan Parties' stores as the Closing Date (less the number of stores identified pursuant to sub-clause (i) above and calculated net of new store openings) (the "*Store Amount*"); and provided, further, that with respect to clauses (i) and (ii), (1) such sale shall be on commercially reasonable prices and terms in a bona fide arm's length transaction and (2) if Dispositions of ABL Priority Collateral under this clause (p), or otherwise outside the Ordinary Course of Business, with fair market value in excess of $5,000,000 in the aggregate would have occurred since the most recent Borrowing Base Certificate was delivered to the Administrative Agent after giving effect to such Disposition, the Administrative Agent shall receive an updated Borrowing Base Certificate after giving pro forma effect thereto as a condition thereto;]

(q) [bulk sales or other Dispositions of the inventory of a Restricted Subsidiary not in the Ordinary Course of Business in connection with Store closings, at arm's length; provided that as to each and all such sales and closings, such store closures and related Inventory dispositions, together with any store closures and related asset dispositions under clause (p)(ii) of this Section

9.5, shall not exceed since the Closing Date ten percent (10%) of the Store Amount; provided, that, if Dispositions of ABL Priority Collateral under this clause (q). or otherwise outside the Ordinary Course of Business, with fair market value in excess of $5,000,000 in the aggregate would have occurred since the most recent Borrowing Base Certificate was delivered to the Administrative Agent after giving effect to such Disposition, the Administrative Agent shall receive an updated Borrowing Base Certificate after giving pro forma effect thereto as a condition thereto;]

(r) any issuance or sale of Equity Interests (other than of Disqualified Equity Interests) in Parent to the extent such issuance or sale does not result in a Change of Control;

(s) the lapse or abandonment in the Ordinary Course of Business of any registrations or applications for registration of any immaterial IP Rights;

(t) Dispositions of non-core assets acquired in connection with Permitted Acquisitions taking place following the Closing Date; provided, that the Borrower shall (x) have Excess Availability on a Pro Forma Basis giving effect to the consummation of such sale or disposition on the date thereof and (y) have had Excess Availability (calculated on a Pro Forma Basis as though such sale or disposition were consummated on the first date of such 30 day period) on each day during the 30 day period immediately prior giving effect to the consummation of such sale or disposition, in each case, in excess of $20,000,000 (which amount shall automatically increase proportionately by an amount equal to the proportionate increase to the Revolving Credit Commitments in connection with any Revolving Commitment Increase pursuant to Section 2.15);

(u) any swap of assets in exchange for services or other assets in the Ordinary Course of Business of comparable or greater value or usefulness to the business of the Borrower and its Restricted Subsidiaries as a whole, as determined in good faith by the management of the Borrower;

(v) Dispositions by any Loan Party to any wholly owned Restricted Subsidiary of the type described in clauses (b), (c) and (d) of the definition of "Excluded Subsidiary" to the extent consisting of contributions or other Dispositions of Equity Interests in other Subsidiaries of the type described in clauses (b), (c) and (d) of the definition of "Excluded Subsidiary" to such wholly owned Restricted Subsidiary; and

(w) Dispositions (other than Dispositions of Intellectual Property (as defined in the Security Agreement) that is material to the business of Borrower and its Restricted Subsidiaries taken as a whole) in the aggregate pursuant to this clause (w) not to exceed $5,000,000 as determined at the time of such Disposition; provided that in the case of a Disposition of ABL Priority Collateral pursuant to this clause (w), Excess Availability is not less than $15,000,000 after giving effect to such Disposition.

provided that any Disposition of any property pursuant to this Section 9.5 (except pursuant to Sections 9.5(a), (d), (e), (h), (i), (k), (l), (o), (s) and (v) and except for Dispositions from the Borrower or a Restricted Subsidiary that is a Loan Party to the Borrower or a Restricted Subsidiary that is a Loan Party), shall be for no less than the fair market value of such property at

the time of such Disposition as determined by the Borrower in good faith. To the extent any Collateral is Disposed of as expressly permitted by this Section 9.5 to any Person other than a Parent Guarantor, Holdings, the Borrower or any Restricted Subsidiary, such Collateral shall be sold free and clear of the Liens created by the Loan Documents, and the Administrative Agent shall be authorized to take any actions deemed appropriate in order to effect the foregoing. If ABL Priority Collateral the fair market value of which is in excess of $5,000,000 in the aggregate is Disposed of outside the Ordinary Course of Business at any time since the most recent Borrowing Base Certificate was delivered to the Administrative Agent and the Collateral Agent or, if at the time of or as a result of any Disposition, a Cash Dominion Period shall exist, in each case, the Borrower shall promptly deliver to the Administrative Agent and the Collateral Agent an updated Borrowing Base Certificate giving Pro Forma Effect to such Disposition; provided that nothing herein shall be deemed to permit any Disposition that is not otherwise permitted under Section 9.5 or waive any other requirement in respect of the Collateral or the Borrowing Base.

SECTION 9.6 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, except:

(a) each Loan Party (other than Parent) and any Restricted Subsidiary may make Restricted Payments to any Loan Party (other than Parent) that is its direct parent (and, in the case of a Restricted Payment by a non-wholly owned Restricted Subsidiary, to the Borrower and any of its other Restricted Subsidiaries and to each other owner of Equity Interests of such Restricted Subsidiary based on their relative ownership interests of the relevant class of Equity Interests);

(b) each Loan Party and each of its Restricted Subsidiaries may declare and make dividend payments or other distributions payable solely in the Equity Interests (other than Disqualified Equity Interests not otherwise permitted by Section 9.3) of such Person;

(c) so long as no Default or Event of Default shall have occurred and be continuing or would result therefrom, the Borrower and each of its Restricted Subsidiaries may declare and/or make Restricted Payments in an amount not to exceed the amount of any portion of the Net Cash Proceeds of any issuance of common Equity Interests of Parent that is contributed to the Borrower as a cash capital contribution, or any cash capital contribution to the common equity of Parent that is contributed to Borrower as a cash capital contribution, in each case, after the Closing Date, and applied for usage pursuant to this clause (c) within thirty (30) days of receipt of such amounts in cash by the Borrower, but excluding all proceeds from the issuance of Disqualified Equity Interests and Cure Amounts;

(d) to the extent constituting Restricted Payments, any Loan Party (other than Parent), Borrower and the Restricted Subsidiaries may enter into and consummate transactions expressly permitted by any provision of Section 9.2 (other than Section 9.2(e)), 9.4 (other than a merger or consolidation of Parent and Holdings, or Holdings and the Borrower, or Parent and Borrower) or 9.8 (other than Sections 9.8(a) or (i));

(e) to the extent constituting cashless exercises, repurchases of Equity Interests in Parent deemed to occur upon exercise of stock options or warrants or the settlement or vesting of

other equity-based awards if such Equity Interests represent a portion of the exercise price of, or tax withholdings with respect to, such options or warrants or other equity-based awards;

(f) the each Loan Party (other than Parent) and each Restricted Subsidiary may (i) pay in cash (or make Restricted Payments to allow Holdings or any direct or indirect parent thereof to pay in cash) for the repurchase, retirement or other acquisition or retirement for value of Equity Interests or settlement of equity-based awards of such Restricted Subsidiary (or of the Borrower or any other such direct or indirect parent thereof) (or of any such direct or indirect parent thereof) held by any future, present or former employee, manager, director, consultant or distributor (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of such Restricted Subsidiary (or the Borrower or any other direct or indirect parent thereof) or any of its Restricted Subsidiaries or (ii) make Restricted Payments in cash in the form of distributions to allow Holdings or any direct or indirect parent of Holdings to pay principal or interest on promissory notes that were issued to any future, present or former employee, officer, director, manager or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributes of any of the foregoing) of such Restricted Subsidiary (or the Borrower or any other direct or indirect parent thereof) in lieu of cash payments for the repurchase, retirement or other acquisition or retirement for value of such Equity Interests or equity-based awards held by such Persons, in each case, upon the death, disability, retirement or termination of employment of any such Person or otherwise pursuant to any employee, manager or director equity plan, employee, manager or director stock option plan or any other employee or director benefit plan or any agreement (including any stock subscription or shareholder agreement) with any employee, director, consultant or distributor of the Borrower (or any direct or indirect parent of the Borrower) or any of its Subsidiaries in an aggregate amount after the Closing Date together with the aggregate amount of loans and advances to Holdings (or any direct or indirect parent thereof) made pursuant to Section 9.2(m) in lieu of Restricted Payments permitted by this clause (f) not to exceed $7,500,000 in any Fiscal Year (with the unused amounts thereof carried forward to subsequent Fiscal Years); *provided* that cancellation of Indebtedness owing to any Loan Party or any Restricted Subsidiary from members of management of the Borrower, any of the Borrower's direct or indirect parent companies or any of the Borrower's Restricted Subsidiaries in connection with a repurchase of Equity Interests of any of the Borrower's direct or indirect parent companies will not be deemed to constitute a Restricted Payment for purposes of this covenant or any other provision of this Agreement;

(g) the Borrower may make Restricted Payments in cash to Holdings or to any direct or indirect parent of Holdings:

(A) with respect to any taxable period for which the Borrower and/or its Subsidiaries are members of a consolidated, combined, unitary or affiliated tax group for U.S. federal and/or applicable state or local tax purposes of which a direct or indirect parent of the Borrower is a common parent ("*Tax Group*") the proceeds of which will be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) the Tax liability to each federal, state or local jurisdiction in respect of which such Tax Group return is filed by Parent, (or such direct or indirect parent that is a common group of such Tax Group) that includes the Borrower and/or any of its Subsidiaries, to the extent such Tax liability does not exceed the lesser of (A) the Taxes that would have been

payable by the Borrower and/or its Subsidiaries as a stand-alone group and (B) the actual Tax liability of Parent's Tax Group (or, if Parent is not the parent of the Tax Group, the Taxes that would have been paid by the Parent Guarantors, Holdings, the Borrower and/or the Borrower's Subsidiaries as a stand-alone group), reduced by any such Taxes paid or to be paid directly by the Borrower or its Subsidiaries; provided that Restricted Payments or other distributions in respect of an Unrestricted Subsidiary shall be permitted only to the extent that cash distributions were made by such Unrestricted Subsidiary to the Borrower or any of its Restricted Subsidiaries for such purpose;

(B) the proceeds of which shall be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) [(i)] its operating costs and expenses incurred in the Ordinary Course of Business and other corporate overhead costs and expenses (including administrative, legal, accounting and similar expenses provided by third parties), which are reasonable and customary and incurred in the Ordinary Course of Business, attributable to the ownership or operations of the Borrower and its Subsidiaries [or, (ii) in the case of the Parent, the payment of fees or expenses (1) pursuant to the Stripes PIK Facility or (2) pursuant to the Parent Pledge Agreement.]

(C) the proceeds of which shall be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof which does not own other Subsidiaries besides Holdings, its Subsidiaries and the direct or indirect parents of Holdings to pay) (A) franchise Taxes and other fees, similar Taxes and expenses required to maintain its (or any of such direct or indirect parents') corporate existence or (B) costs and expenses incurred by it or any of its direct or indirect parents in connection with such entity being a public company, including costs and expenses relating to ongoing compliance with federal and state securities laws and regulations, SEC rules and regulations and the Sarbanes-Oxley Act of 2002;

(D) to finance any Investment permitted to be made pursuant to Section 9.2; provided that (A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment and (B) the Loan Parties and the Borrower shall, immediately following the closing thereof, cause (1) all property acquired (whether assets or Equity Interests) to be contributed to the Borrower or a Restricted Subsidiary or (2) the merger (to the extent permitted in Section 9.4) of the Person formed or acquired into the Borrower or a Restricted Subsidiary in order to consummate such Permitted Acquisition, in each case, in accordance with the requirements of Section 8.11 and 9.2;

(E) the proceeds of which shall be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) costs, fees and expenses (other than to Affiliates) related to any unsuccessful equity or debt offering permitted by this Agreement; and

(F) the proceeds of which (A) shall be used to pay salary, commissions, bonus and other benefits payable to and indemnities provided on behalf of officers, employees, directors and members of management of Holdings or any direct or indirect parent company of Holdings and any payroll, social security or similar taxes

hereof to the extent such salaries, commissions, bonuses and other benefits are attributable to the ownership or operation of the Borrower and the Restricted Subsidiaries or (B) shall be used to make payments permitted under Sections 9.8(g) and (i) (but only to the extent such payments have not been and are not expected to be made by the Borrower or a Restricted Subsidiary);

(h) the Loan Parties or any of the Restricted Subsidiaries may pay (or make Restricted Payments to allow Parent to pay) cash in lieu of fractional Equity Interests in connection with any dividend, split or combination thereof or any Permitted Acquisition;

(i) **[reserved]**;

(j) repurchases of Equity Interests (i) deemed to occur on the exercise of options by the delivery of Equity Interests in satisfaction of the exercise price of such options or (ii) in consideration of withholding or similar Taxes payable by any future, present or former employee, director, manager or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing), including deemed repurchases in connection with the exercise of stock options;

(k) [Restricted Payments made on the Closing Date to effectuate the transactions contemplated by the Chapter 11 Plan;]

(l) the proceeds of which shall be used by Holdings to pay (or to make Restricted Payments to allow any direct or indirect parent thereof to pay) (A) fees and expenses (other than to Affiliates) related to any unsuccessful equity or debt offering by Holdings (or any direct or indirect parent thereof) that is directly attributable to the operations of the Borrower and its Restricted Subsidiaries and (B) expenses and indemnities of the trustee with respect to any debt offering by Holdings (or any direct or indirect parent thereof), permitted hereunder, and which is directly attributable to the Borrower and its Restricted Subsidiaries;

(m) in addition to the foregoing Restricted Payments, so long as (i) no Default has occurred and is continuing or would result therefrom, (ii) the Borrower shall (x) have Excess Availability of not less than $30,000,000 on a Pro Forma Basis giving effect to such Restricted Payment and (iii) the Loan Parties are in compliance with a minimum Fixed Charge Coverage Ratio of at least 1:00 to 1:00, the Borrower may make Restricted Payments (or make Restricted Payments to allow Holdings or any Parent Guarantor to make Restricted Payments) in cash in an aggregate amount, together with the aggregate amount of prepayments, redemptions, purchases, defeasances and other payments in respect of Junior Financings made pursuant to Section 9.12(a)(i)(D), not to exceed $5,000,000, in each case determined at the time of such Restricted Payment; and

(n) [the payment of any dividend or distribution within sixty (60) days after the date of declaration thereof, if at the date of declaration (i) such payment would have complied with the provisions of this Agreement and (ii) no Event of Default occurred and was continuing.

SECTION 9.7 Change in Nature of Business.

Engage in any material line of business substantially different from those lines of business conducted by the Borrower and the Restricted Subsidiaries on the Closing Date or any business or any other activities reasonably related, complementary, synergistic or ancillary thereto or reasonable extensions thereof.

SECTION 9.8 Transactions with Affiliates.

Enter into any transaction of any kind with any Affiliate of any Loan Party involving aggregate payments or consideration in excess of $2,500,000 for any individual transaction or series of related transactions, whether or not in the Ordinary Course of Business, other than:

(a) transactions between or among the Loan Parties or any of the Restricted Subsidiaries or any entity that becomes a Restricted Subsidiary as a result of such transaction,

(b) transactions on terms substantially as favorable to any Loan Party or such Restricted Subsidiary as would be obtainable by any Loan Party or such Restricted Subsidiary at the time in a comparable arm's-length transaction with a Person other than an Affiliate,

(c) the Transaction and the payment of fees and expenses (including the Transaction Expenses) related to the Transaction,

(d) the issuance of Equity Interests or equity-based awards of Holdings or any direct or indirect parent thereof to any officer, director, employee or consultant of the Loan Parties or any of their Subsidiaries, including in connection with the Transaction,

(e) employment and severance arrangements between the Loan Parties, and the Restricted Subsidiaries and their respective officers and employees in the Ordinary Course of Business and transactions pursuant to stock option plans and employee benefit plans and arrangements,

(f) the non-exclusive licensing of trademarks, copyrights or other IP Rights in the Ordinary Course of Business to permit the commercial exploitation of IP Rights between or among Affiliates and Subsidiaries of any Loan Party,

(g) (i) the payment of customary fees and reasonable out-of-pocket costs to, and indemnities provided on behalf of, directors, officers and employees of any Loan Party and the Restricted Subsidiaries in the Ordinary Course of Business to the extent attributable to the ownership or operation of the Borrower and its Restricted Subsidiaries and (ii) the payments contemplated under clause (o) of the definition of "Consolidated Net Income",

(h) any agreement, instrument or arrangement as in effect as of the Closing Date and set forth on Schedule 9.8, or any amendment thereto (so long as any such amendment is not adverse to the Lenders in any material respect as compared to the applicable agreement as in effect on the Closing Date),

(i) Restricted Payments permitted under Section 9.6 (and any restricted payments made by Holdings or any Parent Guarantor as a result thereof or in connection therewith),

(j) **[reserved]**,

(k) transactions in which any Loan Party or any of the Restricted Subsidiaries, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Loan Party or such Restricted Subsidiary from a financial point of view or meets the requirements of clause (b) of this Section 9.8,

(l) the issuance or transfer of Equity Interests (other than Disqualified Equity Interests) of Holdings or any Parent Guarantor to any of its equity holders or to any former, current or future director, manager, officer, employee or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of the Borrower, any of its Subsidiaries or any direct or indirect parent thereof to the extent otherwise permitted by this Agreement and to the extent such issuance or transfer would not give rise to a Change of Control,

(m) **[reserved]**,

(n) payments to or from, and transactions with, Joint Ventures (to the extent any such Joint Venture is only an Affiliate as a result of Investments by Holdings, the Borrower and the Restricted Subsidiaries in such Joint Venture) in the Ordinary Course of Business and consistent with past practice to the extent otherwise permitted under Section 9.2, and

(o) the Term Loan Documents and the documents governing the Stripes PIK Facility, and each of the transactions contemplated thereby.

SECTION 9.9 Burdensome Agreements. Enter into or permit to exist any Contractual Obligation (other than this Agreement, any other Loan Document or any Term Loan Document) that prohibits, restricts, imposes any condition on or limits the ability of (a) any Restricted Subsidiary that is not a Loan Party to make Restricted Payments to (directly or indirectly) or to make or repay loans or advances to any Loan Party or to Guarantee the Obligations of any Loan Party under the Loan Documents or (b) any Loan Party to create, incur, assume or suffer to exist Liens on property of such Person for the benefit of the Lenders with respect to the Obligations under the Loan Documents; provided that the foregoing clauses (a) and (b) shall not apply to Contractual Obligations that:

(i) (x) exist on the Closing Date and (to the extent not otherwise permitted by this Section 9.9) are listed on Schedule 9.9 hereto and (y) to the extent Contractual Obligations permitted by clause (x) are set forth in an agreement evidencing Indebtedness, are set forth in any agreement evidencing any permitted modification, replacement, renewal, extension or refinancing of such Indebtedness so long as such modification, replacement, renewal, extension or refinancing does not expand the scope of such Contractual Obligation,

(ii) are binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary, so long as such Contractual Obligations were not entered into in contemplation of such Person becoming a Restricted Subsidiary,

(iii) represent Indebtedness of a Restricted Subsidiary that is not a Loan Party that is permitted by Section 9.3,

(iv) are customary restrictions that arise in connection with (x) any Lien permitted by Sections 9.1(a), (l), (m), (s), (t)(i), (t)(ii), (u) and (ee) and relate to the property subject to such Lien or (y) any Disposition permitted by Section 9.5 applicable pending such Disposition solely to the assets subject to such Disposition,

(v) are customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted under Section 9.2 and applicable solely to such joint venture,

(vi) are negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 9.3 but solely to the extent any negative pledge relates to the property financed by or the subject of such Indebtedness (and excluding in any event any Indebtedness constituting any Junior Financing) and the proceeds and products thereof,

(vii) are customary restrictions on leases, subleases, licenses, cross-licenses, sublicenses or asset sale agreements otherwise permitted hereby so long as such restrictions relate to the property interest, rights or the assets subject thereto,

(viii) comprise restrictions imposed by any agreement relating to secured Indebtedness permitted pursuant to Sections 9.3(e), (g) or (o)(i), to the extent that such restrictions apply only to the property or assets securing such Indebtedness,

(ix) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Borrower or any Restricted Subsidiary,

(x) are customary provisions restricting assignment of any agreement entered into in the Ordinary Course of Business,

(xi) are restrictions on cash or other deposits imposed by customers under contracts entered into in the Ordinary Course of Business,

(xii) **[reserved]**,

(xiii) arise in connection with cash or other deposits permitted under Section 9.1 or Section 9.2, or

(xiv) comprise restrictions imposed by any agreement governing Indebtedness entered into on or after the Closing Date and permitted under Section 9.3 that are, taken as a whole, in the good faith judgment of the Borrower, no more restrictive with respect to the Borrower or any Restricted Subsidiary than customary market terms for Indebtedness of such type (and, in any event, are no more restrictive than the restrictions contained in this Agreement), so long as the Borrower shall have determined in good faith that such restrictions will not affect its obligation or ability to make any payments required hereunder.

SECTION 9.10 Amendments to Organization Documents. Amend, modify, waive or change in any manner materially adverse to the Lenders, as reasonably determined in good faith by the Borrower, any term or condition of the Organization Documents of the Loan Parties or any of their Restricted Subsidiaries without the consent of the Administrative Agent.

SECTION 9.11 Accounting Changes.

Make any change in Fiscal Year or any material change in accounting treatment or reporting practices, except as required by IFRS or GAAP (whichever is then applicable); *provided, however*, that the Loan Parties may, upon written notice to the Administrative Agent, change its Fiscal Year to any other Fiscal Year reasonably acceptable to the Administrative Agent, in which case the Parent Guarantors, Holdings, the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary to reflect such change in Fiscal Year.

SECTION 9.12 Prepayments, Etc. of Indebtedness.

(a) (i) Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner (it being understood that payments of regularly scheduled principal, interest and mandatory prepayments shall be permitted) any unsecured Indebtedness for borrowed money, any Indebtedness that is secured by Liens that are junior to the Liens securing the Obligations, or any Indebtedness that is subordinated in right of payment to the Obligations expressly by its terms (other than (x) Indebtedness owed to the Borrower and or any Guarantor (other than Parent) from any other Loan Party or its Restricted Subsidiaries, (y) the Term Loan Obligations, and (z) and any other Indebtedness that is permitted hereunder to be secured on a junior lien basis to the ABL Priority Collateral but pari passu with or senior to the liens on the Term Priority Collateral) (collectively, "*Junior Financing*"), except:

(A) the refinancing thereof with the Net Cash Proceeds of, or in exchange for, any Permitted Refinancing,

(B) the conversion of any Junior Financing to Equity Interests (other than Disqualified Equity Interests) of Parent or any of its direct or indirect parents,

(C) the prepayment of Indebtedness of the Borrower or any Restricted Subsidiary owed to Holdings, the Borrower, or any Restricted Subsidiary that is a Guarantor (or to any other Restricted Subsidiary if owed by any Restricted Subsidiary that is not a Loan Party) or the prepayment of any other Junior Financing of any Person with the proceeds of any other Junior Financing of such Person otherwise permitted by Section 9.3; provided, however, that any payment that would constitute a Restricted Payment must also separately be permitted under Section 9.6; or

(D) prepayments, redemptions, purchases, defeasances and other payments in respect of any Junior Financing prior to its scheduled maturity in an aggregate amount, together with the aggregate amount of Restricted Payments made pursuant to Section 9.6(m), not to exceed $5,000,000, in each case determined at the time of such payment; provided that such payment pursuant to this clause (D) shall only be permitted so long as (x) no Default has occurred and is continuing or would result

therefrom, (y) the Borrower shall have Excess Availability of not less than $30,000,000 on a Pro Forma Basis giving effect to such payment of Junior Financing and (z) the Borrower is in compliance with a minimum Fixed Charge Coverage Ratio of at least 1:00 to 1:00; provided, however, that any payment that would constitute a Restricted Payment must also be permitted under Section 9.6 (it being understood that any such payment that constitutes a Restricted Payment shall only reduce the $5,000,000 limit in this Section 9.12(a)(i)(D) and Section 9.6(m) by the amount of such payment and without duplication), and

(E) prepayments, redemptions, purchases, defeasances and other payments in respect of any Junior Financing so long as the Payment Conditions are satisfied before and after giving effect thereto; provided, however, that any such payment that would constitute a Restricted Payment must also separately be permitted under Section 9.6; or

(ii) make any payment in violation of any subordination terms of any Junior Financing Documentation.

(b) Amend, modify or change in any manner materially adverse to the interests of the Lenders, as reasonably determined in good faith by the Borrower, any term or condition of the loan documents governing the Stripes PIK Facility or any Junior Financing Documentation in respect of any Indebtedness having an aggregate outstanding principal amount in excess of the Threshold Amount (other than as a result of a Permitted Refinancing thereof) without the consent of the Administrative Agent (which consent shall not be unreasonably withheld, conditioned or delayed).

(c) **[Reserved]**.

(d) Amend, modify or change any term or condition of the Term Loan Documents (i) without the consent of the Administrative Agent and the Requisite Lenders unless expressly permitted by the ABL/Term Intercreditor Agreement or (ii) in any manner inconsistent with, or contrary to, the ABL/Term Intercreditor Agreement.

SECTION 9.13 Holdings. In the case of Holdings, conduct, transact or otherwise engage in any business or operations other than the following (and any activities incidental thereto): (i) its direct ownership of the Equity Interests of the Borrower and its indirect ownership of the Equity Interests of the Subsidiaries of the Borrower and activities incidental thereto, including payment of dividends and other amounts in respect of its Equity Interests, (ii) the maintenance of its legal existence (including the ability to incur fees, costs and expenses relating to such maintenance), (iii) the performance of its obligations with respect to the Loan Documents and the Term Loan Documents, (iv) financing activities, including the issuance of securities, incurrence of debt, payment of dividends, making contributions to the capital of its Subsidiaries and guaranteeing the obligations of its Subsidiaries in each case solely to the extent permitted hereunder, (v) participating in tax, accounting and other administrative matters as a member of the consolidated group with the Borrower, (vi) holding any cash or property received in connection with Restricted Payments made by the Borrower in accordance with Section 9.6 pending application thereof by Holdings, (vii) providing indemnification to officers and directors

and (viii) activities incidental to the businesses or activities described in clauses (i) to (vii) of this Section 9.13.

SECTION 9.14 Parent Guarantors. In the case of the Parent Guarantors, conduct, transact or otherwise engage in any business or operations other than the following (and any activities incidental thereto): (i) its indirect ownership of the Equity Interests of Holdings and the Subsidiaries of Holdings and activities incidental thereto, including payment of dividends and other amounts in respect of its Equity Interests, (ii) the maintenance of its legal existence (including the ability to incur fees, costs and expenses relating to such maintenance), (iii) the performance of its obligations with respect to the Loan Documents, the Term Loan Documents and, to the extent applicable, the documents governing the Stripes PIK Facility, (iv) financing activities, including the issuance of securities, incurrence of debt, making contributions to the capital of its Subsidiaries and guaranteeing the obligations of its Subsidiaries in each case solely to the extent permitted hereunder, (v) participating in tax, accounting and other administrative matters as a member of the consolidated group with the Borrower, (vi) providing indemnification to officers and directors and (vii) activities incidental to the businesses or activities described in clauses (i) to (vi) of this Section 9.14.

SECTION 9.15 New Stores. Open, acquire or lease stores in an aggregate amount in excess of (x) the number of stores notified in writing to the Administrative Agent prior to the Closing Date or (y) the number of stores identified in the most recently delivered Projections delivered under Section 7.1(d); provided that such additional number of stores identified in all such Projections since the Closing Date, collectively do not exceed more than 20% of the number of stores identified in clause (x) in the aggregate for all such updates since the Closing Date.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

SECTION 10.1 Events of Default.

Each of the events referred to in clauses (a) through (l) of this Section 10.1 shall constitute an "Event of Default":

(a) Non-Payment. The Borrower fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan, or (ii) within five (5) Business Days after the same becomes due, any interest on any Loan or any other amount payable hereunder or with respect to any other Loan Document; or

(b) Specific Covenants.

(i) The Borrower, any Restricted Subsidiary, Holdings or any Parent Guarantor, fails to perform or observe any term, covenant or agreement contained in (A) Article VI; *provided*, that, any failure to comply with Section 6.1 shall be subject to cure to the extent provided in Section 10.4, (B) Section 7.3(a), (C) Section 8.1(a) (solely with respect to the Borrower), (D) Section 8.13(b), or (E) Article IX;

(ii) during the continuation of any Cash Dominion Period the Borrower or any other Loan Party fails to perform or observe (or to cause to be performed or observed) any covenant or agreement contained in Section 8.12; or

(iii) [**reserved]**

(iv) the Borrower or any other Loan Party fails to perform or observe (or to cause to be performed or observed) any covenant or agreement contained in Section 7.1(g), Section 7.1(h), Section 7.4(a), Section 7.4(b) or Section 7.4(e), as applicable, and in either case such failure continues for five (5) Business Days after receipt by the Borrower of written notice thereof from the Administrative Agent; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in Section 10.1(a) or (b) above and, for the purpose of clarity, including any failure to perform or observe any covenant or agreement contained in Section 8.12 (other than during the continuation of any Cash Dominion Period) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after receipt by the Borrower of written notice thereof from the Administrative Agent; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by any Loan Party herein, in any other Loan Document, or in any document required to be delivered in connection herewith or therewith shall be incorrect in any material respect (or, with respect to any representation and warranty that is qualified as to "materiality", "Material Adverse Effect" or similar language, in any respect (after giving effect to any qualification therein)) when made or deemed made; or

(e) Cross-Default. Any Loan Party or any Restricted Subsidiary (A) fails to make any payment beyond the applicable grace period, if any, whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, in respect of any Indebtedness (other than Indebtedness hereunder) (i) having an aggregate outstanding principal amount (individually or in the aggregate with all other Indebtedness as to which such a failure shall exist) of not less than the Threshold Amount or (ii) under the Term Loan Agreement or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness, or any other event occurs (other than, with respect to Indebtedness consisting of Swap Contracts, termination events or equivalent events pursuant to the terms of such Swap Contracts and not as a result of any other default thereunder by any Loan Party), the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity; provided that this clause (e)(B) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; provided, further, that such failure is unremedied and is not waived by the holders of such Indebtedness prior to any termination of the Aggregate Commitments or acceleration of the Loans pursuant to Section 10.2; or

(f) Insolvency Proceedings, Etc. Any Parent Guarantor, Holdings, the Borrower or any Material Subsidiary institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty (60) calendar days, or an order for relief is entered in any such proceeding; or

(g) Judgments. There is entered against any Loan Party or any Restricted Subsidiary a final judgment or order for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer has been notified of such judgment or order and has not denied or failed to acknowledge coverage thereof) and such judgment or order shall not have been satisfied, vacated, discharged or stayed or bonded pending an appeal for a period of sixty (60) consecutive days; or

(h) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or would reasonably be expected to result in liability of any Loan Party or their respective ERISA Affiliates under Title IV of ERISA in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect or (ii) any Loan Party or any of their respective ERISA Affiliates fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its Withdrawal Liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect; or

(i) Invalidity of Loan Documents. Any material provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder (including as a result of a transaction permitted under Section 9.4 or 9.5) or the satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party or any pledgor under the Parent Pledge Agreement contests in writing the validity or enforceability of any provision of any Loan Document; or any Loan Party or any pledgor under the Parent Pledge Agreement denies in writing that it has any or further liability or obligation under any Loan Document (other than as a result of repayment in full of the Obligations and termination of the Aggregate Commitments), or purports in writing to revoke or rescind any Loan Document; or

(j) Collateral Documents. Any Collateral Document after delivery thereof pursuant to Section 4.1 or 8.11 shall for any reason (other than pursuant to the terms hereof or thereof including as a result of a transaction permitted under Section 9.4 or 9.5) cease to create, or any Lien purported to be created by any Collateral Document shall be asserted in writing by any Loan Party or any pledgor under the Parent Pledge Agreement not to be, a valid and perfected lien, with the priority required by the Collateral Documents or the ABL/Term Intercreditor Agreement (or other security purported to be created on the applicable Collateral) on and

security interest in any material portion of the Collateral purported to be covered thereby, subject to Liens permitted under Section 9.1, (x) except to the extent that any such perfection or priority is not required pursuant to the Collateral and Guarantee Requirement or the loss of such perfection or priority results from the failure of the Administrative Agent, the Collateral Agent or any Term Agent to maintain possession of certificates actually delivered to it representing securities pledged under the Collateral Documents or to file UCC continuation statements and except as to Collateral consisting of real property to the extent that such losses are covered by a lender's title insurance policy and such insurer has not denied coverage; or

(k) Junior Financing Documentation. (i) Any of the Obligations of the Loan Parties under the Loan Documents for any reason shall cease to be "Senior Indebtedness" (or any comparable term) or "Senior Secured Financing" (or any comparable term) under, and as defined in any Junior Financing Documentation governing Junior Financing subordinated in right of payment to the Obligations under the Loan Documents with an aggregate principal amount of not less than the Threshold Amount or (ii) the subordination provisions set forth in any Junior Financing Documentation governing Junior Financing subordinated in right of payment to the Obligations under the Loan Documents with an aggregate principal amount of not less than the Threshold Amount shall, in whole or in part, cease to be effective or cease to be legally valid, binding and enforceable against the holders of any such Junior Financing, if applicable; or

(l) Change of Control. There occurs any Change of Control.

SECTION 10.2 Remedies upon Event of Default.

(a) If any Event of Default occurs and is continuing, the Administrative Agent may with the consent of, and shall at the request of, the Requisite Lenders take any or all of the following actions:

(i) declare Revolving Credit Commitments of each Lender and any obligation of the Issuers to make L/C Credit Extensions to be terminated, whereupon such Revolving Credit Commitments and obligation shall be terminated;

(ii) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(iii) require that the Borrower Cash Collateralize the Letter of Credit Obligations (in an amount equal to the then Outstanding Amount thereof); and

(iv) exercise (or direct the Collateral Agent to exercise) on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable Law;

provided that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower or any Guarantor under the Bankruptcy Code of the United States, the Revolving Credit Commitments of each Lender and any obligation of the Issuers to make L/C Credit

Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the Letter of Credit Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

(b) Without limitation of the rights of the Agents or Secured Parties under Section 8.12, the Borrower hereby irrevocably waives the right to direct the application of any and all payments in respect of the Obligations and any proceeds of Collateral after the occurrence and during the continuance of an Event of Default and agrees that during the continuance of an Event of Default, and notwithstanding Section 2.13(f) above but subject to the terms of the ABL/Term Intercreditor Agreement, the Administrative Agent or Collateral Agent may in its sole discretion, and, upon either (A) the written direction of the Requisite Lenders or (B) the acceleration of the Obligations pursuant to Section 10.2(a), deliver a notice to each Approved Account Bank instructing them to cease complying with any instructions from any Loan Party and to transfer all funds therein to the Administrative Agent and the Administrative Agent shall apply all payments in respect of any Obligations and all funds on deposit in the Concentration Account and all other proceeds of Collateral in the order specified in Section 10.3 hereof.

(c) Notwithstanding anything to the contrary, if the only Events of Default then having occurred and continuing are the failure to comply with Section 6.1 with respect to the Test Period most recently ended, then the Administrative Agent may not take any of the actions set forth in subclauses (i), (ii), (iii) and (iv) of Section 10.2(a) during the period commencing on the date that the Administrative Agent receives a Notice of Intent to Cure and ending on the Cure Expiration Date with respect thereto in accordance with and to the extent permitted by Section 10.4.

(d) Notwithstanding anything to the contrary, if the only Events of Default then having occurred and continuing is the breach of Section 6.1 and Section 6.2 of the Term Loan Agreement, then the Administrative Agent may not take any of the actions set forth in subclauses (i), (ii), (iii) and (iv) of Section 10.2(a) for the period of 30 days after the occurrence of such Event of Default; provided that if any remedies under the Term Loan Agreement are exercised as a result of such Event of Default or the obligations under the Term Loan Agreement are accelerated, then the Administrative Agent shall immediately be able to take such actions.

SECTION 10.3 Application of Funds. Except as may be otherwise provided in any applicable Incremental Amendment with respect to Obligations under the applicable Revolving Commitment Increase or any Extension Amendment with respect to Obligations under Extended Revolving Credit Commitments in accordance with Section 12.1, after the exercise of remedies provided for in Section 10.2 (or after the Loans have automatically become immediately due and payable and the Letter of Credit Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 10.2), any amounts received on account of the Obligations shall, subject to the terms of the ABL/Term Intercreditor Agreement, be applied by the Administrative Agent in the following order:

First, ratably, pay any fees, indemnities, or expense reimbursements then due to the Administrative Agent, the Collateral Agent, or any Issuer from the Borrower (other than in

connection with Cash Management Obligations or Obligations in respect of Secured Hedge Agreements);

Second, ratably, to pay any fees or expense reimbursements then due to the Revolving Credit Lenders from the Borrower (other than in connection with Cash Management Obligations or Obligations in respect of Secured Hedge Agreements);

Third, to pay interest due and payable in respect of any Loans (including any Swing Loans) and any Protective Advances, ratably;

Fourth, to pay the principal of the Protective Advances;

Fifth, to pay the principal of Swing Loans;

Sixth, ratably to pay (i) principal on the Loans (other than the Protective Advances) and unreimbursed Letter of Credit Borrowings, (ii) an amount to the Administrative Agent equal to 101% of the Letter of Credit Obligations on such date, to be held in the Concentration Account as cash collateral for such Obligations, and (iii) to pay any amounts owing with respect to Obligations in respect of Secured Hedge Agreements (other than Specified Secured Hedge Obligations) to the extent of Availability Reserves established for any such Secured Hedge Agreements prior to payment under this Section 10.3, ratably*;*

Seventh, to pay any amounts owing with respect to Cash Management Obligations and unpaid Obligations under Secured Hedge Agreements (other than Specified Secured Hedge Obligations), ratably;

Eighth, to the payment of any other Obligation (other than Specified Secured Hedge Obligations) due to the Administrative Agent, Collateral Agent or any Lender by the Borrower;

Ninth, to pay any amounts owing with respect to unpaid Obligations constituting Specified Secured Hedge Obligations, ratably;

Tenth, as provided for under the ABL/Term Intercreditor Agreement; and

Eleventh, after all of the Obligations have been paid in full, to the Borrower or as the Borrower shall direct or as otherwise required by Law.

Subject to Sections 2.4, 2.16, 8.12 and 10.5, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Seventh above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as cash collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above and, if no Obligations remain outstanding, to the Borrower.

Notwithstanding the foregoing, if sufficient funds are not available to fund all payments to be made in respect of any Secured Obligation described in any specific level of the waterfall in clauses First through Eleventh above, the available funds being applied with respect to any such Secured Obligation (unless otherwise specified in such clause) shall be allocated to the

payment of such Secured Obligation ratably, based on the proportion of the Administrative Agent's, Collateral Agent's, and each Lender's or Issuer's interest in the aggregate outstanding Secured Obligations described in such clauses. Except as may be otherwise provided in Section 12.1, the order of priority set forth in clauses First through Ninth above may at any time and from time to time be changed by the agreement of all Lenders without necessity of notice to or consent of or approval by the Borrower, any Secured Party that is not a Lender or Issuer or by any other Person that is not a Lender or Issuer. Except as may be otherwise provided in Section 12.1, the order of priority set forth in clauses First through Tenth above may be changed only with the prior written consent of the Administrative Agent in addition to that of all Lenders.

SECTION 10.4 Company's Right to Cure.

(a) Notwithstanding anything to the contrary contained in Section 10.1, in the event of any Event of Default under Section 6.1 and until the expiration of the tenth (10th) Business Day after the date on which the Fixed Charge Coverage Ratio calculation would be required to be delivered pursuant to Section 6.1 or Section 7.2(a) (such date, the "*Cure Expiration Date*"), following delivery of a Notice of Intent to Cure in accordance herewith, the Borrower may designate any portion of the Net Cash Proceeds of any issuance of common Equity Interests of Parent that is contributed to the Borrower as a cash capital contribution or of any cash capital contribution to the common equity of Parent that is contributed to Borrower as a cash capital contribution, in each case, which issuance and contribution occurs after the end of the most recently ended Fiscal Quarter for which the Fixed Charge Coverage Ratio calculation would be required to be delivered pursuant to Section 6.1 or Section 7.2(a) and before the Cure Expiration Date as an increase to Consolidated EBITDA with respect to such applicable quarter; provided that all such Net Cash Proceeds to be so designated (i) are actually received by the Borrower as cash common equity contributions (including through capital contribution of such Net Cash Proceeds to the Borrower) that is contributed after the end of the most recently ended Fiscal Quarter for which the Fixed Charge Coverage Ratio calculation would be required to be delivered pursuant to Section 6.1 or Section 7.2(a) and before the Cure Expiration Date and (ii) the aggregate amount of such Net Cash Proceeds or cash capital contribution that are so designated shall not exceed 100% of the aggregate amount necessary to cure such Event of Default under Section 6.1 for any applicable period.

(b) Upon receipt by the Borrower of any such designated Net Cash Proceeds or cash capital contribution (the "*Cure Amount*") in accordance with this Section 10.4, Consolidated EBITDA for any period of calculation which includes the last Fiscal Quarter of the Test Period ending immediately prior to the date on which such Cure Amount was received shall be increased, solely for the purpose of calculating any financial ratio set forth in Section 6.1, by an amount equal to the Cure Amount. The resulting increase to Consolidated EBITDA and any reduction in Indebtedness, if applicable, from designation of a Cure Amount shall not result in any adjustment to Consolidated EBITDA or any other financial definition for any purpose under this Agreement other than for purposes of calculating the financial ratio set forth in Section 6.1 and for additional clarification shall not adjust the calculation of Consolidated EBITDA for purposes of determining the Fixed Charge Coverage Ratio (other than for purposes of actual compliance with Section 6.1 as of the end of any applicable Test Period).

(c) If, after giving effect to the foregoing recalculations, the Borrower shall then be in compliance with the requirements of Section 6.1, the Borrower shall be deemed to have satisfied the requirements of Section 6.1 as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable existing breach or default of Section 6.1 shall be deemed cured for this purpose of the Agreement.

(d) In each period of four Fiscal Quarters, there shall be at least two (2) Fiscal Quarters for which Consolidated EBITDA is not increased by exercise of a cure pursuant to Section 10.4(a). The Notice of Intent to Cure shall be exercised no more than five times over the term of this Agreement. For the avoidance of doubt, after the delivery of a Notice of Intent to Cure, no new Borrowings shall be permitted until such time as the Cure Amount is received.

SECTION 10.5 Actions in Respect of Letters of Credit; Cash Collateral.

(a) At any time (i) upon the Revolving Credit Termination Date, (ii) after the Revolving Credit Termination Date when the aggregate funds on deposit in the Concentration Account to Cash Collateralize Letter of Credit Obligations shall be less than 101% of the Letter of Credit Obligations and (iii) as may be required by Section 2.9 or Section 2.16, the Borrower shall pay to the Administrative Agent in Same Day Funds at the Administrative Agent's office referred to in Section 12.8, for deposit in the Concentration Account, (x) in the case of clauses (i) and (ii) above, the amount required to that, after such payment, the aggregate funds on deposit in the Concentration Account counts equals or exceeds 101% of the sum of all outstanding Letter of Credit Obligations and (y) in the case of clause (iii) above, the amount required by Section 2.9. The Administrative Agent may, from time to time after funds are deposited in the Concentration Account, apply funds then held in the Concentration Account to the payment of any amounts, in accordance with Section 2.9 and Section 10.2(b), as shall have become or shall become due and payable by the Borrower to the Issuers or Lenders in respect of the Letter of Credit Obligations. The Administrative Agent shall promptly give written notice of any such application; provided, however, that the failure to give such written notice shall not invalidate any such application. If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent as herein provided, or that the total amount of such Cash Collateral is less than the applicable Fronting Exposure and other obligations secured thereby, the Borrower or the relevant Defaulting Lender will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. The Administrative Agent may, at any time and from time to time after the initial deposit of Cash Collateral, request that additional Cash Collateral be provided in order to protect against the results of exchange rate fluctuations.

(b) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 10.5 or Sections 2.4, 2.9, 2.12, 2.16 or 10.2 in respect of Letters of Credit or Swing Loans shall be held and applied to the satisfaction of the specific Letter of Credit Obligations, Swing Loans, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may be provided for herein.

(c) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender or, as appropriate, its assignee following compliance with Section 12.2(b)(vi)) or (ii) the Administrative Agent's good faith determination that there exists excess Cash Collateral; provided, however, (x) that Cash Collateral furnished by or on behalf of a Loan Party shall not be released during the continuance of a Default or Event of Default (and following application as provided in this Section 10.5 may be otherwise applied in accordance with Section 10.3), and (y) the Person providing Cash Collateral and the applicable Issuer or Swing Loan Lender, as applicable, may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

ARTICLE XI

THE ADMINISTRATIVE AGENT AND OTHER AGENTS

SECTION 11.1 Appointment and Authority of the Administrative Agent and Collateral Agent.

(a) Each of the Lenders and the Issuers hereby irrevocably appoints Barclays to act on its behalf as the Administrative Agent and Collateral Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent and Collateral Agent, as applicable, to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent or Collateral Agent, as applicable, by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Each of the Lenders and the Issuers hereby authorizes the Administrative Agent to enter into (i) any Customary Intercreditor Agreements in connection with Indebtedness permitted under Section 9.1(p), Section 9.1(y) and Section 9.1(hh) and (ii) the ABL/Term Intercreditor Agreement. The provisions of this Article XI (other than Sections 11.6 and 11.11) are solely for the benefit of the Administrative Agent, the Lenders and the Issuers, and the Borrower shall not have rights as a third party beneficiary of any such provision.

(b) The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders (including in its capacities as a Lender and a potential Hedge Bank and/or Cash Management Bank) and the Issuers hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or in trust for) such Lender and such Issuer for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as "collateral agent" (and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent or Collateral Agent pursuant to Section 11.5 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article XI and Article XII (including Sections 11.3, 11.14, 12.3, 12.4 and 12.5, as though such co-agents, sub-

agents and attorneys-in-fact were the "collateral agent" under the Loan Documents) as if set forth in full herein with respect thereto. Without limiting the generality of the foregoing, the Lenders hereby expressly authorize the Administrative Agent and the Collateral Agent to execute any and all documents (including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto, as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by any Agent shall bind the Lenders.

SECTION 11.2 Rights as a Lender.

Any Person serving as an Agent (including as Administrative Agent) hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include each Person serving as an Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not an Agent hereunder and without any duty to account therefor to the Lenders. The Lenders acknowledge that, pursuant to such activities, any Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that no Agent shall be under any obligation to provide such information to them.

SECTION 11.3 Exculpatory Provisions. Neither the Administrative Agent nor any other Agent shall have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, an Agent (including the Administrative Agent):

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing and without limiting the generality of the foregoing, the use of the term "agent" herein and in the other Loan Documents with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law and instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that such Agent is required to exercise as directed in writing by the Requisite Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information

relating to the Borrower or any of its Affiliates that is communicated to or obtained by any Person serving as an Agent or any of its Affiliates in any capacity.

Neither Administrative Agent or any other Agent shall be liable for any action taken or not taken by it (i) with the consent or at the request of the Requisite Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 12.1 and 12.2) or (ii) in the absence of its own gross negligence or willful misconduct as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Borrower, a Lender or an Issuer.

No Agent-Related Person shall be responsible for or have any duty to ascertain or inquire into (i) any recital statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or the Collateral Agent, or (vii) the inspection of the properties, books or records of any Loan Party or any Affiliate thereof.

SECTION 11.4 Reliance by the Agents.

The Administrative Agent and each other Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent and each other Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the applicable Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or such Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or such Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent and each other Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Other than in respect of any actions at the direction of the Borrower, the Administrative Agent and each other Agent shall be fully justified in failing or refusing to take any action under any Loan Document unless it shall first receive such advice or concurrence of the Requisite Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent and each other Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Requisite Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders; provided that neither the Administrative Agent not any other Agent shall be required to take any action that, in its opinion or in the opinion of its counsel, may expose the Administrative Agent or such Agent to liability or that is contrary to any Loan Document or applicable Law.

SECTION 11.5 Delegation of Duties.

The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Documents by or through any one or more sub agents appointed by the Administrative Agent. The Agents and any such sub agent may perform any and all of its duties and exercise its rights and powers by or through their respective Agent-Related Persons. The exculpatory provisions of this Article shall apply to any such sub agent and to the Agent-Related Persons of the Agents and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent or any other Agent. No Agent shall be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Agent acted with gross negligence or willful misconduct in the selection of such sub agents.

SECTION 11.6 Resignation of Administrative Agent or Collateral Agent.

(a) The Administrative Agent or Collateral Agent may resign upon ten (10) days' notice of its resignation to the Lenders and the Borrower; provided that if no successor agent is appointed in accordance with the terms set forth below within such 10-day period, the Administrative Agent and/or the Collateral Agent shall not be permitted to resign until the earlier to occur of (x) the date of the appointment of the successor agent or (y) the date that is twenty (20) days after the last day of such 10-day period. If the Administrative Agent or Collateral Agent, as applicable, is subject to an Agent-Related Distress Event, the Requisite Lenders or the Borrower may remove the Administrative Agent or the Collateral Agent, as applicable, upon ten (10) days' notice. Upon the removal or receipt of any such notice of resignation, the Requisite Lenders shall have the right, with the consent of the Borrower at all times other than during the existence of an Event of Default (which consent of the Borrower shall not be unreasonably withheld or delayed if such successor is a commercial bank with a combined capital and surplus of at least $5,000,000,000 that is a "U.S. person" and a "financial institution" within the meaning of Treasury Regulation Section 1.1441-1, and otherwise may be withheld at the Borrower's sole discretion), to appoint a successor, which shall be a Lender or a bank with an office in the United States, or an Affiliate of any such Lender or bank with an office in the United States. If no such

successor shall have been so appointed by the Requisite Lenders and shall have accepted such appointment within twenty (20) days after the last day of such 10-day period, then the retiring or removed Administrative Agent or Collateral Agent, as applicable, may on behalf of the Lenders and the Issuers, appoint a successor Administrative Agent or Collateral Agent, as applicable, meeting the qualifications set forth above; provided that if the Administrative Agent or Collateral Agent, as applicable, shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring or removed Administrative Agent or Collateral Agent, as applicable, shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent or Collateral Agent on behalf of the Lenders or the Issuers under any of the Loan Documents, the retiring or removed Agent shall continue to hold such collateral security until such time as a successor of such Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and each Issuer directly, until such time as the Requisite Lenders appoint a successor Administrative Agent as provided for above in this Section 11.6. Upon the acceptance of a successor's appointment as Administrative Agent or Collateral Agent, as applicable, hereunder and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Requisite Lenders may request, in order to (i) continue the perfection of the Liens granted or purported to be granted by the Collateral Documents or (ii) otherwise ensure that the Collateral and Guarantee Requirement is satisfied, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) or removed Administrative Agent or Collateral Agent, as applicable, and the retiring or removed Administrative Agent or Collateral Agent, as applicable, shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent or Collateral Agent, as applicable, shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Sections 12.3, 12.4 and 12.5 shall continue in effect for the benefit of such retiring or removed Agent, its sub-agents and their respective Agent-Related Persons in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Agent was acting as Administrative Agent or Collateral Agent, as applicable.

(b) Any resignation by Barclays as Administrative Agent pursuant to this Section shall also constitute its resignation as an Issuer and Swing Loan Lender. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuer and Swing Loan Lender, (ii) the retiring Issuer and Swing Loan Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (iii) the successor Issuer shall issue letters of credit in substitution for the Letters of Credit issued by Barclays, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring Issuer to effectively assume the obligations of the retiring Issuer with respect to such Letters of Credit.

SECTION 11.7 Non-Reliance on Administrative Agent and Other Lenders; Disclosure of Information by Agents.

Each Lender and each Issuer acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower and the other Loan Parties hereunder. Each Lender and each Issuer also represents that it will, independently and without reliance upon the Administrative Agent , any other Agent, or any other Lender or any of their Agent-Related Persons and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

SECTION 11.8 No Other Duties; Other Agents, Arranger, Etc.

Barclays Bank PLC was appointed as an Arranger hereunder on the Closing Date, and each Lender authorized Barclays Bank PLC to act as an Arranger in accordance with the terms hereof and the other Loan Documents. Each Agent hereby agrees to act in its capacity as such upon the express conditions contained herein and the other Loan Documents, as applicable. Anything herein to the contrary notwithstanding, neither the Arranger nor any Agent shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, the Collateral Agent, or a Lender hereunder and such Persons shall have the benefit of this Article XI. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any agency or fiduciary or trust relationship with any Lender, Holdings, the Borrower or any of their respective Subsidiaries. Each Lender acknowledges that it has not relied, and will not rely, on the Arranger, any of the Lenders, or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder. Subject to Section 11.6, any Agent or Arranger may resign from such role at any time, with immediate effect, by giving prior written notice thereof to the Administrative Agent and Borrower.

SECTION 11.9 **[Reserved]**.

SECTION 11.10 Administrative Agent May File Proofs of Claim.

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or Letter of Credit Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letter of Credit Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuers and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuers and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuers and the Administrative Agent under Sections 2.12, 12.3 and 12.4) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each Issuer to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuers, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 2.12, 12.3 and 12.4.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or any Issuer to authorize the Administrative Agent to vote in respect of the claim of any Lender or any Issuer in any such proceeding.

SECTION 11.11 Collateral and Guaranty Matters.

Each of the Lenders (including in its capacities as a potential Cash Management Bank and a potential Hedge Bank) and the Issuers irrevocably authorizes the Administrative Agent and the Collateral Agent, and each of the Administrative Agent and the Collateral Agent agrees that it will:

(a) automatically release any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than (x) obligations and liabilities under Secured Hedge Agreements, (y) Cash Management Obligations and (z)

contingent indemnification obligations not yet accrued and payable) and the expiration or termination of all Letters of Credit (other than Letters of Credit as to which other arrangements reasonably satisfactory to the Administrative Agent and each applicable Issuer shall have been made), (ii) at the time the property subject to such Lien is transferred or to be transferred as part of or in connection with any transfer permitted hereunder or under any other Loan Document to any Person other than Holdings, the Borrower or any of its Domestic Subsidiaries that are Guarantors, (iii) subject to Section 12.1, if the release of such Lien is approved, authorized or ratified in writing by the Requisite Lenders, (iv) if the property subject to such Lien is owned by a Guarantor, upon release of such Guarantor from its obligations under its Guaranty pursuant to clause (c) below or (v) if such property becomes Excluded Assets;

(b) release or subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 9.1(i); and

(c) release any Guarantor from its obligations under the Guaranty if (i) in the case of any Subsidiary, such Person ceases to be a Restricted Subsidiary as a result of a transaction or designation permitted hereunder or (ii) in the case of Holdings, as a result of a transaction permitted hereunder; *provided* that no such release shall occur if such Guarantor continues to be a guarantor in respect of any Junior Financing or the Term Loan Obligations.

Upon request by the Administrative Agent or Collateral Agent at any time, the Requisite Lenders will confirm in writing the Administrative Agent's and Collateral Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 11.11. In each case as specified in this Section 11.11, the applicable Agent will (and each Lender irrevocably authorizes the applicable Agent to), at the Borrower's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release or subordination of such item of Collateral from the assignment and security interest granted under the Collateral Documents, or to evidence the release of such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 11.11.

Notwithstanding anything contained in any of the Loan Documents to the contrary, the Loan Parties, the Agents and each Lender hereby agree that (1) no Lender shall have any right individually to realize upon any of the Collateral under any Collateral Document or to enforce the Guarantee, it being understood and agreed that all powers, rights and remedies under the Collateral Documents and the Guarantee may be exercised solely by the Administrative Agent or the Collateral Agent, as applicable, acting as agent for and representative of Lenders in accordance with the terms thereof, and (2) in the event of a foreclosure by the Administrative Agent or the Collateral Agent, as applicable, on any of the Collateral pursuant to a public or private sale or a sale under Section 363 of the Bankruptcy Code, the Administrative Agent or the Collateral Agent, as applicable, or any Lender may be the purchaser of any or all of such Collateral at any such sale and the Administrative Agent or the Collateral Agent, as applicable, as agent for and representative of Lenders (but not any Lender or Lenders in its or their respective individual capacities unless the Requisite Lenders shall otherwise agree in writing) shall be entitled (at the direction of the Requisite Lenders), for the purpose of bidding and

making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Administrative Agent or the Collateral Agent, as applicable, at such sale.

SECTION 11.12 Appointment of Supplemental Administrative Agents.

(a) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually as a "*Supplemental Administrative Agent*" and collectively as "*Supplemental Administrative Agents*").

(b) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or such Supplemental Administrative Agent, and (ii) the provisions of this Article XI and of Sections 12.3 and 12.4 that refer to the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be references to the Administrative Agent and/or such Supplemental Administrative Agent, as the context may require.

(c) Should any instrument in writing from any Loan Party be required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrower or Holdings, as applicable, shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in

and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

SECTION 11.13 Secured Cash Management Agreements and Secured Hedge Agreements.

(a) Except as otherwise expressly set forth herein or in any Guaranty or any Collateral Document, no Cash Management Bank or Hedge Bank that obtains the benefits of Section 10.3, any Guaranty or any Collateral by virtue of the provisions hereof or of any Guaranty or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article XI to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

(b) Each Secured Party hereby agrees (i) that, after the occurrence and during the continuance of a Cash Dominion Period (and thereafter at such frequency as the Administrative Agent may reasonably request in writing), it will provide to the Administrative Agent, promptly upon the written request of the Administrative Agent, a summary of all Obligations owing to it under this Agreement and (ii) that the benefit of the provisions of the Loan Documents directly relating to the Collateral or any Lien granted thereunder shall extend to and be available to any Secured Party that is not an Agent, a Lender or an Issuer party hereto as long as, by accepting such benefits, such Secured Party agrees, as among Agent and all other Secured Parties, that such Secured Party is bound by (and, if requested by Agent, shall confirm such agreement in a writing in form and substance reasonably acceptable to Agent) this Article XI and Sections 3.1, Sections 12.4, 12.6, 12.19, 12.23 and 12.26, and the decisions and actions of any Agent and the Requisite Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders or other parties hereto as required herein) to the same extent a Lender is bound; provided, however, that, notwithstanding the foregoing clause (ii), (x) such Secured Party shall be bound by Sections 12.3, 12.4 and 12.5 only to the extent of liabilities, reimbursement obligations, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, or disbursements with respect to or otherwise relating to the Liens and Collateral held for the benefit of such Secured Party, in which case the obligations of such Secured Party thereunder shall not be limited by any concept of pro rata share or similar concept, (y) each of Agents, the Lenders and the Issuers party hereto shall be entitled to act at its sole discretion, without regard to the interest of such Secured Party, regardless of whether any Obligation to such Secured Party thereafter remains outstanding, is deprived of the benefit of the Collateral, becomes unsecured or is otherwise affected or put in jeopardy thereby, and without any duty or liability to such Secured Party or any such Obligation and (z) such Secured Party shall not have any right to be notified of, consent to, direct, require or be heard with respect to, any action taken or omitted in respect of the Collateral or under any Loan Document.

SECTION 11.14 Indemnification of Agents.

Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand the Agents and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of the any Agent) (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless the Agents and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent) from and against any and all Indemnified Liabilities incurred by it; provided that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person's own gross negligence or willful misconduct, as determined by the final judgment of a court of competent jurisdiction; provided that no action taken in accordance with the directions of the Requisite Lenders (or such other number or percentage of the Lenders as shall be required by the Loan Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 11.14. In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 11.14 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent and Collateral Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent or Collateral Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent or Collateral Agent is not reimbursed for such expenses by or on behalf of the Borrower, provided that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto, provided further that the failure of any Lender to indemnify or reimburse the Administrative Agent or Collateral Agent shall not relieve any other Lender of its obligation in respect thereof. The undertaking in this Section 11.14 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation of the Administrative Agent, the Collateral Agent, the Swing Loan Lender or any Issuer.

ARTICLE XII

MISCELLANEOUS

SECTION 12.1 Amendments, Etc. Except as otherwise set forth in this Agreement, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Requisite Lenders (other than with respect to any amendment or waiver contemplated in Sections 12.1(a) through (j) below, which shall only require the consent of the Lenders expressly set forth therein and not the Requisite Lenders) (or by the Administrative Agent with the consent of the Requisite Lenders) and the Borrower or the applicable Loan Party, as the case may be and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided that, no such amendment, waiver or consent shall:

(a) extend or increase the Revolving Credit Commitment of any Lender without the written consent of each Lender directly and adversely affected thereby (it being understood that (i) a waiver of any condition precedent set forth in Section 4.2 and (ii) the waiver of any Default, mandatory prepayment or mandatory reduction of the Revolving Credit Commitments shall not constitute an extension or increase of any Revolving Credit Commitment of any Lender);

(b) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest under Section 2.6 or 2.10 without the written consent of each Lender directly and adversely affected thereby, it being understood that the waiver of (or amendment to the terms of) any mandatory prepayment of the Loans shall not constitute a postponement of any date scheduled for the payment of principal or interest, and it further being understood that any change to the definitions of "Average Historical Excess Availability" or "Average Revolving Loan Utilization" or, in each case, the component definitions thereof shall not constitute a reduction in any amount of interest;

(c) reduce the principal of, or the rate of interest specified herein on, any Loan or Letter of Credit Borrowing, or (subject to clause (iii) of the second proviso to this Section 12.1) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly and adversely affected thereby (it being understood that any change to the definitions of "Excess Availability" or "Average Revolving Loan Utilization" or, in each case, the component definitions thereof shall not constitute a reduction in the rate of interest); provided that only the consent of the Requisite Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate;

(d) change any provision of this Section 12.1, Section 12.7 (in a manner that would alter the pro rata sharing of payments or setoffs required thereby), the definition of "Requisite Lenders", "Requisite Class Lenders", "Supermajority Lenders" or any other provision specifying the number of Lenders or portion of the Loans or Revolving Credit Commitments required to take any action under the Loan Documents, without the written consent of each Lender affected thereby;

(e) other than in a transaction permitted under Section 9.4 or 9.5, release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

(f) other than in a transaction permitted under Section 9.4 or 9.5, release all or substantially all of the aggregate value of the Guaranty, without the written consent of each Lender;

(g) change the definition of the term "Borrowing Base" or any component definition thereof, but excluding the definition of "Eligible Accounts Advance Rate," "Credit Card Advance Rate," "In-Transit Advance Rate" or "Inventory Advance Rate", in each case the amendment or modifications of which shall be subject to clause (h) below, if as a result thereof the amounts available to be borrowed by the Borrower would be increased, without the written consent of the Supermajority Lenders, provided that the foregoing shall not limit the discretion

of the Administrative Agent to change, establish or eliminate any Availability Reserves, Inventory Reserves or Shrink Reserves without the consent of any Lenders;

(h) increase the numerical percentage contained in Eligible Accounts Advance Rate, Credit Card Advance Rate, In-Transit Advance Rate or Inventory Advance Rate, without the written consent of each Lender (except as otherwise provided in such definitions as the Closing Date); *provided* that the foregoing shall not limit the discretion of the Administrative Agent to change, establish or eliminate any Availability Reserves, Inventory Reserves or Shrink Reserves without the consent of any Lenders;

(i) without the prior written consent of all Lenders directly affected thereby, (i) subordinate the right of payment of the Obligations hereunder to any other Indebtedness, (ii) except as provided by operation of applicable Law, subordinate the Liens on the ABL Priority Collateral granted hereunder or under the other Loan Documents to any other Lien or (iii) except as provided by operation of applicable law or as expressly permitted hereunder, subordinate the Liens on the Term Priority Collateral granted hereunder or under the other Loan Documents to any other Lien; or

(j) change the order of the application of funds specified in Section 10.3 without the written consent of each Lender directly affected thereby;

and *provided, further*, that (i) no amendment, waiver or consent shall, unless in writing and signed by each Issuer in addition to the Lenders required above, affect the rights or duties of an Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Loan Lender in addition to the Lenders required above, affect the rights or duties of the Swing Loan Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent and Collateral Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent or Collateral Agent under this Agreement or any other Loan Document; (iv) Section 12.2(g) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification; (v) the consent of Requisite Class Lenders shall be required with respect to any amendment that by its terms adversely affects the rights of Lenders under such Class in respect of payments hereunder in a manner different than such amendment affects other Classes and (vi) only the consent of the Borrower and the Administrative Agent shall be required to effect any amendment, waiver or consent under the Fee Letter. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Revolving Credit Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

Notwithstanding anything to the contrary contained in this Section 12.1, guarantees, collateral security documents and related documents executed by Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities or defects or (iii) to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Loan Documents.

If the Administrative Agent and the Borrower shall have jointly identified an obvious error (including, but not limited to, an incorrect cross-reference) or any error or omission of a technical or immaterial nature, in each case, in any provision of this Agreement or any other Loan Document (including, for the avoidance of doubt, any exhibit, schedule or other attachment to any Loan Document), then the Administrative Agent and the Borrower or any other relevant Loan Party shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Loan Document. Notification of such amendment shall be made by the Administrative Agent to the Lenders promptly upon such amendment becoming effective.

Notwithstanding anything in this Section 12.1 to the contrary, technical and conforming modifications to the Loan Documents may be made with the consent of the Borrower and the Administrative Agent (and no other Person) to the extent necessary to (i) integrate any Incremental Amendment with respect to Obligations under the applicable Revolving Commitment Increase in accordance with Section 2.15(a) on substantially the same basis as the Revolving Loans, or any Extension Amendment with respect to Obligations under Extended Revolving Credit Commitments in accordance with Section 2.17, and/or (ii) modify any other provision hereunder or under any other Loan Document in a manner more favorable to the then-existing Lenders, in each case in connection with the issuance or incurrence of any Revolving Commitment Increase or other Indebtedness permitted hereunder, where the terms of any such Revolving Commitment Increase or such other Indebtedness are more favorable to the lenders thereof than the corresponding terms applicable to other Loans or Revolving Credit Commitments then existing hereunder, and it is intended that one or more then-existing Classes of Loans or Revolving Credit Commitments under this Agreement share in the benefit of such more favorable terms in order to comply with the provisions hereof relating to the incurrence of such Revolving Commitment Increase or such other Indebtedness.

If any Lender does not consent to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the consent of each Lender and that has been approved by the Requisite Lenders, the Borrower may replace such non-consenting Lender in accordance with Section 3.7; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Borrower to be made pursuant to this paragraph).

SECTION 12.2 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither Holdings nor the Borrower may, except as permitted by Section 9.4, assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section, or (iv) to an SPC in accordance with the provisions of subsection (g) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Agent-Related Persons of each of the Administrative Agent, the Issuers and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Revolving Credit Commitment and the Loans (including for purposes of this subsection (b), participations in Letter of Credit Obligations and in Swing Loans) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Revolving Credit Commitment and the Loans of any Class at the time owing to it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate unused amount of the Revolving Credit Commitment (plus the principal outstanding balance of the Loans) or, if the Revolving Credit Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $5,000,000 unless each of the Administrative Agent and, so long as no Event of Default under Section 10.1(a) or (f), solely with respect to the Borrower, has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Revolving Credit Commitment assigned, except that this clause (ii) shall not apply to rights in respect of the Swing Loan Lender's rights and obligations in respect of Swing Loans;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld) shall be required unless (1) other than with respect to any proposed assignment to any Person that is a Disqualified Institution, an Event of Default under Section 10.1(a) or, solely with respect to the Borrower or any Guarantor, Section 10.1(f), has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that, other than with respect to any proposed assignment to any Person that is a Disqualified Institution as shown on a list available to the assigning Lender prior to the execution of the Assignment and Assumption, the Borrower shall be deemed to have consented to any such assignment of the Loans unless it shall have objected thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof or (3) in connection with the exercise of purchase rights under [Section 5.07] of the ABL/Term Intercreditor Agreement; and

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender;

(C) the consent of the Issuers (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding); and

(D) the consent of the Swing Loan Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment;

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The Eligible Assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire. All assignments shall be by novation.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to Holdings, the Borrower or any of the Borrower's Affiliates or Subsidiaries, or (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a

Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), (C) to a natural person or (D) to any Disqualified Institution; provided, that the Administrative Agent shall have no duties or responsibilities for monitoring or enforcing prohibitions on participations to Disqualified Institutions.

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swing Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to clause (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.1, 3.4, 3.5, 12.3, 12.4 and 12.5 with respect to facts and circumstances occurring prior to the effective date of such assignment). Upon request, and the surrender by the assigning Lender of its Revolving Credit Note, the Borrower (at its expense) shall execute and deliver a Revolving Credit Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Revolving Credit Commitments of, and principal amounts (and related interest amounts) of the Loans and Letter of Credit Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "*Register*"). The entries in the

Register shall be conclusive absent manifest error, and the Borrower, the Agents and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. In addition, the Administrative Agent shall maintain on the Register information regarding the designation, and revocation of designation, of any Lender as a Defaulting Lender. The Register shall be available for inspection by the Borrower, any Agent or any Lender (but, only in the case of a Lender, at the Administrative Agent's Office and with respect to any entry relating to such Lender's Commitments, Loans and other Obligations), at any reasonable time and from time to time upon reasonable prior notice. This Section 12.2(c) and Section 2.7 shall be construed so that all Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations).

(d) Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person, a Disqualified Institution, a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "*Participant*") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Revolving Credit Commitment and/or the Loans (including such Lender's participations in Letter of Credit Obligations and/or Swing Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) such participation is recorded in the Participant Register and (iv) the Borrower, the Agents, the other Lenders and the Issuers shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 12.1 (other than clause (d) thereof) that directly affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.1 (subject to the requirements of Sections 3.1(b), (c) or (d), as applicable), Section 3.4 and Section 3.5 (through the applicable Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 12.6 as though it were a Lender; provided such Participant agrees to be subject to Section 12.7 as though it were a Lender.

(e) Limitations upon Participant Rights. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.1, 3.4 and 3.5 (subject to the requirements and limitations therein, including the requirements under Section 3.1(b), (c) or (d), as applicable, (it being understood that the documentation required under to Section 3.1(b), (c) or (d) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such

Participant (i) agrees to be subject to the provisions of Sections 3.1, 3.4, 3.5 and 3.7 as if it were an assignee under paragraph (b) of this Section; and (ii) shall not be entitled to receive any greater payment under Section 3.1, 3.4 or 3.5 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation or the sale of the participation to such Participant is made with the Borrower's prior written consent. Each Lender that sells a participation shall (acting solely for this purpose as a non-fiduciary agent of the Borrower) maintain a register on which is entered the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement (the "*Participant Register*"). A Lender shall not be obligated to disclose the Participant Register to any Person except to the extent such disclosure is necessary to establish that any Loan or other obligation is in registered form under Section 5f.103-1(c) and Proposed Treasury Regulations 1.163-5(b) of the United States Treasury regulations (or any successor version) or is otherwise required thereunder. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. The portion of any Participant Register relating to any Participant requesting payment from the Borrower or seeking to exercise its rights under Section 12.9 shall be available for inspection by the Borrower upon reasonable request to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) and Proposed Treasury Regulations 1.163-5(b) of the United States Treasury Regulations(or any successor version) or is otherwise required thereunder.

(f) Any Lender may, at any time, pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Revolving Credit Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other central bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an "*SPC*") the option to provide all or any part of any Revolving Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Revolving Loan, (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Revolving Loan, the Granting Lender shall be obligated to make such Revolving Loan pursuant to the terms hereof or, if it fails to do so, to make such payment to the Administrative Agent as is required under Section 2.13(e) and (iii) such SPC and the applicable Loan or any applicable part thereof, shall be appropriately reflected in the Participant Register. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Sections 3.1, 3.4 and 3.5), (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would

be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Revolving Loan by an SPC hereunder shall utilize the Revolving Credit Commitment of the Granting Lender to the same extent, and as if, such Revolving Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee of $3,500 (which processing fee may be waived by the Administrative Agent in its sole discretion), assign all or any portion of its right to receive payment with respect to any Revolving Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Revolving Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(h) Resignation as Issuer or Swing Loan Lender. Notwithstanding anything to the contrary contained herein, any Issuer may resign as Issuer at any time by giving 30 days' prior notice to the Administrative Agent, the Lenders and the Borrower, and any Swing Loan Lender may resign as Swing Loan Lender at any time by giving 30 days' prior notice to the Administrative Agent, the Lenders and the Borrower. In the event of any such resignation as Issuer or Swing Loan Lender, the Borrower shall be entitled to appoint from among the Lenders a successor Issuer or Swing Loan Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of Barclays or the applicable Issuer as Issuer or (as applicable) Swing Loan Lender, as the case may be. If Barclays or the applicable Issuer resigns as Issuer, it shall retain all the rights, powers, privileges and duties of an Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as Issuer and all Letter of Credit Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in unreimbursed amounts under Letters of Credit pursuant to Section 2.4). If Barclays resigns as Swing Loan Lender, it shall retain all the rights of the Swing Loan Lender provided for hereunder with respect to Swing Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Loans pursuant to Section 2.3. Upon the appointment of a successor Issuer and/or Swing Loan Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuer or Swing Loan Lender, as the case may be, and (b) the successor Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Barclays or the applicable Issuer to effectively assume the obligations of Barclays or the applicable Issuer with respect to such Letters of Credit.

SECTION 12.3 Attorney Costs and Expenses.

The Borrower agrees (a) to pay or reimburse the Administrative Agent, the Collateral Agent, and the Arranger for all reasonable and documented or invoiced out-of-pocket costs and

expenses (including Attorney Costs subject to the limitations set forth below) incurred in connection with the preparation, negotiation, syndication and execution of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated), and the consummation and administration of the transactions contemplated hereby and thereby, Attorney Costs of one primary counsel (which as of the Closing Date is Paul Hastings LLP) and, if reasonably necessary, one local counsel in each relevant jurisdiction material to the interests of the Lenders taken as a whole, and, solely in the case of a conflict of interest, additional counsel in each relevant jurisdiction for group members who are similarly situated, and (b) to pay or reimburse the Administrative Agent, the Collateral Agent, the Issuers and the Lenders for all of their reasonable and documented or invoiced out-of-pocket costs and expenses (including Attorney Costs subject to the limitations set forth below) incurred in connection with the enforcement of any rights or remedies under this Agreement or the other Loan Documents (including (i) all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, and Attorney Costs of one primary counsel (which as of the Closing Date is Paul Hastings LLP), one Delaware counsel (which as of the Closing Date is Richards, Layton & Finger), and, one local counsel as designated by the Administrative Agent to act in any relevant material jurisdiction and, in the event of any conflict of interest, one additional counsel in each relevant jurisdiction to each group of affected Lenders similarly situated taken as a whole and (ii) all such costs and expenses of any financial advisory firm (which as of the Closing Date is Berkeley Research Group, LLC). The agreements in this Section 12.3 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 12.3 shall be paid within thirty (30) days following receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail; provided that, with respect to the Closing Date, all amounts due under this Section 12.3 shall be paid on the Closing Date solely to the extent invoiced to the Borrower within one (1) Business Day prior to the Closing Date. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion. The Borrower and each other Loan Party hereby acknowledge that the Administrative Agent, Collateral Agent, and any Issuer and/or any Lender may receive a benefit, including a discount, credit or other accommodation, from any of such counsel based on the fees such counsel may receive on account of their relationship with the Administrative Agent, Collateral Agent, such Issuer and/or such Lender, including fees paid pursuant to this Agreement or any other Loan Document. This Section 12.3 shall not apply to Indemnified Taxes, or amounts excluded from the definition of Indemnified Taxes pursuant to clauses (i) through (iv) of the first sentence of Section 3.1(a), that are imposed with respect to payments to or for the account of any Agent or any Lender under any Loan Document, which shall be governed by Section 3.1. This Section 12.3 also shall not apply to Other Taxes or to taxes covered by Section 3.4.

SECTION 12.4 Indemnification by the Borrower.

The Borrower shall indemnify and hold harmless the Agents, each Lender, each Issuer, the Arranger and their respective Affiliates and such Persons' and their Affiliates' respective directors, officers, employees, agents, partners, trustees or advisors and other representatives (collectively the "*Indemnitees*") from and against any and all liabilities, obligations, losses,

damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements (including Attorney Costs) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnitee in any way relating to or arising out of or in connection with (but limited, in the case of legal fees and expenses, to the reasonable and documented or invoiced out-of-pocket fees, disbursements and other charges of one counsel to all Indemnitees taken as a whole and a single local counsel for all Indemnitees taken as a whole in each relevant jurisdiction that is material to the interest of the Lenders, and solely in the case of a conflict of interest, one additional counsel in each relevant jurisdiction to each group of affected Indemnitees similarly situated taken as a whole) (i) the execution, delivery, enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, (ii) any Revolving Credit Commitment, Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by an Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), or (iii) any actual or alleged presence or release of Hazardous Materials on or from any property currently or formerly owned or operated by the Borrower, any Subsidiary or any other Loan Party, or any Environmental Liabilities arising out of the activities or operations of the Borrower, any Subsidiary or any other Loan Party, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) and regardless of whether any Indemnitee or a Loan Party is a party thereto (all the foregoing, collectively, the "*Indemnified Liabilities*"); provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements resulted from (x) the gross negligence, bad faith or willful misconduct of such Indemnitee or of any Related Indemnified Person, as determined by a final, non-appealable judgment of a court of competent jurisdiction, (y) a material breach of any obligations under any Loan Document by such Indemnitee or of any Related Indemnified Person, in each case as determined by a final, non-appealable judgment of a court of competent jurisdiction or (z) any dispute solely among Indemnitees other than any claims against an Indemnitee in its capacity or in fulfilling its role as an administrative agent, collateral agent, or arranger or any similar role under any Class of Loans and other than any claims arising out of any act or omission of the Borrower or any of its Affiliates. To the extent that the undertakings to indemnify and hold harmless set forth in this Section 12.4 may be unenforceable in whole or in part because they are violative of any applicable law or public policy, the Borrower shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by the Indemnitees or any of them. No Indemnitee shall be liable for any damages arising from the use by others of any information or other materials obtained through IntraLinks or other similar information transmission systems in connection with this Agreement (except for direct (as opposed to indirect, special, punitive or consequential) damages resulting from the gross negligence, bad faith or willful misconduct, as determined by a court of competent jurisdiction in a final and non-appealable judgment, of any such Indemnitee), nor shall any Indemnitee or any Loan Party have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out

of its activities in connection herewith or therewith (whether before or after the Closing Date) (other than, in the case of any Loan Party, in respect of any such damages incurred or paid by an Indemnitee to a third party). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 12.4 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors, stockholders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents is consummated. All amounts due under this Section 12.4 shall be paid within twenty (20) Business Days after written demand therefor (together with reasonably detailed backup documentation supporting such reimbursement request); provided, however, that such Indemnitee shall promptly refund such amount to the extent that it is determined by a final, non-appealable judgment of a court of competent jurisdiction that such Indemnitee was not entitled to indemnification rights with respect to such payment pursuant to the express terms of this Section 12.4. The agreements in this Section 12.4 shall survive the resignation of the Administrative Agent, the Collateral Agent, the Swing Loan Lender or any Issuer, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. This Section 12.4 shall not apply to Indemnified Taxes, or amounts excluded from the definition of Indemnified Taxes pursuant to clauses (i) through (v) of the first sentence of Section 3.1(a), that are imposed with respect to payments to or for account of any Agent or any Lender under any Loan Document, which shall be governed by Section 3.1. This Section 12.4 also shall not apply to Other Taxes or to taxes covered by Section 3.4.

No Loan Party shall, nor shall any Loan Party permit any of its Subsidiaries, without the prior written consent of any affected Indemnitee (which consent shall not be unreasonably withheld or delayed), effect any settlement of any pending or threatened proceedings in respect of which indemnity could have been sought hereunder by such Indemnitee unless such settlement (i) includes an unconditional release of such Indemnitee from all liability or claims that are the subject matter of such proceeding and (ii) does not include any statement as to or any admission of fault, culpability or wrongdoing by or on behalf of any Indemnitee; *provided* that any Indemnitee may reasonably withhold its consent to any settlement if such settlement does not comply with clauses (i) and (ii) above.

SECTION 12.5 Removal of Responsible Officers or Directors. If any Responsible Officer or member of the Board of Directors of the Borrower or its Subsidiaries is found guilty (as determined by a final non-appealable judgment of a court of competent jurisdiction) after the Closing Date of (a) any felony offense under laws relating to fraud and abuse, theft, embezzlement, false statements to third parties, money laundering, kickbacks, breach of fiduciary responsibility or (b) other felony-level financial misconduct or (c) with respect to any act or omission in a program operated by or financed in whole or in part by any federal, state or local governmental agency, violating laws relating to the interference with or obstruction of any investigations into any offenses described in this Section 12.5, then, in the event of any of the foregoing, at the request of the Requisite Lenders, the Borrower or such applicable Subsidiary shall promptly (but in no event later than thirty (30) days following receipt of such request) remove such Responsible Officer or member of the Board of Directors to the extent it is then legally permitted to do so.

SECTION 12.6 Right of Setoff.

If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Administrative Agent, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by such Lender or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such other Loan Party (other than, with respect to any Guarantor, Excluded Swap Obligations of such Guarantor) now or hereafter existing under this Agreement or any other Loan Document to such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.16 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and its Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender or its Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

SECTION 12.7 Sharing of Payments.

If, other than as expressly provided elsewhere herein, any Lender shall obtain payment in respect of any principal of or interest on account of the Loans made by it, or the participations in Letter of Credit Obligations and Swing Loans held by it (in each case, whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them and/or such subparticipations in the participations in Letter of Credit Obligations or Swing Loans held by them, as the case may be, as shall be necessary to cause such purchasing Lender to share the excess payment of principal of or interest on such Loans or such participations, as the case may be, pro rata with each of them; provided that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 12.15 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further

interest thereon. The provisions of this Section shall not be construed to apply to the application of Cash Collateral provided for in Sections 10.3 and 10.5. For avoidance of doubt, the provisions of this paragraph shall not be construed to apply to (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement as in effect from time to time or (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant permitted hereunder. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of set-off, but subject to Section 12.6) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 12.7 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 12.7 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

SECTION 12.8 Notices and Other Communications; Facsimile Copies.

(a) General. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to Holdings, the Borrower, the Administrative Agent (which address shall also be used for Collateral Agent), an Issuer or the Swing Loan Lender, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 12.8;

(ii) **[reserved]**; and

(iii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the Issuers hereunder may be delivered or furnished by electronic communication (including

e mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or Issuer pursuant to Article II if such Lender or Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

(c) Receipt. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(d) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall any Agent or any of its Agent-Related Persons or the Arranger (collectively, the "*Agent Parties*") have any liability to Holdings, the Borrower, any Lender, any Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to Holdings, the Borrower, any Lender, any Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(e) Change of Address. Each of Holdings, the Borrower, the Administrative Agent, the Collateral Agent, each Issuer and the Swing Loan Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, each Issuer and the Swing Loan Lender. In addition, each Lender agrees to notify the

Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

(f) Reliance by Administrative Agent, Issuers and Lenders. The Administrative Agent, the Issuers and the Lenders shall be entitled to rely and act upon any notices (including telephonic Notices of Borrowing or Swing Loan Requests) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, each Issuer, each Lender and the Agent-Related Persons of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower in the absence of gross negligence, willful misconduct or bad faith of such Person, as determined by a final non-appealable judgment of a court of competent jurisdiction. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

SECTION 12.9 No Waiver; Cumulative Remedies.

No failure by any Lender, the Administrative Agent or the Collateral Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

SECTION 12.10 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "*Judgment Currency*") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "*Agreement Currency*"), be

discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrower in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable Law).

SECTION 12.11 Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower, Holdings and the Administrative Agent and the Administrative Agent shall have been notified by each Lender, Swing Loan Lender and each Issuer that each such Lender, Swing Loan Lender and Issuer has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, Holdings, each Agent and each Lender and their respective successors and assigns.

SECTION 12.12 **[Reserved]**.

SECTION 12.13 Governing Law; Submission to Jurisdiction; Service of Process.

(a) THIS AGREEMENT AND EACH OTHER LOAN DOCUMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) EACH PARTY HERETO EACH IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE AGENTS AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION

WITH THE LOAN DOCUMENTS OR IN THE EXERCISE OF ANY RIGHTS UNDER ANY COLLATERAL DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) EACH PARTY HERETO EACH IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 12.8. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

SECTION 12.14 Waiver of Jury Trial.

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 12.15 Marshaling; Payments Set Aside.

None of the Administrative Agent, the Collateral Agent, any Lender or any Issuer shall be under any obligation to marshal any assets in favor of the Loan Parties or any other party or against or in payment of any or all of the Obligations. To the extent that any payment by or on behalf of the Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of set-off, and such payment or the proceeds of such set-off or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such set-off had not occurred, and (b) each

Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect.

SECTION 12.16 **[Reserved]**.

SECTION 12.17 Counterparts; Integration; Effectiveness.

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. The Credit Agreement became effective on the Closing Date. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 12.18 Electronic Execution of Assignments and Certain Other Documents.

Delivery by telecopier, .pdf, or other electronic imaging means of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 12.19 Confidentiality.

Each of the Administrative Agent, the Collateral Agent, the Lenders and the Issuers agrees to maintain the confidentiality of the Information in accordance with its customary procedures (as set forth below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, trustees, advisors, service providers, and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, provided that the Administrative Agent or such Lender, as applicable, agrees that it will notify the Borrower as soon as practicable

in the event of any such disclosure by such Person (other than at the request of a regulatory authority) unless such notification is prohibited by law, rule or regulation, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions at least as restrictive as those of this Section 12.19, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or any Eligible Assignee invited to be an Additional Lender or (ii) any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower; (h) to any rating agency when required by it on a customary basis and after consultation with the Borrower (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender); or (i) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, any Issuer, any Lender, or any of their respective Affiliates on a nonconfidential basis from a source other than Holdings, the Borrower or any Subsidiary thereof, and which source is not known by such Agent or Lender to be subject to a confidentiality restriction in respect thereof in favor of the Borrower or any Affiliate of the Borrower.

For purposes of this Section, "Information" means all information received from any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary thereof or their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by any Loan Party or any Subsidiary thereof other than as a result of a breach of this Section 12.19, it being understood that all information received from any Parent Guarantor, Holdings, the Borrower or any Subsidiary after the Closing Date shall be deemed confidential unless such information is clearly identified at the time of delivery as not being confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so in accordance with its customary procedures if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Collateral Agent, and the Lenders acknowledges that (a) the Information may include material non-public information concerning any Loan Party or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

SECTION 12.20 Use of Name, Logo, Etc.

Each Loan Party consents to the publication in the ordinary course by the Administrative Agent or the Arranger of customary advertising material relating to the financing transactions contemplated by this Agreement using such Loan Party's name, product photographs, logo or trademark. Such consent shall remain effective until revoked by such Loan Party in writing to the Administrative Agent and the Arranger.

SECTION 12.21 USA PATRIOT Act Notice.

Each Lender that is subject to the USA PATRIOT Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act. The Borrower shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

SECTION 12.22 Reserved.

SECTION 12.23 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each of the Borrower and Holdings acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Agents and the Arranger are arm's-length commercial transactions between the Borrower, Holdings and their respective Affiliates, on the one hand, and the Agents and the Arranger, on the other hand, (B) each of the Borrower and Holdings has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each of the Borrower and Holdings is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Agents, the Arranger and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower, Holdings or any of their respective Affiliates, or any other Person and (B) none of the Agents, the Arranger, or any Lender has any obligation to the Borrower, Holdings or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Agents, the Arranger, the Lender and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower, Holdings their respective Affiliates, and none of the Agents, the Arranger, or any Lender has any obligation to disclose any of such interests to the Borrower, Holdings or any of their respective Affiliates. To the fullest extent permitted by law, each of the Borrower and Holdings hereby waives and releases any claims that it may have against the Agents, the Arranger or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

SECTION 12.24 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or

unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 12.24, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, the applicable Issuer or the Swing Loan Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

SECTION 12.25 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Agents, each Issuer and each Lender, regardless of any investigation made by the Agents, any Issuer or any Lender or on their behalf and notwithstanding that any Agent, any Issuer or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements and Cash Management Obligations).

SECTION 12.26 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party under any of the Loan Documents or the Secured Hedge Agreements (including the exercise of any right of set-off, rights on account of any banker's lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, without the prior written consent of the Administrative Agent (which shall not be withheld in contravention of Section 11.4). The provision of this Section 12.26 are for the sole benefit of the Lenders and shall not afford any right to, or constitute a defense available to, any Loan Party.

SECTION 12.27 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non usurious interest permitted by applicable Law (the "*Maximum Rate*"). If any Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by an Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

SECTION 12.28 **[Reserved]**.

SECTION 12.29 Contractual Recognition of Bail-In.

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; and

(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.

SECTION 12.30 ABL/Term Intercreditor Agreement. REFERENCE IS MADE TO THE ABL/TERM INTERCREDITOR AGREEMENT. EACH LENDER HEREUNDER (a) AGREES THAT IT WILL BE BOUND BY AND WILL TAKE NO ACTIONS CONTRARY TO THE PROVISIONS OF THE ABL/TERM INTERCREDITOR AGREEMENT AND (b) AUTHORIZES AND INSTRUCTS THE ADMINISTRATIVE AGENT TO ENTER INTO THE ABL/TERM INTERCREDITOR AGREEMENT AS "ABL ADMINISTRATIVE AGENT" AND ON BEHALF OF SUCH LENDER. THE PROVISIONS OF THIS SECTION 12.30 ARE NOT INTENDED TO SUMMARIZE ALL RELEVANT PROVISIONS OF THE ABL/TERM INTERCREDITOR AGREEMENT. REFERENCE MUST BE MADE TO THE ABL/TERM INTERCREDITOR AGREEMENT ITSELF TO UNDERSTAND ALL TERMS AND CONDITIONS THEREOF. EACH LENDER IS RESPONSIBLE FOR MAKING ITS OWN ANALYSIS AND REVIEW OF THE ABL/TERM INTERCREDITOR AGREEMENT AND THE TERMS AND PROVISIONS THEREOF, AND NEITHER THE ADMINISTRATIVE AGENT NOR ANY OF ITS AFFILIATES MAKES ANY REPRESENTATION TO ANY LENDER AS TO THE SUFFICIENCY OR ADVISABILITY OF THE PROVISIONS CONTAINED IN THE ABL/TERM INTERCREDITOR AGREEMENT.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

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

MATTRESS FIRM, INC., as Borrower

By:_____
Name:_____
Title:_____

MATTRESS HOLDING CORP., as Holdings

By:_____
Name:_____
Title:_____

STRIPES US HOLDING, INC., as a Parent Guarantor

By:_____
Name:_____
Title:_____

MATTRESS FIRM HOLDING CORP., as a Parent Guarantor

By:_____
Name:_____
Title:_____

MATTRESS HOLDCO, INC., as a Parent Guarantor

By:_____
Name:_____
Title:_____

BARCLAYS BANK PLC, as Administrative Agent, Collateral Agent, Swing Loan Lender, Issuer and a Lender,

By:_____
Name:_____
Title:_____

LENDERS

[_____]

[FORM OF] ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (this "*Assignment and Assumption*") is dated as of the Effective Date set forth below and is entered into by and between [the][each][1] Assignor identified in item 1 below ([the][each, an] "*Assignor*") and [the][each][2] Assignee identified in item 2 below ([the][each, an] "*Assignee*"). [It is understood and agreed that the rights and obligations of [the Assignors][the Assignees][3] hereunder are several and not joint.][4] Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (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 Assignment and Assumption as if set forth herein in full.

For an agreed consideration, [the][each] Assignor hereby irrevocably sells and assigns to [the Assignee][the respective Assignees], and[the][each] Assignee hereby irrevocably purchases and assumes from [the Assignor][the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of[the Assignor's][the respective Assignors'] rights and obligations in [its capacity as a Lender][their respective capacities as Lenders] 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][the respective Assignors] under the respective facilities identified below (including, without limitation, the Letters of Credit and the Swing Loans included in such facilities[5]) 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)][the respective Assignors (in their respective capacities as Lenders)] 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, but not limited to, 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 by [the][any] Assignor to [the][any] Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as [the][an] "*Assigned Interest*"). Each such sale and assignment is without recourse to [the][any] Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by [the][any] Assignor.

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[1] For bracketed language here and elsewhere in this form relating to the Assignor(s), if the assignment is from a single Assignor, choose the first bracketed language. If the assignment is from multiple Assignors, choose the second bracketed language.

[2] For bracketed language here and elsewhere in this form relating to the Assignee(s), if the assignment is to a single Assignee, choose the first bracketed language. If the assignment is to multiple Assignees, choose the second bracketed language.

[3] Select as appropriate.

[4] Include bracketed language if there are either multiple Assignors or multiple Assignees.

[5] Include all applicable subfacilities.

1. Assignor[s]: _____

2. Assignee[s]: _____

_____

[for each Assignee *identify Lender*]

3. Borrower: Mattress Firm, Inc.

4. Administrative Agent: Barclays Bank PLC, including any successor thereto, as the administrative agent under the Credit Agreement

5. Credit Agreement: The ABL Credit Agreement, dated as of November [•], 2018 (as such may be amended, restated, extended, supplemented or otherwise modified from time to time) among, *inter alios*, MATTRESS HOLDING CORP., MATTRESS FIRM, INC., BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto (collectively, the "*Lenders*" and individually, a "*Lender*").

6. Assigned Interest:

Assignor[s][6]	Assignee[s][7]	Facility Assigned[8]	Aggregate Amount of Revolving Credit Commitment/Loans for all Lenders[9]	Amount of Revolving Credit Commitment/Loans Assigned	Percentage Assigned of Revolving Credit Commitment/ Loans[10]
			$	$	%
			$	$	%
			$	$	%

[7. Trade Date: _____[11]]

Effective Date: _____, 20__ [TO BE INSERTED BY THE ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

[6] List each Assignor, as appropriate.
[7] List each Assignee, as appropriate.
[8] Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment and Assumption (e.g., "Revolving Credit Commitments," "Extended Revolving Credit Commitments," etc.).
[9] Amounts in this column and in the column immediately to the right to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.
[10] Set forth, to at least 9 decimals, as a percentage of the Revolving Credit Commitment/Loans of all Lenders thereunder.
[11] To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: _____
Name:
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By: _____
Name:
Title:

[Consented to and][12] Accepted:

BARCLAYS BANK PLC, as Administrative Agent

By: _____
Name:
Title:

[Consented to: [_____]

By: _____
Name:
Title:][13]

[12] To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.
[13] To be added only if the consent of the Borrower and/or other parties (e.g. Swing Loan Lender, Issuer) is required by the terms of the Credit Agreement.

ANNEX 1
TO ASSIGNMENT AND ASSUMPTION

ABL Credit Agreement, dated as of November [•], 2018 (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among, MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP. ("*Holdings*"), the Parent Guarantors, BARCLAYS BANK PLC, as administrative agent (in such capacity, including any successor thereto, the "*Administrative Agent*") and as collateral agent under the Loan Documents, and each lender from time to time party thereto (collectively, the "*Lenders*" and individually, a "*Lender*")

STANDARD TERMS AND CONDITIONS FOR

ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1. Assignor. [The][Each] Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of [the][[the relevant] Assigned Interest, (ii) [the][such] Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption 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 or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. [The][Each] Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under Section 12.2(b)(iii) and (v) of the Credit Agreement (subject to such consents, if any, as may be required under Section 12.2(b)(iii) of the Credit Agreement), (iii) from and after the Effective Date referred to in this Assignment and Assumption, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of [the][the relevant] Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by [the][such] Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire [the][such] Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 7.1(a) and (b) thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the][such] Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the][such] Assigned Interest and (vii) attached hereto is any documentation required to

be delivered by it pursuant to the terms of the Credit Agreement, including but not limited to any documentation required pursuant to Section 3.1 of the Credit Agreement, duly completed and executed by [the][such] Assignee; and (b) agrees that (i) it will, independently and without reliance upon the Administrative Agent, [the][any] 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 Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of [the][each] Assigned Interest(including payments of principal, interest, fees and other amounts) to [the][the relevant] Assignor for amounts which have accrued to but excluding the Effective Date and to [the][the relevant] Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts (and by different parties hereto indifferent counterparts), each of which shall constitute an original, but all of which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

[FORM OF] REVOLVING CREDIT NOTE

$_____.00 _____ ___, 20__

FOR VALUE RECEIVED, the undersigned (the "*Borrower*", together with all successors and assigns), promises to pay _____(hereinafter, together with its successors in title and assigns, the "*Lender*"), the principal sum of _____ DOLLARS ($_____.00), or, if less, the aggregate unpaid principal balance of Revolving Loans made by the Lender to or for the account of the Borrower pursuant to the Credit Agreement (as hereafter defined) and amounts advanced by the Lender in respect of any Letter of Credit, with interest, fees, expenses and costs at the rate and payable in the manner stated in the Credit Agreement. As used herein, the "Credit Agreement" means and refers to that certain ABL Credit Agreement, dated as of November [•], 2018 (as such may be amended, restated, extended, supplemented or otherwise modified from time to time) among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP, the Parent Guarantors, BARCLAYS BANK PLC, as administrative agent (in such capacity, including any successor thereto, the "*Administrative Agent*") and as collateral agent under the Loan Documents, and each lender from time to time party hereto (collectively, the "*Lenders*" and individually, a "*Lender*"). Capitalized terms used herein and not otherwise defined herein are used herein as defined in the Credit Agreement.

This is a "Revolving Credit Note" to which reference is made in the Credit Agreement and is subject to all terms and provisions thereof. This Revolving Credit Note is also entitled to the benefits of the Guaranty and is secured by the Collateral. The principal of, and interest on, this Revolving Credit Note shall be payable at the times, in the manner, and in the amounts as provided in the Credit Agreement and shall be subject to prepayment and acceleration as provided therein. The Administrative Agent's books and records concerning the Revolving Credit Loans and amounts owing in respect of Letters of Credit, the accrual of interest and fees thereon, and the repayment of such Revolving Loans and Letters of Credit, shall be prima facie evidence of the indebtedness to the Lender hereunder, absent manifest error. This Revolving Credit Note is a registered obligation, transferable only upon notation in the Register, and no assignment hereof shall be effective until recorded therein.

No delay or omission by the Administrative Agent or the Lender in exercising or enforcing any of the Administrative Agents' or Lender's powers, rights, privileges, remedies, or discretions hereunder shall operate as a waiver thereof on that occasion nor on any other occasion. No waiver of any Event of Default shall operate as a waiver of any other Event of Default, nor as a continuing waiver.

The Borrower waives presentment, demand, notice, and protest, and also waives any delay on the part of the holder hereof. The Borrower assents to any extension or other indulgence (including, without limitation, the release or substitution of Collateral) permitted by the Administrative Agent and/or the Lender with respect to this Revolving Credit Note and/or any Collateral Document or any extension or other indulgence with respect to any other liability or any collateral given to secure any other liability of the Borrower or any other Person obligated on account of this Revolving Credit Note.

This Revolving Credit Note shall be binding upon the Borrower and upon their respective successors, assigns, and representatives, and shall inure to the benefit of the Lender and its successors, endorsees and assigns.

The Borrower agrees that any action or proceeding arising out of or relating to this Revolving Credit Note or for recognition or enforcement of any judgment, shall be brought in the courts of the state of New York sitting in New York City in the Borough of Manhattan or of the United States for the Southern District of New York, and any appellate court from any thereof, and by execution and delivery of this Revolving Credit Note, the Borrower and the Lender each consent, for itself and in respect of its property, to the exclusive jurisdiction of those courts. To the fullest extent permitted by applicable law, the Borrower irrevocably waives any objection, including any objection to the laying of venue or based on the grounds of *forum non conveniens*, which it may now or hereafter have to the bringing of any action or proceeding in the courts of the state of New York sitting in New York City in the Borough of Manhattan or of the United States for the Southern District of New York, and any appellate court from any thereof.

THIS REVOLVING CREDIT NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

The Borrower makes the following waiver knowingly, voluntarily, and intentionally, and understands that the Administrative Agent and the Lender, in the establishment and maintenance of their respective relationship with the Borrower contemplated by this Revolving Credit Note, are each relying thereon. THE BORROWER, AND THE LENDER BY ITS ACCEPTANCE HEREOF, HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS REVOLVING CREDIT NOTE OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY).

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the undersigned has caused this Revolving Credit Note to be duly executed and delivered by its duly authorized officer as of the date first above written.

MATTRESS FIRM, INC.

By: _____
Name:
Title:

LOANS AND PAYMENTS

Date	Amount of Loan	Maturity Date	Payments of Principal/Interest	Principal Balance of Note	Name of Person Making this Notation

DRAFT **EXHIBIT C**

[FORM OF] NOTICE OF BORROWING

_____ __, 20__

Barclays Bank PLC, as Administrative Agent
745 Seventh Avenue
New York, NY 10019
Attention: Komal Ramkirath, Bank Debt Management
Electronic Mail: Komal.Ramkirath@barclays.com and BDMABL@barclays.com

Re: MATTRESS FIRM, INC.

Reference is made to that certain ABL Credit Agreement, dated as of November [•], 2018 (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC., a Delaware corporation (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto (collectively, the "*Lenders*" and individually, a "*Lender*"). Capitalized terms used herein and not otherwise defined herein are used herein as defined in the Credit Agreement.

The Borrower hereby gives you notice, irrevocably, pursuant to Section 2.2 of the Credit Agreement that the undersigned hereby requests a Borrowing under the Credit Agreement and, in connection therewith, sets forth below the information relating to the Borrowing (the "*Proposed Borrowing*") as required by Section 2.2 of the Credit Agreement:

(a) The date of the Proposed Borrowing is _____ __, 20__ (the "*Funding Date*").

(b) The aggregate amount of the Borrowing is [$]_____.

(c) [$] _____ of the Borrowing shall be of [Base Rate Loans] and/or [Eurocurrency Rate Loans].

(d) For Eurocurrency Rate Loan: with an Interest Period of _____ months (such Interest Period to comply with the provisions of the definition of "*Interest Period*").

(e) The Class of the Borrowing shall be _____.

The undersigned hereby represents and warrants that the conditions set forth in Section 4.2(b) and (c) of the Credit Agreement shall be satisfied on the Funding Date both immediately before and immediately after giving effect to the Proposed Borrowing and to the application of the proceeds therefrom.

[*Remainder of page intentionally left blank*]

MATTRESS FIRM, INC.

By: _____
Name:
Title:

DRAFT **EXHIBIT D**

[FORM OF] SWING LOAN REQUEST

_____ __, 20__

Barclays Bank PLC, as Administrative Agent
745 Seventh Avenue
New York, NY 10019
Attention: Komal Ramkirath, Bank Debt Management
Electronic Mail: Komal.Ramkirath@barclays.com and BDMABL@barclays.com

Re: MATTRESS FIRM, INC.

Reference is made to that certain ABL Credit Agreement, dated as of November [•], 2018, (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC., a Delaware corporation (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto. Capitalized terms used herein and not otherwise defined herein are used herein as defined in the Credit Agreement.

The Borrower hereby gives you notice, irrevocably, pursuant to Section 2.3 of the Credit Agreement that the undersigned hereby requests that the Swing Loan Lender make Swing Loans available to the Borrower under the Credit Agreement and, in that connection therewith, sets forth below the information relating to such Swing Loans (the "*Proposed Advance*") as required by Section 2.3 of the Credit Agreement:

(a) The date of the Proposed Advance _____ __, 20__ (the "*Funding Date*").

(b) The aggregate amount of the Proposed Advance is $_____.

The undersigned hereby represents and warrants that the conditions set forth in Section 4.2(b) and (c) of the Credit Agreement shall be satisfied on the Funding Date both immediately before and immediately after giving effect to the Proposed Advance and to the application of the proceeds therefrom.

[*Remainder of page intentionally left blank*]

MATTRESS FIRM, INC.

By: _____
Name:
Title:

DRAFT **EXHIBIT E**

[FORM OF] LETTER OF CREDIT REQUEST

_____ __, 20__

[Name of Issuer], as an Issuer
under the Credit Agreement referred
to below

Barclays Bank PLC, as Administrative Agent
745 Seventh Avenue
New York, NY 10019
Attention: Komal Ramkirath, Bank Debt Management
Electronic Mail: Komal.Ramkirath@barclays.com and BDMABL@barclays.com

Re: MATTRESS FIRM, INC.

Reference is made to that certain ABL Credit Agreement, dated as of November [•], 2018, (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto. Capitalized terms used herein and not otherwise defined herein are used herein as defined in the Credit Agreement.

The Borrower hereby gives you notice, irrevocably, pursuant to Section 2.4 of the Credit Agreement that the undersigned requests the issuance of a Letter of Credit by [Name of Issuer] in the form of a [standby] [documentary] letter of credit [for its own account] [for the account of a Restricted Subsidiary of the Borrower] [for the benefit of [Name of Beneficiary]], in the amount of [$] [_____] to be issued on _____ __, 20__ (the "*Issue Date*") and having an expiration date of _____ __, 20__.

The undersigned hereby represents and warrants that the conditions set forth in Section 4.2(b) and (c) of the Credit Agreement shall be satisfied on the Issue Date both immediately before and immediately after the proposed issuance.

[*Remainder of page intentionally left blank*]

MATTRESS FIRM, INC.

By: _____
Name:
Title:

DRAFT **EXHIBIT F**

[FORM OF] NOTICE OF CONVERSION OR CONTINUATION

_____ __, 20__

Barclays Bank PLC, as Administrative Agent
745 Seventh Avenue
New York, NY 10019
Attention: Komal Ramkirath, Bank Debt Management
Electronic Mail: Komal.Ramkirath@barclays.com and BDMABL@barclays.com

Re: MATTRESS FIRM, INC.

Reference is made to that certain ABL Credit Agreement, dated as of November [•], 2018, (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto. Capitalized terms used herein and not otherwise defined herein are used herein as defined in the Credit Agreement.

The Borrower hereby gives you notice, irrevocably, pursuant to Section 2.11 of the Credit Agreement that the undersigned hereby requests a [conversion on _____ __, 20__] [continuation] of [$]_____ in principal amount of presently outstanding Revolving Loans that are [Base Rate Loans] [Eurocurrency Rate Loan] having an Interest Period ending on _____ __, 20__ [to] [as][Base Rate] [Eurocurrency Rate] Loans. The Interest Period for such amount requested to be converted to or continued as Eurocurrency Rate Loans is _____ month[s]).

[Remainder of page intentionally left blank]

In connection herewith, the undersigned has executed this notice as of the date first set forth above.

MATTRESS FIRM, INC.

By: _____
Name:
Title:

FORM OF GUARANTY

[*To be provided under separate cover*]

FORM OF SECURITY AGREEMENT

[*To be provided under separate cover*]

DRAFT **EXHIBIT I**

FORM OF BORROWING BASE CERTIFICATE

[*To be provided under separate cover*]

[RESERVED]

DRAFT **EXHIBIT K**

FORM OF INTERCOMPANY SUBORDINATION AGREEMENT

[*To be provided under separate cover*]

[FORM OF] SOLVENCY CERTIFICATE
of
MATTRESS FIRM, INC.
AND ITS SUBSIDIARIES

[•], 20[•]

Pursuant to that certain ABL Credit Agreement, dated as of the date hereof (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "*Credit Agreement*"), among Mattress Firm, Inc., a Delaware corporation ("*Borrower*"), Mattress Holding Corp., a Delaware corporation ("*Holdings*"), the Parent Guarantors, the Lenders from time to time party thereto, and Barclays Bank PLC, as Administrative Agent and Collateral Agent thereunder (in such capacities, the "*Agent*"), the undersigned hereby certifies, solely in such undersigned's capacity as chief financial officer of the Borrower and not individually, as follows:

As of the date hereof, after giving effect to the consummation of the Transactions, including the making of the Loans under the Credit Agreement on the date hereof, and after giving effect to the application of the proceeds of such Loans:

a. The fair value of the assets of the Borrower and its Restricted Subsidiaries, on a consolidated basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise;

b. The present fair saleable value of the property of the Borrower and its Restricted Subsidiaries, on a consolidated basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured;

c. The Borrower and its Restricted Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured; and

d. The Borrower and its Restricted Subsidiaries, on a consolidated basis, are not engaged in, and are not about to engage in, business for which they have unreasonably small capital.

For purposes of this Certificate, the amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

The undersigned is familiar with the business and financial position of the Borrower and its Restricted Subsidiaries. In reaching the conclusions set forth in this Certificate, the undersigned has made such other investigations and inquiries as the undersigned has deemed appropriate, having taken into account the nature of the particular business anticipated to be conducted by the Borrower and its subsidiaries after consummation of the Transactions.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the undersigned has executed this Certificate in such undersigned's capacity as chief financial officer of the Borrower, on behalf of the Borrower, and not individually, as of the date first stated above.

MATTRESS FIRM, INC.

By: _____
Name:
Title: Chief Financial Officer

DRAFT **EXHIBIT M**

[RESERVED]

[FORM OF] NON−BANK CERTIFICATE
(For Non-U.S. Lenders That Are Not Partnerships or Pass−Through Entities For U.S. Federal Income Tax Purposes)

Reference is made to that certain ABL Credit Agreement, dated as of November [•], 2018, (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement. _____ (the "*Non-U.S. Lender*") is providing this certificate pursuant to Section 3.1(b) of the Credit Agreement.

The Non-U.S. Lender hereby represents and warrants that:

1. The Non-U.S. Lender is the sole record and beneficial owner of the Loans (as well as any notes evidencing such Loans) in respect of which it is providing this certificate.

2. The Non-U.S. Lender is not a "bank" for purposes of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "*Code*").

3. The Non-U.S. Lender is not a "ten percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code.

4. The Non-U.S. Lender is not a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has duly executed this certificate on the _____ day of _____, 20__.

[NAME OF NON-U.S. LENDER]

By: _____
Name:
Title:

DRAFT **EXHIBIT N-2**

[FORM OF] NON−BANK CERTIFICATE
(For Non-U.S. Lenders That Are Partnerships or Pass−Through Entities For U.S. Federal Income Tax Purposes)

Reference is made to that certain ABL Credit Agreement, dated as of November [•], 2018, (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto (collectively, the "*Lenders*" and individually, a "*Lender*"). Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement. _____ (the "*Non-U.S. Lender*") is providing this certificate pursuant to Section 3.1(b) of the Credit Agreement.

The Non-U.S. Lender hereby represents and warrants that:

1. The Non-U.S. Lender is the sole record owner of the Loans (as well as any notes evidencing such Loans) in respect of which it is providing this certificate.

2. The Non-U.S. Lender's direct or indirect partners/members are the sole beneficial owners of the Loans (as well as any notes evidencing such Loans).

3. Neither the Non-U.S. Lender nor any of its direct or indirect partners/members is a "bank" for purposes of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "**Code**").

4. None of the Non-U.S. Lender's direct or indirect partners/members is a 10−percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code.

5. None of the Non-U.S. Lender's direct or indirect partners/members is a "controlled foreign corporation" related to the Borrower within the meaning of Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E, or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has duly executed this certificate on the _____ day of _____, 20__.

[NAME OF NON-U.S. LENDER]

By: _____
Name:
Title:

DRAFT **EXHIBIT N-3**

[FORM OF] NON−BANK CERTIFICATE
(For Non-U.S. Participants That Are Not Partnerships or Pass−Through Entities For U.S. Federal Income Tax Purposes)

Reference is made to that certain ABL Credit Agreement, dated as of November [•], 2018, (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto (collectively, the "*Lenders*" and individually, a "*Lender*"). Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement._____ (the "*Non-U.S. Participant*") is providing this certificate pursuant to Section 3.1(b) and Section 12.2(d) of the Credit Agreement.

The Non-U.S. Participant hereby represents and warrants that:

1. The Non-U.S. Participant is the sole record and beneficial owner of the participation in respect of which it is providing this certificate.

2. The Non-U.S. Participant is not a "bank" for purposes of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "*Code*").

3. The Non-U.S. Participant is not a "ten percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code.

4. The Non-U.S. Participant is not a controlled foreign corporation within the meaning of Section 881(c)(3)(C) of the Code related to the Borrower within the meaning of Section 864(d) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has duly executed this certificate on the _____ day of _____, 20__.

[NAME OF NON-U.S. PARTICIPANT]

By: _____
Name:
Title:

[FORM OF] NON−BANK CERTIFICATE
(For Non-U.S. Participants That Are Partnerships or Pass−Through Entities For U.S. Federal Income Tax Purposes)

Reference is made to that certain ABL Credit Agreement, dated as of November [•], 2018, (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement. _____ (the "*Non U.S. Participant*") is providing this certificate pursuant to Section 3.1(b) and Section 12.2(d) of the Credit Agreement.

The Non-U.S. Participant hereby represents and warrants that:

1. The Non-U.S. Participant is the sole record owner of the participation in respect of which it is providing this certificate.

2. The Non-U.S. Participant's direct or indirect partners/members are the sole beneficial owners of such participation.

3. Neither the Non-U.S. Participant nor any of its direct or indirect partners/members is a "bank" for purposes of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "Code").

4. None of the Non-U.S. Participant's direct or indirect partners/members is a "ten percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code.

5. None of the Non-U.S. Participant's direct or indirect partners/members is a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has duly executed this certificate on the _____ day of _____, 20__.

[NAME OF NON-U.S. PARTICIPANT]

By: _____
Name:
Title:

DRAFT **EXHIBIT O**

FORM OF COMPLIANCE CERTIFICATE

[*See attached*]

DRAFT **EXHIBIT P**

[letterhead of borrower]

CREDIT CARD NOTIFICATION

[ ] __, 2018

[Credit Card Processor]
[Address]

Re: ABL Credit Agreement dated as of November [•], 2018 (as such agreement may be amended, restated, amended and restated, modified or supplemented from time to time, the "Credit Agreement"), among MATTRESS FIRM, INC., a Delaware corporation (the "Borrower"), MATTRESS HOLDING CORP., a Delaware corporation ("Holdings"), the Parent Guarantors, BARCLAYS BANK PLC, as administrative agent (in such capacity, including any successor thereto, the "Administrative Agent") and as collateral agent (in such capacity, including any successor thereto, the "Collateral Agent") under the Loan Documents (as defined in the Credit Agreement), and each lender from time to time party thereto (collectively, the "Lenders" and individually, a "Lender") capitalized terms used herein have the meanings attributed thereto in the Credit Agreement unless otherwise defined herein.

Ladies and Gentlemen:

[Name of Credit Card Processing Company] ("Processor") has entered into arrangements pursuant to which Processor acts as credit card processing service provider with respect to certain credit card and debit card sales by the Borrower and the other Loan Parties and makes payments to the Borrower and the other Loan Parties in respect of such sales as set forth in the [_____ Agreement], dated [_____], by and between Processor and the Borrower [and the other Loan Parties] (and together with any replacement agreement thereto, referred to herein as the "Card Processing Agreement").

Please be advised that the Borrower and the other Loan Parties have entered or is about to enter into financing arrangements with the Administrative Agent, the Collateral Agent and Lenders pursuant to which the Lenders may from time to time make loans and advances and the Administrative Agent, the Collateral Agent and Lenders will provide other financial accommodations to the Borrower and the other Loan Parties, secured by, among other things, all of the Borrower's and the other Loan Parties' right, title and interest in and to all accounts receivable, rights to payment, inventory, and deposit and other bank accounts and proceeds of the foregoing, including all amounts at any time payable by Processor to the Borrower and the other Loan Parties pursuant to the Card Processing Agreement or otherwise.

Notwithstanding anything to the contrary contained in the Card Processing Agreement or any prior instructions to Processor, unless and until Processor receives written instructions from the Administrative Agent to the contrary, effective immediately, all amounts payable by

Processor to the Borrower and the other Loan Parties pursuant to the Card Processing Agreement or otherwise shall be sent by federal funds wire transfer or electronic depository transfer to the following bank account owned by the Borrower or to any other bank account as the Processor may be instructed from time to time in writing by an officer of the Administrative Agent:

Bank: _____
City, State: _____
ABA#: _____
Credit to: _____
Account No.: _____

In the event Processor at any time receives any other instructions from the Administrative Agent with respect to the disposition of amounts payable by or through Processor to the Borrower and the other Loan Parties pursuant to the Card Processing Agreement or otherwise, Processor is hereby irrevocably authorized and directed to follow such instructions from Administrative Agent, without inquiry as to the Administrative Agent's right or authority to give such instructions. The Borrower agrees to hold harmless Processor for any action taken by Processor in accordance with the terms of this Credit Card Agreement and the Card Processing Agreement.

Upon request of the Administrative Agent, a copy of each periodic statement provided by the Processor to the Company shall be provided to the Administrative Agent at the address below (which address may be changed upon seven days' written notice give to the Processor by the Administrative Agent):

Barclays Bank PLC
Bank Debt Management Group
745 Seventh Avenue, 8th Floor
New York, New York 10019
Attention: Komal Ramkirath
Electronic Mail: Komal.Ramkirath@barclays.com and BDMABL@barclays.com

The Administrative Agent and the Borrower hereby confirm and agree as follows: (i) the Card Processing Agreement is in full force and effect, and (ii) this Credit Card Agreement does not prohibit or limit any rights Processor possesses under the Card Processing Agreement, including but not limited to Processor's right to debit, offset or charge back any amounts owing to Processor under the Card Processing Agreement, or any replacement or renewal thereof, against funds sent to or to be sent to the above-referenced bank account.

This Credit Card Agreement cannot be changed, modified, or terminated, except by written agreement signed by the Administrative Agent, the Borrower and Processor.

[*Remainder of page intentionally left blank*]

Please acknowledge your receipt of, and agreement to, the foregoing by signing in the space provided below.

Sincerely,

[MATTRESS FIRM, INC.][1],
a Delaware corporation,
as [Borrower]

By:_____
Name:
Title:

ACKNOWLEDGED AND AGREED:

BARCLAYS BANK PLC,
as the Administrative Agent

By:_____
Name:
Title:
Dated:

ACKNOWLEDGED AND AGREED:

[Credit Card Processing Co.]

By:_____
Name:
Title:
Dated:

[1] Applicable Mattress Firm entity.

DRAFT **EXHIBIT Q**

[FORM OF] CUSTOMS BROKER AGREEMENT

[DATE]

Name and Address of [Customs Broker/Freight Forwarder/Carrier]:

_____
_____
_____
Email Address: _____
Fax Number: _____

Dear Sir/Madam:

[Mattress Firm, Inc.][Insert name of other Loan Party], a [Delaware][_____] corporation with its principal executive offices at [Insert Address of Company][Insert address for Loan Party] (referred to herein as the "Company"), among others, has entered into a Security Agreement dated as of November [•], 2018 (the "Security Agreement") with Barclays Bank PLC, with offices at 745 Seventh Avenue, New York, New York 10019, as collateral agent (in such capacity, herein the "Agent") for the ratable benefit of the Secured Parties, as defined under that certain Credit Agreement dated as of November [•], 2018 (the "Credit Agreement") by and among Mattress Firm, Inc. as the Borrower, Mattress Holding Corp., the Parent Guarantors, the Lenders and Issuers from time to time party thereto, Barclays Bank PLC as Administrative Agent and Collateral Agent and the other agents named therein, pursuant to which Security Agreement, the Company, among others, has granted a security interest to the Agent in and to, substantially all of the assets of the Company, including, among other things, all of the Company's inventory, goods, documents, bills of lading and other documents of title. Capitalized terms used but not defined herein have the meanings assigned to such terms in the Credit Agreement.

The Agent has requested that you (together with any affiliates providing services to the Company or its affiliates, the "[Customs Broker/Freight Forwarder/Carrier]") act as the Agent's agent for the limited purpose of more fully perfecting and protecting the security interest of the Agent in the Title Documents (as defined below) and the Property (as defined below), and the [Customs Broker/Freight Forwarder/Carrier] has agreed to do so. This letter agreement (this "Agreement") shall set forth the terms of the [Customs Broker/Freight Forwarder/Carrier]'s engagement.

1. **Acknowledgment of Security Interest; Power of Attorney:** The [Customs Broker/Freight Forwarder/Carrier] acknowledges that the Company has granted a security interest to the Agent in all of the Company's right, title, and interest in, to and under the Title Documents (as defined below), the Property (as defined below) and any contracts or agreements relating thereto. The Company advises the [Customs Broker/Freight Forwarder/Carrier], and the [Customs Broker/Freight Forwarder/Carrier] acknowledges that the Company has irrevocably constituted and appointed the Agent as the Company's true and lawful attorney, with full power of substitution to exercise all of such rights, title, and interest, which appointment has been

coupled with an interest. The [Customs Broker/Freight Forwarder/Carrier] further acknowledges and agrees that: (i) the Company holds title to all Title Documents (as defined below) and Property (as defined below) while in the custody or control of the [Customs Broker/Freight Forwarder/Carrier]; (ii) upon receipt of any such Title Documents or Property, the [Customs Broker/Freight Forwarder/Carrier] shall promptly notify the Company that it is holding such Title Documents or Property on behalf of the Company; (iii) [the [Customs Broker/Freight Forwarder] shall not deliver any Property to a third party for shipment and delivery unless any related Title Documents reflects a Loan Party as "consignor/shipper" and a Loan Party as "consignee" and such third party is advised of the Agent's liens on such Title Documents and Property and rights with respect thereto][1]; and (iv) if the [Customs Broker/Freight Forwarder/Carrier] receives notice from any seller of any Property of such seller's intent to stop delivery of such Property to the Company, the [Customs Broker/Freight Forwarder/Carrier] shall promptly notify the Agent of the same and, in all such cases, shall follow solely the instructions of the Agent concerning the release, transfer, or other disposition of the Property and will not follow any instructions of the Company or any other person concerning same, unless instructed otherwise by the Agent.

2. **Appointment Of [Customs Broker/Freight Forwarder/Carrier] as Agent of Agent:** The [Customs Broker/Freight Forwarder/Carrier] is hereby appointed as agent for the Agent to receive and retain possession of (i) all bills of lading, waybills, documents, and any other documents of title or carriage constituting, evidencing, or relating to the Company's inventory (collectively, the "Title Documents") heretofore or at any time hereafter issued for any goods, inventory, or other property of the Company which are received by the [Customs Broker/Freight Forwarder/Carrier] for processing (collectively, the "Property"), and (ii) all Property, as applicable, such receipt and retention of possession being for the purpose of more fully perfecting and preserving the Agent's security interests in the Title Documents and the Property. The [Customs Broker/Freight Forwarder/Carrier] will maintain possession of the Title Documents and Property, as applicable, subject to the security interests of the Agent, and will note the security interests of the Agent on the [Customs Broker/Freight Forwarder/Carrier]'s books and records.

3. **Delivery of Title Documents. Release of Goods:** Until the [Customs Broker/Freight Forwarder/Carrier] receives written notification from the Agent pursuant to paragraph 4 below to the contrary the [Customs Broker/Freight Forwarder/Carrier] may deliver:

(a) the Title Documents to the [issuing carrier or to its agent (who shall act on the [Customs Broker/Freight Forwarder]'s behalf as the [Customs Broker/Freight Forwarder]'s sub−agent hereunder) for the purpose of permitting the Company, as consignee, to obtain possession or control of the Property subject to such Title Documents][2][Company or as otherwise directed by the Company][3]; and

(b) the Property as directed by the Company.

[1] Insert if used with a Freight Forwarder or Customs Broker, if applicable.
[2] Inserted if used with a Customs Broker or Carrier.
[3] Inserted if used with a Carrier.

4. **Notice From Agent To Follow Agent's Instructions:** Upon the [Customs Broker/Freight Forwarder/Carrier]'s receipt of written notification from the Agent, the [Customs Broker/Freight Forwarder/Carrier] shall thereafter follow solely the instructions of the Agent concerning the disposition of the Title Documents and the Property and will not follow any instructions of the Company or any other person concerning the same, unless, in each case, instructed otherwise by the Agent.

5. **Limited Authority:** The [Customs Broker/Freight Forwarder/Carrier]'s sole authority as the agent of the Agent is to receive and maintain possession of the Title Documents and Property on behalf of the Agent and to follow the instructions of the Agent as provided herein. Except as may be specifically authorized and instructed in writing by the Agent, the [Customs Broker/Freight Forwarder/Carrier] shall have no authority as the agent of the Agent to undertake any other action or to enter into any other commitments on behalf of the Agent.

6. **Expenses:** The Agent shall not be obligated to compensate the [Customs Broker/Freight Forwarder/Carrier] for serving as agent hereunder, nor shall the Agent be responsible for any fees, expenses, customs, duties, taxes, or other charges relating to the Title Documents or the Property. The [Customs Broker/Freight Forwarder/Carrier] acknowledges that the Company is solely responsible for payment of any compensation and charges which are to the Company's account. The Company is further responsible for paying any fees, expenses, customs duties, taxes, or other charges which are, or may accrue, to the account of the Property. The Agent, at its sole option, may authorize the [Customs Broker/Freight Forwarder/Carrier] to perform specified services on behalf of the Agent at mutually agreed to rates of compensation, which shall be to the Agent's account, and payable to the [Customs Broker/Freight Forwarder/Carrier] by the Agent; *provided, however*, that such payments shall not affect any obligations of the Company to reimburse the Agent for any such compensation or other costs or expenses incurred by the Agent as required by the Credit Agreement or any other Loan Document.

7. **Term**:

(a) In the event that the [Customs Broker/Freight Forwarder/Carrier] desires to terminate this Agreement, the [Customs Broker/Freight Forwarder/Carrier] shall furnish the Agent with sixty (60) days prior written notice of the [Customs Broker/Freight Forwarder/Carrier]'s intention to do so. During such 60 day period (which may be shortened by written notice to the [Customs Broker/Freight Forwarder/Carrier] by the Agent), the [Customs Broker/Freight Forwarder/Carrier] shall continue to serve as agent hereunder. The [Customs Broker/Freight Forwarder/Carrier] shall also cooperate with the Agent and execute all such documentation and undertake all such action as may be reasonably required by the Agent in connection with such termination.

(b) All notices given under this Agreement shall be delivered to the following addresses (or to such other addresses as may be provided to the other parties hereto via written notice) and shall be delivered via overnight currier or registered mail:

If to Agent:

Barclays Bank PLC, as Administrative Agent
745 Seventh Avenue
New York, NY 10019
Attention: Komal Ramkirath, Bank Debt Management
Electronic Mail: Komal.Ramkirath@barclays.com
and BDMABL@barclays.com

Attn:
Re: Mattress Firm, Inc.

If to [Customs Broker/Freight Forwarder/Carrier]

_____

_____

_____

(c) Except as provided in Section 7(a), above, this Agreement shall remain in full force and effect until the [Customs Broker/Freight Forwarder/Carrier] receives written notification from the Agent of the termination of the [Customs Broker/Freight Forwarder/Carrier]'s responsibilities hereunder.

8. **Customs Broker/Freight Forwarder/Carrier]'s Lien:** The [Customs Broker/Freight Forwarder/Carrier] hereby waives any lien, security interest, hypothecation or right of retention (whether arising by contract, statute or otherwise) it now has or hereafter may acquire on or in any Title Documents and Property. The [Customs Broker/Freight Forwarder/Carrier] certifies that it does not know of any security interest or other claim with respect to any of the Property other than the security interest in favor of the Agent which is the subject of this Agreement.

9. **Counterparts; Integration**. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement constitutes the entire agreement between the [Customs Broker/Freight Forwarder/Carrier] and Agent relating to the subject matter hereof and supersedes any and all contemporaneous or previous agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement shall become effective when it shall have been executed by the parties and when the Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic means shall be effective as delivery of a manually executed counterpart of this Agreement. No party hereto shall have any liability to any other party for any direct, incidental, special, consequential, punitive or exemplary damage, or damages for loss of profit, business or data, arising out of this Agreement or the matters contemplated hereunder.

10. **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

[*Signature Page Follows*]

EXHIBIT Q

If the foregoing correctly sets forth our understanding, please indicate the [Customs Broker/Freight Forwarder/Carrier]'s acknowledgment and agreement to the foregoing.

Very truly yours,

COMPANY:

[MATTRESS FIRM, INC.][LOAN PARTY]

By: _____
Name: _____
Title: _____

Agreed, Acknowledged and Accepted:

[CUSTOMS BROKER/FREIGHT FORWARDER/CARRIER]:

_____

By: _____
Name: _____
Title: _____

Acknowledged:

AGENT:

BARCLAYS BANK PLC

By: _____
Name:
Title:

EXHIBIT B

Term Loan Credit Agreement

$400,000,000
TERM LOAN CREDIT AGREEMENT

Dated as of [•], 2018,

among

MATTRESS FIRM, INC.,
as the Borrower,

MATTRESS HOLDING CORP.,
as Holdings,

THE PARENT GUARANTORS PARTY HERETO,

BARCLAYS BANK PLC,
as Administrative Agent and Collateral Agent,

and

THE OTHER LENDERS PARTY HERETO

_____

BARCLAYS BANK PLC,
as Sole Book Runner and Sole Lead Arranger

SCHEDULES

EXHIBITS

Exhibit A	-	Form of Assignment and Assumption
Exhibit B	-	Form of Term Loan Note
Exhibit C	-	Form of Notice of Borrowing
Exhibit D	-	[Reserved]
Exhibit E	-	[Reserved]
Exhibit F	-	Form of Notice of Conversion or Continuation
Exhibit G	-	Form of Guaranty
Exhibit H	-	Form of Security Agreement
Exhibit I	-	[Reserved]
Exhibit J	-	[Reserved]
Exhibit K	-	Intercompany Subordination Agreement
Exhibit L	-	Form of Solvency Certificate
Exhibit M	-	[Reserved]
Exhibit N	-	Forms of Non-Bank Certificates
Exhibit O	-	Form of Compliance Certificate
Exhibit P	-	[Reserved]
Exhibit Q	-	Form of Customs Broker Agreement

This TERM LOAN CREDIT AGREEMENT ("*Agreement*") is entered into as of [•], 2018, among MATTRESS FIRM, INC., a Delaware corporation (the "*Borrower*"), MATTRESS HOLDING CORP., a Delaware corporation ("*Holdings*"), the Parent Guarantors (as hereinafter defined) party hereto, BARCLAYS BANK PLC, as administrative agent (in such capacity, including any successor thereto, the "*Administrative Agent*") and as collateral agent (in such capacity, including any successor thereto, the "*Collateral Agent*") under the Loan Documents, and each lender from time to time party hereto (collectively, the "*Lenders*" and individually, a "*Lender*").

PRELIMINARY STATEMENTS

On the Closing Date, the Borrower requested that the Lenders extend credit to the Borrower in the form of Term Loan Commitments on the Closing Date in an initial aggregate principal amount of $400,000,000 pursuant to this Agreement.

The proceeds of Loans on the Closing Date were used, together with the Revolving Credit Loans (as hereinafter defined), (a) to fund amounts payable under the Chapter 11 Plan (as hereinafter defined), (b) to pay fees and expenses in connection with the Transactions (as hereinafter defined) and (c) for working capital and other general corporate purposes of the Borrower and its Subsidiaries.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS, INTERPRETATION AND ACCOUNTING TERMS

SECTION 1.1 Defined Terms.

As used in this Agreement, the following terms have the following meanings:

"*13 Week Cash Flow Forecast*" has the meaning specified in Section 7.1(h).

"*ABL/Term Intercreditor Agreement*" means that certain ABL/Term Intercreditor Agreement, dated as of [•], 2018 by and between the Administrative Agent and the Revolving Agent, as amended and in effect from time to time.

"*ABL Facility*" means the asset-based revolving credit facility made available to the Borrower and certain of its Subsidiaries pursuant to the ABL Loan Agreement.

"*ABL Lenders*" means "Lenders" as such term in defined in the ABL Loan Agreement.

"*ABL Loan Agreement*" means that certain ABL Credit Agreement, dated as of [•], 2018, among the Borrower, the lenders party thereto, the Revolving Agent, and the other parties thereto, as amended and in effect from time to time in accordance with the terms of the ABL/Term Intercreditor Agreement and any refinancing or replacement thereof in whole or in part (in accordance with the terms of the ABL/Term Intercreditor Agreement).

"*ABL Loan Documents*" means "Loan Documents" as such term in defined in the ABL Loan Agreement.

"*ABL Obligations*" means "Obligations" as such term in defined in the ABL Loan Agreement.

"*ABL Priority Collateral*" has the meaning given to such term in the ABL/Term Intercreditor Agreement.

"*Account*" has the meaning given to such term in Article 9 of the UCC.

"*Account Debtor*" has the meaning given to such term in Article 9 of the UCC.

"*Acquired Indebtedness*" means, with respect to any specified Person: (a) Indebtedness of any other Person existing at the time such other Person is merged, consolidated or amalgamated with or into or became a Restricted Subsidiary of such specified Person, (but excluding Indebtedness incurred in connection with, or in contemplation of, such other Person merging, amalgamating or consolidating with or into, or becoming a Restricted Subsidiary of, such specified Person), and (b) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person; *provided*, *however*, that any Lien securing Acquired Indebtedness (other than any purchase money Indebtedness with respect to real estate, equipment or other fixed assets or any Capitalized Lease) shall be junior to the Liens on the Collateral securing the Obligations and subject to a Customary Intercreditor Agreement.

"*Acquisition Facilities Agreement*" has the meaning specified in Section 4.1(o).

"*Additional Lender*" shall mean, at any time, any bank or other financial institution that agrees to provide any portion of any Term Commitment Increase or Incremental Term Facility pursuant to an Incremental Amendment in accordance with Section 2.15; provided that the relevant Persons under Section 12.2 shall have consented to such Additional Term Lender's making such Incremental Term Loans, if such consent would be required under Section 12.2 for an assignment of Loans to such Additional Term Lender.

"*Adjusted Eurocurrency Rate*" means, as to any Eurocurrency Rate Loan for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (a) the Eurocurrency Rate for such Interest Period divided by (b) one minus the Eurocurrency Reserve Percentage.

"*Administrative Agent*" has the meaning specified in the introductory paragraph to this Agreement.

"*Administrative Agent's Office*" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 12.8, or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

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

"*Affiliate*" means, with respect to any Person, another Person that directly or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "*Controlling*" and "*Controlled*" have meanings correlative thereto. For the avoidance of doubt, neither the Arranger, the Agents, nor their respective lending affiliates nor any Lender shall be deemed to be an Affiliate of Holdings, the Borrower or any of their respective Subsidiaries.

"*Agent Parties*" has the meaning specified in Section 12.8(d).

"*Agent-Related Distress Event*" means, with respect to the Administrative Agent, Collateral Agent, or any Person that directly or indirectly Controls the Administrative Agent or the Collateral Agent (each, a "*Distressed Agent-Related Person*"), a voluntary or involuntary case with respect to such Distressed Agent-Related Person under any Debtor Relief Law, or a custodian, conservator, receiver or similar official is appointed for such Distressed Agent-Related Person or any substantial part of such Distressed Agent-Related Person's assets, or such Distressed Agent-Related Person makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Distressed Agent-Related Person to be, insolvent or bankrupt; *provided* that an Agent-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any Equity Interests in the Administrative Agent, Collateral Agent, or any Person that directly or indirectly Controls the Administrative Agent or the Collateral Agent by a Governmental Authority or an instrumentality thereof.

"*Agent-Related Persons*" means the Agents, together with their respective Affiliates, and the officers, directors, employees, agents, attorney-in-fact, partners, trustees and advisors of such Persons and of such Persons' Affiliates.

"*Agents*" means, collectively, the Administrative Agent, the Collateral Agent, the Supplemental Administrative Agents (if any), and the Arranger.

"*Aggregate Commitments*" means the Term Loan Commitments of all the Lenders.

"*Agreement*" means this Term Loan Credit Agreement, as amended, restated, modified or supplemented from time to time in accordance with the terms hereof.

"*Agreement Currency*" has the meaning specified in Section 12.10.

"*Anti-Corruption Laws*" has the meaning specified in Section 5.18(b).

"*Applicable ECF Percentage*" means, for any Fiscal Year, (a) 50% if the Total Net Leverage Ratio as of the last day of such Fiscal Year is greater than 2.50:1.00 and (b) 25% if the Total Net Leverage Ratio as of the last day of such Fiscal Year is less than or equal to 2.50:1.00.

"*Applicable Indebtedness*" has the meaning specified in the definition of "Weighted Average Life to Maturity".

"*Applicable Percentage*" means with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of the Aggregate Commitments represented by such Lender's Term Loan Commitment at such time, subject to adjustment as provided in Section 2.16. If the commitment of each Lender to make Loans have been terminated pursuant to Section 10.2 or if the Aggregate Commitments have expired, then the Applicable Percentage of each Lender shall be determined based on the Applicable Percentage of such Lender most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule I or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

"*Applicable Rate*" means a percentage per annum equal to (a) with respect to Loans (other than Loans accruing PIK Interest), (i) for Eurocurrency Rate Loans, 10.00%, and (ii) for Base Rate Loans, 9.00% and (b) with respect to Loans accruing PIK Interest, (i) for Eurocurrency Rate Loans, 12.00%, and (ii) for Base Rate Loans, 11.00%.

"*Applicable Treasury Rate*" means the weekly average for each Business Day during the most recent week that has ended at least two Business Days prior to the Calculation Date of the yield to maturity at the time of computation of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (or, if such statistical release is not so published or available, any publicly available source of similar market data selected by the Borrower in good faith)) most nearly equal to the period from the redemption date to November [●], 2020; *provided*, *however*, that if the period from the redemption date to November [●], 2020 is not equal to the constant maturity of a United States Treasury security for which a yield is given, the Applicable Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the yields of United States Treasury securities for which such yields are given, except that if the period from the Calculation Date to such applicable date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year shall be used.

"*Appropriate Lender*" means, at any time, with respect to Loans of any Class, the Lenders of such Class.

"*Approved Account Bank*" means a financial institution at which the Borrower or a Guarantor maintains an Approved Deposit Account.

"*Approved Bank*" means any commercial bank that is organized under the Laws of the United States, any state thereof, the District of Columbia or any member nation of the Organization for Economic Cooperation and Development or is the principal banking Subsidiary of a bank holding company organized under the Laws of the United States, any state thereof, the District of Columbia or any member nation of the Organization for Economic Cooperation and Development, is a member of the Federal Reserve System and has combined capital and surplus of not less than $500,000,000 in the case of U.S. domestic banks and $100,000,000 (or the Dollar equivalent as of the date of determination) in the case of non-U.S. banks.

"*Approved Deposit Account*" means each Deposit Account in respect of which a Loan Party shall have entered into a Deposit Account Control Agreement.

"*Approved Fund*" means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

"*Approved Plan*" means the Chapter 11 Plan, the Confirmation Order and all other documents to be executed and/or delivered in connection with the implementation of the Chapter 11 Plan, in each case, to the extent on terms and conditions acceptable to the Administrative Agent.

"*Approved Securities Account*" means each Securities Account in respect of which the Borrower or any Subsidiary Guarantor shall have entered into a Securities Account Control Agreement.

"*Approved Securities Intermediary*" means a securities intermediary at which the Borrower or a Subsidiary Guarantor maintains an Approved Securities Account.

"*Arranger*" means Barclays Bank PLC.

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

"*Assignment and Assumption*" means an Assignment and Assumption substantially in the form of Exhibit A or any other form approved by the Administrative Agent.

"*Attorney Costs*" means all reasonable and documented or invoiced, fees, costs, expenses and disbursements of any law firm or other external legal counsel.

"*Attributable Indebtedness*" means, subject to the second paragraph of Section 1.3, on any date, in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with IFRS.

"*Back Stop Commitment Letter*" has the meaning specified in Section 4.1(w).

"*Back Stop Commitment Parties*" has the meaning specified in Section 4.1(w).

"*Bail-In Action*" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"*Bail-In Legislation*" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"*Bankruptcy Code*" means Title 11, U.S.C., as now or hereafter in effect, or any successor thereto.

"*Bankruptcy Court*" means the United States Bankruptcy Court for the District of Delaware.

"*Barclays*" means Barclays Bank PLC, acting in its individual capacity, and its successors and assigns.

"*Base Rate*" means a per annum rate equal to the greatest of (a) the Federal Funds Rate plus ½ of 1.00%, (b) the rate of interest last quoted by The Wall Street Journal as the "Prime Rate" in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent) and (c) the Eurocurrency Rate for a one month Interest Period plus 1.00%.

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

"*Basel III*" means, collectively, those certain agreements on capital requirements, leverage ratios and liquidity standards contained in "Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems," "Basel III: International Framework for Liquidity Risk Measurement, Standards and Monitoring," and "Guidance for National Authorities Operating the Countercyclical Capital Buffer," each as published by the Basel Committee on Banking Supervision in December 2010 (as revised from time to time).

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

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

"*Board of Directors*" means, for any Person, the board of directors or other governing body of such Person or, if such Person does not have such a board of directors or other governing body and is owned or managed by a single entity, the Board of Directors of such entity, or, in either case, any committee thereof duly authorized to act on behalf of such Board of Directors. Unless otherwise provided, "Board of Directors" means the Board of Directors of the Borrower.

"*Borrower*" has the meaning specified in the introductory paragraph to this Agreement.

"*Borrower Materials*" has the meaning specified in Section 7.2.

"*Borrowing*" means a borrowing consisting of Loans of the same Class and Type made, converted or continued on the same date and, in the case of Eurocurrency Rate Loans, having the same Interest Period.

"*Business Day*" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, in New

York City, New York and if such day relates to any interest rate settings as to a Eurocurrency Rate Loan, any fundings, disbursements, settlements and payments in respect of any such Eurocurrency Rate Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means any such day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurocurrency market.

"*Calculation Date*" has the meaning specified in Section 2.4.

"*Canadian Dollars*" means Canadian dollars, the lawful currency of Canada.

"*Capital Expenditures*" means, for any period, the aggregate of (a) all amounts that would be reflected as additions to property, plant or equipment on a consolidated statement of cash flows of the Borrower and its Restricted Subsidiaries in accordance with GAAP and (b) the value of all assets under Capitalized Leases incurred by the Borrower and its Restricted Subsidiaries during such period; *provided* that the term "Capital Expenditures" shall not include (i) expenditures made in connection with the replacement, substitution, restoration or repair of assets to the extent financed with (x) insurance proceeds paid on account of the loss of or damage to the assets being replaced, substituted, restored or repaired or (y) awards of compensation arising from the taking by eminent domain or condemnation of the assets being replaced, (ii) the purchase price of equipment that is purchased simultaneously with the trade-in of existing equipment to the extent that the gross amount of such purchase price is reduced by the credit granted by the seller of such equipment for the equipment being traded in at such time, (iii) the purchase of plant, property or equipment or software to the extent financed with the proceeds of Dispositions that are not required to be applied to prepay the Loans pursuant to Section 2.9(b), prepay the Revolving Credit Loans pursuant to Section 2.9 of the ABL Loan Agreement or make a mandatory prepayment under the terms of any other material Indebtedness, (iv) expenditures that are accounted for as capital expenditures by the Borrower or any Restricted Subsidiary and that actually are paid for, or reimbursed to the Borrower or any Restricted Subsidiary in cash or Cash Equivalents, by a Person other than the Borrower or any Restricted Subsidiary and for which neither the Borrower nor any Restricted Subsidiary has provided or is required to provide or incur, directly or indirectly, any consideration or obligation (other than rent) in respect of such expenditures to such Person or any other Person (whether before, during or after such period), (v) expenditures to the extent constituting any portion of a Permitted Acquisition, (vi) the purchase price of equipment purchased during such period to the extent the consideration therefor consists of any combination of (A) used or surplus equipment traded in at the time of such purchase and (B) the proceeds of a concurrent sale of used or surplus equipment, in each case, in the Ordinary Course of Business, (vii) expenditures relating to the construction, acquisition, replacement, reconstruction, development, refurbishment, renovation or improvement of any property which has been transferred to a Person other than the Borrower or a Restricted Subsidiary during the same Fiscal Year in which such expenditures were made pursuant to a Sale-Leaseback to the extent of the cash proceeds received by the Borrower or such Restricted Subsidiary pursuant to such Sale-Leaseback or (viii) expenditures financed with the proceeds of an issuance of Equity Interests of the Borrower or a capital contribution to the Borrower or Indebtedness permitted to be incurred hereunder.

"*Capitalized Lease Obligation*" means, subject to the second paragraph of Section 1.3, at the time any determination thereof is to be made, the amount of the liability in respect of a

Capitalized Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with IFRS.

"*Capitalized Leases*" means, subject to the second paragraph of Section 1.3, all leases that have been or are required to be, in accordance with IFRS, recorded as capitalized leases; *provided* that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability in accordance with IFRS.

"*Cash Equivalents*" means any of the following types of Investments, to the extent owned by the Parent Guarantors, Holdings, the Borrower or any Restricted Subsidiary:

(a) Dollars, pounds sterling, yen, Euros or Canadian Dollars;

(b) in the case of any Foreign Subsidiary that is a Restricted Subsidiary or any jurisdiction in which the Borrower or its Restricted Subsidiaries conducts business, such local currencies held by it from time to time in the Ordinary Course of Business and not for speculation;

(c) readily marketable direct obligations issued or directly and fully and unconditionally guaranteed or insured by the United States government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 12 months or less from the date of acquisition;

(d) certificates of deposit, time deposits and eurocurrency time deposits with maturities of 12 months or less from the date of acquisition, demand deposits, bankers' acceptances with maturities not exceeding 24 months and overnight bank deposits, in each case with any Approved Bank;

(e) repurchase obligations for underlying securities of the types described in clauses (c) and (d) above or clause (g) below entered into with any Approved Bank;

(f) commercial paper rated at least P-2 by Moody's or at least A-2 by S&P (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) and in each case maturing within 12 months after the date of acquisition thereof;

(g) marketable short-term money market and similar highly liquid funds having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

(h) readily marketable direct obligations issued by any state, commonwealth or territory of the United States or any political subdivision or taxing authority thereof, in each case having an Investment Grade Rating from either Moody's or S&P (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from

another nationally recognized statistical rating agency) with maturities of 12 months or less from the date of acquisition;

(i) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody's (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

(j) Investments, classified in accordance with IFRS as Consolidated Current Assets of the Parent Guarantors, Holdings, the Borrower or any Restricted Subsidiary, in money market investment programs which are registered under the Investment Company Act of 1940 or which are administered by an Approved Bank, and, in either case, the portfolios of which are limited such that substantially all of such Investments are of the character, quality and maturity described in clauses (a) through (i) of this definition; and

(k) investment funds investing substantially all of their assets in securities of the types described in clauses (a) through (j) above.

In the case of Investments by any Foreign Subsidiary that is a Restricted Subsidiary or Investments made in a country outside the United States, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (a) through (k) above of foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (ii) other short-term investments utilized by Foreign Subsidiaries that are Restricted Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (a) through (k) and in this paragraph.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clause (a) above, *provided* that such amounts are converted into Dollars as promptly as practicable and in any event within ten (10) Business Days following the receipt of such amounts.

"*Cash Management Obligations*" has the meaning specified in the ABL Loan Agreement.

"*Cash Management Services*" means any agreement or arrangement to provide cash management services, including treasury, depository, overdraft, credit card processing, credit or debit card, purchase card, electronic funds transfer and other cash management arrangements.

"*Cash Taxes*" means, with respect to any Test Period, all taxes paid or payable in cash by the Parent Guarantors, Holdings, the Borrower and its Restricted Subsidiaries during such period, including those paid by way of Restricted Payments pursuant to Section 9.6(g).

"*Casualty Event*" means any event that gives rise to the receipt by Holdings or any Restricted Subsidiary of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.

"*CFC*" means a "controlled foreign corporation" within the meaning of Section 957 of the Code.

"*CFC Holdco*" means any Domestic Subsidiary that has no material assets other than, directly or indirectly, equity interests (or equity interests and indebtedness) of one or more Foreign Subsidiaries that are CFCs or any other Domestic Subsidiary that itself is a CFC Holdco.

"*Change in Law*" means the occurrence after the date of this Agreement (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rules, guideline, requirement or directive (whether or not having the force of law) by any Governmental Authority; *provided*, *however*, that notwithstanding anything herein to the contrary (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder, issued in connection therewith or in implementation thereof and (ii) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case arising under clauses (i) or (ii) be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"*Change of Control*" means the earliest to occur of:

(a) (1) any Person (other than a Permitted Holder) or (2) Persons (other than one or more Permitted Holders) constituting a "group" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such person and its Subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), becomes the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of Equity Interests representing more than thirty-five percent (35%) of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Parent

(b) (1) Steinhoff Parent ceases to own, directly or indirectly, more than 25% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Parent, directly or indirection, such Equity Interests, or (2) Steinhoff Parent and the Permitted Holders cease to control, directly or indirectly, the Equity Interests of Parent required to be owned by Steinhoff Parent pursuant to clause (b)(1);

(c) Steinhoff Parent and the Permitted Holders cease to own and control, directly or indirectly, more than 50.1% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interest of Parent;

(d) Any person who is a Permitted Holder under clause (ii) of the definition thereof, (together with its Affiliates and any Person that is administered, advised or managed by (i) such Permitted Holder, (ii) an Affiliate of such Permitted Holder or (iii) an entity or an Affiliate of an entity that administers, advises or manages such Permitted Holder), becomes the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act) of or otherwise

controls, directly or indirectly, Equity Interests representing thirty-seven and a half percent (37.5%) or more of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Parent;

(e) Holdings (1) ceases to be an indirect wholly owned Subsidiary of Parent or (2) subject to Section 9.4(g), ceases to be a direct wholly owned Subsidiary of Mattress Holdco, Inc.;

(f) the Borrower ceases to be a direct wholly owned Subsidiary of Holdings;

(g) subject to Section 9.4(g), Mattress Holdco, Inc. ceases to be a direct wholly owned Subsidiary of Mattress Firm Holding Corp.;

(h) subject to Section 9.4(g), Mattress Firm Holding Corp ceases to be a direct wholly owned Subsidiary of Parent; or

(i) the occurrence of a Change of Control (as defined in the Term Loan Agreement or the Stripes PIK Facility) shall have occurred.

"*Chapter 11 Cases*" means the cases administered under the capital *In re Mattressfirm, Inc., et al.*, Case No. 18-12241.

"*Chapter 11 Debtors*" has the meaning specified in Section 4.1(k).

"*Chapter 11 Plan*" means the Joint Prepackaged Chapter 11 Plan of Reorganization for Mattress Firm, Inc., and its debtor affiliates, filed with the Bankruptcy Court on or about October 5, 2018, as amended, supplemented or otherwise modified from time to time.

"*Class*" means (i) with respect to Term Loan Commitments or Loans, those of such Term Loan Commitments or Loans that have the same terms and conditions (without regard to differences in the Type of Loan, Interest Period, upfront fees, OID or similar fees paid or payable in connection with such Term Loan Commitments or Loans, or differences in tax treatment (e.g., "fungibility")); *provided* that such Term Loan Commitments or Loans may be designated in writing by the Borrower and Lenders holding such Term Loan Commitments or Loans as a separate Class from other Term Loan Commitments or Loans that have the same terms and conditions and (ii) with respect to Lenders, those of such Lenders that have Term Loan Commitments or Loans of a particular Class.

"*Closing Date*" means the first date on which all the conditions precedent in Section 4.1 are satisfied or waived in accordance with Section 12.1, which date is November [•], 2018.

"*Code*" means the U.S. Internal Revenue Code of 1986, as amended from time to time.

"*Collateral*" means all the "Collateral" (or equivalent term) as defined in any Collateral Document and shall include the Mortgaged Properties.

"*Collateral Access Agreement*" means an agreement reasonably satisfactory in form and substance to the Administrative Agent executed by, as the case may be, (a) a bailee or other

Person in possession of Collateral, and (b) any landlord of any premises leased by any Loan Party, pursuant to which such Person (i) acknowledges the Collateral Agent's Lien on the Collateral, (ii) releases or subordinates such Person's Liens in the Collateral held by such Person or located on such premises, (iii) agrees to provide the Collateral Agent with access to the Collateral held by such bailee or other Person or located in or on such premises for the purpose of conducting field examinations, appraisals or Liquidation and (iv) makes such other agreements with the Collateral Agent as the Administrative Agent may reasonably require.

"*Collateral Agent*" has the meaning specified in the introductory paragraph to this Agreement.

"*Collateral and Guarantee Requirement*" means, at any time, the requirement that:

(a) the Collateral Agent shall have received each Collateral Document required to be delivered on the Closing Date pursuant to Section 4.1(a)(iv) or pursuant to Section 8.11, Section 8.12 or Section 8.13 at such time, subject, in each case, to the limitations and exceptions of this Agreement and the Collateral Documents, duly executed by each Loan Party thereto;

(b) all Obligations (other than, with respect to any Guarantor, any Excluded Swap Obligations of such Guarantor) shall have been unconditionally guaranteed by (i) Holdings and each Restricted Subsidiary of the Borrower that is a wholly owned Material Domestic Subsidiary and not an Excluded Subsidiary including those Subsidiaries that are listed on Schedule II hereto (each, a "*Guarantor*"), (ii) any Subsidiary of the Borrower that Guarantees any Indebtedness incurred by the Borrower pursuant to any Junior Financing (or any Permitted Refinancing thereof) shall be a Guarantor hereunder and (iii) the Parent Guarantors and each entity that becomes a Subsidiary of any of the Parent Guarantors after the Closing Date and is a direct, or indirect, parent of the Borrower;

(c) the Obligations and the Guaranty shall have been secured by a first-priority security interest (subject to Liens permitted by Section 9.1 and the terms of the ABL/Term Intercreditor Agreement) in (i) all the Equity Interests of the Borrower, (ii) all Equity Interests of each Restricted Subsidiary that is a Domestic Subsidiary or a Foreign Subsidiary (other than a Restricted Subsidiary described in the following clause (iii)(A) or clause (iii)(B)) that is directly owned by the Borrower or any Subsidiary Guarantor, (iii) 65% of the issued and outstanding Equity Interests directly owned by the Borrower or by any Subsidiary Guarantor of (A) each Restricted Subsidiary that is a CFC Holdco and (B) each Restricted Subsidiary that is a CFC and (iv) all Equity Interests of the Parent (on a non-recourse basis) and each Parent Guarantor and Holdings;

(d) except to the extent otherwise provided hereunder, including subject to Liens permitted by Section 9.1, or under any Collateral Document, the Obligations and the Guaranty shall have been secured by a (x) perfected first-priority security interest in all Term Priority Collateral and (y) perfected second-priority security interest in all ABL Priority Collateral, in each case subject to exceptions and limitations otherwise set forth in this Agreement, the ABL/Term Intercreditor Agreement and the Collateral Documents;

(e) the Collateral Agent shall have received (i) counterparts of a Mortgage with respect to each Material Real Property listed on Schedule 1.1D or required to be delivered pursuant to Sections 8.11 and 8.13(a)(ii) (the "*Mortgaged Properties*") duly executed and delivered by the record owner of such property, (ii) a policy or policies of title insurance issued by a nationally recognized title insurance company insuring the Lien of each such Mortgage as a valid Lien on the property described therein (the "*Mortgage Policies*"), free of any other Liens except as expressly permitted by Section 9.1, together with such endorsements, coinsurance and reinsurance as the Collateral Agent may reasonably request, (iii) surveys sufficient for the title insurance company to remove all standard survey exceptions from the title insurance policy relating to each Mortgaged Property and issue survey-related endorsements to the extent available and reasonably requested by the Collateral Agent, (iv) such existing abstracts and appraisals and such customary legal opinions and other documents as the Collateral Agent may reasonably request with respect to any such Mortgaged Property and (v) a completed "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination with respect to each Mortgaged Property (together with a notice about special flood hazard area status and flood disaster assistance duly executed by the Borrower and the applicable Loan Party relating thereto if any improvements on such Mortgaged Property are located in an area designated as a "special flood hazard area") and evidence of flood insurance in such total amount as the Administrative Agent, the Collateral Agent or the Requisite Lenders may from time to time reasonably require and in any event no less than the amount required by Flood Insurance Laws, if at any time the area in which any improvements located on any Mortgaged Property is designated a "special flood hazard area" in any Flood Insurance Rate Map published by the Federal Emergency Management Agency (or any successor agency), and otherwise comply with the Flood Insurance Laws; and

(f) unless otherwise agreed by the Administrative Agent, the Requisite Lenders and the Borrower, any assets that secure the ABL Obligations shall also be Collateral for the Obligations.

The foregoing definition shall not require the creation or perfection of pledges of or security interests in, or the obtaining of title insurance, surveys, abstracts or appraisals or taking other actions with respect to any Excluded Assets.

The Collateral Agent may grant extensions of time for the perfection of security interests in or the obtaining of title insurance and surveys with respect to particular assets (including extensions beyond the Closing Date for the perfection of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that perfection cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents. Notwithstanding any provision of any Loan Document to the contrary, if a mortgage tax or any similar Tax or charge will be owed on the entire amount of the Obligations evidenced hereby, then the amount secured by the applicable Mortgage shall be limited to 100% of the fair market value of the Mortgaged Property at the time the Mortgage is entered into if such limitation results

in such mortgage tax or similar Tax or charge being calculated based upon such fair market value.

No actions in any non-U.S. jurisdiction or required by the Laws of any non-U.S. jurisdiction shall be required in order to create any security interests in assets located or titled outside of the U.S. or to perfect such security interests, including any intellectual property registered in any non-U.S. jurisdiction (it being understood that there shall be no security agreements or pledge agreements governed under the Laws of any non-U.S. jurisdiction). No actions shall be required with respect to Collateral requiring perfection through control agreements or perfection by "control" (as defined in the UCC) or possession, other than in respect of (i) certificated Equity Interests of the Parent Guarantors, any Guarantors, Holdings, Borrower and Restricted Subsidiaries that are required to be pledged pursuant to the provisions of clause (c) of this definition of "Collateral and Guarantee Requirement" and not otherwise constituting an Excluded Asset, (ii) Pledged Debt to the extent required to be delivered to the Administrative Agent or Collateral Agent pursuant to the terms of the Security Agreement and (iii) Deposit Account Control Agreements and Securities Account Control Agreements to the extent required pursuant to Section 8.12; *provided* that none of the Indebtedness incurred under Junior Financing (or any Permitted Refinancing thereof) shall be secured by any asset or property that is not Collateral. Notwithstanding the foregoing, the granting of control or possession to the Revolving Agent in respect of ABL Priority Collateral shall satisfy any requirement hereunder for any Agent to have possession or control of such Collateral. Notwithstanding the foregoing so long as the Revolving Agent is acting as bailee for perfection for Collateral Agent under the ABL/Term Intercreditor Agreement, the granting of control or possession to the Revolving Agent in respect of ABL Priority Collateral (other than Deposit Account Control Agreement and Securities Accounts Control Agreements) shall satisfy any requirement hereunder for any Agent to have possession or control of such Collateral.

"*Collateral Documents*" means, collectively, the Security Agreement, the Intellectual Property Security Agreements, the Mortgages, each of the collateral assignments, Security Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Agents and the Lenders pursuant to Section 4.1(a)(iv), Section 8.11, Section 8.12 or Section 8.13, the Guaranty, each Lien Acknowledgment Agreement and each of the other agreements, instruments or documents that creates or purports to create a Lien or Guarantee in favor of the Collateral Agent for the benefit of the Secured Parties.

"*Commitment Letter*" means the Exit Facilities Commitment Letter, dated as of October 4, 2018, between Barclays Bank PLC, in its capacity as Arranger, the Borrower, Holdings and the other Loan Parties party thereto, as amended, amended and restated, supplemented or otherwise modified prior to the Closing Date.

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

"*Common Equity*" shall mean [ ].

"*Compliance Certificate*" means a certificate substantially in the form of Exhibit O and which certificate shall in any event be a certificate of a Financial Officer (a) certifying as to

whether a Default has occurred and is continuing and, if applicable, specifying the details thereof and any action taken or proposed to be taken with respect thereto, and (b) setting forth a reasonably detailed calculation of Minimum Liquidity, the Total Net Leverage Ratio and the Minimum Consolidated EBITDA for the most recently completed Test Period.

"*Confirmation Order*" means an order, in form and substance satisfactory to the Administrative Agent, entered by the Bankruptcy Court confirming the Chapter 11 Plan.

"*Consolidated Current Assets*" means, as at any date of determination, the total assets of the Borrower and the Restricted Subsidiaries on a consolidated basis that may properly be classified as current assets in conformity with IFRS, excluding cash and Cash Equivalents, amounts related to current or deferred taxes based on income or profits, assets held for sale, loans (permitted) to third parties, pension assets, deferred bank fees and derivative financial instruments, and excluding the effects of adjustments pursuant to IFRS resulting from the application of recapitalization accounting or acquisition accounting, as the case may be, in relation to the Transaction or any consummated acquisition.

"*Consolidated Current Liabilities*" means, as at any date of determination, the total liabilities of the Borrower and the Restricted Subsidiaries on a consolidated basis that may properly be classified as current liabilities in conformity with IFRS, excluding (A) the current portion of any Funded Debt and derivative financial instruments, (B) the current portion of accrued interest, (C) accruals for current or deferred taxes based on income or profits, (D) accruals of any costs or expenses related to restructuring reserves, (E) revolving loans, swingline loans and letter of credit obligations under the ABL Loan Agreement or any other revolving credit facility, (F) the current portion of any Capitalized Lease Obligation, (G) deferred revenue arising from cash receipts that are earmarked for specific projects, (H) liabilities in respect of unpaid earn-outs and (I) the current portion of any other long-term liabilities, and, furthermore, excluding the effects of adjustments pursuant to IFRS resulting from the application of recapitalization accounting or acquisition accounting, as the case may be, in relation to the Transaction or any consummated acquisition.

"*Consolidated Depreciation and Amortization Expense*" means, with respect to any Person for any period, the total amount of depreciation and amortization expense of such Person, including the amortization of intangible assets and deferred financing fees or costs for such period on a consolidated basis and otherwise determined in accordance with IFRS.

"*Consolidated EBITDA*" means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period:

(a) except with respect to clauses (vi), (viii) and (xiii) below, to the extent deducted (and not added back or excluded) in arriving at Consolidated Net Income, increased by (without duplication):

(i) provision for taxes based on income or profits or capital, plus franchise or similar taxes and foreign withholding taxes, including penalties and interest related to such taxes or arising from any tax examinations, of such Person for such period, plus

(ii) (A) total interest expense of such Person for such period and (B) bank fees and costs of surety bonds, plus

(iii) Consolidated Depreciation and Amortization Expense of such Person for such period, plus

(iv) any other non-cash expenses, charges and losses (including reserves, impairment charges or asset write-offs, write-offs of deferred financing fees, losses from investments recorded using the equity method, stock-based awards compensation expense) for such period (*provided* that if any such non-cash charges represent an accrual or reserve for potential cash items in any future period, (1) the Borrower may determine not to add back such non-cash charge in the current period and (2) to the extent the Borrower does decide to add back such non-cash charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period), plus

(v) the amount of any minority interest expense deducted in calculating Consolidated Net Income, plus

(vi) the amount of net cost savings, operating expense reductions and synergies, including revenue synergies, related to mergers and other business combinations, acquisitions, divestitures, restructurings, Store closings, cost savings initiatives, new or negotiated supplier relationships, net contributions from merchandising improvements (which shall be annualized when calculating Consolidated EBITDA), and other initiatives, in each case with respect to all items pursuant to this clause (vi) including those arising out of or related to the implementation of the terms of, requirements of, or actions promulgated by, the Chapter 11 Plan that are reasonably identifiable, factually supportable and projected by the Borrower in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Borrower) no later than 12 months after the occurrence of such merger, other business combination, acquisition, divestiture, restructuring, cost savings initiative or other initiative or after the Closing Date (calculated on a pro forma basis as though such cost savings, operating expense reductions and synergies had been realized on the first day of the period for which Consolidated EBITDA is being determined), net of the amount of actual benefits realized during such period from such actions; *provided* that the aggregate amount of add backs added pursuant to this clause (vi) for any period, when added to the aggregate amount of add backs made pursuant to Section 1.9(d), shall not exceed the greater of (x) $[75,000,000] and (y) 30% of Consolidated EBITDA for such period (prior to giving effect to any such adjustment(s)),[1] plus

[1] NTD: Cap under review.

(vii) [reserved], plus

(viii) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not representing Consolidated EBITDA or Consolidated Net Income in any period to the extent non-cash gains relating to such income were deducted in the calculation of Consolidated EBITDA pursuant to paragraph (b) below for any previous period and not added back, plus

(ix) any costs or expenses incurred by the Borrower or a Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or stockholders agreement, to the extent that such costs or expenses are funded with cash proceeds contributed to the capital of the Borrower or net cash proceeds of issuance of Equity Interests of the Borrower (other than Disqualified Equity Interests), plus

(x) (1) Board of Directors expenses and (2) reimbursement of expenses paid in compliance with Section 9.8(g)(i), plus

(xi) restructuring costs (including restructuring costs related to acquisitions and to closure of facilities, and excess pension charges) and reserves, duplicative running costs, transition costs, pre-opening, opening, closing and consolidation costs for Stores (including landlord buy-outs), signing, retention and completion bonuses, costs associated with preparations for and implementation of compliance with the requirements of the Sarbanes Oxley Act of 2002 and other Public Company Costs, costs incurred in connection with any strategic initiatives, transition costs, costs incurred in connection with acquisitions and nonrecurring product and intellectual property development, other business optimization expenses (including costs and expenses relating to business optimization programs and new systems design, retention charges, systems establishment costs (including information technology systems) and implementation costs); provided that this clause (xi) shall include any of the foregoing which arise out of or relate to the implementation of the terms of, the requirements of, or actions promulgated by, the Chapter 11 Plan (including the lease rejection payments required to be made under section 502(b)(6) of the Bankruptcy Code) but only to the extent (in the case of this proviso) such costs, expenses, changes or reserves are incurred or implemented within six (6) months following the Closing Date, plus

(xii) any net loss from operations expected to be disposed or discontinued within twelve months after the end of such period, plus

(xiii) [reserved], plus

(xiv) any non-cash losses in such period with respect to reserves recorded in prior periods for Onerous Lease Reserves and Purchase Price Adjustments (as each such term is defined in accordance with IFRS),

(b) decreased by (without duplication):

(i) any non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any gains that represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period (other than such cash charges that have been added back to Consolidated Net Income in calculating Consolidated EBITDA in accordance with this definition), plus

(ii) any non-cash gains with respect to cash actually received in a prior period unless such cash did not increase Consolidated EBITDA in such prior period, plus

(iii) any net gain from operations expected to be disposed or discontinued within twelve months after the end of such period, plus

(iv) any non-cash gains in such period with respect to reserves recorded in prior periods for Onerous Lease Reserves and Purchase Price Adjustments (as each such term is defined in accordance with IFRS),

Notwithstanding anything to the contrary contained herein, for purposes of determining Consolidated EBITDA under this Agreement for any period that includes any of the fiscal quarters ended on or about January 2, 2018, April 3, 2018, July 3, 2018 and October 21, 2018, Consolidated EBITDA for such fiscal quarters shall be $(59,175,200), $(89,540,600), $(53,220,800), and $17,578,400, respectively, in each case, as may be subject to addbacks and adjustments (without duplication) for the applicable Test Period pursuant clause (vi) of the definition of "Consolidated EBITDA" and Section 1.9(d).[2]

"*Consolidated Net Cash Interest Expense*" means, for any period, the sum, without duplication, of

(i) the cash interest expense (including that attributable to Capitalized Leases), net of cash interest income, of the Parent Guarantors, Holdings, the and its Restricted Subsidiaries, determined on a consolidated basis in accordance with IFRS, with respect to all outstanding Indebtedness of the Borrower and its Restricted Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing and net cash costs under Swap Contracts, and

(ii) any cash payments made during such period in respect of obligations referred to in clause (b) below relating to Funded Debt that were amortized or accrued in a previous period;

provided that there shall be excluded from Consolidated Net Cash Interest Expense for any period:

[2] Company cannot annualize EBITDA as was suggested by LW because revenue is too lumpy.

(a) deferred financing costs, debt issuance costs, commissions, fees (including amendment and contract fees) and expenses and, in each case, the amortization thereof, and any other amounts of non-cash interest,

(b) the accretion or accrual of discounted liabilities and any prepayment premium or penalty during such period,

(c) non-cash interest expense attributable to the movement of the mark-to-market valuation of obligations under Swap Contracts or other derivative instruments pursuant to FASB Accounting Standards Codification 815,

(d) any cash costs associated with breakage in respect of hedging agreements for interest rates,

(e) all non-recurring cash interest expense consisting of liquidated damages for failure to timely comply with registration rights obligations and financing fees, all as calculated on a consolidated basis in accordance with IFRS,

(f) Transaction Expenses,

(g) annual agency fees paid to the Administrative Agent,

(h) costs associated with obtaining Swap Contracts,

(i) any expense resulting from the discounting of any Indebtedness in connection with the application of recapitalization accounting or, if applicable, acquisition accounting in connection with the Transaction or any acquisition, and

(j) the cash interest expense (or income) of all Unrestricted Subsidiaries for such period to the extent otherwise included in Consolidated Net Cash Interest Expense.

Notwithstanding anything to the contrary contained herein, for purposes of determining Consolidated Net Cash Interest Expense for any period ending prior to the first anniversary of the Closing Date, Consolidated Net Cash Interest Expense shall (i) be an amount equal to actual Consolidated Net Cash Interest Expense from the Closing Date through the date of determination multiplied by a fraction the numerator of which is 365 and the denominator of which is the number of days from the Closing Date through the date of determination and (ii) exclude the acquisition accounting effects described in clause (c) of the definition of Consolidated Net Income.

"*Consolidated Net Income*" means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with IFRS; *provided, however*, that, without duplication,

(a) any net after-tax extraordinary, non-recurring or unusual gains or losses (including all fees and expenses relating thereto), Transaction Expenses, expenses in connection with the ABL Loan Documents, relocation costs, integration costs, facility

consolidation and closing costs (other than with respect to Stores), severance costs and expenses and one-time compensation charges, shall be excluded,

(b) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period, whether effected through a cumulative effect adjustment or a retroactive application in each case in accordance with IFRS,

(c) effects of adjustments (including the effects of such adjustments pushed down to the Parent Guarantors, Holdings, the Borrower and the Restricted Subsidiaries) in such Person's consolidated financial statements pursuant to IFRS (including in the inventory, property and equipment, software, goodwill, intangible assets, in-process research and development, deferred revenue and debt line items thereof) resulting from the application of recapitalization accounting or acquisition accounting, as the case may be, in relation to the Transaction or any consummated acquisition or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded,

(d) (i) any net after-tax income (loss) from disposed or discontinued operations and (ii) any net after-tax gains or losses on disposal of disposed, or discontinued operations, in each case, other than any after-tax income (loss) or after-tax gains or losses resulting from the closing of Stores, shall be excluded,

(e) any net after-tax gains or losses (less all fees and expenses relating thereto) attributable to asset dispositions or the sale or other disposition of any Equity Interests of any Person other than in the Ordinary Course of Business, as determined in good faith by the Borrower, shall be excluded,

(f) the Net Income for such period of any Person that is an Unrestricted Subsidiary shall be excluded; *provided* that Consolidated Net Income of the Parent shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash or Cash Equivalents (or to the extent converted into cash or Cash Equivalents) to the referent Person or a Restricted Subsidiary thereof in respect of such period,

(g) [reserved],

(h) (i) any net unrealized gain or loss (after any offset) resulting in such period from obligations in respect of Swap Contracts and the application of Financial Accounting Standards Board Accounting Standards Codification 815 (Derivatives and Hedging), (ii) any net gain or loss resulting in such period from currency translation gains or losses related to currency remeasurements of Indebtedness (including the net loss or gain (A) resulting from Swap Contracts for currency exchange risk and (B) resulting from intercompany Indebtedness) and all other foreign currency translation gains or losses to the extent such gain or losses are non-cash items, and (iii) any net after-tax income (loss) for such period attributable to the early extinguishment or conversion of (A) Indebtedness, (B) obligations under any Swap Contracts or (C) other derivative instruments, shall be excluded,

(i) any impairment charge or asset write-off, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case pursuant to IFRS, and the amortization of intangibles arising pursuant to IFRS shall be excluded,

(j) any expenses, charges or losses that are covered by indemnification or other reimbursement provisions in connection with any Investment, Permitted Acquisition or any sale, conveyance, transfer or other disposition of assets permitted under this Agreement, to the extent actually reimbursed, or, so long as the Borrower has made a determination that a reasonable basis exists for indemnification or reimbursement and only to the extent that such amount is in fact indemnified or reimbursed within 365 days of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so indemnified or reimbursed within such 365 days), shall be excluded,

(k) to the extent covered by insurance and actually reimbursed, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed within 365 days of the date of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so reimbursed within such 365 days), expenses, charges or losses with respect to liability or casualty events or business interruption shall be excluded,

(l) any non-cash (for such period and all other periods) compensation charge or expense, including any such charge or expense arising from the grants of stock appreciation or similar rights, stock options, restricted stock or other rights or equity incentive programs shall be excluded, and any cash charges associated with the rollover, acceleration or payout of Equity Interests by, or to, management of the Parent Guarantors, Holdings, the Borrower or any of its Restricted Subsidiaries in connection with the Transaction, shall be excluded,

(m) earn-out and contingent consideration obligations (including to the extent accounted for as bonuses or otherwise) and adjustments thereof and purchase price adjustments shall be excluded,

(n) any fees and expenses incurred during such period (including, without limitation, any premiums, make-whole or penalty payments), or any amortization thereof for such period, in connection with any acquisition, investment, asset disposition, issuance or repayment of debt, issuance of equity securities, refinancing transaction or amendment or other modification of any debt instrument (in each case, including any such transaction consummated on or prior to the Closing Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction, in each case whether or not successful (including, for the avoidance of doubt the effects of expensing all transaction related expenses in accordance with FASB Accounting Standards Codification 805 and gains or losses associated with FASB Accounting Standards Codification 460) shall be excluded, and

(o) any expenses, charges or losses resulting from payments to, or on behalf of, holders of Equity Interests of Holdings (or any direct or indirect parent thereof) with respect to customary fees and expenses incurred by such holders in connection with any secondary offering of Equity Interests of Holdings (or any direct or indirect parent thereof) shall be excluded.

"*Consolidated Total Debt*" means, as of any date of determination, the aggregate principal amount of Indebtedness of the Parent Guarantors, Holdings, the Borrower and the Restricted Subsidiaries outstanding on such date, in an amount that would be reflected on a balance sheet prepared as of such date on a consolidated basis in accordance with IFRS (but excluding the effects of any discounting of Indebtedness resulting from the application of acquisition accounting in connection with the Transaction, any Permitted Acquisition or any other Investment permitted hereunder), consisting of Indebtedness for borrowed money, Attributable Indebtedness, and all Guarantees of Indebtedness of such type that is owed by a Person that is not the Parent Guarantors, Holdings, the Borrower or a Restricted Subsidiary; *provided* that Consolidated Total Debt shall not include Indebtedness in respect of (i) any letter of credit, except to the extent of unreimbursed obligations in respect of drawn letters of credit (*provided* that any unreimbursed amount under commercial letters of credit shall not be counted as Consolidated Total Debt until three (3) Business Days after such amount is drawn (it being understood that any borrowing, whether automatic or otherwise, to fund such reimbursement shall be counted)) and (ii) obligations under Swap Contracts.

"*Consolidated Working Capital*" means, as of any date of determination, the excess of Consolidated Current Assets over Consolidated Current Liabilities.

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

"*Credit Card Agreements*" means all agreements now or hereafter entered into by the Borrower or any Guarantor for the benefit of the Borrower or a Subsidiary Guarantor, in each case with any Credit Card Issuer or any Credit Card Processor, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, including, but not limited to, the agreements set forth on Schedule 1.1E to the ABL Loan Agreement.

"*Credit Card Issuer*" means any Person (other than the Borrower or a Guarantor) who issues or whose members issue credit cards, including MasterCard or VISA bank credit or debit cards or other bank credit or debit cards issued through MasterCard International, Inc., Visa, U.S.A., Inc. or Visa International and American Express, Discover, Diners Club, Carte Blanche and other non-bank credit or debit cards, including credit or debit cards issued by or through American Express Travel Related Services Company, Inc., Novus Services, Inc. and the Mattress Firm Card.

"*Credit Card Processor*" means any servicing or processing agent or any factor or financial intermediary, in each case, other than a Credit Card Issuer, who facilitates, services, processes or manages the credit authorization, billing transfer and/or payment procedures with

respect to the Borrower's or any Guarantor's sales transactions involving credit card or debit card purchases by customers using credit cards or debit cards issued by any Credit Card Issuer.

"*Credit Extension*" means any Borrowing.

"*Cure Amount*" has the meaning specified in Section 10.4(b).

"*Customary Intercreditor Agreement*" means an intercreditor agreement executed in connection with the incurrence of Indebtedness secured by Liens on the Collateral which (a) are intended to rank junior to the Liens on the Collateral securing the Obligations or (b) with respect to Liens incurred pursuant to Section 9.1(y), which are intended to rank senior to or pari passu with the Liens on the Term Priority Collateral, in each case, in form and substance reasonably acceptable to the Administrative Agent which agreement shall provide that (i) the Liens on the Collateral securing such Indebtedness shall rank junior to the Liens on the Collateral securing the Obligations or (ii) the Liens on the Term Priority Collateral securing such Indebtedness shall rank senior or junior to or pari passu with the Liens on the Term Priority Collateral, as the case may be.

"*Customs Broker Agreement*" means an agreement in substantially the form attached hereto as Exhibit Q (or such other form as may be reasonably satisfactory to the Administrative Agent) among a Loan Party, a customs broker, freight forwarder or other carrier, and the Collateral Agent, in which the customs broker, freight forwarder or other carrier acknowledges that it has control over and holds the documents evidencing ownership of, or other shipping documents relating to, the subject Inventory or other property for the benefit of the Collateral Agent, and agrees, upon notice from the Collateral Agent (which notice shall be delivered only upon the occurrence and during the continuance of an Event of Default), to hold and dispose of the subject Inventory and other property solely as directed by the Collateral Agent.

"*Debtor Relief Laws*" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

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

"*Default Rate*" means an interest rate equal to (a) the Base Rate plus (b) the Applicable Rate applicable to Base Rate Loans plus (c) 2.0% per annum; *provided* that with respect to the outstanding principal amount of any Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan (giving effect to Section 2.11) plus 2.0% per annum, in each case, to the fullest extent permitted by applicable Laws.

"*Defaulting Lender*" means, subject to Section 2.16(b), any Lender that, as determined by the Administrative Agent, (a) has failed to perform any of its funding obligations hereunder, including in respect of its Loans, within three (3) Business Days of the date required to be funded

by it hereunder, (b) has notified the Borrower or the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by the Administrative Agent, to confirm in a manner satisfactory to the Administrative Agent that it will comply with its funding obligations (*provided* that any Lender that has failed to give such timely confirmation shall cease to be a Defaulting Lender under this clause (c) upon receipt of such confirmation by the Administrative Agent), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, (iii) become the subject of a Bail-In Action or (iv) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority.[3]

"*Deposit Account*" means any checking or other demand deposit account maintained by the Loan Parties, including any "deposit accounts" under Article 9 of the UCC. All funds in such Deposit Accounts shall be conclusively presumed to be Collateral and proceeds of Collateral and the Agent and the Lenders shall have no duty to inquire as to the source of the amounts on deposit in the Deposit Accounts, subject to the Security Agreement.

"*Deposit Account Control Agreement*" has the meaning specified in Section 8.12(a).

"*Designated Non-Cash Consideration*" means the fair market value of non-cash consideration received by the Borrower or a Restricted Subsidiary in connection with a Disposition pursuant to Section 9.5(j) that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer, setting forth the basis of such valuation (which amount will be reduced by the fair market value of the portion of the non-cash consideration converted to cash within one-hundred eighty (180) days following the consummation of the applicable Disposition).

"*DIP ABL Credit Agreement*" means that certain Senior Secured Super-Priority Debtor-In-Possession ABL Credit Agreement dated as of October 10, 2018 among the Borrower, the lenders party thereto, Barclays Bank PLC, as administrative agent and collateral agent, and the other parties thereto, as amended and in effect prior to the Closing Date.

"*DIP Term Loan Agreement*" means that certain Senior Secured Super-Priority Debtor-In-Possession Term Loan Credit Agreement dated as of October 10, 2018 among the Borrower, the lenders party thereto, Barclays Bank PLC, as administrative agent and collateral agent, and the other parties thereto, as amended and in effect prior to the Closing Date.

"*Disclosure Statement*" shall mean that certain Disclosure Statement of the debtors under the Chapter 11 Plan filed with the Bankruptcy Court on October 4, 2018, as may be amended, supplemented or otherwise modified from time to time.

[3] Needed for incremental.

"*Disposition*" or "*Dispose*" means the sale, transfer, license, lease or other disposition (including any Sale-Leaseback, any sale or issuance of Equity Interests in a Restricted Subsidiary and, for the avoidance of doubt, by allocation of assets by division or allocation of assets to any series of a limited liability company that constitutes a separate legal entity or Person, as specified in Section 1.2(g)) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith. For purposes of determining whether Disposition meets any threshold under this Agreement, to the extent such Dispositions is part of a series of related Dispositions, such series of related Dispositions shall be taken into account.

"*Disqualified Equity Interests*" means any Equity Interest that, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) obligations under Secured Hedge Agreements) that are accrued and payable and the termination of the Term Loan Commitments), (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests and other than as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) obligations under Secured Hedge Agreements) that are accrued and payable and the termination of the Term Loan Commitments), in whole or in part, (c) provides for the scheduled payments of dividends in cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is ninety-one (91) days after the Latest Maturity Date at the time of issuance of such Equity Interests; *provided* that if such Equity Interests are issued pursuant to a plan for the benefit of future, current or former employees, directors, officers, members of management or consultants of Holdings (or any direct or indirect parent thereof), the Borrower or the Restricted Subsidiaries or by any such plan to such employees, directors, officers, members of management or consultants, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be permitted to be repurchased by the Borrower or its Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's, director's, officer's, management member's or consultant's termination of employment or service, as applicable, death or disability.

"*Disqualified Institutions*" means those Persons (the list of all such Persons, the "*Disqualified Institutions List*") that are (i) identified in writing by the Borrower to the Arranger prior to October 4, 2018, (ii) competitors of the Borrower and its Subsidiaries (other than bona fide fixed income investors or debt funds) that are identified in writing by the Borrower from time to time or (iii) Affiliates of such Persons set forth in clauses (i) and (ii) above (in the case of Affiliates of such Persons set forth in clause (ii) above, other than bona fide fixed income investors or debt funds) that are either (a) identified in writing by the Borrower from time to time

or (b) clearly identifiable on the basis of such Affiliate's name; *provided*, that, to the extent Persons are identified as Disqualified Institutions in writing by the Borrower to the Administrative Agent after the Closing Date pursuant to clauses (ii) or (iii)(a), the inclusion of such Persons as Disqualified Institutions shall not retroactively apply to prior assignments or participations in respect of any Loan under this Agreement. Until the disclosure of the identity of a Disqualified Institution to the Lenders generally by the Administrative Agent, such Person shall not constitute a Disqualified Institution for purposes of a sale of a participation in a Loan (as opposed to an assignment of a Loan) by a Lender. Notwithstanding the foregoing, the Borrower, by written notice to the Administrative Agent, may from time to time in its sole discretion remove any entity from the Disqualified Institutions List (or otherwise modify such list to exclude any particular entity), and such entity removed or excluded from the Disqualified Institutions List shall no longer be a Disqualified Institution for any purpose under this Agreement or any other Loan Document.

"*Disqualified Institutions List*" has the meaning specified in the definition of "Disqualified Institutions".

"*Document*" has the meaning set forth in Article 9 of the UCC.

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

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

"*ECF Payment Date*" has the meaning specified in Section 2.9(c).

"*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.

"*Eligible Assignee*" means any Person that meets the requirements to be an assignee under Section 12.2(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 12.2(b)(ii)).

"*EMU*" means the economic and monetary union as contemplated in the Treaty on European Union.

"*EMU Legislation*" means the legislative measures of the European Council for the introduction of, changeover to or operation of a single or unified European currency.

"*Environmental Claim*" means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations (other than internal reports prepared by any Loan Party or any of its Subsidiaries (a) in the Ordinary Course of Business of such Person or (b) as required in connection with a financing transaction or an acquisition or disposition of real estate) or proceedings with respect to any Environmental Liability (hereinafter "*Claims*"), including (i) any and all Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief pursuant to any Environmental Law.

"*Environmental Laws*" means any and all Laws relating to the protection of the environment or, to the extent relating to exposure to Hazardous Materials, human health.

"*Environmental Liability*" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities) of any Loan Party or any of its Restricted Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"*Environmental Permit*" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"*Equity Interests*" means, with respect to any Person, all of the shares, interests, rights, participations or other equivalents (however designated) of capital stock of (or other ownership or profit interests or units in) such Person and all of the warrants, options or other rights for the purchase, acquisition or exchange from such Person of any of the foregoing (including through convertible securities).

"*ERISA*" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"*ERISA Affiliate*" means any trade or business (whether or not incorporated) that together with any Loan Party is under common control with or treated as a single employer within the meaning of Sections 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"*ERISA Event*" means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as a

termination under Section 4062(e) of ERISA; (c) a written notification to any Loan Party or any of their respective ERISA Affiliates concerning the imposition of Withdrawal Liability, a complete or partial withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Multiemployer Plan (within the meaning of Sections 4203 and 4205 of ERISA), or written notification that a Multiemployer Plan is insolvent or is in reorganization, within the meaning of Title IV of ERISA; (d) the filing under Section 4041(c) of ERISA of a notice of intent to terminate a Pension Plan, the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Sections 4041 or 4041A of ERISA; (e) the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan or to appoint a trustee to administer a Pension Plan; (f) the imposition of any liability under Title IV of ERISA with respect to the termination of any Pension Plan or Multiemployer Plan, other than for the payment of plan contributions or PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any of their respective ERISA Affiliates; (g) the application for a minimum funding waiver under Section 302(c) of ERISA or Section 412(c) of the Code with respect to a Pension Plan; (h) the imposition of a lien under Section 303(k) of ERISA or Section 430(k) of the Code with respect to any Pension Plan; or (i) the imposition of liability on any of the Loan Parties or any of their respective ERISA Affiliates pursuant to Sections 4069 or 4212(c) of ERISA.

"*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.

"*Eurocurrency Rate*" means for any Interest Period as to any Eurocurrency Rate Loan, (i) the rate per annum determined by the Administrative Agent to be the offered rate which appears on the page of the Reuters Screen which displays the London interbank offered rate administered by ICE Benchmark Administration Limited (such page currently being the LIBOR01 page) (the "*LIBO Rate*") for deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period in Dollars, determined as of approximately 11:00 a.m. (London, England time), two Business Days prior to the commencement of such Interest Period, or (ii) in the event the rate referenced in the preceding clause (i) does not appear on such page or service or if such page or service shall cease to be available, the rate determined by the Administrative Agent to be the offered rate on such other page or other service which displays the LIBO Rate for deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period in Dollars, determined as of approximately 11:00 a.m. (London, England time) two Business Days prior to the commencement of such Interest Period; *provided* that if LIBO Rates are quoted under either of the preceding clauses (i) or (ii), but there is no such quotation for the Interest Period elected, the LIBO Rate shall be equal to the Interpolated Rate; and *provided*, *further*, that if any such rate determined pursuant to the preceding clauses (i) or (ii) is less than 1.00%, the Eurocurrency Rate will be deemed to be 1.00%.

"*Eurocurrency Rate Loan*" means a Loan that bears interest at a rate determined by reference to the Eurocurrency Rate.

"*Eurocurrency Reserve Percentage*" means, for any day during any Interest Period, the reserve percentage in effect on such day applicable to the Administrative Agent under regulations issued from time to time by the Federal Reserve Board for determining the maximum

reserve requirement (including any emergency, special, supplemental or other marginal reserve requirement) with respect to eurocurrency funding (currently referred to as "Eurocurrency liabilities" in Regulation D). The Adjusted Eurocurrency Rate for each outstanding Eurocurrency Rate Loan shall be adjusted automatically as of the effective date of any change in the Eurocurrency Reserve Percentage.

"*Euros*" means the lawful currency of the Participating Member States introduced in accordance with the EMU Legislation.

"*Event of Default*" has the meaning specified in Section 10.1.

"*Excess Availability*" has the meaning specified in the ABL Loan Agreement as in effect on the date hereof.

"*Excess Cash Flow*" means, with respect to the Parent and its Restricted Subsidiaries on a consolidated basis, for any Fiscal Year, an amount equal to the sum of Consolidated EBITDA of Parent and its Restricted Subsidiaries for such period (calculated without giving effect to the addbacks in clauses (a)(iv), (vi) and (xii) thereof); minus the sum of the following, but without duplication:

(a) the amount of cash payments made during such Fiscal Year in connection with Capital Expenditures, to the extent paid with the proceeds of Internally Generated Cash; plus

(b) Consolidated Depreciation and Amortization Expense and Consolidated Net Cash Interest Expense, in each case, paid in cash during such period to the extent paid with the proceeds of Internally Generated Cash; plus

(c) consolidated Tax expenses paid for such period based on income, profits or capital, including state, franchise, capital, tariffs, customs, duties and similar taxes and withholding taxes paid in cash during such period to the extent paid with the proceeds of Internally Generated Cash; plus

(d) regularly scheduled payments of principal and any other permanent repayment of Indebtedness (other than with respect to (x) repayments of revolving loans except to the extent revolving loan commitments in respect thereof are permanently reduced in connection with such repayments and (y) voluntary prepayments of the Loans that are given dollar-for-dollar deduction credit from the Excess Cash Flow amount that is required to be prepaid under Section 2.9(c)), in each case, to the extent not prohibited hereunder made during such period, to the extent paid with the proceeds of Internally Generated Cash; plus

(e) permitted Restricted Payments (other than among the Loan Parties) paid in cash during such Fiscal Year, in each case, permitted under this Agreement and to the extent paid with the proceeds of Internally Generated Cash; plus

(f) the amount of cash payments made during such Fiscal Year in connection with consummated Permitted Acquisitions and other consummated permitted Investments under

Sections 9.2(i) and (n), in each case, to the extent permitted under this Agreement and, in each case, to the extent paid with the proceeds of Internally Generated Cash; plus

(g) to the extent included in the determination of Consolidated EBITDA for such period and without duplication of any other deduction set forth in this definition and to the extent not reimbursed by a third party, all items added back in determining Consolidated EBITDA (or items excluded from the calculation of Consolidated Net Income) for such period, in each case to the extent paid with the proceeds of Internally Generated Cash; plus

(h) the change in Consolidated Working Capital (if any); plus

(i) [reserved];

(j) any other amounts paid in cash during such period that did not reduce Consolidated Net Income for such period to the extent such amounts were paid with the proceeds of Internally Generated Cash.

Notwithstanding anything in the definition of any term used in the definition of Excess Cash Flow to the contrary, all components of Excess Cash Flow shall be computed for the Parent Guarantors, Holdings, the Borrower and its Restricted Subsidiaries on a consolidated basis.

"*Excess Cash Flow Period*" means each Fiscal Year of the Borrower commencing with the fiscal year of the Borrower ended October 1, 2019; *provided* that the first such period shall only include the period from the Closing Date through October 1, 2019.

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended.

"*Excluded Accounts*" means (a) any Deposit Account specifically, solely and exclusively used for escrow arrangements, fiduciary arrangements, or trust arrangements, in each case, for the benefit of unaffiliated third parties or for making payments in respect of payroll, employee wage and benefit payments or taxes, and (b) any Deposit Account so long as the balance in each such account, individually, does not exceed $5,000,000 at any time and the aggregate balance of all such Deposit Accounts under this clause (b) does not at any time exceed $5,000,000.

"*Excluded Assets*" means (i) any fee owned real property (other than Material Real Properties) and any leasehold rights and interests in real property (including landlord waivers, estoppels and collateral access letters), (ii) motor vehicles, aircraft and other assets subject to certificates of title, except to the extent a security interest therein can be perfected by the filing of a UCC financing statement, (iii) commercial tort claims where the amount of damages claimed by the applicable Loan Party is less than $5,000,000, (iv) governmental licenses or state or local franchises, charters and authorizations and any other property and assets to the extent that the Collateral Agent cannot validly possess a security interest therein under applicable Laws or the pledge or creation of a security interest therein would require governmental consent, approval, license or authorization, in each case, other than to the extent such prohibition or limitation is rendered ineffective under the UCC or other applicable Law, in each case, notwithstanding such prohibition and other than proceeds and receivables thereof, (v) any particular asset or right under contract, if the pledge thereof or the security interest therein is prohibited or restricted by

applicable Law, or any agreement so long as such agreement exists on the Closing Date, or, if after the Closing Date, so long as any agreement with such third party that provides for such prohibition or restriction was not entered into in contemplation of the acquisition of such assets or entering into of such contract or for the purpose of creating such prohibition or restriction, other than to the extent such prohibition or restriction is rendered ineffective under the UCC or other applicable Law, notwithstanding such prohibition and, in each case, other than proceeds and receivables thereof, (vi) any written agreement, license or lease or any property subject to a purchase money security interest, Capitalized Lease Obligation or similar arrangement, in each case, permitted hereunder, in each case, to the extent the grant of a security interest therein would violate or invalidate such lease, license or agreement or purchase money or similar arrangement or would give rise to a termination right in favor of any other party thereto (other than Holdings or any of its Subsidiaries) after giving effect to the applicable anti-assignment provisions of the UCC or other applicable Laws, in each case, only to the extent that such limitation on such pledge or security interest is otherwise permitted under Section 9.9, other than proceeds and receivable thereof, the assignment of which is expressly deemed effective under the UCC or other applicable Laws, notwithstanding such prohibition, (vii) (A) Margin Stock and (B) Equity Interests in any Unrestricted Subsidiaries and (C) Equity Interests in any non-wholly owned Subsidiaries and any entities which do not constitute Subsidiaries, but only to the extent that (x) the Organization Documents or other agreements with equity holders of such non-wholly owned Restricted Subsidiaries or other entities do not permit or restrict the pledge of such Equity Interests, or (y) the pledge of such Equity Interests (including any exercise of remedies) would result in a change of control, repurchase obligation or other adverse consequence to any of the Loan Parties or such non-wholly owned Restricted Subsidiary or other entity, (viii) any property or assets for which the creation or perfection of pledges of, or security interests in, pursuant to the Collateral Documents would result in material adverse tax consequences to Holdings, the Borrower or any of its Subsidiaries, as reasonably determined by the Borrower in consultation with the Administrative Agent, (ix) letter of credit rights, except to the extent perfected by the filing of a UCC financing statement or to the extent constituting supporting obligations for other Collateral as to which perfection of the security interest in such other Collateral is accomplished by the filing of a UCC financing statement (it being understood that no actions shall be required to perfect a security interest in letter of credit rights, other than the filing of a UCC financing statement), ix) any intent-to-use trademark application prior to the filing of a "Statement of Use" or "Amendment to Allege Use" with respect thereto, to the extent, if any, that, and solely during the period, if any, in which the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark application under applicable federal law, (xi) Excluded Accounts of the type described in clause (a) of the definition thereof and the funds or property held or maintained in any such account, and (xii) assets in circumstances where the cost of obtaining a security interest in such assets, including, without limitation, the cost of title insurance, surveys or flood insurance (if necessary) would be excessive in light of the practical benefit to the Lenders afforded thereby as reasonably determined by the Borrower and the Administrative Agent; *provided*, *however*, that Excluded Assets shall not include any proceeds, substitutions or replacements of any Excluded Assets referred to in clause (i) through (xii) (unless such proceeds, substitutions or replacements would independently constitute Excluded Assets referred to in clauses (i) through (xii).

"*Excluded Subsidiary*"[4] means (a) any Subsidiary that is not a wholly owned Subsidiary of the Borrower or a Guarantor, (b) any CFC, (c) any CFC Holdco, (d) any Domestic Subsidiary that is a direct or indirect Subsidiary of a Foreign Subsidiary of the Borrower that is a CFC, (e) any Subsidiary that is prohibited or restricted by applicable Law or by Contractual Obligations existing on the Closing Date (or, in the case of any newly acquired Subsidiary, in existence at the time of acquisition but not entered into in contemplation thereof) from providing a Guaranty or if such Guaranty would require governmental (including regulatory) consent, approval, license or authorization, (f) any Subsidiary that is a not-for-profit organization, (g) any Subsidiary, the obtaining of a Guarantee with respect to which would result in material adverse tax consequences as reasonably determined by the Borrower in good faith consultation with the Administrative Agent (including as a result of the operation of Section 956 of the Code), (i) any Restricted Subsidiary acquired pursuant to a Permitted Acquisition or permitted investment financed with secured Indebtedness permitted to be incurred hereunder as Acquired Indebtedness (but not incurred in contemplation of such Permitted Acquisition) and any Restricted Subsidiary thereof that Guarantees such Indebtedness, in each case to the extent such secured Indebtedness prohibits such Subsidiary from becoming a Guarantor (*provided* that such restriction existed at the time of such acquisition or Investment and was not created in contemplation thereof), (h) each Unrestricted Subsidiary, (i) any captive insurance Subsidiary, and (j) any other Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent and the Borrower, the cost or other consequences (including any adverse tax consequences) of providing the Guaranty outweighs the benefits to be obtained by the Lenders therefrom.

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

"*Existing Term Loan Tranche*" has the meaning specified in Section 2.17(a).

[4] NTD: Subject to Term Loan input.

"*Expenses*" means (i) all reasonable and documented out-of-pocket expenses of the Administrative Agent, the Arranger and the Lenders incurred in connection with the Term Loan Commitments and the preparation, execution, delivery, administration, amendment or waiver of this Agreement and the other Loan Documents (including the reasonable out-of-pocket fees, disbursements and other charges of the counsel and financial advisors identified below and, if necessary, of one local counsel in each relevant jurisdiction) and (ii) reasonable out-of-pocket fees, disbursements and other charges of the Administrative Agent, the Arranger and the Lenders (including the fees, disbursements and other charges of one counsel and financial advisor to each of (i) the Agent and (ii) the Lenders taken as a whole and, if necessary, one local counsel in each relevant jurisdiction, and, solely in the case of a conflict of interest, one additional counsel to the Lenders taken as a whole) in connection with the enforcement of this Agreement and the other Loan Documents, in each case including the fees and expenses of Paul Hastings LLP, Latham & Watkins LLP and PJT Partners).

"*Extended Term Loans*" has the meaning specified in Section 2.17(a).

"*Extending Term Loan Lender*" has the meaning specified in Section 2.17(b).

"*Extension*" means any establishment of Extended Term Loans pursuant to Section 2.17 and the applicable Extension Amendment.

"*Extension Amendment*" has the meaning specified in Section 2.17(c).

"*Extension Election*" has the meaning specified in Section 2.17(b).

"*Extension Request*" has the meaning specified in Section 2.17(a).

"*Extension Series*" has the meaning specified in Section 2.17(a).

"*fair market value*" means, with respect to any asset or liability, the fair market value of such asset or liability as determined by a Responsible Officer of the Borrower in good faith.

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

"*FCPA*" has the meaning set forth in Section 5.18(b).

"*Federal Funds Rate*" means, for any day, the rate calculated by the Federal Reserve Bank of New York based on such day's federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate; *provided* that if the Federal Funds

Effective Rate for any day is less than zero, the Federal Funds Effective Rate for such day will be deemed to be zero.

"*Federal Reserve Board*" means the Board of Governors of the United States Federal Reserve System, or any successor thereto.

"*Fee Letter*" means that certain Exit Facilities Fee Letter, dated as of October 4, 2018, among Barclays, in its capacity as Arranger, the Borrower, Holdings and the other Loan Parties party thereto.

"*Financial Covenants*" shall mean the covenants set forth in Section 6.1, Section 6.2 and Section 6.3.

"*Financial Officer*" means the chief financial officer, chief accounting officer or other Responsible Officer of the Borrower with equivalent duties with financial reporting responsibilities.

"*Fiscal Quarter*" means a fiscal quarter of any Fiscal Year.

"*Fiscal Year*" means the fiscal year of the Borrower and its Subsidiaries ending on the Tuesday closest to September 30 in the following calendar year.

"*Fixed Charge Coverage Ratio*" means, with respect to any Person for any Test Period, the ratio of (a) (i) Consolidated EBITDA of such Person for such period minus (ii) Capital Expenditures minus (iii) Cash Taxes, in each case in this clause (a), for such Test Period, to (b) the Fixed Charges of such Person for such period.

"*Fixed Charges*" means, with respect to any Person for any Test Period, the sum, determined on a consolidated basis, of (a) the Consolidated Net Cash Interest Expense of such Person and its Subsidiaries for such period plus (b) scheduled payments of principal on Indebtedness for borrowed money of such Person and its Subsidiaries due and payable during such period plus (c) any Restricted Payment made pursuant to Section 9.6(m) during such period.

"*Flood Insurance Laws*" shall mean, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statue thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto, (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (v) Biggert- Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

"*Foreign Lender*" has the meaning specified in Section 3.1(b).

"*Foreign Official*" has the meaning specified in Section 5.18(d)(i).

"*Foreign Subsidiary*" means any direct or indirect Subsidiary of the Borrower that is not a Domestic Subsidiary.

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

"*Funded Debt*" means all Indebtedness of the Parent Guarantors, Holdings, the Borrower and the Restricted Subsidiaries for borrowed money that matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of such Person, to a date more than one year from such date or arises under a term loan, revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including Indebtedness in respect of the Loans.

"*GAAP*" means generally accepted accounting principles in the United States, as in effect from time to time; *provided*, *however*, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Requisite Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

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

"*Granting Lender*" has the meaning specified in Section 12.2(g).

"*Guarantee*" means, as to any Person, without duplication, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation payable or performable by another Person (the "*primary obligor*") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance of such Indebtedness or other monetary obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other monetary obligation of any other Person,

whether or not such Indebtedness or other monetary obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); *provided* that the term "Guarantee" shall not include endorsements for collection or deposit, in either case in the Ordinary Course of Business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"*Guarantors*" has the meaning specified in the definition of "Collateral and Guarantee Requirement". For avoidance of doubt, the Borrower may cause any Restricted Subsidiary that is not a Guarantor to Guarantee the Obligations by causing such Restricted Subsidiary to execute a supplement to the Guaranty in substantially the form attached thereto, and any such Restricted Subsidiary shall be a Guarantor hereunder and thereunder for all purposes.

"*Guaranty*" means (a) the guaranty made by Holdings and the other Guarantors in favor of the Administrative Agent on behalf of the Secured Parties pursuant to clause (b) of the definition of "Collateral and Guarantee Requirement," substantially in the form of Exhibit G, and (b) each other guaranty and guaranty supplement delivered pursuant to Section 8.11.

"*Hazardous Materials*" means all explosive or radioactive substances or wastes, all hazardous or toxic substances, and all wastes or pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas and infectious or medical wastes regulated pursuant to any Environmental Law.

"*Hedge Bank*" means, with respect to any Swap Contract, as of any date of determination, (a) any Person that is a Lender or an Affiliate of a Lender on such date or (b) any Person who (i) was a Lender or an Affiliate of a Lender at the time such Swap Contract was entered into and who is no longer a Lender or an Affiliate of a Lender, (ii) is, and at all times remains, in compliance with the provisions of Section 11.13(b)(i) and (iii) agrees in writing that the Agents and the other Secured Parties shall have no duty to such Person (other than the payment of any amounts to which such Person may be entitled under Section 10.3) and acknowledges that the Agents and the other Secured Parties may deal with the Loan Parties and the Collateral as they deem appropriate (including the release of any Loan Party or all or any portion of the Collateral) without notice or consent from such Person, whether or not such action impairs the ability of such Person to be repaid Obligations owing to it in respect of the Secured Hedge Agreements to which it is a party and agrees to be bound by Section 11.13(b)(ii).

"*Holdings*" has the meaning specified in the introductory paragraph to this Agreement.

"*IFRS*" means international accounting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements; *provided*, *however*, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the

Closing Date in IFRS or in the application thereof (including through the adoption of GAAP) on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Requisite Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in IFRS or in the application thereof (including through the adoption of GAAP), then such provision shall be interpreted on the basis of IFRS as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith

"*Increased Facility*" has the meaning assigned to such term in Section 2.15(a).

"*Incremental Amendment*" has the meaning assigned to such term in Section 2.15(a).

"*Incremental Cap*" means $50,000,000.

"*Incremental Term Facility*" shall mean the commitments (if any) of Additional Lenders to make Incremental Term Loans in accordance with Section 2.15 and the Incremental Term Loans in respect thereof.

"*Incremental Term Loans*" means any Loans made pursuant to Section 2.15.

"*Indebtedness*" means, as to any Person at a particular time, without duplication, all of the following:

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

(b) the maximum amount (after giving effect to any prior drawings or reductions that may have been reimbursed) of all outstanding letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;

(c) net obligations of such Person under any Swap Contract;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts and accrued expenses payable in the Ordinary Course of Business, (ii) any earn-out obligation until such obligation is not paid within 30 days after becoming due and payable and becomes a liability on the balance sheet of such Person in accordance with IFRS and (iii) accruals for payroll and other liabilities accrued in the Ordinary Course of Business);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements and mortgage, industrial revenue bond, industrial development bond and similar financings), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(f) all Attributable Indebtedness;

(g) all obligations of such Person in respect of Disqualified Equity Interests if and to the extent that the foregoing would constitute indebtedness or a liability in accordance with IFRS; and

(h) to the extent not otherwise included above, all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall (A) include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, except to the extent such Person's liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would be included in the calculation of Consolidated Total Debt and (B) in the case of the Parent and its Subsidiaries, exclude all intercompany Indebtedness having a term not exceeding 364 days (inclusive of any roll over or extensions of terms) and made in the Ordinary Course of Business. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of clause (e) shall be deemed to be equal to the lesser of (i) the aggregate unpaid amount of such Indebtedness and (ii) the fair market value (as determined by such Person in good faith) of the property encumbered thereby as determined by such Person in good faith.

"*Indemnified Liabilities*" has the meaning specified in Section 12.4.

"*Indemnitees*" has the meaning specified in Section 12.4.

"*Independent Financial Advisor*" means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of the Borrower, qualified to perform the task for which it has been engaged and that is independent of the Borrower and its Affiliates.

"*Information*" has the meaning specified in Section 12.19.

"*Intellectual Property Security Agreements*" has the meaning specified in the Security Agreement.

"*Intercompany Subordination Agreement*" means an agreement executed by each Restricted Subsidiary of the Borrower, in substantially the form of Exhibit K, as amended, restated, supplemented or otherwise modified from time to time.

"*Interest Payment Date*" means (a) with respect to Base Rate Loans, the dates set forth in Section 2.10(b)(i)(A) and (b) with respect to Eurocurrency Rate Loans, the dates set forth in Section 2.10(b)(ii)(A).

"*Interest Period*" means, as to each Eurocurrency Rate Loan, the period commencing on the date such Eurocurrency Rate Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan and ending on the date one, two, three or six months thereafter, or to the

extent consented to by each applicable Lender, twelve months (or such period of less than one month as may be consented to by each applicable Lender), as selected by the Borrower in its Notice of Borrowing or Notice of Conversion or Continuation; *provided* that:

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

(b) any Interest Period (other than an Interest Period having a duration of less than one month) that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period shall extend beyond the applicable Scheduled Termination Date of the Class of Loans of which the Eurocurrency Rate Loan is a part.

"*Internally Generated Cash*" means, with respect to any Person, funds of such Person and its Restricted Subsidiaries not constituting proceeds of the incurrence of long-term Indebtedness (other than the incurrence of Indebtedness under the ABL Loan Agreement or extensions of credit under any other revolving credit or similar facility) by such Person or any of its Restricted Subsidiaries.

"*Interpolated Rate*" means, in relation to the LIBO Rate, the rate which results from interpolating on a linear basis between:

(a) the applicable LIBO Rate for the longest period (for which that LIBO Rate is available) which is less than the Interest Period of that Loan; and

(b) the applicable LIBO Rate for the shortest period (for which that LIBO Rate is available) which exceeds the Interest Period of that Loan,

each as of approximately 11:00 a.m. (London, England time) two Business Days prior to the commencement of such Interest Period of that Loan.

"*Inventory*" has the meaning given to such term in Article 9 of the UCC.

"*Investment*" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition (including without limitation by merger or otherwise) of Equity Interests or debt or other securities of another Person, (b) a loan, advance or capital contribution (excluding accounts receivable, credit card and debit card receivables, trade credit, advances to customers, commission, travel and similar advances to employees, directors, officers, members of management, manufacturers and consultants, in each case made in the Ordinary Course of Business) to, Guarantee or assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other

Person or (c) the purchase or other acquisition (in one transaction or a series of transactions, including without limitation by merger or otherwise) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. For purposes of the definition of "Unrestricted Subsidiary" and the covenants described under Section 8.3:

(1) "Investments" shall include the portion (proportionate to the Borrower's Equity Interest in such Subsidiary) of the fair market value of the net assets of a Subsidiary of the Borrower at the time that such Subsidiary is designated an Unrestricted Subsidiary; *provided* that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Borrower shall be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary in an amount (if positive) equal to:

(a) the Borrower's "Investment" in such Subsidiary at the time of such redesignation; less

(b) the portion (proportionate to the Borrower's Equity Interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its fair market value at the time of such transfer.

The amount of any Investment outstanding at any time (including for purposes of calculating the amount of any Investment outstanding at any time under any provision of the covenant described Section 9.2 and otherwise determining compliance with such covenant) shall be the original cost of such Investment (determined, in the case of any Investment made with assets of the Borrower or any Restricted Subsidiary, based on the fair market value of the assets invested and without taking into account subsequent increases or decreases in value), reduced (but not in excess of the original amount of such Investment) by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash by the Borrower or a Restricted Subsidiary in respect of such Investment. Any Investment in the form of a loan or an advance shall be the principal amount thereof outstanding on such date, minus any cash payments actually received by such investor representing interest in respect of such Investment (to the extent any such payment to be deducted does not exceed the remaining principal amount of such Investment), but without any adjustment for write-downs or write-offs (including as a result of forgiveness of any portion thereof) with respect to such loan or advance after the date thereof. Any Investment in the form of a Guarantee shall be equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof.

"*Investment Grade Rating*" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P, or an equivalent rating by any other nationally recognized statistical rating agency selected by the Borrower.

"*IP Rights*" has the meaning specified in Section 5.15.

"*IRS*" means the Internal Revenue Service of the United States.

"*Joint Venture*" means (a) any Person which would constitute an "equity method investee" of the Borrower or any of the Restricted Subsidiaries and (b) any Person in whom the Borrower or any of the Restricted Subsidiaries beneficially owns any Equity Interest that is not a Restricted Subsidiary (other than an Unrestricted Subsidiary).

"*Judgment Currency*" has the meaning specified in Section 12.10.

"*Junior Financing*" has the meaning specified in Section 9.12(a)(i).

"*Junior Financing Documentation*" means any documentation governing any Junior Financing.

"*Latest Maturity Date*" means, at any date of determination, the latest Scheduled Termination Date applicable to any Loan or Term Loan Commitment hereunder at such time, including the latest termination date of any Extended Term Loan or New Term Loan, as applicable, as extended in accordance with this Agreement from time to time.

"*Laws*" means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities and executive orders, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority.

"*Lender*" means each financial institution or other entity that (a) is listed on the signature pages hereof as a "Lender" or (b) from time to time becomes a party hereto by execution of an Assignment and Assumption or, in connection with a Term Loan Commitment Increase, an Incremental Amendment or, in connection with an Extended Term Loan, a New Term Loan or an Extension Amendment.

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

"*LIBO Rate*" has the meaning specified in the definition of "Eurocurrency Rate".

"*Lien*" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capitalized Lease having substantially the same economic effect as any of the foregoing); *provided* that in no event shall an operating lease in and of itself be deemed a Lien.

"*Lien Acknowledgment Agreement*" means each Collateral Access Agreement and Customs Broker Agreement.

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

"*Liquidity*" means, as of any date of determination, the sum of (a) Excess Availability, plus (b) to the extent positive, the aggregate amount of Unrestricted Cash and Cash Equivalents of the Borrower and its Restricted Subsidiaries on such date, in the case of this clause (b), not exceeding $25,000,000.

"*Loan*" means any loan made by any Lender pursuant to this Agreement, including any Term Loans and any loans made in respect of any Term Loan Commitment Increase.

"*Loan Documents*" means, collectively, (a) this Agreement, (b) the Term Loan Notes, (c) any Incremental Amendment and any Extension Amendment, (d) the Guaranty, (e) the Commitment Letter, (f) the Fee Letter (solely to the extent the fees payable thereunder pertain to the Loans), (g) the Collateral Documents, (h) any Customary Intercreditor Agreement and (i) the ABL/Term Intercreditor Agreement.

"*Loan Parties*" means, collectively, (a) Holdings, (b) the Borrower, (c) each Parent Guarantor, and (d) each other Guarantor.

"*Make-Whole Amount*" means on any Calculation Date, the excess (to the extent positive) of (a) the present value at such Calculation Date of (i) 110% of the aggregate principal amount of the Loans being accelerated, prepaid, repaid, refinanced, substituted or replaced, plus (ii) all required interest payments due on the Term Loans being accelerated, prepaid, repaid, refinanced, substituted or replaced to and including November [●], 2020 (excluding accrued but unpaid interest), computed upon the redemption or prepayment date using a discount rate equal to the Applicable Treasury Rate at such Calculation Date plus 50 basis points, over (b) the outstanding principal amount of the Loans being accelerated, prepaid, repaid, refinanced, substituted or replaced, in each case, as calculated by the Borrower in good faith.

"*Margin Stock*" has the meaning set forth in Regulation U of the Board of Governors of the United States Federal Reserve System, or any successor thereto.

"*Master Agreement*" has the meaning specified in the definition of "Swap Contract".

"*Material Adverse Effect*" means any event, circumstance or condition that has had a materially adverse effect on (a) the business, operations, assets, liabilities (actual or contingent) or financial condition of the Loan Parties, taken as a whole, (b) the ability of the Loan Parties (taken as a whole) to perform their respective payment obligations under any Loan Document to which any of the Loan Parties is a party or (c) the rights and remedies of the Lenders, the Collateral Agent, the Administrative Agent, or any other Agent under any Loan Document.

"*Material Domestic Subsidiary*" means, at any date of determination, each of the Loan Parties' Domestic Subsidiaries (a) whose total assets at the last day of the most recent Test Period were equal to or greater than 2.5% of Total Assets at such date or (b) whose gross revenues for such Test Period were equal to or greater than 2.5% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such period, in each case determined in accordance with IFRS; *provided* that if, at any time and from time to time after the Closing Date, Domestic Subsidiaries that are not Guarantors solely because they do not meet the thresholds set forth in clauses (a) or (b) comprise in the aggregate more than 5.0% of Total Assets as of the end of the most recently ended Fiscal Quarter of the Borrower for which financial statements have been delivered pursuant to Section 7.1 or more than 5.0% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for the period of four consecutive Fiscal Quarters ending as of the last day of such Fiscal Quarter, then the Loan Parties shall, not later than forty-five (45) days after the date by which financial statements for such quarter are required to be delivered pursuant to this Agreement (or such longer period as may be agreed by the Administrative Agent in its reasonable discretion), (i) designate in writing to the Administrative Agent one or more of such Domestic Subsidiaries as "Material Domestic Subsidiaries" to the extent required such that the foregoing condition ceases to be true and (ii) comply with the provisions of Sections 8.11, 8.12 and 8.13 applicable to such Subsidiary.

"*Material Foreign Subsidiary*" means, at any date of determination, each of the Loan Parties' Foreign Subsidiaries (a) whose total assets at the last day of the most recent Test Period were equal to or greater than 2.5% of Total Assets at such date or (b) whose gross revenues for such Test Period were equal to or greater than 2.5% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such period, in each case determined in accordance with IFRS.

"*Material Real Property*" means any fee-owned real property located in the United States that is owned by any Loan Party with a fair market value in excess of $5,000,000 (at the Closing Date or, with respect to fee-owned real property located in the United States acquired after the Closing Date, at the time of acquisition), or such larger amount as may be approved by the Requisite Lenders.

"*Material Subsidiary*" means any Material Domestic Subsidiary or any Material Foreign Subsidiary.

"*Maximum Rate*" has the meaning specified in Section 12.27.

"*Maximum Total Net Leverage Ratio*" has the meaning specified in Section 6.1.

"*Minimum Consolidated EBITDA*" has the meaning specified in Section 6.3.

"*Minimum Liquidity*" has the meaning specified in Section 6.2.

"*Moody's*" means Moody's Investors Service, Inc. and any successor thereto.

"*Mortgage Policies*" has the meaning specified in paragraph (e) of the definition of "Collateral and Guarantee Requirement".

"*Mortgaged Properties*" has the meaning specified in paragraph (e) of the definition of "Collateral and Guarantee Requirement".

"*Mortgages*" means, collectively, the deeds of trust, trust deeds, hypothecs and mortgages made by the Loan Parties in favor or for the benefit of the Collateral Agent on behalf of the Lenders in form and substance reasonably satisfactory to the Collateral Agent (taking account of relevant local Law matters), and any other mortgages executed and delivered pursuant to Sections 8.11 or 8.13.

"*Multiemployer Plan*" means any multiemployer plan as defined in Section 4001(a)(3) of ERISA and subject to Title IV of ERISA, to which any Loan Party or any of their respective ERISA Affiliates makes or is obligated to make contributions, or during the preceding five plan years has made or been obligated to make contributions.

"*Net Cash Proceeds*" means:

(a) with respect to (x) the Disposition of any asset by the Borrower or any of the Restricted Subsidiaries or (y) with respect to any casualty or condemnation event, (i) insurance proceeds paid on account of any loss of or damage to or (ii) awards of compensation arising from the taking by eminent domain or condemnation of, in each case, any assets of the Borrower or any of the Restricted Subsidiaries (any such event in this clause (y), a "*C&C Event*"), the excess, if any, of (i) the sum of cash and Cash Equivalents received by the Borrower or any of the Restricted Subsidiaries in connection with such Disposition (including any cash and Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) or C&C Event, as applicable, over (ii) the sum of (A) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness that is secured by the asset subject to such Disposition or C&C Event and that is required to be repaid in connection with such Disposition or C&C Event (other than Indebtedness under the Loan Documents), (B) the out-of-pocket fees and expenses (including attorneys' fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees) actually incurred by the Borrower or such Restricted Subsidiary in connection with such Disposition or C&C Event, (C) taxes paid or reasonably estimated to be payable in connection therewith (including any tax distribution pursuant to Section 9.6(g)(A) and any taxes imposed on the distribution or repatriation of any such Net Cash Proceeds), (D) in the case of any Disposition or C&C Event by a non-wholly owned Restricted Subsidiary, the pro-rata portion of the Net Cash Proceeds thereof (calculated without regard to this clause (D)) attributable to minority interests and not available for distribution to or for the account of the Borrower or a wholly owned Restricted Subsidiary as a result thereof, and (E) any reserve for adjustment in respect of (x) the sale price of such asset or assets established in accordance with IFRS and (y) any liabilities associated with such asset or assets and retained by the Borrower or any Restricted Subsidiary after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction, it being understood that

"Net Cash Proceeds" shall include the amount of any reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in this clause (E) as of the date of such reversal; and

(b) (i) with respect to the incurrence or issuance of any Indebtedness by the Borrower or any Restricted Subsidiary or any Permitted Equity Issuance by the Borrower or any direct or indirect parent of the Borrower, the excess, if any, of (A) the sum of the cash and Cash Equivalents received in connection with such incurrence or issuance over (B) the investment banking fees, underwriting discounts, commissions, costs and other out-of-pocket expenses and other customary expenses, incurred by the Borrower or such Restricted Subsidiary in connection with such incurrence or issuance and (ii) with respect to any Permitted Equity Issuance by any direct or indirect parent of the Borrower, the amount of cash from such Permitted Equity Issuance contributed to the capital of the Borrower.

"*Net Income*" means, with respect to any Person, the net income (loss) of such Person, determined in accordance with IFRS and before any reduction in respect of preferred stock dividends.

"*New Store*" means, with respect to any Person for any period, any newly constructed store that is in operation on the last day of such period, but that has not been in operation for more than eleven (11) full fiscal months, and that is owned by such Person or any of its Restricted Subsidiaries.

"*New Term Loan*" has the meaning specified in Section 2.17(c).

"*New Term Loan Lenders*" has the meaning specified in Section 2.17(c).

"*Non-Bank Certificate*" has the meaning specified in Section 3.1(b).

"*Non-Consenting Lender*" has the meaning specified in Section 3.7.

"*Non-Loan Party*" means any Subsidiary of the Borrower that is not a Loan Party.

"*Notice of Borrowing*" has the meaning specified in Section 2.2(a).

"*Notice of Conversion or Continuation*" has the meaning specified in Section 2.11(a).

"*Notice of Intent to Cure*" has the meaning specified in Section 7.2.

"*Obligations*" means all (a) advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding and (b) obligations of any Loan Party arising under any Secured Hedge Agreement, other than Excluded Swap Obligations.

Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and any of their Restricted Subsidiaries to the extent they have obligations under the Loan Documents) include the obligation (including guarantee obligations) to pay principal, interest, reimbursement obligations, charges, expenses, fees, Attorney Costs, indemnities and other amounts payable by any Loan Party under any Loan Document; *provided* that obligations under Secured Hedge Agreements shall not also constitute ABL Obligations.

"*OFAC*" has the meaning specified in the definition of "Sanctions".

"*OID*" means original issue discount.

"*Ordinary Course of Business*" shall mean, with respect to any Person, any ordinary course business practices engaged in by such Person or other business practice reasonably related thereto or that is a reasonable extension, development or expansion thereof.

"*Organization Documents*" means (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"*Other Taxes*" has the meaning specified in Section 3.1(h).

"*Overnight Rate*" means, for any day, the greater of (a) the Federal Funds Rate and (b) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

"*Parent*" means Stripes US Holding, Inc.

"*Parent Guarantors*" means (a) the Parent, (b) Mattress Firm Holding Corp., and (c) Mattress Holdco, Inc.

"*Participant*" has the meaning specified in Section 12.2(d).

"*Participant Register*" has the meaning specified in Section 12.2(e).

"*Participating Member State*" means each state so described in any EMU Legislation.

"*Payment Conditions*" means, at any time of determination, that:

(a) no Default or Event of Default exists or would arise as a result of the making of the subject payment of Junior Financing,

(b) the Parent Guarantors, Holdings, the Borrower and its Restricted Subsidiaries' Fixed Charge Coverage Ratio as of the end of the most recently ended trailing twelve month period for which financial statements have been or are required to have been delivered pursuant to Section 7.1(a) or (b) shall be greater than or equal to 1.10:1.00 after giving Pro Forma Effect to such payment of Junior Financing as if such payment of Junior Financing (if applicable to such calculation) had been made as of the first day of such Test Period,

(c) the Revolving Credit Outstandings (other than Letter of Credit Obligations in respect of undrawn Letters of Credit) immediately after giving effect to the making of such payment of Junior Financing shall be $0 (*provided* that, the capitalized terms used in this clause (c) and not otherwise defined in this Agreement shall have the meanings assigned to such terms in the ABL Credit Agreement as in effect on the date hereof),

(d) the Borrower shall have Excess Availability of not less than $50,000,000 on a Pro Forma Basis after giving effect to such payment of Junior Financing,

and, in each case, the Borrower shall have delivered to the Administrative Agent a certificate from a Responsible Officer of the Borrower, certifying that the conditions contained in the foregoing clauses (a) through (d) have been satisfied, with reasonably detailed supporting calculations with respect to clauses (b) and (d) thereto.

"*PBGC*" means the Pension Benefit Guaranty Corporation.

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

"*Permitted Acquisition*" means the purchase or other acquisition by Borrower or any of its Restricted Subsidiaries of property and assets or businesses of any Person or of assets constituting a business unit, a line of business or division of such Person, a Store or Equity Interests in a Person that, upon the consummation thereof, will be a wholly owned Restricted Subsidiary of the Borrower (including as a result of a merger or consolidation); *provided* that no Default or Event of Default shall exist, or would result therefrom.

"*Permitted Discretion*" means a determination made by the Administrative Agent or the Collateral Agent (as applicable) in good faith in the exercise of its reasonable (from the perspective of an asset-based lender) business judgment.

"*Permitted Equity Issuance*" means any sale or issuance of any Qualified Equity Interests of the Borrower or any direct or indirect parent of the Borrower (in which case the Net Cash Proceeds have been received by the Borrower as cash common equity), in each case to the extent permitted hereunder.

"*Permitted Holders*" means (i) Steinhoff International Holdings N.V. and any direct or indirect wholly owned subsidiary thereof, and (ii) any Person party to the Shareholders Agreement as a Lender Stockholder (as defined in the Shareholder Agreement as of the date hereof) as of the Closing Date (and, with respect to any Permitted Holder under this clause (ii), such Person's Affiliates and any Person that is administered, advised or managed by (i) such Permitted Holder, (ii) an Affiliate of such Permitted Holder or (iii) an entity or an Affiliate of an entity that administers, advises or manages such Permitted Holder).

"*Permitted Refinancing*" means, with respect to any Person, any modification, refinancing, refunding, renewal or extension of any Indebtedness of such Person; *provided* that (a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, renewed or extended except by an amount equal to unpaid accrued interest and premium (including tender premiums) thereon, plus other amounts owing or paid related to such Indebtedness plus other fees and expenses reasonably incurred, in each case, in connection with such modification, refinancing, refunding, renewal or extension and by an amount equal to any existing commitments unutilized thereunder, (b) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Sections 9.3(b) or 9.3(e), such modification, refinancing, refunding, renewal or extension has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, renewed or extended, (c) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 9.3(e), at the time thereof, no Event of Default shall have occurred and be continuing, (d) if the Indebtedness being modified, refinanced, refunded, renewed, replaced, exchanged or extended is (i) unsecured, such modification, refinancing, refunding, renewal, replacement, exchange or extension is unsecured, or (ii) secured by Liens on the Collateral, such modification, refinancing, refunding, replacement, renewal or extension is either unsecured or secured to the same extent, including with respect to any subordination provisions, and subject to intercreditor arrangements reasonably satisfactory to the Administrative Agent and (e) if such Indebtedness being modified, refinanced, refunded, renewed, replaced or extended is Junior Financing, (i) to the extent such Indebtedness being modified, refinanced, refunded, renewed, replaced or extended is subordinated in right of payment to the Obligations, such modification, refinancing, refunding, renewal, replacement or extension is subordinated in right of payment to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, renewed or extended, (ii) the terms and conditions (including, if applicable, as to collateral security therefor but excluding as to subordination, pricing, premiums and optional prepayment or redemption provisions) of any such modified, refinanced, refunded, renewed or extended Indebtedness, taken as a whole, are not materially less favorable to the Loan Parties or the Lenders than the terms and conditions of the Indebtedness being modified, refinanced, refunded, renewed or extended; *provided* that a certificate of a Responsible Officer delivered to the Administrative Agent at least five Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such

terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Borrower within five Business Days that it disagrees with such determination (including a description of the basis upon which it disagrees) and (iii) such modification, refinancing, refunding, renewal or extension is incurred by the Person who is the obligor of the Indebtedness being modified, refinanced, refunded, renewed or extended and no additional obligors become liable for such Indebtedness. Any reference to a Permitted Refinancing in this Agreement or any other Loan Document shall be interpreted to mean (a) a Permitted Refinancing of the subject Indebtedness and (b) any further refinancings constituting a Permitted Refinancing of the Indebtedness resulting from a prior Permitted Refinancing.

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

"*Petition Date*" means October 5, 2018.

"*PIK Interest*" has the meaning set forth in Section 2.10(b).

"*Plan*" means any material "employee benefit plan" (as such term is defined in Section 3(3) of ERISA, whether or not such plan is subject to ERISA) established or contributed to by any Loan Party or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any of their respective ERISA Affiliates.

"*Platform*" has the meaning specified in Section 7.2.

"*Pledged Debt*" has the meaning specified in the Security Agreement.

"*Pledged Equity*" has the meaning specified in the Security Agreement.

"*Prepayment Premium*" has the meaning specified in Section 2.4.

"*Pro Forma Basis*" and "Pro Forma Effect" mean, with respect to compliance with any test or covenant or calculation hereunder, the determination or calculation of such test, covenant or ratio (including in connection with Specified Transactions) in accordance with Section 1.9.

"*Proceeds*" has the meaning given to such term in Article 9 of the UCC.

"*Projections*" shall have the meaning specified in Section 7.1(d).

"*PSA*" means that certain Plan Support Agreement, dated as of [•], 2018, among [__].

"*Public Company Costs*" means costs relating to compliance with the provisions of the Securities Act and the Exchange Act, in each case as applicable to companies with equity or debt securities held by the public, the rules of national securities exchange companies with listed equity or debt securities, directors' compensation, fees and expense reimbursement, costs relating to investor relations, shareholder meetings and reports to shareholders or debtholders, directors' and officers' insurance, listing fees and all executive, legal and professional fees related to the foregoing.

"*Public Lender*" has the meaning specified in Section 7.2.

"*Qualified Equity Interests*" means any Equity Interests that are not Disqualified Equity Interests.

"*Ratable Portion*", "*Pro Rata Share*", "*ratable share*" or (other than in the expression "equally and ratably") "*ratably*" means, with respect to each Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Term Loan Commitments and, if applicable and without duplication, Loans of such Lender under the applicable Class or Classes at such time and the denominator of which is the amount of the Aggregate Commitments and, if applicable and without duplication, Loans under the applicable Class or Classes at such time.

"*Refinancing*" the Arranger shall have received evidence reasonably satisfactory to it of the repayment in full of obligations outstanding under the DIP ABL Credit Agreement and the DIP Term Loan Agreement, termination of the commitments thereunder and release of all liens granted thereunder (with such repayment in full, termination and release being evidenced by one or more payoff letters reasonably acceptable to the Arranger); *provided*, that, the letters of credit issued under the DIP ABL Credit Agreement shall remain outstanding and shall constitute Existing Letters of Credit hereunder.

"*Register*" has the meaning specified in Section 12.2(c).

"*Related Indemnified Person*" of an Indemnitee means (a) any controlling person or controlled affiliate of such Indemnitee, (b) the respective directors, officers, or employees of such Indemnitee or any of its controlling persons or controlled affiliates and (c) the respective agents of such Indemnitee or any of its controlling persons or controlled affiliates, in the case of this clause (c), acting at the instructions of such Indemnitee, controlling person or such controlled affiliate; *provided* that each reference to a controlled affiliate or controlling person in this definition shall pertain to a controlled affiliate or controlling person involved in the negotiation or syndication of the Term Loan Commitments.

"*Reportable Event*" means, with respect to any Pension Plan, any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the thirty (30) day notice period has been waived under applicable regulation or guidance.

"*Requisite Class Lenders*" shall mean, with respect to any Class on any date of determination, Lenders having more than 50% of the Loans.

"*Requisite Lenders*" means, collectively, Lenders having more than fifty percent (50%) of the aggregate outstanding amount of the Loans.

"*Responsible Officer*" means the chief executive officer, president, vice president, chief financial officer, chief operating officer, chief administrative officer, secretary or assistant secretary, treasurer or assistant treasurer or other similar officer or Person performing similar functions of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary

corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party. Unless otherwise specified, all references herein to a "Responsible Officer" shall refer to a Responsible Officer of the Borrower.

"*Restricted Payment*" means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of the Loan Parties or any Restricted Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such Equity Interest, or on account of any return of capital to any Loan Party's or Restricted Subsidiary's stockholders, partners or members (or the equivalent Persons thereof).

"*Restricted Subsidiary*" means any Subsidiary of the Borrower other than an Unrestricted Subsidiary.

"*Revolving Agent*" means Barclays, as administrative agent for the holders of the Revolving Credit Loans, together with any successor thereto or assignees of such role.

"*Revolving Credit Commitments*" has the meaning assigned to such term in the ABL Loan Agreement.

"*Revolving Credit Loans*" has the meaning assigned to such term in the ABL Loan Agreement.

"*S&P*" means Standard & Poor's Ratings Services, a division of S&P Global Inc., and any successor thereto.

"*Sale-Leaseback*" means any transaction or series of related transactions pursuant to which the Borrower or any of the Restricted Subsidiaries (a) sells, transfers or otherwise Disposes of any property, real or personal, whether now owned or hereafter acquired, and (b) as part of such transaction, thereafter rents or leases such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold, transferred or otherwise Disposed.

"*Same Day Funds*" means disbursements and payments in immediately available funds.

"*Sanctioned Country*" means, at any time, a country or territory which is the subject or target of any Sanctions (as of the date of this Agreement, Cuba, Iran, North Korea, Sudan and Syria).

"*Sanctioned Person*" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State and (b) any other Person operating or organized in a Sanctioned Country or controlled (as determined by applicable law) by any Person that is a Sanctioned Person.

"*Sanctions*" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("*OFAC*") or the U.S. Department of State.

"*Scheduled Termination Date*" means [__], 2022,[5] as may be extended pursuant to Section 12.1(b) or Section 2.17 hereof.

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

"*Second Lien Credit Agreement*" means that certain Term Loan Agreement, dated as of March 26, 2018 by and among the Borrower, Holdings and Steinhoff Parent, as lender thereunder.

"*Secured Hedge Agreement*" means any Swap Contract permitted under Section 9.3(f) that is entered into by and between the Borrower or any Restricted Subsidiary and any Hedge Bank; and designated in writing by the Hedge Bank and the Borrower to the Administrative Agent as a "Secured Hedge Agreement".

"*Secured Obligations*" means, in the case of the Borrower, the Obligations and, in the case of any other Loan Party, the "Guaranteed Obligations" under the Guaranty and any of such Loan Party's other obligations under the other Loan Documents to which it is a party.

"*Secured Parties*" means, collectively, the Lenders, the Administrative Agent, the Collateral Agent, each Hedge Bank with respect to any Secured Hedge Agreement, the Supplemental Administrative Agent and each co-agent or sub-agent (if any) appointed by the Administrative Agent from time to time pursuant to Section 11.5.

"*Securities Account*" means all securities accounts of any Loan Party, including "securities accounts" within the meaning given to such term in Article 8 of the UCC.

"*Securities Account Control Agreement*" means an effective securities account control agreement with an Approved Securities Intermediary, in each case in the form and substance reasonably satisfactory to the Administrative Agent.

"*Securities Act*" means the Securities Act of 1933, as amended.

"*Security*" means any Equity Interest, voting trust certificate, bond, debenture, note or other evidence of Indebtedness, whether secured, unsecured, convertible or subordinated, or any certificate of interest, share or participation in, any temporary or interim certificate for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing, but shall not include any evidence of the Obligations.

[5] NTD: To be the date 4 years after the Closing Date.

"*Security Agreement*" means, collectively, the Security Agreement executed by the Loan Parties, substantially in the form of Exhibit H, as amended, restated, supplemented or otherwise modified from time to time, together with each other Security Agreement Supplement executed and delivered pursuant to Section 8.11.

"*Security Agreement Supplement*" has the meaning specified in the Security Agreement.

"*Shareholders Agreement*" means the Stockholders Agreement of the Parent dated as of [●], 2018 between the Parent, Steinhoff Europe AG, and the Lender Stockholders (as defined therein).

"*Solvent*" and "*Solvency*" mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the assets of such Person and its Restricted Subsidiaries, on a consolidated basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise, (b) the present fair saleable value of the property of such Person and its Restricted Subsidiaries, on a consolidated basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured, (c) such Person and its Restricted Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured and (d) such Person and its Restricted Subsidiaries, on a consolidated basis, are not engaged in, and are not about to engage in, business for which they have unreasonably small capital. The amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability.

"*SPC*" has the meaning specified in Section 12.2(g).

"*Specified Transaction*" means (u) the Transaction, (v) any Investment that results in a Person becoming a Restricted Subsidiary, (w) any designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary, (x) any Permitted Acquisition and any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or a Store, (y) any Disposition that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Borrower, and any Disposition of a business unit, line of business or division or a Store of the Borrower or a Restricted Subsidiary, in each case whether by merger, consolidation, amalgamation or otherwise or (z) any incurrence or repayment of Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility or line of credit), Restricted Payment or Term Loan Commitment Increase, in each case, that by the terms of this Agreement requires a financial ratio or test to be calculated on a "Pro Forma Basis" or after giving "Pro Forma Effect."

"*Steinhoff Parent*" means Steinhoff International Holdings, N.V.

"*Store*" means any retail store (which includes any real property, fixtures, equipment, Inventory and other property related thereto) operated, or to be operated, by the Borrower or any Restricted Subsidiary.

"*Stripes Intra-Group Loan Agreement*" means the Intra-Group Loan Agreement dated September 16, 2016 originally between Stripes US Holding, Inc. as borrower and Steinhoff Finance Holding GMBH and Steinhoff Mobel Holding Alpha GMBH as lenders (as amended or supplemented from time to time prior to the Closing Date).

"*Stripes PIK Facility*" means that certain $150,000,000 unsecured term loan facility pursuant to that certain [PIK Term Loan Agreement], dated as of the date hereof by and among [ ], on substantially the terms and conditions set forth in Exhibit B-2 to the Commitment Letter, and in any event, otherwise in form and substance satisfactory to the Administrative Agent.

"*Subsidiary*" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity (excluding, for the avoidance of doubt, charitable foundations and any other Person that meets the requirements of Section 501(c)(3) of the Code) (i) of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned by such Person, or (ii) the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, by such Person, to the extent such entity's financial results are required to be included in such Person's consolidated financial statements under IFRS. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Borrower.

"*Subsidiary Guarantor*" means any Guarantor that is a Restricted Subsidiary of the Borrower.

"*Successor Borrower*" has the meaning specified in Section 9.4(d).

"*Supplemental Administrative Agent*" and "Supplemental Administrative Agents" have the meanings specified in Section 11.12(a).

"*Swap*" means any agreement, contract, or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act.

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

a "*Master Agreement*"), including any such obligations or liabilities under any Master Agreement.

"*Swap Obligation*" means, with respect to any person, any obligation to pay or perform under any Swap.

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

"*Taxes*" has the meaning specified in Section 3.1(a).

"*Term Collateral Proceeds Account*" means, as of any date of determination, any Deposit Account or Securities Account that satisfies the following conditions: (a) it solely and exclusively contains proceeds of Term Priority Collateral and (b) it has been identified in advance in writing to the Revolving Agent as a Deposit Account or Securities Account that will be used solely and exclusively for holding proceeds of Term Priority Collateral.

"*Term Commitment Increase*" has the meaning assigned to such term in Section 2.15(a).

"*Term Loan*" has the meaning specified in Section 2.1(a).

"*Term Loan Commitment*" means, with respect to each Lender, the commitment of such Lender to make Loans expressed as an amount representing the maximum principal amount of the Loans to be made by such Lender under this Agreement, as such commitment may be (a) reduced from time to time pursuant to this Agreement and (b) reduced or increased from time to time pursuant to (i) assignments by or to such Lender pursuant to an Assignment and Assumption, (ii) a Term Loan Commitment Increase, (iii) a New Term Loan or (iv) an Extension. The initial amount of each Lender's Term Loan Commitment is set forth on Schedule I under the caption "Term Loan Commitment," as amended to reflect each Assignment and Assumption, Incremental Amendment or Extension Amendment, in each case executed by such Lender. The aggregate amount of the Term Loan Commitments on the Closing Date is $400,000,000.

"*Term Loan Note*" means a promissory note of the Borrower payable to any Lender in a principal amount equal to the amount of such Lender's Term Loan Commitment evidencing the aggregate Indebtedness of the Borrower to such Lender resulting from the Loans of a given Class owing to such Lender.

"*Term Loan Termination Date*" means the earliest of (a) the Scheduled Termination Date and (b) the date on which the Obligations become due and payable pursuant to Section 10.2.

"*Term Priority Collateral*" has the meaning given to such term in the ABL/Term Intercreditor Agreement.

"*Test Period*" in effect at any time means the most recent period of four consecutive Fiscal Quarters of the Borrower ended on or prior to such time (taken as one accounting period); *provided* that, prior to the first date that financial statements have been or are required to be delivered pursuant to Section 7.1(a) or (b), the Test Period in effect shall be the period of four consecutive Fiscal Quarters of the Borrower ended October 2, 2018. A Test Period may be designated by reference to the last day thereof (i.e., the "October 2, 2018 Test Period" refers to the period of four consecutive Fiscal Quarters of the Borrower ended October 2, 2018), and a Test Period shall be deemed to end on the last day thereof.

"*Threshold Amount*" means $18,500,000.

"*Total Assets*" means the total assets of the Parent and the Restricted Subsidiaries on a consolidated basis in accordance with IFRS, as shown on the most recent balance sheet of the Borrower delivered pursuant to Sections 7.1(a) or 7.1(b) or, for the period prior to the time any such statements are so delivered pursuant to Sections 7.1(a) or 7.1(b), the Pro Forma Financial Statements.

"*Total Net Leverage Ratio*" means, with respect to any Test Period, the ratio of (a) Funded Debt in respect of indebtedness for borrowed money (including Revolving Credit Loans, but excluding the amount of the Stripes PIK Facility), Attributable Indebtedness, purchase money Indebtedness and all amounts in respect of drawn letters of credit which have not been reimbursed within two (2) Business Days following the funding thereof, in each case, as of the last day of such Test Period, minus Unrestricted Cash as of the last day of such Test Period, to (b) Consolidated EBITDA of the Parent Guarantors, Holdings, the Borrower and the Restricted Subsidiaries as of the last day of such Test Period.

"*Transaction*" means, collectively, (a) the funding of the Loans on the Closing Date, (b) the funding of the Revolving Credit Loans under the ABL Loan Agreement, if any, (c) the funding (or deemed funding) of the loan under the Stripes PIK Facility, (d) the filing of the Chapter 11 Cases and the seeking confirmation and consummation of the Chapter 11 Plan, (e) the Refinancing and the prepayment of outstanding amounts under the Second Lien Credit Agreement and (f) the payment of the fees and expenses incurred in connection with any of the foregoing.

"*Transaction Expenses*" means any fees or expenses incurred or paid by any direct or indirect parent of the Borrower, the Borrower or any of its (or their) Subsidiaries in connection with the Transactions (including expenses in connection with close-out fees in connection with the termination of hedging transactions, if any, and payments to officers, employees and directors as change of control payments, severance payments, special or retention bonuses and charges for repurchase or rollover of, or modifications to, stock options and/or restricted stock), this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby.

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

"*Uniform Commercial Code*" or "*UCC*" means the Uniform Commercial Code or any successor provision thereof as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code or any successor provision thereof (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

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

"*Unrestricted Cash*" means (a) unrestricted cash and Cash Equivalents of the Borrower and any of its Restricted Subsidiaries, held in any Deposit Account or Securities Account, whether or not held in an Approved Deposit Account or an Approved Securities Account, and (b) cash and Cash Equivalents of the Borrower and its Subsidiaries restricted in favor of the Loan Documents (which may also include cash and Cash Equivalents securing the ABL Obligations and any other obligations in respect of Indebtedness permitted to be secured by a Lien on the Term Priority Collateral along with the Obligations), in each case, such unrestricted cash and restricted cash and Cash Equivalents to be determined in accordance with IFRS.

"*Unrestricted Subsidiary*" means any Subsidiary of the Borrower designated by the Board of Directors of the Borrower as an Unrestricted Subsidiary pursuant to Section 8.3 subsequent to the Closing Date, in each case, until such Person ceases to be an Unrestricted Subsidiary of the Borrower in accordance with Section 8.3 or ceases to be a Subsidiary of the Borrower. There are no Unrestricted Subsidiaries as of the Closing Date.

"*U.S. Lender*" has the meaning specified in Section 3.1(d).

"*USA PATRIOT Act*" means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

"*Weighted Average Life to Maturity*" means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining scheduled installment, sinking fund, serial maturity or other required scheduled payments of principal, including payment at final scheduled maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (b) the then outstanding principal amount of such Indebtedness; *provided* that for purposes of determining the Weighted Average Life to Maturity of any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended (the "*Applicable Indebtedness*"), the effects of any amortization or prepayments made on such Applicable Indebtedness prior to the date of the applicable modification, refinancing, refunding, renewal, replacement or extension shall be disregarded.

"*wholly owned*" means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (x) director's qualifying shares

and (y) nominal shares issued to foreign nationals to the extent required by applicable Law) are owned by such Person and/or by one or more wholly owned Subsidiaries of such Person.

"*Withdrawal Liability*" means the liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"*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.

SECTION 1.2 Other Interpretive Provisions.

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) (i) The words "herein," "hereto," "hereof" and "hereunder" and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

(ii) References in this Agreement to an Exhibit, Schedule, Article, Section, clause or sub-clause refer (A) to the appropriate Exhibit or Schedule to, or Article, Section, clause or sub-clause in this Agreement or (B) to the extent such references are not present in this Agreement, to the Loan Document in which such reference appears,

(iii) The term "including" is by way of example and not limitation,

(iv) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form, and

(v) Unless otherwise expressly indicated herein, the words "above" and "below", when following a reference to a clause or a sub-clause of any Loan Document, refer to a clause or sub-clause within, respectively, the same Section or clause.

(c) The terms "Lender" and "Administrative Agent" include, without limitation, their respective successors.

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

(e) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(f) For purposes of determining compliance with any Section of Article IX at any time, except as otherwise expressly set forth herein, in the event that any Lien, Investment, Indebtedness (whether at the time of incurrence or upon application of all or a portion of the proceeds thereof), Disposition, Restricted Payment, Affiliate transaction, Contractual Obligation, or prepayment of Indebtedness meets the criteria of one or more than one of the categories of transactions permitted pursuant to any clause of such Sections, such transaction (or portion thereof) at any time, shall be permitted under one or more of such clauses as determined by the Borrower in its sole discretion at such time.

(g) For the avoidance of doubt, any reference herein or in any Loan Document to an assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company or other entity whose jurisdiction of organization permits divisions of such entity, or an allocation of assets to a series of a limited liability company or other entity (or the unwinding of such a division or allocation), as if it were an assignment, sale or transfer, or similar term, as applicable, to a separate Person. Any division of a limited liability company or other entity whose jurisdiction of organization permits the formation of a series of such type of entity shall constitute a new separate Person hereunder (and each division of any limited liability company or other entity that is a Subsidiary, Restricted Subsidiary, Unrestricted Subsidiary, joint venture or any other like term shall also constitute such a Person), and such new Person shall be deemed to have been formed on the first date of its existence by the holders of its equity interests at such time.

SECTION 1.3 Accounting Terms.

All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, IFRS (or, if the Borrower has elected to report under GAAP, GAAP), except as otherwise specifically prescribed herein.

Notwithstanding any changes in GAAP or IFRS after the Closing Date, any lease of the Loan Parties and their Subsidiaries that would be characterized as an operating lease under GAAP or IFRS in effect on the Closing Date (whether such lease is entered into before or after the Closing Date) shall not constitute Indebtedness, Attributable Indebtedness or a Capitalized Lease Obligation under this Agreement or any other Loan Document as a result of such changes in GAAP or IFRS.

SECTION 1.4 Rounding.

Any financial ratios required to be satisfied in order for a specific action to be permitted under this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio

is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number)

SECTION 1.5 [Reserved].

SECTION 1.6 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all appendices, exhibits and schedules thereto and all subsequent amendments, restatements, extensions, supplements and other modifications thereto (but only to the extent that such amendments, restatements, extensions, supplements and other modifications are permitted by any Loan Document); and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

SECTION 1.7 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

SECTION 1.8 Timing of Payment of Performance. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day.

SECTION 1.9 Pro Forma Calculations.

(a) Notwithstanding anything to the contrary herein, financial ratios and tests, including the Fixed Charge Coverage Ratio and the Total Net Leverage Ratio and compliance with covenants determined by reference to Consolidated EBITDA, shall be calculated in the manner prescribed by this Section 1.9; *provided* that, notwithstanding anything to the contrary in clauses (b), (c), (d), (e) or (f) of this Section 1.9, (A) when calculating the Fixed Charge Coverage Ratio and the Total Net Leverage Ratio for purposes of determining actual compliance (and not compliance on a Pro Forma Basis) with Section 6.1, the events described in this Section 1.9 that occurred subsequent to the end of the applicable Test Period shall not be given pro forma effect and (B) when calculating any such ratio or test for purposes of the incurrence of any Indebtedness, cash and Cash Equivalents resulting from the incurrence of any such Indebtedness shall be excluded from the pro forma calculation of any applicable ratio or test. In addition, whenever a financial ratio or test is to be calculated on a pro forma basis, the reference to the "Test Period" for purposes of calculating such financial ratio or test shall be deemed to be a reference to, and shall be based on, the most recently ended Test Period for which financial statements have been delivered pursuant to Section 7.1(a) or (b), as applicable, for the relevant Test Period (except in the case of the Fixed Charge Coverage Ratio and the Total Net Leverage Ratio, in which case such incurrence, assumption, guarantee, redemption, repayment, retirement or extinguishment of Indebtedness will be given effect as if the same had occurred on the first day of the applicable Test Period).

(b) For purposes of calculating any financial ratio or test or compliance with any covenant determined by reference to Consolidated EBITDA or Total Assets, Specified

Transactions (with any incurrence or repayment of any Indebtedness in connection therewith to be subject to clause (d) of this Section 1.9) that have been made (i) during the applicable Test Period or (ii) if applicable as described in clause (a) above, subsequent to such Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a pro forma basis assuming that all such Specified Transactions (and any increase or decrease in Consolidated EBITDA, Total Assets and the component financial definitions used therein attributable to any Specified Transaction) had occurred on the first day of the applicable Test Period (or, in the case of Total Assets, on the last day of the applicable Test Period). If since the beginning of any applicable Test Period any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into the Borrower or any of its Restricted Subsidiaries since the beginning of such Test Period shall have made any Specified Transaction that would have required adjustment pursuant to this Section 1.9, then such financial ratio or test (or Total Assets) shall be calculated to give pro forma effect thereto in accordance with this Section 1.9.

(c) In the event that the Borrower or any Restricted Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility unless such Indebtedness has been permanently repaid and not replaced), (i) during the applicable Test Period or (ii) subject to paragraph (a), subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then such financial ratio or test shall be calculated giving pro forma effect to such incurrence or repayment of Indebtedness, in each case to the extent required, as if the same had occurred on the last day of the applicable Test Period.

(d) Whenever pro forma effect is to be given to a Specified Transaction after the Closing Date, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Borrower and, other than Excess Availability calculations, may include, for the avoidance of doubt, the amount of "run-rate" cost savings, operating expense reductions and synergies resulting from or relating to any Specified Transaction (including the Transactions) which is being given pro forma effect that have been realized or are expected to be realized and for which the actions necessary to realize such cost savings, operating expense reductions and synergies are taken, committed to be taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Borrower) (calculated on a pro forma basis as though such cost savings, operating expense reductions and synergies had been realized on the first day of such period and as if such cost savings, operating expense reductions and synergies were realized during the entirety of such period and "run-rate" means the full recurring benefit for a period that is associated with any action taken, committed to be taken or with respect to which substantial steps have been taken or are expected to be taken (including any savings expected to result from the elimination of a public target's Public Company Costs) net of the amount of actual benefits realized during such period from such actions, and any such adjustments shall be included in the initial pro forma calculations of any financial ratios or tests (and in respect of any subsequent pro forma calculations in which such Specified Transaction is given pro forma effect) and during any applicable subsequent Test Period in which the effects thereof are expected to be realized) relating to such Specified Transaction; *provided* that (A) such amounts are reasonably

identifiable and factually supportable in the good faith judgment of the Borrower, (B) such actions are taken, committed to be taken or with respect to which substantial steps have been taken or are expected to be taken no later than twelve (12) months after the date of such Specified Transaction, and (C) no amounts shall be added pursuant to this clause (d) to the extent duplicative of any amounts that are otherwise added back in computing Consolidated EBITDA (or any other components thereof), whether through a pro forma adjustment or otherwise, with respect to such period; *provided* that any increase to Consolidated EBITDA as a result of add backs pursuant to this Section 1.9(d) shall be subject to the limitation set forth in the final proviso of clause (vi) of the definition of Consolidated EBITDA (including the cap set forth therein).

(e) [Reserved].

(f) If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of the event for which the calculation of the Fixed Charge Coverage Ratio or Total Net Leverage Ratio is made had been the applicable rate for the entire period (taking into account any interest hedging arrangements applicable to such Indebtedness); *provided*, in the case of repayment of any Indebtedness, to the extent actual interest related thereto was included during all or any portion of the applicable Test Period, the actual interest may be used for the applicable portion of such Test Period. Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a Responsible Officer of the Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with IFRS. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a London interbank offered rate, or other rate, shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Borrower or Restricted Subsidiary may designate.

SECTION 1.10 Currency Equivalents Generally.

(a) For purposes of determining compliance with Sections 9.1, 9.2 and 9.3 with respect to any amount of Indebtedness or Investment in a currency other than Dollars, no Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Indebtedness or Investment is incurred (so long as such Indebtedness or Investment, at the time incurred, made or acquired, was permitted hereunder).

(b) For purposes of determining the Fixed Charge Coverage Ratio, amounts denominated in a currency other than Dollars will be converted to Dollars at the currency exchange rates used in preparing the Borrower's financial statements corresponding to the Test Period with respect to the applicable date of determination and will, in the case of Indebtedness, reflect the currency translation effects, determined in accordance with IFRS, of Swap Contracts permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness.

ARTICLE II

THE FACILITY

SECTION 2.1 Commitments.

(a) On the terms and subject to the conditions contained in this Agreement, each Lender severally agrees to make a term loan in Dollars ("*Term Loan*") to the Borrower in an aggregate principal amount equal to such Lender's Term Loan Commitment on the Closing Date. Amounts borrowed under this Section 2.1(a) and repaid or prepaid may not be reborrowed. Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein.

SECTION 2.2 Borrowing Procedure.

(a) Each Borrowing shall be made on notice given by the Borrower to the Administrative Agent (i) not later than 9:00 a.m. (New York, New York time) on the requested date of such Borrowing, in the case of a Borrowing of Base Rate Loans or (ii) not later than 12:00 noon (New York, New York time) three (3) Business Days prior to the requested date of such Borrowing, in the case of a Borrowing of Eurocurrency Rate Loans; *provided* that the notice referred to in this subclause (ii) may be delivered no later than 12:00 noon (New York, New York time) one (1) Business Day prior to the Closing Date in the case of any Borrowing of Eurocurrency Rate Loans on the Closing Date. Each such notice shall be in substantially the form of Exhibit C (a "*Notice of Borrowing*"), specifying (A) the date of such proposed Borrowing, which shall be a Business Day, (B) the aggregate amount of such proposed Borrowing, (C) whether any portion of the proposed Borrowing will be of Base Rate Loans or Eurocurrency Rate Loans, (D) the initial Interest Period or Interest Periods for any Eurocurrency Rate Loans and (E) the Class of such proposed Borrowing. The Loans shall be made as Base Rate Loans, unless, subject to Section 2.14, the Notice of Borrowing specifies that all or a portion thereof shall be Eurocurrency Rate Loans. Each Borrowing shall be in an aggregate amount of not less than $500,000 or an integral multiple of $100,000 in excess thereof.

(b) The Administrative Agent shall give to each Appropriate Lender prompt notice of the Administrative Agent's receipt of a Notice of Borrowing and, if Eurocurrency Rate Loans are properly requested in such Notice of Borrowing, the applicable interest rate determined pursuant to Section 2.14(a). Each Lender shall, before 2:00 p.m. on the date of the proposed Borrowing, make available to the Administrative Agent at its address referred to in Section 12.8, in Same Day Funds in the applicable currency, such Lender's Ratable Portion of such proposed Borrowing. Upon fulfillment (or due waiver in accordance with Section 12.1) (i) on the Closing Date, of the applicable conditions set forth in Section 4.1 and (ii) at any time (including the Closing Date), of the applicable conditions set forth in Section 4.2, and, subject to clause (c) below, after the Administrative Agent's receipt of such funds, the Administrative Agent shall make such funds available to the Borrower as promptly as reasonably practicable.

(c) Unless the Administrative Agent shall have received notice from a Lender prior to the date of any proposed Borrowing that such Lender will not make available to the Administrative Agent such Lender's Ratable Portion of such Borrowing (or any portion thereof), the Administrative Agent may assume that such Lender has made such Ratable Portion available to the Administrative Agent on the date of such Borrowing in accordance with this Section 2.2 and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If and to the extent that such Lender shall not have so made such Ratable Portion available to the Administrative Agent, such Lender and the

Borrower severally agrees to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Administrative Agent, at (i) in the case of the Borrower, the interest rate applicable at the time to the Loans comprising such Borrowing and (ii) in the case of such Lender, the Federal Funds Rate for the first Business Day and thereafter at the interest rate applicable at the time to the Loans comprising such Borrowing. If such Lender shall repay to the Administrative Agent such corresponding amount, such corresponding amount so repaid shall constitute such Lender's Loan as part of such Borrowing for purposes of this Agreement. If the Borrower shall repay to the Administrative Agent such corresponding amount, such payment shall not relieve such Lender of any obligation it may have hereunder to the Borrower.

(d) The failure of any Defaulting Lender to make on the date specified any Loan shall not relieve any other Lender of its obligations to make such Loan or payment on such date but, except to the extent otherwise provided herein, no such other Lender shall be responsible for the failure of any Defaulting Lender to make a Loan or payment required under this Agreement.

(e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than six (6) Interest Periods in effect unless otherwise agreed between the Borrower and the Administrative Agent; *provided* that after the establishment of any new Class of Loans pursuant to an Extension Amendment, the number of Interest Periods otherwise permitted by this Section 2.2(e) shall increase by three (3) Interest Periods for each applicable Class so established.

SECTION 2.3 [Reserved].

SECTION 2.4 Prepayment Premium.

In the event all or any portion of the Loans are accelerated for any reason or are prepaid, repaid, refinanced, substituted or replaced prior to the Scheduled Termination Date for any reason (including, without limitation, upon acceleration for any reason (including automatic acceleration including upon automatic acceleration upon the occurrence of an Event of Default under Section 10.1(f)) or upon any redemptions or buybacks) other than prepayments required under Section 2.9(a) or (c) (the date of any such acceleration, prepayment, repayment, refinancing, substitution or replacement, a "*Calculation Date*") then a prepayment premium shall be due and payable by the Borrower to the Administrative Agent, for the ratable account of each of the applicable Lenders, in an amount equal to (such amount, the "*Prepayment Premium*"): (a) if such acceleration, prepayment, repayment, refinancing, substitution or replacement occurs prior to November **[●]**, 2020, the Make-Whole Amount, (b) if such acceleration, prepayment, repayment, refinancing, substitution or replacement occurs on or after November **[●]**, 2020 but prior to November **[●]**, 2021, 10% of the aggregate principal amount of the Loans so accelerated, prepaid, repaid, refinanced, substituted or replaced, (c) if such acceleration, prepayment, repayment, refinancing, substitution or replacement occurs on or after November **[●]**, 2021, but prior to the date that is three (3) months prior to the Scheduled Termination Date, 5% of the amount so accelerated, prepaid, repaid, refinanced, substituted or replaced and (d) if such acceleration, prepayment, repayment, refinancing, substitution or replacement occurs on or after the date that is three (3) months prior to the Scheduled Termination Date, 0%.

It is understood and agreed that if the Obligations are accelerated or otherwise become due prior to their maturity date, in each case, in respect of any Event of Default (including, but not limited to, upon the occurrence of a bankruptcy or insolvency event (including the acceleration of claims by operation of law)), the Prepayment Premium which would have applied if, at the time of such acceleration, the Borrower had (i) prepaid, refinanced, substituted or replaced any or all of the Loans pursuant to Article II of this Agreement (any such event, a "Prepayment Premium Event"), will also be due and payable as though a Prepayment Premium Event had occurred and such Prepayment Premium shall constitute part of the Obligations, in view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of each Lender's lost profits as a result thereof. Any Prepayment Premium payable above shall be presumed to be the liquidated damages sustained by each Lender as the result of the early termination and the Borrower agrees that it is reasonable under the circumstances currently existing. The Prepayment Premium shall also be payable in the event the Obligations (and/or this Agreement) are satisfied or released by foreclosure (whether by power of judicial proceeding). deed in lieu of foreclosure or by any other means. EACH LOAN PARTY EXPRESSLY WAIVES (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREPAYMENT PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Borrower expressly agrees (to the fullest extent that each may lawfully do so) that: (A) the Prepayment Premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel; (B) the Prepayment Premium shall be payable notwithstanding the then prevailing market rates at the time payment is made; (C) there has been a course of conduct between Lenders and the Borrower giving specific consideration in this transaction for such agreement to pay the Prepayment Premium; and (D) the Borrower shall be estopped hereafter from claiming differently than as agreed to in this paragraph. The Borrower expressly acknowledges that its agreement to pay the Prepayment Premium to Lenders as herein described is a material inducement to Lenders to provide the Commitments and make the Loans.

SECTION 2.5 Termination of the Term Loan Commitments.

The Term Loan Commitments shall automatically terminate immediately upon the making of the Loans on the Closing Date.

SECTION 2.6 Repayment of Loans.

The Borrower promises to repay to the Administrative Agent for the ratable account of the Lenders the aggregate unpaid principal amount of the Loans on the Term Loan Termination Date or earlier, if otherwise required by the terms hereof.

SECTION 2.7 Evidence of Indebtedness.

(a) The Loans made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c) and Proposed Treasury Regulation 1.163-5(b), as a non-fiduciary agent for

the Borrower, in each case in the Ordinary Course of Business. Subject to Section 12.2(c), accounts or records maintained by the Administrative Agent and each Lender shall be prima facie evidence absent manifest error of the amount of the Loans made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

(b) (i) Subject to Section 12.2(c), entries made in good faith by the Administrative Agent in the Register pursuant to Sections 2.7(a) and by each Lender in its account or accounts pursuant to Section 2.7(a) shall be prima facie evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; *provided* that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

(ii) Notwithstanding anything to the contrary contained in this Agreement, the Loans (including the Term Loan Notes evidencing such Loans) are registered obligations and the right, title, and interest of the Lenders and their assignees in and to such Loans shall be transferable only upon notation of such transfer in the Register. A Term Loan Note shall only evidence the Lender's or a registered assignee's right, title and interest in and to the related Loan, and in no event is any such Term Loan Note to be considered a bearer instrument or obligation. This Section 2.7(b) and Section 12.2 shall be construed so that the Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations (or any successor provisions of the Code or such regulations).

(c) Notwithstanding any other provision of the Agreement, in the event that any Lender requests that the Borrower execute and deliver a promissory note or notes payable to such Lender in order to evidence the Indebtedness owing to such Lender by the Borrower hereunder, the Borrower shall promptly execute and deliver a Term Loan Note or Term Loan Notes to such Lender evidencing the Loans of such Lender, substantially in the form of Exhibit B. Each Lender may attach schedules to its Term Loan Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto; *provided* that the failure to do so shall in no way affect the obligations of the Borrower or any other Loan Party under any Loan Document.

SECTION 2.8 Optional Prepayments.

The Borrower may prepay, in the applicable currency, the outstanding principal amount of the Loans in whole or in part at any time; *provided*, *however*, that (i) if any prepayment, repayment, refinancing, substitution or replacement occurs prior to the date that is three (3) months prior to the Scheduled Termination Date, the Borrower shall also pay any amount owing

pursuant to Section 2.4 and (ii) if any prepayment, repayment, refinancing, substitution or replacement of any Eurocurrency Rate Loan is made by the Borrower other than on the last day of an Interest Period for such Loan, the Borrower shall also pay any amount owing pursuant to Section 3.5.

SECTION 2.9 Mandatory Prepayments.

(a) Subject to the ABL/Term Intercreditor Agreement, if at any time, Holdings or any of its Restricted Subsidiaries receives any Net Cash Proceeds arising from any Disposition under Sections 9.5(j), (t), (w), and (x) or any Casualty Event, in each case, in excess of $5,000,000, but only to the extent of such excess) in respect of any Collateral and not required to be applied to amounts outstanding under the ABL Loan Documents, the Borrower shall promptly (but in any event within three (3) Business Days of such receipt) prepay the Loans in an amount equal to 100% of such Net Cash Proceeds. Notwithstanding the foregoing, so long as no Event of Default is continuing at the time of receipt of such Net Cash Proceeds, the Borrower shall have the option to reinvest an amount not exceeding $25,000,000 from such Net Cash Proceeds in assets used or useful in the business of the Borrower and its Restricted Subsidiaries within 90 days of receipt of such Net Cash Proceeds; *provided* that if any Net Cash Proceeds are no longer intended to be or cannot be so reinvested at any time after delivery of a notice of reinvestment election, an amount equal to any such Net Cash Proceeds shall be applied within three (3) Business Days after the Borrower reasonably determines that such Net Cash Proceeds are no longer intended to be or cannot be so reinvested to the prepayment of the Loans as set forth in this Section 2.9(a).

(b) Subject to the ABL/Term Intercreditor Agreement, if at any time, Holdings or any of its Restricted Subsidiaries receives any Net Cash Proceeds arising from any incurrence, issuance or sale of any Indebtedness (including, without limitation, the Net Cash Proceeds of any bankruptcy exit financing and any Permitted Refinancing) that is not otherwise permitted under this Agreement, the Borrower shall promptly (but in any event within three (3) Business Days of such receipt) prepay the Loans in an amount equal to 100% of such Net Cash Proceeds.

(c) Within ten (10) Business Days after financial statements have been delivered pursuant to Section 7.1(a) (each, an "*ECF Payment Date*"), commencing with the delivery for the Fiscal Year ending October 1, 2019, and the related Compliance Certificate has been delivered pursuant to Section 7.2(a), the Borrower shall prepay the Loans in an amount equal to the amount of (A) the Applicable ECF Percentage of Excess Cash Flow, if positive, for the Excess Cash Flow Period then ended minus (B) at the option of the Borrower, all voluntary prepayments of Revolving Credit Loans (but only to the extent in connection with a corresponding commitment reduction) and Loans, in each case, made during such Excess Cash Flow Period or, without duplication of amounts deducted in respect of prior Excess Cash Flow Periods, after the end of such Excess Cash Flow Period and prior to the ECF Payment Date.

(d) Upon the occurrence of a Change of Control, the Borrower shall promptly (but in any event no longer than one Business Day after such Change of Control), prepay 100% of the outstanding principal amount of the Loans, together with accrued and unpaid interest thereon and any other amounts due pursuant to Sections 2.4 and 3.5.

(e) Subject to Sections 2.4 and 3.5 hereof, all such payments in respect of the Loans pursuant to this Section 2.9 shall be without premium or penalty. All interest accrued on the principal amount of the Loans paid pursuant to Section 2.8 and this Section 2.9 shall be paid on the date of such payment at the Applicable Rate applicable to cash interest payments. Interest shall accrue and be due, until the next Business Day, if the amount so paid by the Borrower to the bank account designated by the Administrative Agent for such purpose is received in such bank account after 3:00 p.m. All Loans prepaid pursuant to this Section 2.9 shall be applied in the manner set forth in Section 2.13(f).

SECTION 2.10 Interest.

(a) Rate of Interest. All Loans and the outstanding amount of all other Obligations owing under the Loan Documents shall bear interest, in the case of any Class of Loans, on the unpaid principal amount thereof from the date such Loans are made and, in the case of such other Obligations, from the date such other Obligations are due and payable until, in all cases, paid in full, except as otherwise provided in clause (c) below, as follows:

(i) if a Base Rate Loan or such other Obligation (except as otherwise provided in this Section 2.10(a)), at a rate per annum equal to the sum of (A) the Base Rate as in effect from time to time and (B) the Applicable Rate for Base Rate Loans; and

(ii) if a Eurocurrency Rate Loan, at a rate per annum equal to the sum of (A) the Adjusted Eurocurrency Rate determined for the applicable Interest Period and (B) the Applicable Rate applicable to Eurocurrency Rate Loans in effect from time to time during such Interest Period.

(b) Interest Payments. (i) Interest accrued on each Base Rate Loan shall be payable in arrears (A) on the first Business Day of each February, May, August and November, commencing on the first such day following the making of such Base Rate Loan and (B) if not previously paid in full, at maturity (whether by acceleration or otherwise) of such Base Rate Loan, (ii) interest accrued on each Eurocurrency Rate Loan shall be payable in arrears (A) on the last day of each Interest Period applicable to such Loan and, if such Interest Period has a duration of more than three (3) months, on each date during such Interest Period occurring every three (3) months from the first day of such Interest Period, (B) upon the payment or prepayment thereof in full or in part and (C) if not previously paid in full, at maturity (whether by acceleration or otherwise) of such Eurocurrency Rate Loan and (iii) interest accrued on the amount of all other Obligations shall be payable on demand from and after the time such Obligation becomes due and payable (whether by acceleration or otherwise).

Notwithstanding the foregoing, on each Interest Payment Date, upon five (5) Business Days prior written notice to the Administrative Agent, the Borrower may elect to pay-in-kind all or a portion of the interest due and payable on the outstanding principal of the Term Loans on such Interest Payment Date ("*PIK Interest*") by adding such portion of accrued and unpaid interest (which shall be deemed calculated under clause (b) of the definition of the "Applicable Rate") to the unpaid principal amount of the Term Loans on the applicable Interest Payment Date, (whereupon from and after such date such additional capitalized amounts shall also accrue interest pursuant to this Section 2.10 and all other applicable terms of this Agreement); *provided*

that the Borrower may not elect to pay PIK Interest unless (A) no Event of Default has occurred and is continuing and (B) after giving pro forma effect to the payment of such interest due and payable on such Interest Payment Date, (x) the Total Net Leverage Ratio for the Test Period immediately preceding such Interest Payment Date for which financial statements have been delivered under Section 7.1(a) or (b) as applicable, exceeds 4.00:1.00, (y) Liquidity is less than $100,000,000 or (z) Consolidated EBITDA for the Test Period immediately preceding such Interest Payment Date for which financial statements have been delivered under Section 7.1(a) or (b), as applicable, is less than zero. All such PIK Interest so capitalized pursuant to this Section 2.10 shall be treated as principal of Term Loans for all purposes of this Agreement. The obligation of the Borrower to pay all such PIK Interest so capitalized shall be automatically evidenced by this Agreement or, if applicable, all Term Loan Notes. Upon request of Administrative Agent or any Lender, the Borrower shall confirm in writing the principal amount then outstanding on any Term Loans, including all PIK Interest so capitalized.

Notwithstanding anything to the contrary, and for the avoidance of doubt it, is understood and agreed that (i) the PIK Interest is calculated based on the then outstanding aggregate principal amount of the Loans, (ii) absent the written election to pay interest in kind as set forth in this Section 2.10(b), all such interest shall be due and payable in cash and (iii) all accrued and unpaid PIK Interest shall be due and payable in cash on the Term Loan Termination Date

(c) Default Interest. The Borrower shall pay interest on past due amounts hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

SECTION 2.11 Conversion/Continuation Option.

(a) The Borrower may elect (i) at any time on any Business Day, to convert Base Rate Loans or any portion thereof to Eurocurrency Rate Loans and (ii) at the end of any applicable Interest Period, to convert Eurocurrency Rate Loans or any portion thereof into Base Rate Loans, or to continue such Eurocurrency Rate Loans or any portion thereof for an additional Interest Period; *provided*, *however*, that the aggregate amount of the Eurocurrency Rate Loans for each Interest Period must be in the amount of at least $500,000 or an integral multiple of $100,000 in excess thereof. Each conversion or continuation shall be allocated among the Loans of each Lender in accordance with such Lender's Ratable Portion. Each such election shall be in substantially the form of Exhibit F (a "*Notice of Conversion or Continuation*") and shall be made by giving the Administrative Agent at least three (3) Business Days' prior written notice specifying (A) the amount and type of Loan being converted or continued, (B) in the case of a conversion to or a continuation of Eurocurrency Rate Loans, the applicable Interest Period and (C) in the case of a conversion, the date of such conversion.

(b) The Administrative Agent shall promptly notify each Lender of its receipt of a Notice of Conversion or Continuation and of the options selected therein. Notwithstanding the foregoing, the Administrative Agent or the Requisite Lenders may require by notice to the Borrower that no conversion in whole or in part of Base Rate Loans to Eurocurrency Rate Loans and no continuation in whole or in part of Eurocurrency Rate Loans upon the expiration of any applicable Interest Period shall be permitted at any time at which (A) an Event of Default shall

have occurred and be continuing or (B) the continuation of, or conversion into, a Eurocurrency Rate Loan would violate any provision of Section 2.14. If, within the time period required under the terms of this Section 2.11, the Administrative Agent does not receive a Notice of Conversion or Continuation from the Borrower containing a permitted election to continue any Eurocurrency Rate Loans for an additional Interest Period or to convert any such Loans, then, upon the expiration of the applicable Interest Period, such Loans shall be automatically converted to Base Rate Loans. Each Notice of Conversion or Continuation shall be irrevocable.

SECTION 2.12 Fees.

(a) The Borrower has agreed to pay certain fees, the amount and dates of payment of which are embodied in the Fee Letter.

SECTION 2.13 Payments and Computations.

(a) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. The Borrower shall make each payment and prepayment hereunder (including fees and expenses) not later than 2:00 p.m. on the day when due, (i) in the case of Loans, in the currency in which such Loan is denominated, (ii) in the case of any accrued interest payable on a Loan, in the currency of such Loan, and (iii) in the case of all other payments under each Loan Document, in Dollars except as otherwise expressly provided herein or therein, in each case to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office for payment and in Same Day Funds without condition or deduction for any defense, recoupment, set-off or counterclaim. The Administrative Agent will promptly distribute to each Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall, in each case be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) All computations of interest for Base Rate Loans shall be made on the basis of a year of 365 days or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365 day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; *provided* that any Loan that is repaid on the same day on which it is made shall bear interest for one (1) day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(c) [Reserved].

(d) Whenever any payment hereunder shall be stated to be due on a day other than a Business Day, the due date for such payment shall be extended to the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest or fees, as the case may be; *provided*, *however*, that if such extension would cause payment of interest on or principal of any Eurocurrency Rate Loan to be made in the next

calendar month, such payment shall be made on the immediately preceding Business Day. All repayments of any Loans shall be applied as follows: first, to repay any such Loans outstanding as Base Rate Loans and then, to repay any such Loans outstanding as Eurocurrency Rate Loans, with those Eurocurrency Rate Loans having earlier expiring Interest Periods being repaid prior to those having later expiring Interest Periods.

(e) Unless the Administrative Agent shall have received notice from the Borrower to the Lenders prior to the date on which any payment is due hereunder that the Borrower will not make such payment in full, the Administrative Agent may assume that the Borrower has made such payment in full to the Administrative Agent on such date and the Administrative Agent may (but shall not be so required to), in reliance upon such assumption, cause to be distributed to each Lender on such due date an amount equal to the amount then due such Lender. If and to the extent that the Borrower shall not have made such payment to the Administrative Agent in Same Day Funds in the applicable currency, then each Lender shall repay to the Administrative Agent forthwith on demand the portion of such assumed payment that was made available to such Lender in Same Day Funds in the applicable currency, together with interest thereon in respect of each day from and including the date such amount was made available to such Lender to the date such amount is repaid to the Administrative Agent in Same Day Funds in the applicable currency at the applicable Overnight Rate from time to time in effect.

(f) Except for payments and other amounts received by the Administrative Agent and applied in accordance with the provisions of Section 10.2(b) below (or required to be applied in accordance with Section 2.9), all payments and any other amounts received by the Administrative Agent from or for the benefit of the Borrower shall be applied as follows: first, to pay principal of, and interest on, any portion of the Loans the Administrative Agent may have advanced pursuant to the express provisions of this Agreement on behalf of any Lender, for which the Administrative Agent has not then been reimbursed by such Lender or the Borrower, second, to pay all other Obligations then due and payable and third, as the Borrower so designates. Payments in respect of Loans received by the Administrative Agent shall be distributed to each Lender in accordance with such Lender's Ratable Portion; and all payments of fees and all other payments in respect of any other Obligation shall be allocated among such of the Lenders as are entitled thereto and, for such payments allocated to the Lenders, in proportion to their respective Ratable Portions.

(g) [Reserved].

(h) No Loan may be converted into or continued as a Loan denominated in a different currency, but instead must be repaid or prepaid in the original currency of such Loan and reborrowed in the other currency.

SECTION 2.14 Special Provisions Governing Eurocurrency Rate Loans.

(a) Determination of Interest Rate. The Adjusted Eurocurrency Rate for each Interest Period for Eurocurrency Rate Loans shall be determined by the Administrative Agent pursuant to the procedures set forth in the definition of "Eurocurrency Rate". The Administrative Agent's determination shall be presumed to be correct and binding on the Loan Parties, absent manifest error.

(b) Interest Rate Unascertainable, Inadequate or Unfair. In the event that (i) the Administrative Agent reasonably determines that adequate and fair means do not exist for ascertaining the applicable interest rates by reference to which the Eurocurrency Rate then being determined is to be fixed or (ii) the Requisite Lenders reasonably determine and notify the Administrative Agent that the Eurocurrency Rate for any Interest Period will not adequately reflect the cost to the Lenders of making or maintaining such Loans for such Interest Period, the Administrative Agent shall forthwith so notify the Borrower and the Lenders, whereupon each Eurocurrency Rate Loan shall automatically, on the last day of the current Interest Period for such Loan, convert into a Base Rate Loan, and the obligations of the Lenders to make Eurocurrency Rate Loans or to convert Base Rate Loans into Eurocurrency Rate Loans shall be suspended until the Administrative Agent shall notify the Borrower that the Requisite Lenders have determined that the circumstances causing such suspension no longer exist.

SECTION 2.15 Term Loan Commitment Increase.

(a) The Borrower may from time to time, pursuant to an incremental amendment executed by the Borrower and each Additional Lender (an "*Incremental Amendment*"), request to effect one or more additional term loan facilities hereunder as an Incremental Term Facility or increases in the aggregate amount of any existing Loans (each such increase, a "*Term Commitment Increase*", and together with any Incremental Term Facility, an "*Increased Facility*") from one or more Additional Lenders by executing and delivering to the Administrative Agent a notice specifying (A) the amount of such Term Commitment Increase or Incremental Term Facility and (B) the date such Increased Facility is expected to become effective. Notwithstanding the foregoing, (I) without the consent of the Requisite Lenders, the aggregate amount of Increased Facilities obtained after the Closing Date pursuant to this paragraph shall not exceed the Incremental Cap and (II) each increase effected pursuant to this paragraph shall be in a minimum amount of at least $10,000,000 (provided that such amount may be less than $10,000,000 if such amount represents all remaining availability under the Incremental Cap). No Lender shall have any obligation to participate in any increase described in this paragraph unless it agrees to do so in its sole discretion.

(b) Reserved

(c) Notwithstanding the foregoing, no Increased Facilities shall become effective under this Section unless:

(i) except as otherwise agreed by the Lenders providing the Increased Facility, on the proposed date of the effectiveness of such Increased Facility, the conditions set forth in paragraphs (b) of Section 4.2 shall be satisfied or waived by the Requisite Lenders and the Administrative Agent shall have received a certificate to that effect dated such date and executed by a Responsible Officer of the Borrower;

(ii) any Incremental Term Facility will mature no earlier than the Scheduled Termination Date for each class of loans outstanding,

(iii) the weighted average life to maturity of any Incremental Term Loans shall not be shorter than the weighted average life to maturity of the Loans then outstanding,

(iv) the interest rate applicable to any Incremental Term Facility or Incremental Term Loans will be determined by the Borrower and the Additional Lenders providing such Incremental Term Facility or Incremental Term Loans; provided that such interest rate shall not exceed the interest rate permitted to be paid under the terms of the ABL/Term Intercreditor Agreement,

(v) any mandatory prepayment (other than scheduled amortization payments) of Incremental Term Loans that are pari passu in right of payment with any then-existing Loans shall be made on a pro rata basis with such then-existing Loans (and all other then-existing Incremental Term Loans requiring ratable prepayment), except that the Borrower and the Additional Lenders in respect of such Incremental Term Loans shall be permitted, in their sole discretion, to elect to prepay or receive, as applicable, any prepayments on a less than pro rata basis (but not on a greater than pro rata basis) notwithstanding anything in this Agreement or any other Loan Document to the contrary,

(vi) to the extent requested, the Administrative Agent shall have received documents (including legal opinions) consistent with those delivered on the Closing Date as to the organizational power and authority of the Borrower,

(vii) the Increased Facilities (A) shall rank pari passu or junior in right of payment with the Loans and (B) shall rank pari passu or junior in right of security in respect of the Term Priority Collateral and junior in right of security in respect of the ABL Priority Collateral, or may be unsecured and shall not be guaranteed by any Person not a Loan Party.

(d) This Section 2.15 shall supersede any provisions in Section 12.1 or Section 12.7 to the contrary.

SECTION 2.16 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) Waivers and Amendments. That Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 12.1.

(ii) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article X or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 12.6), shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; second, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its

portion thereof as required by this Agreement, as determined by the Administrative Agent; third, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Agreement; fourth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; fifth, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and sixth, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans were made at a time when the conditions set forth in Section 4.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post cash collateral pursuant to this Section 2.16(a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. That Defaulting Lender shall not be entitled to receive any commitment fee pursuant to Section 2.12(a) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender for such period).

(b) Defaulting Lender Cure. If the Borrower and the Administrative Agent agree in writing in their reasonable discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Lender will, to the extent applicable, purchase that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans, whereupon that Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower for the period that such Lender was a Defaulting Lender; and *provided*, *further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

SECTION 2.17 Extensions of Loans.

(a) Extension of Term Loan Commitments. The Borrower may at any time and from time to time request that all or a portion of the Loans of a given Class (each, an "*Existing Term Loan Tranche*") be amended to extend the Scheduled Termination Date with respect to all or a portion of any principal amount of such Loans (any such Loans which have been so amended,

"*Extended Term Loans*") and to provide for other terms consistent with this Section 2.17; *provided* that there shall be no more than three (3) Classes of Loans and Commitments outstanding at any time. In order to establish any Extended Term Loans, the Borrower shall provide a notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders under the applicable Existing Term Loan Tranche) (each, a "*Extension Request*") setting forth the proposed terms (which shall be determined in consultation with the Administrative Agent) of the Extended Term Loans to be established, which shall (x) be identical as offered to each Lender under such Existing Term Loan Tranche (including as to the proposed interest rates and fees payable) and offered pro rata to each Lender under such Existing Term Loan Tranche and (y) be identical to the Loans under the Existing Term Loan Tranche from which such Extended Term Loans are to be amended, except that: (i) the Scheduled Termination Date of the Extended Term Loans shall be later than the Scheduled Termination Date of such Existing Term Loan Tranche, (ii) the Extension Amendment may provide for other covenants and terms that apply solely to any period after the Latest Maturity Date that is in effect on the effective date of the Extension Amendment (immediately prior to the establishment of such Extended Term Loans); and (iii) all borrowings under the Loans and repayments thereunder shall be made on a pro rata basis (except for (I) payments of interest and fees at different rates on Extended Term Loans (and related outstandings), (II) repayments required upon the Term Loan Termination Date of the non-extending Loans) and (III) the holders of Extended Term Loans may elect to receive less than pro rata payments than any Existing Term Loan Tranche; *provided*, *further*, that (A) the conditions precedent to a Borrowing set forth in Section 4.2 shall be satisfied as of the date of such Extension Amendment and at the time when any Loans are made in respect of any Extended Term Loan Commitment, (B) in no event shall the final maturity date of any Extended Term Loans of a given Extension Series at the time of establishment thereof be earlier than the then Latest Maturity Date of any other Loans hereunder, (C) [reserved] and (D) all documentation in respect of the such Extension Amendment shall be consistent with the foregoing. Any Extended Term Loans amended pursuant to any Extension Request shall be designated a series (each, a "*Extension Series*") of Extended Term Loans for all purposes of this Agreement; *provided* that any Extended Term Loans amended from an Existing Term Loan Tranche may, to the extent provided in the applicable Extension Amendment, be designated as an increase in any previously established Extension Series with respect to such Existing Term Loan Tranche. Each Extension Series of Extended Term Loans incurred under this Section 2.17 shall be in an aggregate principal amount equal to not less than $25,000,000.

(b) Extension Request. The Borrower shall provide the applicable Extension Request at least ten (10) Business Days (or such shorter period as may be agreed by the Administrative Agent) prior to the date on which Lenders under the Existing Term Loan Tranche are requested to respond, and shall agree to such procedures, if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably, to accomplish the purposes of this Section 2.17. No Lender shall have any obligation to agree to provide any Extended Term Loan pursuant to any Extension Request. Any Lender (each, an "*Extending Term Loan Lender*") wishing to have all or a portion of its Loans under the Existing Term Loan Tranche subject to such Extension Request amended into Extended Term Loans shall notify the Administrative Agent (each, an "*Extension Election*") on or prior to the date specified in such Extension Request of the amount of its Loans under the Existing Term Loan Tranche which it has elected to request be amended into Extended Term Loans (subject to any minimum denomination requirements

imposed by the Administrative Agent). In the event that the aggregate principal amount of Loans under the Existing Term Loan Tranche in respect of which applicable Lenders shall have accepted the relevant Extension Request exceeds the amount of Extended Term Loans requested to be extended pursuant to the Extension Request, Loans subject to Extension Elections shall be amended to reflect allocations of the Extended Term Loans, which Extended Term Loans shall be allocated as agreed by Administrative Agent and the Borrower.

(c) New Term Loan Lenders. Following any Extension Request made by the Borrower in accordance with Sections 2.17(a) and 2.17(b), if the Lenders shall have declined to agree during the period specified in Section 2.17(b) above to provide Extended Term Loans in an aggregate principal amount equal to the amount requested by the Borrower in such Extension Request, the Borrower may request that banks, financial institutions or other institutional lenders or investors other than the Lenders or Extending Term Loan Lenders (the "*New Term Loan Lenders*"), which New Term Loan Lenders may elect to provide an Extended Term Loan hereunder (each, a "*New Term Loan*"); *provided* that such New Term Loans (i) shall be in an aggregate principal amount for all such New Term Loan Lenders not to exceed the aggregate principal amount of Extended Term Loans so declined to be provided by the existing Lenders and (ii) shall be on identical terms to the terms applicable to the terms specified in the applicable Extension Request (and any Extended Term Loans provided by existing Lenders in respect thereof); *provided*, *further*, that, as a condition to the effectiveness of any New Term Loan, the Administrative Agent shall have consented (such consent not to be unreasonably withheld) to each New Term Loan Lender if such consent would be required under Section 12.2(b)(iii) for an assignment of Loans to such Person. Upon effectiveness of the Extension Amendment to which each such New Term Loan Lender is a party, (a) the Loans of all existing Lenders of each Class specified in the Extension Amendment in accordance with this Section 2.17 will be permanently reduced pro rata by an aggregate amount equal to the aggregate principal amount of the Extended Term Loans of such New Term Loan Lenders and (b) the Loan of each such New Term Loan Lender will become effective. The New Term Loans will be incorporated as Loans hereunder in the same manner in which Extended Term Loans of existing Lenders are incorporated hereunder pursuant to this Section 2.17, and for the avoidance of doubt, all Borrowings and repayments of Loans from and after the effectiveness of such Extension Amendment shall be made pro rata across all Classes of Loans including such New Term Loan Lenders (based on the outstanding principal amounts of the respective Classes of Loans) except for (x) payments of interest and fees at different rates for each Class of Loans, (y) repayments required on the Term Loan Termination Date for any particular Class of Loans and (z) any Lenders holding Extended Term Loans may agree to take less than their pro rata share of any such payment. The Administrative Agent and the Lenders hereby agree that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence.

(d) Extension Amendment. Extended Term Loans and New Term Loans shall be established pursuant to an amendment (each, an "*Extension Amendment*") to this Agreement among the Borrower, the Administrative Agent and each Extending Term Loan Lender and each New Term Loan Lender, if any, providing an Extended Term Loan or a New Term Loan, as applicable, thereunder, which shall be consistent with the provisions set forth in Sections 2.17(a),

(b) and (c) above (but which shall not require the consent of any other Lender). The effectiveness of any Extension Amendment shall be subject to the satisfaction on the date thereof of each of the conditions set forth in Sections 4.2(a) and (b) and, to the extent reasonably requested by the Administrative Agent, receipt by the Administrative Agent of (i) legal opinions, board resolutions and officers' certificates consistent with those delivered on the Closing Date other than changes to such legal opinion resulting from a Change in Law, change in fact or change to counsel's form of opinion reasonably satisfactory to the Administrative Agent and (ii) reaffirmation agreements and/or such amendments to the Collateral Documents as may be reasonably requested by the Collateral Agent in order to ensure that the Extended Term Loans or the New Term Loans, as the case may be, are provided with the benefit of the applicable Loan Documents. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Extension Amendment. Each of the parties hereto hereby agrees that this Agreement and the other Loan Documents may be amended pursuant to an Extension Amendment, without the consent of any other Lenders, to the extent (but only to the extent) necessary to (i) reflect the existence and terms of the Extended Term Loans or the New Term Loans, as the case may be, incurred pursuant thereto, (ii) make such other changes to this Agreement and the other Loan Documents (without the consent of the Requisite Lenders) and (iii) effect such other amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section, and the Requisite Lenders hereby expressly authorize the Administrative Agent to enter into any such Extension Amendment.

(e) No conversion of Loans pursuant to any Extension in accordance with this Section 2.17 shall constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

SECTION 2.18 Tax Treatment[6].[7]

(a) The Term Loans are intended to be treated as indebtedness for all relevant tax and financial accounting purposes, including for U.S. federal and state income tax purposes. The Borrower and each Lender agrees to, and cause its Affiliates to, (i) file all tax returns and prepare all financial statements consistently with such intended treatment and (ii) not take any actions inconsistent with treating the Term Loans as indebtedness for all relevant tax and financial accounting purposes, except to the extent required by (x) a final determination by an applicable taxing authority or a court of competent jurisdiction or (y) a change in applicable accounting standards. The Borrower and each Lender further agree, for U.S. federal and other applicable income tax purposes, not to treat the Term Loans as "contingent payment debt instruments" under Treasury Regulation Section 1.1275-4 (or any corresponding provision of state income tax law), and to file all tax returns consistently with this intended tax treatment, except to the extent required by a final determination by an applicable taxing authority or a court of competent jurisdiction.

[6] Allocation provisions to come.

[7] Subject to review by Sidley tax.

(b) The Borrower and each Lender agree (i) that, for U.S. federal income tax purposes, the Loans were issued as a component of the acquisitions by the Lenders, pursuant to the Transactions, of the Loans, the loans under the Stripes PIK Facility, and the Common Equity and that, for U.S. federal income tax purposes, the "issue price" of the Loans (the "Term Loan Issue Price") is equal to $[__], the "issue price" of the loans under the Stripes PIK Facility (the "PIK Loan Issue Price") is equal to $[__], the purchase price of the Common Equity (the "Common Equity Purchase Price") is equal to $[__], (ii) that, for U.S. federal income tax purposes, the Lenders shall be treated as having purchased the loans under the Stripes PIK Facility from Stripes in exchanges for the payment of cash equal to the PIK Loan Issue Price and as having purchased the Common Equity from Stripes in exchanged for cash equal to the Common Equity Purchase Price, followed by the contribution by Stripes of such cash received by the Lenders through its intermediate Subsidiaries to the Borrower, and (iii) to file all tax returns consistently with the Term Loan Issue Price, the PIK Loan Issue Price and the Common Equity Purchase Price and the intended tax treatment otherwise described in the preceding clause (i) and ii), except to the extent required by a final determination by an applicable taxing authority or a court of competent jurisdiction

ARTICLE III

TAXES, INCREASED COSTS PROTECTION AND ILLEGALITY

SECTION 3.1 Taxes.

(a) Except as required by law, any and all payments by or on behalf of or on account of any obligations of the Borrower or any Guarantor under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings (including backup withholding) or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto (collectively, "*Taxes*"), excluding, in the case of each Agent and each Lender, (i) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (A) imposed as a result of such Agent or Lender being organized under the laws of, or having its principal office in or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax or (B) imposed on such Agent or Lender as a result of a present or former connection between such Agent or Lender and the jurisdiction imposing such Tax (other than connections arising from such Agent or Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document), (ii) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Term Loan Commitment pursuant to a law in effect on the date on which (A) such Lender acquires such interest in the Loan or Term Loan Commitment (other than pursuant to an assignment request by the Borrower under Section 3.7) or (B) such Lender changes its lending office, except in each case to the extent that, pursuant to this Section 3.1, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (iii)

any U.S. federal withholding Taxes imposed as a result of the failure of any Lender to comply with, in the case of any Foreign Lender, as defined below, the provisions of Sections 3.1(b) and 3.1(c) or, in the case of any U.S. Lender, as defined below, the provisions of Section 3.1(d), and (iv) any U.S. federal withholding taxes imposed pursuant to FATCA (all Taxes described in this Section 3.1(a)(i)-(iv) being hereinafter referred to as "Excluded Taxes"; all Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Loan Parties under any Loan Document being hereinafter referred to as "*Indemnified Taxes*"). If the Borrower, a Guarantor or the Administrative Agent is required by Law (as determined in the good faith discretion of the Borrower, Guarantor or Administrative Agent) to deduct or withhold any Indemnified Taxes or Other Taxes (as defined below) from or in respect of any sum payable under any Loan Document to any Agent or any Lender, (i) the sum payable by the Borrower or the applicable Guarantor shall be increased as necessary so that after making all required deductions or withholdings (including deductions or withholdings applicable to additional sums payable under this Section 3.1(a)), each of such Agent and such Lender receives an amount equal to the sum it would have received had no such deductions or withholdings been made, (ii) the Borrower, Guarantor or Administrative Agent, as applicable, shall make such deductions or withholdings, (iii) the Borrower, Guarantor or Administrative Agent, as applicable, shall timely pay the full amount deducted or withheld to the relevant taxing authority, and (iv) as soon as practicable after any payment of Taxes pursuant to this Section 3.1 by the Borrower or a Guarantor, the Borrower or Guarantor shall furnish to such Agent or Lender (as the case may be) the original or a certified copy of a receipt evidencing payment thereof to the extent such a receipt has been made available to the Borrower or Guarantor (or other evidence of payment reasonably satisfactory to the Administrative Agent). If the Borrower or Guarantor fails to pay any Indemnified Taxes or Other Taxes when due to the appropriate taxing authority or fails to remit to any Agent or any Lender the required receipts or other required documentary evidence that has been made available to the Borrower or Guarantor, the Borrower or Guarantor shall indemnify such Agent and such Lender for any incremental Indemnified Taxes and Other Taxes that may become payable by such Agent or such Lender arising out of such failure.

(b) To the extent it is legally able to do so, each Agent or Lender (including an Eligible Assignee to which a Lender assigns its interest in accordance with Section 12.2) that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code (each, a "*Foreign Lender*") agrees to complete and deliver to the Borrower and the Administrative Agent on or prior to the date on which the Agent or Lender (or Eligible Assignee) becomes a party hereto, two (2) accurate, complete signed copies of whichever of the following is applicable: (i) IRS Form W-8BEN or IRS Form W-8BEN-E certifying that it is entitled to benefits under an income tax treaty to which the United States is a party; (ii) IRS Form W-8ECI certifying that the income receivable pursuant to any Loan Document is effectively connected with the conduct of a trade or business in the United States; (iii) if the Foreign Lender is not (A) a bank described in Section 881(c)(3)(A) of the Code, (B) a 10-percent shareholder described in Section 871(h)(3)(B) of the Code, or (C) a controlled foreign corporation related to the Borrower within the meaning of Section 864(d) of the Code, a certificate to that effect in substantially the form attached hereto as Exhibit N (a "*Non-Bank Certificate*") and an IRS Form W-8BEN or IRS Form W-8BEN-E, certifying that the Foreign Lender is not a United States person; (iv) to the extent a Lender is not the beneficial owner for U.S. federal income tax purposes, IRS Form W-8IMY (or

any successor forms) of the Lender, accompanied by, as and to the extent applicable, an IRS Form W-8BEN or IRS Form W-8BEN-E, IRS Form W-8ECI, IRS Form W-9, IRS Form W-8IMY (or other successor forms), Non-Bank Certificate and any other required supporting information from each beneficial owner (it being understood that a Lender need not provide certificates or supporting documentation from beneficial owners if (x) the Lender is a "qualified intermediary" or "withholding foreign partnership" for U.S. federal income tax purposes and (y) such Lender is as a result able to establish, and does establish, that payments to such Lender are, to the extent applicable, entitled to an exemption from or, if an exemption is not available, a reduction in the rate of, U.S. federal withholding taxes without providing such certificates or supporting documentation); *provided* that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a Non-Bank Certificate on behalf of each such direct and indirect partner; or (v) any other form reasonably requested by the Administrative Agent or the Borrower and prescribed by applicable requirements of U.S. federal income tax law as a basis for claiming exemption from or a reduction in U.S. federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable requirements of law to permit the Borrower and the Administrative Agent to determine the withholding or deduction required to be made; *provided* that a Lender shall not be required to deliver any form described in this clause (v) if, in the Lender's reasonable judgment the completion, execution, provision or submission of such form would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(c) In addition, each such Lender shall, to the extent it is legally entitled to do so, (i) update any form, certificate or other evidence previously provided by such Lender pursuant to Section 3.1(b) (A) on or before the date that such Lender's most recently delivered form, certificate or other evidence expires or becomes obsolete or inaccurate in any material respect, (B) after the occurrence of a change in the Foreign Lender's circumstances requiring a change in the most recent form, certificate or evidence previously delivered by it to the Borrower and the Administrative Agent, and (C) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent, and (ii) promptly notify the Borrower and the Administrative Agent of any change in the Foreign Lender's circumstances which would modify or render invalid any claimed exemption or reduction.

(d) Each Agent or Lender that is a "United States person" (within the meaning of Section 7701(a)(30) of the Code) (each a "*U.S. Lender*") agrees to complete and deliver to the Borrower and the Administrative Agent two (2) copies of accurate, complete and signed IRS Form W-9 or successor form certifying that such Agent or Lender is not subject to United States backup withholding tax (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) on or before the date that such form expires or becomes obsolete or inaccurate in any material respect, (iii) after the occurrence of a change in the Agent's or Lender's circumstances requiring a change in the most recent form previously delivered by it to the Borrower and the Administrative Agent, and (iv) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent.

(e) If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the

applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Agent as may be necessary for the Borrower and the Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 3.1(e), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(f) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made hereunder shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Agent as will enable the Borrower or the Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.1(b)(i) through (iv), (d) and (e) above) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(g) On or before the date the Administrative Agent becomes a party to this Agreement, the Administrative Agent shall provide to the Borrower, two duly-signed, properly completed copies of the documentation prescribed in clause (i) or (ii) below, as applicable (together with all required attachments thereto): (i) IRS Form W-9 or any successor thereto, or (ii) (A) IRS Form W-8ECI or any successor thereto with respect to any amounts payable to the Administrative Agent for its own account, and (B) with respect to payments received on account of any Lender, a U.S. branch withholding certificate on IRS Form W-8IMY or any successor thereto evidencing its agreement with the Borrower to be treated as a U.S. Person for U.S. federal withholding purposes. At any time thereafter, the Administrative Agent shall provide updated documentation previously provided (or a successor form thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower.

(h) The Borrower agrees to pay any and all present or future stamp, court or documentary Taxes and any other similar excise, property, intangible or mortgage recording Taxes or charges or similar levies which arise from any payment made under any Loan Document or from the execution, delivery, performance, from the receipt or perfection of a security interest under, enforcement or registration of, or otherwise with respect to, any Loan Document (including additions to tax, penalties and interest related thereto) excluding, in each

case, such Taxes that are described in Section 3.1(a)(ii) imposed with respect to an Assignment and Assumption, except to the extent that any such change is requested in writing by the Borrower (all such non-excluded Taxes described in this Section 3.1(h) being hereinafter referred to as "*Other Taxes*").

(i) If any Indemnified Taxes or Other Taxes are payable or paid by any Agent or Lender or required to be withheld or deducted from a payment to such Agent or Lender with respect to any payment received by such Agent or Lender in respect of any Loan Document, such Agent or Lender may pay such Indemnified Taxes or Other Taxes and the Loan Parties will, jointly and severally, promptly indemnify and hold harmless such Agent or Lender for the full amount of such Indemnified Taxes and Other Taxes (and any Indemnified Taxes and Other Taxes imposed on amounts payable under this Section 3.1), and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted. Payments under this Section 3.1(i) shall be made within ten (10) days after the date Borrower receives demand for payment from such Agent or Lender. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by an Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(j) Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (x) any Indemnified Taxes or Other Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes or Other Taxes pursuant to this Agreement and without limiting the obligation of the Borrower to do so), (y) any Indemnified Taxes or Other Taxes attributable to such Lender's failure to comply with the provisions of Section 12.2(e) relating to the maintenance of a Participant Register and (z) any Taxes excluded from Indemnified Taxes or Other Taxes that are attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off an apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (j).

(k) [Reserved].

(l) [Reserved].

(m) If any Administrative Agent or any Lender determines, in its sole discretion exercised in good faith, that it has received a refund in respect of any Indemnified Taxes or Other Taxes as to which it has been indemnified by the Borrower or any Guarantor, as the case may be or with respect to which the Borrower or any Guarantor, as the case may be has paid additional amounts pursuant to this Section 3.1, it shall remit such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower or Guarantor, as the case may be under this Section 3.1 with respect to the Taxes giving rise to such refund),

net of all out-of-pocket expenses (including Taxes) incurred by the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), *provided* that the Borrower or Guarantor, as the case may be, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower or Guarantor, as the case may be (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph 3.1(m), in no event will the Administrative Agent or any Lender be required to pay any amount to an indemnifying party pursuant to this paragraph 3.1(m) the payment of which would place the Administrative Agent or Lender in a less favorable net after-tax position than such Administrative Agent or Lender would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its Taxes that it deems confidential) to the Borrower or any other Person.

(n) Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.1(a) or (i) with respect to such Lender, it will, if requested by the Borrower, use commercially reasonable efforts (subject to legal and regulatory restrictions) to mitigate the effect of any such event, including by designating another Lending Office for any Loan affected by such event and by completing and delivering or filing any tax related forms which such Lender is legally able to deliver and which would reduce or eliminate any amount of Taxes or Other Taxes required to be deducted or withheld or paid by the Borrower; *provided* that such efforts (including the completion, execution, provision or submission of any tax related form) are made at the Borrower's expense and on terms that, in the reasonable judgment of such Lender, cause such Lender and its Lending Office(s) to suffer no material economic, legal, commercial or regulatory disadvantage, and *provided*, *further*, that nothing in this paragraph 3.1(n) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.1(a) or (i).

(o) Notwithstanding any other provision of this Agreement, the Borrower and the Administrative Agent may deduct and withhold any taxes required by any Laws to be deducted and withheld from any payment under any of the Loan Documents, subject to the provisions of this Section 3.1.

(p) With respect to any Lender's claim for compensation under this Section 3.1, the Borrower shall not be required to compensate such Lender for any amount incurred more than one hundred and eighty (180) days prior to the date that such lender notifies the Borrower of the event that gives rise to such claim; *provided* that, if the circumstance giving rise to such claim is retroactive, then such 180 day period referred to above shall be extended to include the period of retroactive effect thereof. [8]

[8] Rejection by PH of this language is not acceptable.

(q) Each party's obligations under this Section 3.1 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Term Loan Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

SECTION 3.2 Illegality. If any Lender reasonably determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurocurrency Rate, or to determine or charge interest rates based upon the Eurocurrency Rate or Adjusted Eurocurrency Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurocurrency Rate Loans or to convert Base Rate Loans to Eurocurrency Rate Loans shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Adjusted Eurocurrency Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Eurocurrency Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans and shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurocurrency Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Eurocurrency Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Rate Loans to such day, or promptly, if such Lender may not lawfully continue to maintain such Eurocurrency Rate Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Adjusted Eurocurrency Rate component of the Base Rate with respect to any Base Rate Loans, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Adjusted Eurocurrency Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurocurrency Rate. Each Lender agrees to designate a different Lending Office if such designation will avoid the need for such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

SECTION 3.3 Inability to Determine Rates. If the Requisite Lenders reasonably determine that for any reason in connection with any request for a Eurocurrency Rate Loan or a conversion to or continuation thereof that (a) Dollar deposits are not being offered to banks in the London interbank eurocurrency market for the applicable amount and Interest Period of such Eurocurrency Rate Loan, (b) adequate and reasonable means do not exist for determining the

Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan or in connection with an existing or proposed Base Rate Loan; *provided* that the Administrative Agent and the Borrower shall endeavor to establish an alternate rate of interest to the Eurocurrency Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable, and notwithstanding anything to the contrary in Section 12.1, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five (5) Business Days of the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Requisite Lenders stating that such Requisite Lenders object to such amendment, or (c) the Eurocurrency Rate, for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurocurrency Rate Loans shall be suspended, and (y) in the event of a determination described in the preceding sentence with respect to the Adjusted Eurocurrency Rate component of the Base Rate, the utilization of the Adjusted Eurocurrency Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (upon the instruction of the Requisite Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

SECTION 3.4 Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurocurrency Rate Loans.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender;

(ii) subject any Lender or the Administrative Agent to any Tax of any kind whatsoever with respect to this Agreement or any Eurocurrency Rate Loan made by it, or change the basis of taxation of payments to such Lender or the Administrative Agent (except for Indemnified Taxes, Other Taxes or Excluded Taxes); or

(iii) impose on any Lender or the London interbank market any other condition, cost or expense affecting this Agreement or Eurocurrency Rate Loans made by such Lender, in each case that is not otherwise accounted for in the definition of Adjusted Eurocurrency Rate or this clause (a);

and the result of any of the foregoing shall be to increase the cost to such Lender (or, in the case of clause (ii) above, the Administrative Agent) of making or maintaining any Loan the interest on which is determined by reference to the Eurocurrency Rate (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender (or, in the case of clause (ii) above,

the Administrative Agent), or to reduce the amount of any sum received or receivable by such Lender hereunder (or, in the case of clause (ii) above, the Administrative Agent) (whether of principal, interest or any other amount) then, from time to time within fifteen (15) days after receipt of the certificate referred to in Section 3.4(c) below setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent), the Borrower will pay to such Lender (or, in the case of clause (ii) above, the Administrative Agent), as the case may be, such additional amount or amounts as will compensate such Lender (or, in the case of clause (ii) above, the Administrative Agent), as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender reasonably determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Term Loan Commitments of such Lender or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy and liquidity requirements), then from time to time upon demand of such Lender setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent), the Borrower will pay to such Lender, as the case may be, within fifteen (15) days after receipt of the certificate referred to in Section 3.4(c) below, such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section 3.4 and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within fifteen (15) days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section 3.4 shall not constitute a waiver of such Lender's right to demand such compensation, *provided* that the Borrower shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section 3.4 for any increased costs incurred or reductions suffered more than one hundred and eighty (180) days prior to the date that such Lender, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof).

SECTION 3.5 Funding Losses. Upon written demand of any Lender (with a copy to the Administrative Agent) from time to time, which demand shall set forth in reasonable detail the basis for requesting such amount, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense actually incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day prior to the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a Eurocurrency Rate Loan on a day prior to the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 3.7;

(d) including any loss or expense (excluding loss of anticipated profits or margin) actually incurred by reason of the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained (and, for the avoidance of doubt, excluding the impact of clause (b) of the definition of "Adjusted Eurocurrency Rate").

SECTION 3.6 Matters Applicable to All Requests for Compensation.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.4, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.1, or if any Lender gives a notice pursuant to Section 3.2, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.1 or 3.4, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.2, as applicable, and (ii) in each case, would not subject such Lender to any material unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material economic, legal or regulatory respect.

(b) Suspension of Lender Obligations. If any Lender requests compensation by the Borrower under Section 3.4, the Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue Eurocurrency Rate Loans from one Interest Period to another Interest Period, or to convert Base Rate Loans into Eurocurrency Rate Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.6(c) shall be applicable); *provided* that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(c) Conversion of Eurocurrency Rate Loans. If any Lender gives notice to the Borrower (with a copy to the Administrative Agent) that the circumstances specified in Sections 3.2, 3.3 or 3.4 hereof that gave rise to the conversion of such Lender's Eurocurrency Rate Loans no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurocurrency Rate Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurocurrency Rate Loans, to the extent

necessary so that, after giving effect thereto, all Loans of a given Class held by the Lenders of such Class holding Eurocurrency Rate Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Pro Rata Shares.

SECTION 3.7 Replacement of Lenders under Certain Circumstances.

If (i) any Lender requests compensation under Section 3.4 or ceases to make Eurocurrency Rate Loans as a result of any condition described in Section 3.2 or Section 3.4, (ii) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.1 or 3.4, (iii) any Lender is a Non-Consenting Lender or (iv) any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 12.2), all of its interests, rights and obligations under this Agreement (or, with respect to clause (iii) above, all of its interests, rights and obligations with respect to the Class of Loans or Commitments that is the subject of the related consent, waiver and amendment) and the related Loan Documents to one or more Eligible Assignees that shall assume such obligations (any of which assignee may be another Lender, if a Lender accepts such assignment), *provided* that:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 12.2(b)(iv);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.5) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower;

(c) such Lender being replaced pursuant to this Section 3.7 shall (i) execute and deliver an Assignment and Assumption with respect to all, or a portion as applicable, of such Lender's Term Loan Commitment and outstanding Loans, and (ii) deliver any Term Loan Notes evidencing such Loans to the Borrower or Administrative Agent (or a lost or destroyed note indemnity in lieu thereof); *provided* that the failure of any such Lender to execute an Assignment and Assumption or deliver such Term Loan Notes shall not render such sale and purchase (and the corresponding assignment) invalid and such assignment shall be recorded in the Register and the Term Loan Notes shall be deemed to be canceled upon such failure;

(d) the Eligible Assignee shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Term Loan Commitments and participations, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender (and, if such assigning Lender is a Non-Consenting Lender, such Eligible Assignee shall agree to the applicable consent, waiver or amendment to which such Non-Consenting Lender has not agreed);

(e) in the case of any such assignment resulting from a claim for compensation under Section 3.4 or payments required to be made pursuant to Section 3.1, such assignment will result in a reduction in such compensation or payments thereafter;

(f) such assignment does not conflict with applicable Laws; and

(g) the Lender that acts as the Administrative Agent cannot be replaced in its capacity as Administrative Agent other than in accordance with Section 11.6.

In the event that (i) the Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment thereto, (ii) the consent, waiver or amendment in question requires the agreement of each Lender, all affected Lenders or all the Lenders or all affected Lenders with respect to a certain Class or Classes of the Loans and/or Term Loan Commitments and (iii) the Requisite Lenders or the Requisite Class Lenders, as applicable, have agreed (but solely to the extent required by Section 12.1) to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a "Non-Consenting Lender".

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

SECTION 3.8 Survival. All of the Borrower's obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder and resignation or removal of the Administrative Agent or the Collateral Agent.

ARTICLE IV

CONDITIONS PRECEDENT

SECTION 4.1 Conditions Precedent to Closing Date.

The Agreement shall become effective on the Closing Date upon the satisfaction or due waiver in accordance with Section 12.1 of each of the following conditions precedent, except as otherwise agreed between the Borrower, the Administrative Agent and the Collateral Agent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or pdf copies or other facsimiles (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party each in form and substance reasonably satisfactory to the Administrative Agent and its legal counsel:

(i) to the extent applicable, a Notice of Borrowing in accordance with the requirements hereof;

(ii) executed counterparts of this Agreement, the Guaranty and the ABL/Term Intercreditor Agreement;

(iii) a Term Loan Note executed by the Borrower in favor of each Lender that has requested a Term Loan Note at least two (2) Business Days in advance of the Closing Date;

(iv) each Collateral Document set forth on Schedule 1.1A required to be executed on the Closing Date as indicated on such schedule, duly executed by each Loan Party thereto, together with:

(A) copies of certificates, if any, representing the Pledged Equity referred to therein accompanied by undated stock powers executed in blank and instruments evidencing the Pledged Debt indorsed in blank;

(B) evidence that all other actions, recordings and filings required by the Collateral Documents that the Administrative Agent and the Collateral Agent may deem reasonably necessary to satisfy the Collateral and Guarantee Requirement shall have been taken, completed or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent;

(v) all governmental consents and approvals necessary in connection with the Transactions shall have been obtained and be effective, other than those which the failure to obtain, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect;

(vi) such certificates of good standing from the applicable secretary of state of the state of organization of each Loan Party, certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party on the Closing Date;

(vii) (A) an opinion from Sidley Austin LLP, New York counsel to the Loan Parties in form and substance reasonably satisfactory to the Administrative Agent and (B) a written opinion from Crowe LLP or another tax advisor reasonably acceptable to the Administrative Agent and each of the Lenders, at a level which is at least "more likely than not," that the contribution of the Stripes Intra-Group Loan Agreement to Parent as contemplated by the Approved Plan will not result in any cancellation of debt income by Parent or any of its Subsidiaries;

(viii) a solvency certificate from a Financial Officer of the Borrower (after giving effect to the Transactions) substantially in the form attached hereto as Exhibit L;

(ix) evidence that all insurance required to be maintained pursuant to the Loan Documents has been obtained and is in effect and that the Collateral Agent has been named as loss payee or mortgagee and/or additional insured, as applicable, under each insurance policy with respect to such insurance as to which the Collateral Agent shall have reasonably requested to be so named;

(x) evidence that the Refinancing has been consummated or, substantially simultaneously with the initial Credit Extension hereunder shall be consummated; and

(xi) copies of a recent Lien and judgment search in each jurisdiction reasonably requested by the Administrative Agent with respect to the Loan Parties.

(b) All accrued fees and other payments under the Fee Letter and all accrued reasonable and documented out-of-pocket costs and expenses under the Commitment Letter and the Loan Documents (including legal fees and expenses), in each case required to be paid on the Closing Date pursuant to the Fee Letter, the Commitment Letter and the Loan Documents, as applicable, shall, upon the initial Credit Extension, have been paid (which amounts may be offset against the proceeds of the initial Credit Extension).

(c) The ABL Loan Documents shall be acceptable to the Administrative Agent and shall have been executed by each of the parties thereto and delivered to the Administrative Agent.

(d) (i) All conditions precedent to the closing of the ABL Facility shall have been (or, substantially simultaneously with the Initial Credit Extension hereunder, shall be) satisfied and the ABL Facility shall have (or, substantially simultaneously with the Initial Credit Extension hereunder, shall be) closed with aggregate commitments available of at least $125,000,000; (ii) the Transactions shall have closed and been consummated substantially in the manner contemplated by the Approved Plan, including without limitation, the issuance of the Common Equity; (iii) the Stripes PIK Facility shall have been (or, substantially simultaneously with the initial Credit Extension hereunder, shall be) consummated; and (iv) the Stripes PIK Facility shall be treated and structured as debt for US tax purposes, or in the alternative, the Borrower and Lenders shall have agreed to alternative terms and structuring for the Transactions in form and substance acceptable to the Lenders in their sole and absolute discretion.

(e) The Arranger and the Lenders shall have received (i) audited consolidated balance sheets and related statements of income and cash flows for the Borrower and its Subsidiaries for the Fiscal Year ended October 3, 2017, (ii) unaudited consolidated balance sheets and related statements of income and cash flows for the Borrower and its Subsidiaries for each Fiscal Quarter subsequent to October 3, 2017 and ended at least 45 days prior to the Closing Date and (iii) quarterly projections of the operating results of the Borrower and its Subsidiaries for the period commencing [ ] and ending on the Scheduled Termination Date.

(f) The Arranger shall have received at least three (3) Business Days prior to the Closing Date all documentation and other information reasonably requested in writing by them at least ten (10) Business Days prior to the Closing Date in order to allow the Arranger and the Lenders to comply with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

(g) The Administrative Agent shall have received fully executed release letters or other documentation reasonably satisfactory to Administrative Agent confirming that, or otherwise be reasonably satisfied that, all obligations owing by any Loan Party to the lenders of the Stripes Intra-Group Loan Agreement will be released (or in the case of Stripes US Holding,

Inc. contributed by such lenders to the capital of Stripes US Holdings Inc. and cancelled in connection therewith).

(h) Delivery of a Responsible Officer's Certificate certifying as to the conditions set forth in Sections 4.1(i), 4.1(j), 4.1(k), 4.1(m), 4.1(q), 4.1(r), 4.1(v), 4.2(b) and 4.2(c).

(i) After giving effect to the Transactions, Excess Availability on the Closing Date shall be not less than $75,000,000.

(j) (1) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects; *provided* that any representation and warranty that is qualified as to "materiality," "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects and (2) no Default or Event of Default shall have occurred and be continuing.

(k) The order entered by the Bankruptcy Court as Docket No. 444 on October 29, 2018 in the Chapter 11 Cases approving the Commitment Letter and the Commitment Fee shall have become a final order of the Bankruptcy Court, for which the time for taking of any appeal or petition for writ of certiorari shall have passed, and shall not have been stayed, reversed, vacated, amended, supplemented or modified without the prior written consent of the Administrative Agent and the Lenders. The Borrower shall have paid all fees required to be paid on the Closing Date under the Fee Letter or the Commitment Letter to Administrative Agent, the Arranger and the Lenders and shall have reimbursed the Administrative Agent, the Arranger and the Lenders for all Expense required to be paid under the Commitment Letter as of the Closing Date.

(l) The Disclosure Statement shall be satisfactory to the Arranger and shall have been approved by the Bankruptcy Court.

(m) Except as disclosed in the Disclosure Statement, other than the filing and pendency of the Chapter 11 Cases and the consequences thereof, since the Petition Date, there has not been any event, occurrence, development or state of circumstances or facts that has had or would reasonably be expected to have, individually or in the aggregate a Material Adverse Effect.

(n) The Chapter 11 Plan and all other related documentation (a) shall be satisfactory to the Arranger in all respects (b) shall have been confirmed by an order of the Bankruptcy Court on or before the date that is 75 days after the Petition Date, which order shall be satisfactory to the Arranger in all respects, which order shall be in full force and effect, unstayed, final and non-appealable, and shall not have been modified or amended without the written consent of the Arranger reversed or vacated, (c) all conditions precedent to the effectiveness of the Chapter 11 Plan as set forth therein shall have been satisfied or waived (the waiver thereof having been approved by the Arranger), (d) the Chapter 11 Plan shall have become effective in accordance with its terms, and all conditions precedent to the effectiveness of the Chapter 11 Plan shall have been satisfied or waived with the prior written consent of the Administrative Agent, and (e) the transactions contemplated by the Chapter 11 Plan to occur on the effective date of the Chapter 11

Plan shall have been substantially consummated (as defined in Section 1101 of the Bankruptcy Code) on the Closing Date and substantially contemporaneously with the initial funding hereunder in accordance with the terms of the Chapter 11 Plan and in compliance with applicable law and Bankruptcy Court and regulatory approvals.

(o) (i) The corporate structure, capital structure, other debt instruments and governing documents of the Parent and its Subsidiaries, and the tax effects resulting from the Chapter 11 Plan and the Transactions shall be reasonably satisfactory to the Administrative Agent; and (ii) Stripes US Holding, Inc. shall not be a "Facility C Borrower" under that certain Acquisition Facilities Agreement dated August 5, 2016 between Steinhoff Finance Holding GMBH Steinhoff Mobel Holding Alpha GMBH, Steinhoff Europe AG and SUSHI as borrowers, JPMorgan Europe Limited as Agent, and certain lenders (as amended or supplemented on or prior to the Closing Date, the "*Acquisition Facilities Agreement*"), whether as a result of consent of each of the lenders under Facility C (as defined in the Acquisition Facilities Agreement as in effect on the date hereof) or an [English Scheme of Arrangement].

(p) The Arranger and Lenders shall have received satisfactory evidence that the Borrower is in compliance with the approved budget during the Chapter 11 Cases with an additional 20% cushion off of the items set forth therein.

(q) The Administrative Agent shall have received satisfactory evidence that that no less than 500 Stores to which the Borrower or any of its Subsidiaries is a party shall have been rejected in accordance with the Chapter 11 Plan and pursuant to an order of the Bankruptcy Court in form and substance acceptable to the Administrative Agent and Lenders.

(r) The Borrower and its Subsidiaries shall have secured rent reductions from landlords of the non-closed Stores in an aggregate amount of at least $35,000,000.

(s) [Reserved].

(t) Stripes US Holding, Inc. and Mattress Firm Holdco Corp. shall have granted releases in favor of the Chapter 11 Debtors for any and all claims arising in whole or in part from facts arising prior to the effective date of the Chapter 11 Plan.

(u) No event of default or other defaults shall have occurred and be continuing under the DIP ABL Credit Agreement, DIP Term Loan Agreement or the PSA.

(v) The existing Series A Preferred Stock of Parent shall be extinguished in form and substance acceptable to the Lenders in their sole and absolute discretion.

(w) The Arranger shall have received an executed commitment letter, in form and substance and with respect to matters satisfactory to it, in respect of backstopped commitments from the commitment parties party thereto (the "*Back Stop Commitment Parties*") for the Loans (together with any amendments or modifications thereto satisfactory to the Arranger, the "*Back Stop Commitment Letter*") and such Back Stop Commitment Letter shall be in full force and effect immediately prior to the Closing Date. The Arranger shall have received cash proceeds in escrow from the Back Stop Commitment Parties in an aggregate amount of not less than

$380,000,000 pursuant to the terms of the Back Stop Commitment Letter; *provided* that Barclays shall have no obligation to fund any amounts in excess of the amounts funded to Barclays in escrow pursuant to the terms and conditions of the Back Stop Commitment Letter and the amount of the Term Loan Commitment shall be reduced by the amount equal to any such deficiency not received by Barclays as of such date. Barclays shall have the right to participate in up to 5% of the aggregate amount of the Loans hereunder on identical terms to those applicable to the other lenders under hereunder, except for the right to designate or vote on the initial board of directors.

Without limiting the generality of the provisions of the last paragraph of Section 9.3, for purposes of determining compliance with the conditions specified in this Section 4.1, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

SECTION 4.2 Conditions Precedent to Each Loan.

The obligation of each Lender on and after the Closing Date to honor a Notice of Borrowing (but not a Notice of Conversion or Continuation) is subject to the satisfaction of each of the following conditions precedent:

(a) [Reserved].

(b) Representations and Warranties; No Defaults. The following statements shall be true on the date of such Credit Extension, both immediately before and immediately after giving effect thereto and, in the case of any Loan, giving effect to the application of the proceeds thereof:

(i) the representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Borrowing; *provided* that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; *provided*, *further*, that, any representation and warranty that is qualified as to "materiality," "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates; and

(ii) no Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds therefrom.

Each submission by the Borrower to the Administrative Agent of a Notice of Borrowing (but not a Notice of Conversion or Continuation) and the acceptance by the Borrower of the proceeds of each Loan requested therein, shall be deemed to constitute a representation and warranty by the Borrower that the conditions specified in clause (b) above have been satisfied on and as of the date of the making of such Loan.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

Each Loan Party signatory hereto represents and warrants to the Agents and the Lenders that:

SECTION 5.1 Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each of its Restricted Subsidiaries that is a Material Subsidiary (a) is a Person duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization (to the extent such concept exists in such jurisdiction), (b) has all requisite power and authority to (i) own or lease its assets and carry on its business as currently conducted and (ii) in the case of the Loan Parties, execute, deliver and perform its obligations under the Loan Documents to which it is a party, (c) is duly qualified and in good standing (to the extent such concept exists in such jurisdiction) under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, (d) is in compliance with all applicable Laws, orders, writs and injunctions and (e) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted; except in each case referred to in clause (c), (d) or (e), to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect. Each Loan Party and each of its Restricted Subsidiaries (a) is in compliance in all material respects with applicable Laws related to the maintenance of accurate books and records and (b) maintains effective systems of internal controls to ensure maintenance of accurate books and records.

SECTION 5.2 Authorization; No Contravention. (a) The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party have been duly authorized by all necessary corporate or other organizational action. (b) Neither the execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party, the consummation of the Transaction, nor the incurrence of any Obligations or the granting of Lien to secure the Obligations will (i) contravene the terms of any of such Person's Organization Documents, (ii) result in any breach or contravention of, or the creation of any Lien upon any of the property or assets of such Person or any of the Restricted Subsidiaries (other than as permitted by Section 9.1) under (A) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (B) any material order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (iii) violate any applicable Law; except with respect to any breach, contravention or violation (but not creation of Liens) referred to in clauses (ii) and (iii), to the extent that such breach, contravention or violation would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.3 Governmental Authorization. No material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, except for (i) filings necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties, (ii) the approvals, consents, exemptions, authorizations, actions, notices and

filings that have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral and Guarantee Requirement) and (iii) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.4 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party thereto. This Agreement and each other Loan Document constitutes a legal, valid and binding obligation of such Loan Party, enforceable against such Loan Party that is party thereto in accordance with its terms, except as such enforceability may be limited by (i) Debtor Relief Laws and by general principles of equity and principles of good faith and fair dealing, (ii) the need for filings and registrations necessary to create or perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties and (iii) the effect of foreign Laws, rules and regulations as they relate to pledges of Equity Interests in Foreign Subsidiaries.

SECTION 5.5 Financial Statements; No Material Adverse Effect.

(a) The financial statements delivered pursuant to Section 4.1(e) present in all material respects the financial condition of the Borrower and its Subsidiaries as of the dates thereof and their results of operations for the period covered thereby in accordance with GAAP or IFRS, as applicable, consistently applied throughout the periods covered thereby, (A) except as otherwise expressly noted therein and (B) subject, in the case of the quarterly financial statements, to changes resulting from normal year-end adjustments and the absence of footnotes.

(b) Since the Closing Date there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect.

(c) All Projections delivered pursuant to Section 7.1(d) have been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time made, it being understood that projections as to future events are not to be viewed as facts and actual results may vary materially from such forecasts.

SECTION 5.6 Litigation. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, overtly threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against any Loan Party or any of the Restricted Subsidiaries that would reasonably be expected to have a Material Adverse Effect.

SECTION 5.7 Labor Matters. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) there are no strikes or other labor disputes against any Loan Party or its Restricted Subsidiaries pending or, to the knowledge of the Borrower, overtly threatened in writing and (b) hours worked by and payment made based on hours worked to employees of each of the Loan Parties or their Restricted Subsidiaries have not been in material violation of the Fair Labor Standards Act or any other applicable Laws dealing with wage and hour matters.

SECTION 5.8 Ownership of Property; Liens. Each Loan Party and each of their Restricted Subsidiaries has good record title to, or valid leasehold interests in, or easements or other limited property interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except as set forth in Schedule 5.8 and except for minor defects in title that do not materially interfere with its ability to conduct its business or to utilize such assets for their intended purposes and except for Liens permitted by Section 9.1 and except where the failure to have such title or other interest would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.9 Environmental Matters.

Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) (i) each Loan Party and its respective properties and operations are, and for the past three years have been, in compliance with all Environmental Laws in all jurisdictions in which each Loan Party is currently doing business, which includes obtaining and maintaining all applicable Environmental Permits required under such Environmental Laws to carry on the business of the Loan Parties, and (ii) none of the Loan Parties is subject to any pending Environmental Claim or any other Environmental Liability, or to the knowledge of the Borrower, any Environmental Claim or any other Environmental Liability threatened in writing; and

(b) none of the Loan Parties or any of their respective Subsidiaries has released, treated, stored, transported or disposed of Hazardous Materials at or from any currently or, to the knowledge of the Borrower, formerly operated real estate or facility relating to its business except in compliance with Environmental Laws.

SECTION 5.10 Taxes. Except as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Loan Parties and their Restricted Subsidiaries have timely filed all Federal and state and other tax returns and reports required to be filed by them, and have timely paid all Federal and state and other Taxes, assessments, fees and other governmental charges (including satisfying its withholding tax obligations) levied or imposed on their properties, income or assets or otherwise due and payable, except those which are being contested in good faith by appropriate actions diligently conducted and for which adequate reserves have been provided in accordance with IFRS.

SECTION 5.11 ERISA Compliance.

(a) Except as set forth in Schedule 5.11(a) or as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Plan is in compliance with the applicable provisions of ERISA and the Code.

(b) (i) No ERISA Event has occurred prior to the date on which this representation is made or deemed made; and (ii) no Pension Plan has failed to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan, except, with respect to each of the foregoing clauses of this Section

5.11(b), as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.12 Subsidiaries. As of the Closing Date (after giving effect to the Transaction), no Loan Party has any Material Subsidiaries other than those specifically disclosed in Schedule 5.12, and all of the outstanding Equity Interests owned by the Loan Parties in such Material Subsidiaries have been validly issued and are fully paid and (if applicable) nonassessable, and all Equity Interests owned by a Loan Party are owned free and clear of all Liens except (i) those created under the Collateral Documents and (ii) any Lien that is permitted under Section 9.1. As of the Closing Date, Schedule 5.12 (a) sets forth the name and jurisdiction of each Loan Party, (b) sets forth the ownership interest of each Loan Party and any other Subsidiary in each Subsidiary, including the percentage of such ownership and (c) identifies each Subsidiary that is a Subsidiary the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral and Guarantee Requirement.

SECTION 5.13 Margin Regulations; Investment Company Act.

(a) No Loan Party is engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying Margin Stock, or extending credit for the purpose of purchasing or carrying Margin Stock, and no proceeds of any Borrowings will be used for any purpose that violates Regulation U of the Board of Governors of the United States Federal Reserve System.

(b) No Loan Party is registered as an "investment company" under the Investment Company Act of 1940.

SECTION 5.14 Disclosure. None of the information and data heretofore or contemporaneously furnished in writing by or on behalf of any Loan Party (other than financial estimates, forecasts and other forward-looking information, pro forma financial information and information of a general economic or industry-specific nature) to any Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document (as modified or supplemented by other information so furnished) when taken as a whole contains any material misstatement of fact or omits to state any material fact necessary to make such information and data (taken as a whole), in the light of the circumstances under which it was delivered, not materially misleading. With respect to any financial estimates, forecasts and other forward-looking information or any pro forma financial information, the Borrower represents that such information was prepared in good faith based upon assumptions believed to be reasonable at the time of preparation; it being understood that such projections may vary from actual results and that such variances may be material.

SECTION 5.15 Intellectual Property; Licenses, Etc. The Loan Parties and the Restricted Subsidiaries have good and marketable title to, or a valid license or right to use, all patents, patent rights, trademarks, servicemarks, trade names, copyrights, technology, software, know-how database rights, rights of privacy and publicity, licenses and other intellectual property rights (collectively, "*IP Rights*") that are reasonably necessary for the operation of their respective businesses as currently conducted and as proposed to be conducted, except where the

failure to have any such rights, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. To the knowledge of the Borrower, the operation of the respective businesses of the Loan Parties and their Restricted Subsidiaries as currently conducted does not infringe upon, misuse, misappropriate or violate any rights held by any Person except for such infringements, misuse, misappropriations or violations individually or in the aggregate, that would not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any IP Rights is pending or, to the knowledge of the Borrower, threatened in writing against any Loan Party or Restricted Subsidiary, that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

SECTION 5.16 Solvency. On the Closing Date after giving effect to the Transaction, the Loan Parties and their Restricted Subsidiaries, on a consolidated basis, are Solvent.

SECTION 5.17 Subordination of Junior Financing. The Obligations are "Designated Senior Debt", "Senior Debt", "Senior Indebtedness", "Guarantor Senior Debt" or "Senior Secured Financing" (or any comparable term) under, and as defined in, any indenture or document governing any applicable Junior Financing Documentation in respect of Indebtedness that is subordinated in right of payment to the Obligations.

SECTION 5.18 USA PATRIOT Act; OFAC; FCPA; Anti-Corruption Laws.

(a) To the extent applicable, each the Loan Parties and its Subsidiaries is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 C.F.R. Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (ii) the USA PATRIOT Act.

(b) No part of the proceeds of the Loans will be used, directly or, to the knowledge of any Loan Party or its Subsidiaries, indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended (the "*FCPA*") and any other anti-bribery and anti-corruption laws of those jurisdictions in which such Persons conduct business (collectively, "*Anti-Corruption Laws*").

(c) (i) None of the Loan Parties or their Subsidiaries will directly or, to the knowledge of such Loan Party or such Subsidiary, indirectly, use the proceeds of the Loans in violation of applicable Sanctions or otherwise knowingly make available such proceeds to any Person for the purpose of financing the activities of any Sanctioned Person, except to the extent licensed, exempted or otherwise approved by a competent governmental body responsible for enforcing such Sanctions, (ii) none of the Loan Parties, their Subsidiaries or to the knowledge of the Loan Parties or such Subsidiary, their respective directors, officers or employees or, to the knowledge of the Borrower, any controlled Affiliate of the Loan Parties or its Subsidiaries that will act in any capacity in connection with or benefit from any Class, is a Sanctioned Person and (iii) none of the Loan Parties, their Subsidiaries or, to the knowledge of any Loan Party or such

Subsidiary, their respective directors, officers and employees, are in violation of applicable Sanctions in any material respects.

(d) The Loan Parties shall have adopted, implemented and maintain anti-bribery and anti-corruption policies and procedures that are designed to ensure compliance in all material respects with the Anti-Corruption Laws.

SECTION 5.19 Collateral Documents. Except as otherwise contemplated hereby or under any other Loan Documents, the provisions of the Collateral Documents, together with such filings and other actions required to be taken hereby or by the applicable Collateral Documents (including the delivery to Collateral Agent of any Pledged Debt and any Pledged Equity required to be delivered to the Collateral Agent pursuant to the applicable Collateral Documents), are effective to create in favor of the Collateral Agent for the benefit of the Secured Parties a legal, valid and enforceable (x) first priority Lien (subject to Liens permitted by Section 9.1) on all right, title and interest of the respective Loan Parties in the Term Priority Collateral described therein and (y) second priority Lien (subject to Liens permitted by Section 9.1) on all right, title and interest of the respective Loan Parties in the ABL Priority Collateral described therein.

Notwithstanding anything herein (including this Section 5.19) or in any other Loan Document to the contrary, neither the Borrower nor any other Loan Party makes any representation or warranty as to (A) the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest in any Equity Interests of any Foreign Subsidiary, or as to the rights and remedies of the Agents or any Lender with respect thereto, under foreign Law, (B) the pledge or creation of any security interest, or the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest to the extent such pledge, security interest, perfection or priority is not required pursuant to the Collateral and Guarantee Requirement or (C) on the Closing Date and until required pursuant to Section 8.11 or 4.1(a)(iv), the pledge or creation of any security interest, or the effects of perfection or non-perfection, the priority or enforceability of any pledge or security interest to the extent not required on the Closing Date pursuant to Section 4.1(a)(iv).

SECTION 5.20 Insurance.

The Loan Parties and their Restricted Subsidiaries maintain with insurance companies that the Borrower believes (in the good faith judgment of its management) are financially sound and reputable at the time the relevant coverage is placed or renewed, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Loan Parties and their Restricted Subsidiaries) as are customarily carried under similar circumstances by such other Persons.

SECTION 5.21 Beneficial Ownership Certification.

The information included in the Beneficial Ownership Certification delivered to the Administrative Agent prior to the Closing Date is true and correct in all material respects.

SECTION 5.22 Use of Proceeds.

The Borrower will (or will cause each Loan Party to use the proceeds of the Credit Extensions for the purposes set forth in Section 8.9.

SECTION 5.23 No Default.

No Default or Event of Default has occurred and is continuing.

SECTION 5.24 Corporate Separateness.

Each Loan Party shall (a) satisfy, and cause each of its Restricted Subsidiaries and Unrestricted Subsidiaries to satisfy, customary corporate formalities, including, as applicable, the holding of regular board of directors' and shareholders' meetings or action by directors or shareholders without a meeting, in each case, to the extent required by law and the maintenance of corporate records, (b) ensure that any financial statements distributed to any creditors of any Unrestricted Subsidiary to clearly establish or indicate the corporate separateness of such Unrestricted Subsidiary from the Borrower, Holdings or any direct or indirect parent of the Borrower or any of their Restricted Subsidiaries.

SECTION 5.25 Confirmation Order. The Confirmation Order has been entered by the Bankruptcy Court and is effective.

ARTICLE VI

FINANCIAL COVENANTS

So long as any Lender shall have any Term Loan Commitment hereunder, any Loan or other Obligation hereunder (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements) shall remain unpaid or unsatisfied, the Parent Guarantors, Holdings and the Borrower agree with the Lenders and the Administrative Agent to the following:

SECTION 6.1 Maximum Total Net Leverage Ratio. The Borrower shall not permit the Total Net Leverage Ratio as of the last day of a Test Period (commencing with the Test Period ending December 31, 2019) to exceed the ratio set forth below opposite such Test Period:

Test Period Ending	Maximum Total Net Leverage Ratio
December 31, 2019	[ ]:1.00
March 31, 2020	[ ]:1.00
June 30, 2020	[ ]:1.00
September 29, 2020	[ ]:1.00
December 29, 2020	[ ]:1.00
March 30, 2021	[ ]:1.00
June 29, 2021	[ ]:1.00
September 28, 2021	[ ]:1.00
December 28, 2021	[ ]:1.00

March 29, 2022	[ ]:1.00
June 28, 2022	[ ]:1.00
September 27, 2022	[ ]:1.00
Each Fiscal Quarter thereafter through the Latest Maturity Date	[ ]:1.00

SECTION 6.2 Minimum Liquidity. As of the end of each Fiscal Quarter (commencing on the last day of the first full Fiscal Quarter following the Closing Date), on a consolidated basis, Liquidity for any day (based on the average of Liquidity for the sum of such day and the immediately four (4) preceding Business days) shall not be less than $25,000,000 for each weekly or monthly period in such Fiscal Quarter and as projected for each day in the 6 Month Cash Flow Forecast then in effect pursuant to Section 7.1(h)[9] ("*Minimum Liquidity*").

SECTION 6.3 Minimum Consolidated EBITDA.

(a) The Borrower shall not permit Consolidated EBITDA as of the last day of a Test Period (or as set forth below such shorter period) (commencing with the first full Fiscal Quarter ending after the Closing Date) to be less than the Consolidated EBITDA set forth below opposite such Test Period (or such shorter period set forth below) ("*Minimum Consolidated EBITDA*"):

Test Period Ending	**Minimum Consolidated EBITDA**
The one Fiscal Quarter ended April 2, 2019	[ ]
The two Fiscal Quarters ended July 2, 2019	[ ]
The three Fiscal Quarters ended October 1, 2019	[ ]
December 31, 2019	[ ]
March 31, 2020	[ ]
June 30, 2020	[ ]
September 29, 2020	[ ]
December 29, 2020	[ ]
March 30, 2021	[ ]
June 29, 2021	[ ]
September 28, 2021	[ ]
December 28, 2021	[ ]
March 29, 2022	[ ]
June 28, 2022	[ ]
September 27, 2022	[ ]
Each Fiscal Quarter thereafter through the Latest Maturity Date	[ ]

[9] Revisions remain subject to ongoing review.

(b) In the event that the Minimum Consolidated EBITDA set forth above is not met, the Lenders shall have the right (but not the obligation) to appoint (but, for the avoidance of doubt, not replace) an additional Responsible Officer for the Borrower; *provided* that if the Lenders elect to appoint an additional Responsible Officer for the Borrower, the Borrower shall effectuate such appointment within 30 days of receipt written notice identifying the proposed additional Responsible Officer.

ARTICLE VII

REPORTING COVENANTS

So long as any Lender shall have any Term Loan Commitment hereunder or any Loan or other Obligation hereunder (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements) shall remain unpaid or unsatisfied, the Parent Guarantors, Holdings and the Borrower shall, and shall (except in the case of the covenants set forth in Sections 7.1, 7.2 and 7.3) cause each of the Restricted Subsidiaries to:

SECTION 7.1 Financial Statements, Etc. Deliver to the Administrative Agent for prompt further distribution to each Lender each of the following and shall take the following actions:

(a) as soon as available, but in any event within one hundred and twenty (120) days after the end of the Fiscal Year of the Borrower ending October 2, 2018, and, as soon as available, but in any event within ninety (90) days after the end of each Fiscal Year of the Borrower thereafter, a consolidated balance sheet of the Parent and its Subsidiaries as at the end of such Fiscal Year, and the related consolidated statements of income, stockholders' equity and cash flows for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year, all in reasonable detail and prepared in accordance with IFRS (or, if the Parent has then elected to be governed by GAAP, GAAP), audited and accompanied by a report and opinion of Deloitte & Touche LLP or any other independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit (except as may be required as a result of (x) the impending maturity of any Loans or the Revolving Credit Loans or (y) any prospective or actual Event of Default under the Financial Covenants or the financial covenants under the ABL Loan Agreement);

(b) as soon as available, but in any event within forty-five (45) days after the end of each of the first three (3) Fiscal Quarters of each Fiscal Year of the Borrower, a consolidated balance sheet of the Parent and its Subsidiaries as at the end of such Fiscal Quarter, and the related (i) consolidated statements of income for such Fiscal Quarter and for the portion of the Fiscal Year then ended and (ii) consolidated statements of cash flows for such Fiscal Quarter and for the portion of the Fiscal Year then ended, setting forth in each case in comparative form the figures for the corresponding Fiscal Quarter of the previous Fiscal Year and the corresponding portion of the previous Fiscal Year, all in reasonable detail and certified by a Responsible Officer of the Parent as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Parent and its Subsidiaries in accordance with IFRS (or, if the

Parent has then elected to be governed by GAAP, GAAP), subject to normal year-end adjustments and the absence of footnotes, together with a management's discussion and analysis ("*MD&A*") describing results of operations for such period (which MD&A shall be deemed delivered hereunder upon the filing with the SEC (or equivalent) of a Form 10-Q (or equivalent) by the Borrower or any direct or indirect parent of the Borrower);

(c) as soon as available, but in any event within 30 days after the end of each month, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such month, and the related consolidated statements of income and consolidated statements of cash flows for such month, all in reasonable detail and certified by a Responsible Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in accordance with IFRS (or, if the Borrower has then elected to be governed by GAAP, GAAP), subject to normal year-end and quarter-end adjustments and the absence of footnotes;

(d) as soon as available, but in any event within one hundred and twenty (120) days after the end of each Fiscal Year of the Borrower ending October 1, 2019, and, as soon as available, but in any event within ninety (90) days after the end of each Fiscal Year of the Parent thereafter, a reasonably detailed consolidated budget for the following Fiscal Year (including a projected consolidated balance sheet of the Parent and its Subsidiaries as of the end of the following Fiscal Year, the related consolidated statements of projected income and projected cash flow and setting forth the material underlying assumptions applicable thereto) (collectively, the "*Projections*"), which Projections shall in each case be accompanied by a certificate of a Responsible Officer stating that such Projections have been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time of preparation of such Projections, it being understood that actual results may vary from such Projections and that such variations may be material;

(e) simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 7.1(a), 7.1(b) and 7.1(c) above, the related unaudited consolidating financial statements reflecting the adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) (which may be in footnote form only) from such consolidated financial statements, together with a high level commentary delivered from a Responsible Officer with respect thereto;

(f) upon request of the Administrative Agent, within ten Business Days after the delivery of each set of financial statements referred to or Required Lenders in Section 7.1(a) and (b) above, a conference call (which may be password protected) to discuss such financial statements and operations for the relevant period (with the time and date of such conference call, together with all information necessary to access the call, to be provided to the Administrative Agent (for prompt delivery to Lenders) no fewer than three Business Days (or such shorter time as to which the Administrative Agent may agree) prior to the date of such conference call, for posting on the Platform);

(g) [reserved]

(h) to the extent delivered to the Revolving Agent under the ABL Loan Agreement, the reports required by Section 7.1(g) and (h) thereof substantially simultaneously with such delivery; and

(i) Within [15] Business Days after the end of each Fiscal Quarter, an updated rolling 6-month cash flow forecast and cash/liquidity projection for the subsequent 6-month period, calculated on normalized vendor payment terms (each, a "*6 Month Cash Flow Forecast*"), and prepared by a Financial Officer, which shall be certified by a Responsible Officer of Borrower stating that such forecast has been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time of preparation of such forecast, it being understood that actual results may vary from such forecast and that such variations may be material.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 7.1 may be satisfied with respect to financial information of the Parent Guarantors, Holdings, the Borrower and its Restricted Subsidiaries (including the provision of any MD&A) by furnishing (A) the applicable financial statements of any direct or indirect parent of the Parent that holds all of the Equity Interests of the Parent or (B) the Parent's or such entity's Form 10-K or 10-Q (or equivalent), as applicable, filed with the SEC (or equivalent Governmental Authority applicable to such indirect parent company); *provided* that, with respect to each of clauses (A) and (B), (i) to the extent such information relates to a parent of the Parent, the financial statements are accompanied by unaudited consolidating information that explains in reasonable detail the differences between the information relating to the Parent (or such parent), on the one hand, and the information relating to the Parent Guarantors, Holdings, the Borrower and the Restricted Subsidiaries on a standalone basis, on the other hand and (ii) to the extent the financial statements are in lieu of financial statements required to be provided under Section 7.1(a), such materials are, to the extent applicable, accompanied by a report and opinion of Deloitte & Touche LLP or any other independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit (except as may be required as a result of (x) the impending maturity of any loans or (y) any prospective or actual event of default under any financial covenants).

Any financial statements required to be delivered pursuant to Sections 7.1(a), (b) and (c) shall not be required to contain all acquisition accounting adjustments relating to any Permitted Acquisition to the extent it is not practicable to include any such adjustments in such financial statements.

SECTION 7.2 Certificates; Other Information. Deliver to the Administrative Agent for prompt further distribution to each Lender:

(a) no later than five (5) days after the delivery of the financial statements referred to in Section 7.1(a), Section 7.1(b) and Section 7.1(c), a duly completed Compliance Certificate signed by the chief financial officer of the Borrower; *provided* that if such Compliance Certificate demonstrates an Event of Default of any financial covenant pursuant to Section 6.1 or Section 6.3 any of the equity holders of the Parent may deliver, prior to, after, or together with

such Compliance Certificate, a notice of their intent to cure (a "*Notice of Intent to Cure*") pursuant to Section 10.4 to the extent permitted thereunder;

(b) promptly after the same are publicly available, copies of all annual, regular, periodic and special reports, proxy statements and registration statements which any Loan Party or any Restricted Subsidiary files with the SEC or with any Governmental Authority that may be substituted therefor or with any national securities exchange, as the case may be (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statement on Form S-8), and in any case not otherwise required to be delivered to the Administrative Agent pursuant to any other clause of this Section 7.2;

(c) promptly after the furnishing thereof, copies of any material notices (other than notices furnished in the ordinary course) furnished to any holder of any class or series of debt securities of any Loan Party having an aggregate outstanding principal amount greater than the Threshold Amount, so long as the aggregate outstanding principal amount thereunder is greater than the Threshold Amount and not otherwise required to be furnished to the Administrative Agent pursuant to any other clause of this Section 7.2;

(d) together with the delivery of each Compliance Certificate delivered pursuant to Section 7.2(a), (i) a report setting forth the information required by Section 3.3(c) of the Security Agreement (or confirming that there has been no change in such information since the Closing Date or the date of the last such report), (ii) a description of each event, condition or circumstance during the last Fiscal Quarter covered by such Compliance Certificate requiring a mandatory prepayment under Section 2.9, if any, and (iii) a list of each Subsidiary of the Loan Parties that identifies each Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary as of the date of delivery of such Compliance Certificate or a confirmation that there is no change in such information since the later of the Closing Date and the date of the last such list;

(e) prior to or concurrent with the consummation of any designation of Subsidiaries pursuant to Section 8.3(iii)(x) or any Disposition pursuant to Section 9.5(t), a detailed calculation of projected Excess Availability as required pursuant to such definition or Section, as applicable, together with a certification that no Event of Default exists or would arise as a result thereof;

(f) [reserved]; and

(g) promptly, such additional information regarding the business, legal, financial or corporate affairs (including information regarding leases and stores, notwithstanding any limitation under Section 8.6 regarding the ability to exercise inspection rights) of any Loan Party or any Restricted Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent may from time to time on its own behalf or on behalf of any Lender reasonably request.

Documents required to be delivered pursuant to Section 7.1(a), (b) or (c) or Section 7.2(c) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower (or any direct or indirect parent of the Borrower) posts such

documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 12.8; or (ii) on which such documents are posted on the Borrower's behalf on IntraLinks/IntraAgency or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); *provided* that: (i) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents (which may be electronic copies delivered via electronic mail) to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arranger will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "*Borrower Materials*") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "*Platform*") and (b) certain of the Lenders (each, a "*Public Lender*") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Subsidiaries, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Arranger and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Borrower or its securities for purposes of United States Federal and state securities laws (*provided*, *however*, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 12.19); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information"; and (z) the Administrative Agent and the Arranger shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information." Notwithstanding the foregoing, the Borrower shall be under no obligation to mark the Borrower Materials "PUBLIC".

SECTION 7.3 Notices. Promptly after a Responsible Officer obtains actual knowledge thereof, notify the Administrative Agent:

(a) of the occurrence of any Default;

(b) of (i) any dispute, litigation, investigation or proceeding between any Loan Party and any arbitrator or Governmental Authority, (ii) the filing or commencement of, or any material development in, any litigation or proceeding affecting any Loan Party or any Subsidiary, including pursuant to any applicable Environmental Laws or in respect of IP Rights,

the occurrence of any noncompliance by any Loan Party or any of its Subsidiaries with, or liability under, any Environmental Law or Environmental Permit, (iii) the occurrence of any ERISA Event or (iv) any allegation (or determination) of non-compliance with Anti-Corruption Laws or other applicable Laws that, in any such case referred to in clauses (i), (ii), (iii) or (iv) has resulted or would reasonably be expected to result in a Material Adverse Effect; and

(c) of the occurrence of any other event that could reasonably be expected to have a Material Adverse Effect.

(d) of any allegation in writing of or investigation, in each case, by any Governmental Authority of which any Responsible Officer of the Borrower has actual knowledge of non-compliance with Anti-Corruption Laws or any other applicable Laws but only to the extent that the Borrower (or any Loan Party or any of their Subsidiaries) is not prohibited by applicable law, rule or regulation from disclosing the existence of the same.

Each notice pursuant to this Section 7.3 shall be accompanied by a written statement of a Responsible Officer of the Borrower (x) that such notice is being delivered pursuant to Section 7.3(a), (b) or (c) (as applicable) and (y) setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto.

ARTICLE VIII

AFFIRMATIVE COVENANTS

So long as any Lender shall have any Term Loan Commitment hereunder or any Loan or other Obligation hereunder (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements) shall remain unpaid or unsatisfied, the Loan Parties shall, and shall cause each of the Restricted Subsidiaries to:

SECTION 8.1 Preservation of Existence, Etc.

(a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization and (b) take all reasonable action to obtain, preserve, renew and keep in full force and effect its rights, licenses, permits and franchises material to the ordinary conduct of its business, except in the case of clause (a) or (b) to the extent (other than with respect to the preservation of the existence of Holdings and the Borrower) that failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or pursuant to any merger, consolidation, liquidation, dissolution or Disposition permitted by Article IX.

SECTION 8.2 Compliance with Laws, Etc.

Comply in all material respects with its Organization Documents and the requirements of all Laws (including, for the avoidance of doubt, ERISA) and all orders, writs, injunctions and decrees of any Governmental Authority applicable to it or to its business or property, except if

the failure to comply therewith would not reasonably be expected individually or in the aggregate to have a Material Adverse Effect.

SECTION 8.3 Designation of Subsidiaries.

The Borrower may at any time designate any Restricted Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that (i) immediately before and after such designation, no Default shall have occurred and be continuing, (ii) no Subsidiary may be designated as an Unrestricted Subsidiary if, after such designation, it would be a "Restricted Subsidiary" for the purpose of the ABL Loan Documents, any Junior Financing or any Permitted Refinancing thereof, (iii) no Subsidiary may be designated as an Unrestricted Subsidiary unless, Borrower (x) has Excess Availability on a Pro Forma Basis giving effect to such designation as an Unrestricted Subsidiary on the date thereof and (y) would have had Excess Availability (calculated on a Pro Forma Basis as though such designation as an Unrestricted Subsidiary were consummated on the first date of such 30 day period) on each day during the 30 day period immediately prior giving effect to such designation as an Unrestricted Subsidiary, in each case, in excess of $30,000,000 (which amount shall automatically increase proportionately by an amount equal to the proportionate increase to the Revolving Credit Commitments in connection with any Revolving Commitment Increase pursuant to Section 2.15 of the ABL Loan Agreement), (iv) no Subsidiary may be designated as an Unrestricted Subsidiary unless, after such designation the Consolidated EBITDA of all Unrestricted Subsidiaries shall not exceed 10% of the Consolidated EBITDA of the Parent Guarantors, Holdings, the Borrower and its Restricted Subsidiaries and (v) no Subsidiary may be designated as an Unrestricted Subsidiary if such Subsidiary proposed to be designated as an Unrestricted Subsidiary owns, licenses or holds other rights in any intellectual property that is material to the business of Borrower and its Restricted Subsidiaries taken as a whole. The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Borrower therein at the date of designation as set forth in the definition of Investment. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute (i) the incurrence at the time of designation of any Indebtedness or Liens of such Subsidiary existing at such time and (ii) a return on any Investment by the Borrower in Unrestricted Subsidiaries pursuant to the definition of Investment.

Notwithstanding the foregoing, any Unrestricted Subsidiary that has been re-designated a Restricted Subsidiary may not be subsequently re-designated as an Unrestricted Subsidiary.

SECTION 8.4 Payment of Taxes, Etc.

Timely pay, discharge or otherwise satisfy, as the same shall become due and payable in the normal conduct of its business, all of its obligations and liabilities in respect of Taxes imposed upon it or upon its income or profits or in respect of its property, except, in each case, to the extent (i) any such Tax is being contested in good faith and by appropriate actions for which appropriate reserves have been established in accordance with IFRS or (ii) the failure to pay or discharge the same would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

SECTION 8.5 Maintenance of Insurance.

Maintain with insurance companies that the Borrower believes (in the good faith judgment of its management) are financially sound and reputable at the time the relevant coverage is placed or renewed, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Borrower and the Restricted Subsidiaries) as are customarily carried under similar circumstances by such other Persons, and will furnish to the Lenders, upon written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried. Each such policy of insurance shall, as appropriate, (i) name the Collateral Agent, on behalf of the Lenders, as an additional insured thereunder as its interests may appear and/or (ii) in the case of each casualty insurance policy, contain a lender loss payable clause or endorsement that names the Collateral Agent, on behalf of the Lenders as the lender loss payee thereunder.

SECTION 8.6 Inspection Rights.

Permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants (subject to such accountants' customary policies and procedures), all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; *provided* that, only the Administrative Agent on behalf of the Lenders may elect to exercise rights of the Administrative Agent and the Lenders under this Section 8.6 and the Administrative Agent shall not exercise such rights more often than two (2) times during any calendar year and only one (1) such time shall be at the Borrower's expense; *provided*, *further*, that when an Event of Default exists and is continuing, the Administrative Agent (or any of its respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice. The Administrative Agent and the Lenders shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent public accountants. Notwithstanding anything to the contrary in this Section 8.6, at any time and from time to time upon the reasonable request of any Lender through the Administrative Agent, the Loan Parties (on behalf of themselves and their Subsidiaries) shall (i) cause their directors and executive officers to discuss the policies and procedures maintained by the Loan Parties and the Subsidiaries to ensure effective compliance with Anti-Corruption Laws and all other applicable Laws and (ii) provide to the Lenders documents, records or other information as such Lenders may deem reasonably necessary or desirable to monitor the effectiveness of such policies and procedures. Notwithstanding anything to the contrary in this Section 8.6, none of the Borrower or any of the Restricted Subsidiaries will be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter that (a) constitutes non-financial trade secrets or non-financial proprietary information (other than with respect to any non-financial trade secrets or non-financial proprietary information related to Eligible Accounts, Eligible Credit Card Receivables, Eligible In-Transit Inventory or Eligible Inventory), (b) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is

prohibited by Law or any binding agreement or (c) is subject to attorney-client or similar privilege or constitutes attorney work product. Capitalized terms used in this Section 8.6 and not otherwise defined in this Agreement shall have the meaning set forth in the ABL Loan Agreement.

SECTION 8.7 Books and Records.

Maintain (a) proper books of record and account, in which entries that are full, true and correct in all material respects and are in conformity with IFRS shall be made of all material financial transactions and matters involving the assets and business of the Loan Parties or such Restricted Subsidiary, as the case may be and (b) effective systems of internal control to ensure compliance with the foregoing clause (a).

SECTION 8.8 Maintenance of Properties.

Except if the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, maintain, preserve and protect all of its material properties and equipment used in the operation of its business in good working order, repair and condition, ordinary wear and tear excepted and fire, casualty or condemnation excepted.

SECTION 8.9 Use of Proceeds.

Use the proceeds of the Loans to fund Chapter 11 Plan and for working capital and general corporate purposes and for any other purpose not prohibited by the Loan Documents, and in any event only in compliance with (and not in contravention of) applicable Laws.

SECTION 8.10 Compliance with Environmental Laws.

Except, in each case, to the extent that the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (a) comply, and take all reasonable actions to cause any lessees and other Persons operating or occupying its properties to comply with all applicable Environmental Laws and Environmental Permits; (b) obtain and renew all Environmental Permits necessary for its operations and properties; and, (c) in each case to the extent required by applicable Environmental Laws, conduct any investigation, remedial or other corrective action necessary to address all releases of Hazardous Materials on or from any of its properties, in accordance with the requirements of all applicable Environmental Laws.

SECTION 8.11 Covenant to Guarantee Obligations and Give Security.

At the Borrower's expense, subject to the limitations and exceptions of this Agreement, including, without limitation, the provisions of the Collateral and Guarantee Requirement and any applicable limitation in any Collateral Document or the ABL/Term Intercreditor Agreement, take all action necessary or reasonably requested by the Administrative Agent to ensure that the Collateral and Guarantee Requirement continues to be satisfied, including:

(a) (x) upon the formation or acquisition of any new direct or indirect wholly owned Material Domestic Subsidiary (in each case, other than an Excluded Subsidiary) by any Loan

Party, the designation in accordance with Section 8.3, of any existing direct or indirect wholly owned Material Domestic Subsidiary as a Restricted Subsidiary (in each case, other than an Excluded Subsidiary) or any Subsidiary becoming a wholly owned Material Domestic Subsidiary (in each case, other than an Excluded Subsidiary):

(i) within sixty (60) days (or such greater number of days specified below) after such formation, acquisition or designation or, in each case, such longer period as the Administrative Agent may agree in its reasonable discretion:

(A) cause each such Material Domestic Subsidiary that is required to become a Guarantor under the Collateral and Guarantee Requirement to furnish to the Collateral Agent a description of the Material Real Properties owned by such Material Domestic Subsidiary in detail reasonably satisfactory to the Collateral Agent;

(B) within sixty (60) days (or within ninety (90) days in the case of documents listed in Section 8.13(a)(ii)) after such formation, acquisition or designation, (i) to cause each such Material Domestic Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to duly execute and deliver to the Collateral Agent, other than with respect to any Excluded Assets, Security Agreement Supplements, Intellectual Property Security Agreements and other security agreements and documents (including, with respect to Mortgages, the documents listed in Section 8.13(a)(ii)), as reasonably requested by and in form and substance reasonably satisfactory to the Collateral Agent (consistent with the Mortgages, Security Agreement, Intellectual Property Security Agreements and other Collateral Documents in effect on the Closing Date), in each case granting Liens required by the Collateral and Guarantee Requirement and (ii) to the extent applicable, to clause each direct or indirect parent of such applicable Material Domestic Subsidiary that is a Loan Party, in each case, to take customary action(s) (including the recording of Mortgages, the filing of UCC financing statements and delivery of stock and membership interest certificates to the extent certificated) as may be necessary in the reasonable opinion of the Collateral Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) valid and perfected (subject to Liens permitted by Section 9.01) Liens required by the Collateral and Guarantee Requirement, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law);

(C) cause each such Material Domestic Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to deliver any and all certificates representing Equity Interests (to the extent certificated) that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank (or any other documents customary under local law) and instruments evidencing the intercompany Indebtedness held by such Material Domestic Subsidiary and required to be pledged pursuant to the Collateral Documents, indorsed in blank to the Collateral Agent;

(D) within sixty (60) days (or within ninety (90) days in the case of documents listed in Section 8.13(a)(ii)) after such formation, acquisition or designation, (1) take and cause the applicable Material Domestic Subsidiary and each direct or indirect parent of the applicable Material Domestic Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to take whatever action (including the recording of Mortgages, the filing of UCC financing statements and delivery of stock and membership interest certificates to the extent certificated) as may be necessary in the reasonable opinion of the Administrative Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) valid Liens required by the Collateral and Guarantee Requirement, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law) and (2) comply with the requirements of Section 8.12 with respect to all Deposit Accounts and Securities Accounts; and

(ii) within sixty (60) days (or within ninety (90) days in the case of documents listed in Section 8.13(a)(ii)) after the reasonable request therefor by the Administrative Agent (or such longer period as the Administrative Agent may agree in its reasonable discretion), deliver to the Administrative Agent a signed copy of an opinion, addressed to the Administrative Agent and the other Secured Parties, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to such matters set forth in this Section 8.11(a) as the Administrative Agent may reasonably request; and

(iii) as promptly as practicable after the reasonable request therefor by the Administrative Agent or Collateral Agent, deliver to the Collateral Agent with respect to each Material Real Property, any existing title reports, abstracts or environmental assessment reports, to the extent available and in the possession or control of the Borrower; *provided* that the Collateral Agent may in its reasonable discretion accept any such existing report or survey to the extent prepared as of a date reasonably satisfactory to the Collateral Agent; *provided*, *however*, that there shall be no obligation to deliver to the Collateral Agent any existing environmental assessment report whose disclosure to the Collateral Agent would require the consent of a Person other than a Loan Party or one of their Subsidiaries, where, despite the commercially reasonable efforts of the Borrower to obtain such consent, such consent cannot be obtained; and

(b) after the Closing Date, promptly after the acquisition of any Material Real Property by any Loan Party [other than Holdings or any Parent Guarantor], and such Material Real Property shall not already be subject to a perfected Lien pursuant to the Collateral and Guarantee Requirement, the Borrower shall give notice thereof to the Collateral Agent and will take, or cause the relevant Loan Party to take, the actions referred to in Section 8.13(a)(ii).

SECTION 8.12 Cash Receipts.

Each Loan Party shall manage all cash in accordance with the provisions below:

(a) As soon as possible after the Closing Date, enter into an effective account control agreement (a "*Deposit Account Control Agreement*") with each Approved Account Bank, in each

case in form and substance reasonably satisfactory to the Administrative Agent, with respect to each Deposit Account (including those existing as of the Closing Date and listed on Schedule 8.12 attached hereto, and excluding Excluded Accounts); provided further that, if on or prior to thirty (30) days after the Closing Date (or such longer period following such date as the ABL Agent may agree in its reasonable discretion), the Borrower or any other Loan Party shall not have entered into a Deposit Account Control Agreement with respect to any Deposit Account required to be subject to a Deposit Account Control Agreement under this Section 8.12(a), then, except with respect to Term Collateral Proceeds Accounts), such Deposit Account shall be closed and all funds therein transferred to a Deposit Account at the Administrative Agent, an Affiliate of the Administrative Agent, or another financial institution reasonably acceptable to the Administrative Agent that will execute a Deposit Account Control Agreement. Notwithstanding anything in this Section to the contrary, the provisions of this Section 8.12(a) shall not apply to any Deposit Account acquired by a Loan Party in connection with a Permitted Acquisition prior to the date that is thirty (30) days (or such later date as the Administrative Agent may agree) following the consummation of such Permitted Acquisition.

(b) As soon as possible after the Closing Date, enter into Securities Account Control Agreements with each Approved Securities Intermediary, with respect to each Securities Account (including those existing as of the Closing Date and listed on Schedule 8.12 attached hereto, other than Excluded Accounts); provided that, if on or prior to thirty (30) days after the Closing Date (or such longer period following such date as the ABL Agent may agree in its reasonable discretion), the Borrower or any other Loan Party shall not have entered into a Securities Account Control Agreement with respect to any Securities Account required to be subject to a Securities Account Control Agreement under this Section 8.12(b), then, (except with respect to Term Collateral Proceeds Accounts), such Securities Account shall be closed and all securities therein transferred to a Securities Account at the Administrative Agent, an Affiliate of the Administrative Agent, or another financial institution reasonably acceptable to the Administrative Agent that will execute a Securities Account Control Agreement. Notwithstanding anything in this Section to the contrary, the provisions of this Section 8.12(b) shall not apply to any Securities Account acquired by a Loan Party in connection with a Permitted Acquisition prior to the date that is thirty (30) days (or such later date as the Administrative Agent may agree) following the consummation of such Permitted Acquisition.

(c) Each Loan Party shall (i) instruct each Account Debtor or other Person obligated to make a payment to any of them under any Account to make payment, or to continue to make payment, to an Approved Deposit Account that is not an Excluded Account, (ii) deposit in an Approved Deposit Account promptly upon receipt all Cash Receipts received by any Loan Party from any other Person (*provided* that any Cash Receipts may be deposited into an Excluded Account to the extent that such deposit would not cause such Excluded Account to cease to be qualified as an Excluded Account) and (iii) instruct each depository institution for a Deposit Account to cause all amounts on deposit and available at the close of each Business Day in such Deposit Account (other than any Excluded Account) to be swept to one of the Loan Parties' concentration accounts no less frequently than on a daily basis, such instructions to be irrevocable unless otherwise agreed to by the Administrative Agent.

(d) Each Loan Party shall promptly deposit proceeds of all Term Priority Collateral into the Term Collateral Proceeds Account pending any reinvestment thereof in accordance with Section 2.9(a).

SECTION 8.13 Further Assurances and Post-Closing Covenants.

(a) Subject to the provisions of the Collateral and Guarantee Requirement and any applicable limitations in any Collateral Document and in each case at the expense of the Loan Parties:

(i) Promptly upon reasonable request by the Administrative Agent or the Collateral Agent or as may be required by applicable law (i) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral, and (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or the Collateral Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Collateral Documents.

(ii) Not later than ninety (90) days after the acquisition by any Loan Party of Material Real Property as determined by the Borrower (acting reasonably and in good faith) (or such longer period as the Administrative Agent and the Collateral Agent may agree in its discretion) that is required to be provided as Collateral pursuant to the Collateral and Guarantee Requirement, which property would not be automatically subject to another Lien pursuant to pre-existing Collateral Documents, cause such property to be subject to a Lien and Mortgage in favor of the Collateral Agent for the benefit of the Secured Parties and take, or cause the relevant Loan Party to take, such actions as shall be necessary or reasonably requested by the Administrative Agent or the Collateral Agent to grant and perfect or record such Lien, in each case to the extent required by, and subject to the limitations and exceptions of this Agreement, including, without limitation, the Collateral and Guarantee Requirement, and to otherwise comply with the requirements of the Collateral and Guarantee Requirement. If the Administrative Agent or the Collateral Agent reasonably determines that it is required by applicable Law to have appraisals prepared in respect of the real property of any Loan Party subject to a mortgage constituting Collateral, the Borrower shall provide to the Administrative Agent and the Collateral Agent appraisals that satisfy the applicable requirements of the Real Estate Appraisal Reform Amendments of FIRREA (or other applicable law).

(b) Complete and/or deliver to Administrative Agent, or cause to be completed or so delivered, in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent, the actions and items described on Schedule 8.13(b) hereof on or before the dates specified with respect to such actions and items, or such later dates as may be agreed to by Administrative Agent in its sole discretion.

SECTION 8.14 USA PATRIOT Act; OFAC; FCPA; Anti-Corruption Laws.

(a) To the extent applicable, each the Loan Parties and its Subsidiaries is, and shall remain, in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 C.F.R. Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (ii) the USA PATRIOT Act.

(b) No part of the proceeds of the Loans will be used, directly or, to the knowledge of any Loan Party or its Subsidiaries, indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of Anti-Corruption Laws.

(c) (i) None of the Loan Parties or their Subsidiaries will directly or, to the knowledge of such Loan Party or such Subsidiary, indirectly, use the proceeds of the Loans in violation of applicable Sanctions or otherwise knowingly make available such proceeds to any Person for the purpose of financing the activities of any Sanctioned Person, except to the extent licensed, exempted or otherwise approved by a competent governmental body responsible for enforcing such Sanctions, (ii) none of the Loan Parties, their Subsidiaries or to the knowledge of the Loan Parties or such Subsidiary, their respective directors, officers or employees or, to the knowledge of Holdings, the Borrower, any controlled Affiliate of the Loan Parties or its Subsidiaries that will act in any capacity in connection with or benefit from any Class, is a Sanctioned Person and (iii) none of the Loan Parties, their Subsidiaries or, to the knowledge of any Loan Party or such Subsidiary, their respective directors, officers and employees, are in violation of applicable Sanctions in any material respects.

(d) The Loan Parties shall have adopted and implemented and shall maintain anti-bribery and anti-corruption effective policies and procedures designed to ensure compliance in all material respects with the Anti-Corruption Laws.

ARTICLE IX

NEGATIVE COVENANTS

So long as any Lender shall have any Term Loan Commitment hereunder or any Loan or other Obligation hereunder (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements) shall remain unpaid or unsatisfied, the Loan Parties shall not, nor shall the Borrower permit any Restricted Subsidiary to:

SECTION 9.1 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

(a) Liens created pursuant to any Loan Document;

(b) Liens existing on the Closing Date and set forth on Schedule 9.1(b);

(c) Liens for Taxes, assessments or governmental charges that are not overdue for a period of more than thirty (30) days or that are being contested in good faith and by appropriate actions for which appropriate reserves have been established in accordance with IFRS;

(d) statutory or common law Liens of landlords, sublandlords, carriers, warehousemen, mechanics, materialmen, repairmen, construction contractors or other like Liens, or other customary Liens (other than in respect of Indebtedness) in favor of landlords, so long as, in each case, such Liens secure amounts not overdue for a period of more than thirty (30) days or, if more than thirty (30) days overdue, are unfiled and no other action has been taken to enforce such Lien or that are being contested in good faith and by appropriate actions, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with IFRS or the equivalent accounting principles in the relevant local jurisdiction;

(e) (i) pledges or deposits in the Ordinary Course of Business in connection with workers' compensation, health, disability or employee benefits, unemployment insurance and other social security laws or similar legislation or regulation or other insurance-related obligations (including, but not limited to, in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto) and (ii) pledges and deposits in the Ordinary Course of Business securing liability for reimbursement or indemnification obligations of insurance carriers providing property, casualty or liability insurance to any Loan Party or any Restricted Subsidiaries;

(f) Liens to secure the performance of bids, trade contracts, governmental contracts and leases (other than Indebtedness for borrowed money), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the Ordinary Course of Business or consistent with past practice or industry practice;

(g) easements, rights-of-way, covenants, conditions, restrictions (including zoning restrictions), encroachments, protrusions and other similar encumbrances and title defects affecting real property that, in the aggregate, do not in any case materially interfere with the ordinary conduct of the business of the Loan Parties and their Restricted Subsidiaries taken as a whole, or the use of the property for its intended purpose, and any other exceptions to title on the final Mortgage Policies issued to the Collateral Agent in connection with the Mortgaged Properties;

(h) Liens arising from judgments or orders for the payment of money not constituting an Event of Default under Section 10.1(g);

(i) Liens securing obligations in respect of Indebtedness permitted under Section 9.3(e); *provided* that (A) such Liens attach concurrently with or within two hundred and seventy (270) days after completion of the acquisition, construction, repair, replacement or improvement (as applicable) of the property subject to such Liens, (B) such Liens do not at any time encumber any property other than the property financed by such Indebtedness, replacements thereof and additions and accessions to such property and the proceeds and the products thereof and customary security deposits and (C) with respect to Capitalized Leases, such Liens do not at any time extend to or cover any assets (except for replacements, additions and accessions to such

assets) other than the assets subject to such Capitalized Leases and the proceeds and products thereof and customary security deposits; *provided* that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender;

(j) leases, non-exclusive licenses, cross-licenses, subleases or non-exclusive sublicenses granted to others in the Ordinary Course of Business which (i) do not interfere in any material respect with the business of the Borrower and their Subsidiaries, taken as a whole, (ii) do not secure any Indebtedness or (iii) are permitted by Section 9.5;

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

(l) Liens (i) of a collection bank arising under Section 4-208 of the Uniform Commercial Code on the items in the course of collection, (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the Ordinary Course of Business in connection with the maintenance of such accounts and not for speculative purposes so long as such liens do not secure Indebtedness for borrowed money (other than for overdraft obligations in an aggregate amount not to exceed, taken together with overdrafts permitted under clause (iii) below, $5,000,000), and (iii) in favor of a banking or other financial institution arising as a matter of Law or under customary general terms and conditions encumbering deposits or other funds maintained with a financial institution (including the right of setoff) and that are within the general parameters customary in the banking industry or arising pursuant to such banking institution's general terms and conditions, which liens secure obligations related to the maintenance of such accounts and do not secure Indebtedness for borrowed money (other than for overdraft obligations in an aggregate amount not to exceed, taken together with overdrafts permitted under clause (i) above, $5,000,000);

(m) Liens (i) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to Section 9.2 to be applied against the purchase price for such Investment or other acquisition or (ii) consisting of an agreement to Dispose of any property in a Disposition permitted under Section 9.5, in each case, solely to the extent such Investment or other acquisition or Disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(n) Liens on property of any Non-Loan Party, which Liens secure Indebtedness of any Non-Loan Party permitted under Section 9.3 or other obligations of any Non-Loan Party not constituting Indebtedness;

(o) Liens in favor of the Borrower or a Restricted Subsidiary securing Indebtedness permitted under Section 9.3(d);

(p) Liens (other than on ABL Priority Collateral unless the Liens (subject to customary bifurcation to be agreed relative to proceeds of non-ABL Priority Collateral) thereon are subordinated to the Lien of the Collateral Agent in a manner consistent with the terms of a Customary Intercreditor Agreement) existing on property at the time of its acquisition or existing

on the property of any Person at the time such Person becomes a Restricted Subsidiary (other than by designation as a Restricted Subsidiary pursuant to Section 8.3), in each case after the Closing Date (other than Liens on the Equity Interests of any Person that becomes a Restricted Subsidiary); *provided* that (i) such Lien does not extend to or cover any other assets or property (other than the proceeds or products thereof and other than after-acquired property of such acquired Restricted Subsidiary), and (ii) the Indebtedness secured thereby is permitted under Section 9.3(e) or (g);

(q) any interest or title (and all encumbrances and other matters affecting such interest or title) of a lessor, sublessor, licensor or sublicensor or secured by a lessor's, sublessor's, licensor's or sublicensor's interest under leases, subleases, licenses, cross-licenses or sublicenses entered into by the Borrower or any of its Restricted Subsidiaries in the Ordinary Course of Business;

(r) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower or any of its Restricted Subsidiaries in the Ordinary Course of Business;

(s) Liens deemed to exist in connection with Investments in repurchase agreements under Section 9.2 and reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts maintained in the Ordinary Course of Business and not for speculative purposes;

(t) Liens that are contractual rights of setoff or rights of pledge (i) relating solely to the establishment of depository relations with banks or other deposit-taking financial institutions and not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Loan Parties (other than Parent) or any of their Restricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the Ordinary Course of Business of the Loan Parties (other than Parent) or any of their Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any of its Restricted Subsidiaries in the Ordinary Course of Business;

(u) Liens solely on any cash earnest money deposits made by the Loan Parties or any of their Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;

(v) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located;

(w) purported Liens evidenced by the filing of precautionary Uniform Commercial Code financing statements or similar public filings;

(x) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(y) Liens securing obligations in respect of Indebtedness permitted by Section 9.3(y); *provided* that such Liens shall be (i) junior to the Liens on ABL Priority Collateral securing the

Obligations and may be senior or junior to or pari passu with the Liens on the Term Priority Collateral and (ii) subject to a Customary Intercreditor Agreement in form and substance satisfactory to the Administrative Agent;

(z) [reserved];

(aa) (i) zoning, building, entitlement and other land use regulations by Governmental Authorities with which the normal operation of the business complies, and (ii) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(bb) the modification, replacement, renewal or extension of any Lien permitted by clauses (b), (i) and (p) of this Section 9.1; *provided* that (i) the Lien does not extend to any additional property other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien or financed by Indebtedness permitted under Section 9.3(e), and (B) proceeds and products thereof, (ii) the renewal, extension or refinancing of the obligations secured or benefited by such Liens is permitted by Section 9.3 (to the extent constituting Indebtedness) and (iii) if the Lien being modified, replaced, renewed or extended was subject to (A) the ABL/Term Intercreditor Agreement, then any modification, replacement, renewal or extension thereof shall be subject to the ABL/Term Intercreditor Agreement, (B) a Customary Intercreditor Agreement, then any modification, replacement, renewal or extension thereof shall be subject to a Customary Intercreditor Agreement or (C) other intercreditor arrangements, then any modification, replacement, renewal or extension thereof shall be subject to intercreditor arrangements not materially less favorable (taken as a whole) than the intercreditor arrangements governing the Liens being modified, replaced, renewed or extended or otherwise be reasonably acceptable to the Administrative Agent;

(cc) [reserved];

(dd) Liens or rights of setoff against credit balances of the Borrower or any of its Subsidiaries with Credit Card Issuers or Credit Card Processors or amounts owing by such Credit Card Issuers or Credit Card Processors to the Borrower or any of its Subsidiaries in the Ordinary Course of Business, but not Liens on or rights of setoff against any other property or assets of any Borrower or any of its Subsidiaries pursuant to the Credit Card Agreements, as in effect on the Closing Date, to secure the obligations of the Borrower or any of its Subsidiaries to the Credit Card Issuers or Credit Card Processors as a result of fees and chargebacks;

(ee) **[reserved]**

(ff) deposits of cash with the owner or lessor of premises leased and operated by the Borrower or any of its Subsidiaries to secure the performance of the Borrower's or such Subsidiary's obligations under the terms of the lease for such premises;

(gg) Liens in respect of Sale-Leasebacks;

(hh) Liens on Collateral securing the ABL Obligations permitted by Section 9.3(r), which are subject to the ABL/Term Intercreditor Agreement; and

(ii) other Liens (other than on Collateral (other than cash) unless the Liens thereon are subordinated to the Lien (subject to customary bifurcation to be agreed relative to proceeds of non-Term Priority Collateral) of the Collateral Agent on the Collateral in a manner consistent with the terms of a Customary Intercreditor Agreement) securing Indebtedness or other obligations in an aggregate principal amount at any time outstanding not to exceed $25,000,000.

The expansion of Liens by virtue of accrual of interest, the accretion of accreted value, the payment of interest or dividends in the form of additional Indebtedness, amortization of original issue discount and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an incurrence of Liens for purposes of this Section 9.1.

SECTION 9.2 Investments.

Make or hold any Investments, except:

(a) Investments in assets that are Cash Equivalents;

(b) loans or advances to officers, directors and employees of the Loan Parties or any of their Restricted Subsidiaries (i) for reasonable and customary business-related travel, entertainment, relocation and analogous ordinary business purposes, (ii) in connection with such Person's purchase of Equity Interests of Parent (or any direct or indirect parent thereof; *provided* that, to the extent such loans or advances are made in cash, the amount of such loans and advances used to acquire such Equity Interests shall be contributed to the Loan Party making such Investment in cash) and (iii) for any other purpose, in an aggregate principal amount outstanding at any time not to exceed $5,000,000;

(c) Investments (i) by the Borrower or any Restricted Subsidiary that is a Loan Party in the Borrower or any Restricted Subsidiary that is a Loan Party, (ii) by any Non-Loan Party in any other Non-Loan Party that is a Restricted Subsidiary, (iii) by any Non-Loan Party in the Borrower or any Restricted Subsidiary that is a Loan Party and (iv) by any Loan Party in any Non-Loan Party that is a Restricted Subsidiary; *provided* that (A) any such Investments made pursuant to this clause (iv) in the form of intercompany loans shall be evidenced by notes that have been pledged (individually or pursuant to a global note) to the Revolving Agent for the benefit of the Lenders (it being understood and agreed that any Investments permitted under this clause (iv) that are not so evidenced as of the Closing Date are not required to be so evidenced and pledged until the date that is sixty (60) days after the Closing Date (or such later date as may be acceptable to the Administrative Agent and the Collateral Agent)) and (B) the aggregate amount of Investments made pursuant to this clause (iv), together with amounts set forth in the proviso to clause (i) of this Section 9.2, shall not exceed at any time outstanding the greater of (x) $15,000,000 and (y) 5% of Consolidated EBITDA.

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the Ordinary Course of Business, and

Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors and other credits to suppliers in the Ordinary Course of Business;

(e) Investments consisting of Liens, Indebtedness, fundamental changes, Dispositions and Restricted Payments permitted under Sections 9.1, 9.3 (other than Sections 9.3(c)(ii) or (d)), 9.4 (other than Sections 9.4(c)(ii) or (f)), 9.5 (other than Sections 9.5(d)(ii) or (e)) and 9.6 (other than Sections 9.6(d) or (g)(D)), respectively;

(f) Investments existing on the Closing Date or made pursuant to legally binding written contracts in existence on the Closing Date, in each case, set forth on Schedule 9.2(f) and any modification, replacement, renewal, reinvestment or extension of any of the foregoing; *provided* that the amount of any Investment permitted pursuant to this Section 9.2(f) is not increased from the amount of such Investment on the Closing Date except pursuant to the terms of such Investment as of the Closing Date or as otherwise permitted by another clause of this Section 9.2;

(g) Investments in Swap Contracts permitted under Section 9.3;

(h) promissory notes and other non-cash consideration that is permitted to be received in connection with Dispositions permitted by Section 9.5;

(i) Permitted Acquisitions that do not, in the aggregate for all such Permitted Acquisitions since the Closing Date, involve purchase consideration in excess of $25,000,000; *provided* that the aggregate amount of such Investment made in Persons that do not become Loan Parties, together with amounts set forth in clause (c)(iv) of this Section 9.2, shall not exceed an aggregate amount equal to the greater of $15,000,000 and 5% of Consolidated EBITDA;

(j) [So long as no Event of Default has occurred and is continuing or would result therefrom, Investments in an amount not to exceed the amount of any portion of the Net Cash Proceeds of any issuance of Qualified Equity Interests of Parent that is contributed to the Borrower as a cash capital contribution, or any cash capital contribution to a class of Equity Interests which would be Qualified Equity Interests of Parent that is contributed to Borrower as a cash capital contribution, in each case, after the Closing Date and applied for usage pursuant to this clause (j) within thirty (30) days of receipt of such amounts in cash by the Borrower, but excluding all proceeds from the issuance of Disqualified Equity Interests and Cure Amounts;][10]

(k) Investments in the Ordinary Course of Business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Uniform Commercial Code Article 4 customary trade arrangements with customers consistent with past practices;

(l) Investments (including debt obligations and Equity Interests) received in connection with the bankruptcy or reorganization of suppliers and customers or in settlement of delinquent obligations of, or other disputes with, customers and suppliers arising in the Ordinary Course of Business or upon the foreclosure with respect to any secured Investment;

[10] Discuss.

(m) loans and advances to Holdings (or any direct or indirect parent thereof) in lieu of, and not in excess of the amount of (after giving effect to any other loans, advances or Restricted Payments in respect thereof), Restricted Payments to the extent permitted to be made to Holdings (or such direct or indirect parent) in accordance with Section 9.6(f) or (g);

(n) so long as no Event of Default exists or would result therefrom, other Investments that do not exceed in the aggregate at any time outstanding $15,000,000;

(o) advances of payroll payments to employees of the Loan Parties and their Restricted Subsidiaries in the Ordinary Course of Business;

(p) Investments to the extent that payment for such Investments is made solely with Qualified Equity Interests of Parent (or any direct or indirect parent thereof);

(q) Investments held by a Restricted Subsidiary acquired after the Closing Date or of a Person merged into the Borrower or merged or consolidated with a Restricted Subsidiary in accordance with Section 9.4 after the Closing Date (other than existing Investments in subsidiaries of such Subsidiary or Person, which must comply with the requirements of Sections 9.2(i) or (n)) to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;

(r) Guarantees by the Parent Guarantors, Holdings, the Borrower or any of the Restricted Subsidiaries of leases (other than Capitalized Leases) or of other obligations of the Borrower or its Restricted Subsidiaries that do not constitute Indebtedness, in each case entered into in the Ordinary Course of Business;

(s) [reserved]; and

(t) Investments made by any Restricted Subsidiary that is not a Loan Party to the extent such Investments are financed with the proceeds received by such Restricted Subsidiary from an Investment in such Restricted Subsidiary made pursuant to Sections 9.2(c)(iv), (i), (j) or (n), in each case, so long as the use by such Restricted Subsidiary of such amounts would at the time of such use otherwise comply with the terms of such relevant sub-sections.

SECTION 9.3 Indebtedness.

Create, incur, assume or suffer to exist any Indebtedness or issue any Disqualified Equity Interest, other than:

(a) Indebtedness under the Loan Documents;

(b) Indebtedness existing on the Closing Date set forth on Schedule 9.3(b) and any Permitted Refinancing thereof; *provided* that all such Indebtedness of any Loan Party owed to any Non-Loan Party or any other Loan Party shall be subject to the Intercompany Subordination Agreement;

(c) (i) Guarantees by any Parent Guarantor, Holdings, the Borrower and the Restricted Subsidiaries in respect of Indebtedness of the Borrower or any of the Restricted Subsidiaries otherwise permitted hereunder (except that a Restricted Subsidiary that is not a Loan Party may not, by virtue of this Section 9.3(c), Guarantee Indebtedness that such Restricted Subsidiary could not otherwise incur under this Section 9.3); *provided* that (A) no Guarantee by any Restricted Subsidiary of any Junior Financing shall be permitted unless such Restricted Subsidiary shall have also provided a Guarantee of the Obligations substantially on the terms set forth in the Guaranty and (B) if the Indebtedness being Guaranteed is subordinated to the Obligations, such Guarantee shall be subordinated to the Guaranty on terms at least as favorable to the Lenders as those contained in the subordination of such Indebtedness and (ii) any Guaranty by a Loan Party of Indebtedness of a Restricted Subsidiary that would have been permitted as an Investment by such Loan Party in such Restricted Subsidiary under Section 9.2(c);

(d) Indebtedness of the Borrower or any of the Restricted Subsidiaries owing to the Borrower or any other Restricted Subsidiary (or issued or transferred to any direct or indirect parent of a Loan Party (other than a Parent Guarantor)) which is substantially contemporaneously transferred to a Loan Party (other than a Parent Guarantor) or any Restricted Subsidiary of a Loan Party (other than a Parent Guarantor) to the extent constituting an Investment permitted by Section 9.2; *provided* that (i) all such Indebtedness of any Loan Party owed to any Person that is not a Loan Party shall be subject to the Intercompany Subordination Agreement and (ii) such Indebtedness shall be duly noted on the books and records of the Loan Parties as being owing in respect of Collateral;

(e) (i) Attributable Indebtedness and other Indebtedness (including Capitalized Leases) of the Borrower and the Restricted Subsidiaries financing the acquisition, construction, repair, replacement or improvement of fixed or capital assets; *provided* that such Indebtedness is incurred concurrently with or within two hundred and seventy (270) days after the applicable acquisition, construction, repair, replacement or improvement and (ii) Attributable Indebtedness arising out of Sale-Leasebacks, and, in each case, any Permitted Refinancing thereof; *provided* that the aggregate principal amount of Indebtedness at any one time outstanding incurred pursuant to this clause (e) shall not exceed the greater of $25,000,000 and 10% of Consolidated EBITDA, in each case determined at the time of incurrence;

(f) Indebtedness in respect of Swap Contracts designed to hedge against Holdings', the Borrower's or any Restricted Subsidiary's exposure to interest rates, foreign exchange rates or commodities pricing risks incurred in the Ordinary Course of Business and not for speculative purposes and Guarantees thereof so long as such Indebtedness to the extent secured does not exceed $5,000,000;

(g) Acquired Indebtedness of the Borrower or any Restricted Subsidiary assumed in connection with any Permitted Acquisition and any Permitted Refinancing of any such Indebtedness, in an aggregate principal amount at any time outstanding not to exceed $25,000,000; *provided* that in no event shall the aggregate amount of Indebtedness incurred by Non-Loan Parties under this clause (g), together with all Indebtedness of Non-Loan Parties incurred under clauses (n) of this Section 9.3, exceed at any time outstanding $12,500,000;

(h) Indebtedness outstanding under the Stripes PIK Facility;

(i) Indebtedness representing deferred compensation to employees of the Borrower (and any direct or indirect parent thereof) and its Subsidiaries incurred in the Ordinary Course of Business;

(j) Indebtedness to current or former officers, directors, managers, consultants and employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests or other equity based awards of Holdings (or any direct or indirect parent thereof) permitted by Section 9.6;

(k) unsecured Indebtedness incurred by any Parent Guarantor, Holdings, the Borrower or any of the Restricted Subsidiaries in a Permitted Acquisition, any other Investment expressly permitted hereunder or any Disposition, in each case to the extent constituting indemnification obligations or obligations in respect of purchase price (including earn-outs) or other similar adjustments so long as such Indebtedness in respect of earn-outs or similar adjustments (other than those existing on the Closing Date) does not exceed $5,000,000;

(l) unsecured Indebtedness consisting of obligations of any Parent Guarantor, Holdings, the Borrower and the Restricted Subsidiaries under deferred compensation or other similar arrangements with employees incurred by such Person in connection with Permitted Acquisitions or any other Investment expressly permitted hereunder so long as such Indebtedness does not exceed $5,000,000;

(m) Cash Management Obligations and other Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs and other cash management and similar arrangements in the Ordinary Course of Business and any Guarantees thereof;

(n) Indebtedness of the Borrower and the Restricted Subsidiaries in an aggregate principal amount at any time outstanding not to exceed $30,000,000; *provided* that in no event shall the aggregate amount of Indebtedness incurred by Non-Loan Parties under this clause (n), together with all Indebtedness of Non-Loan Parties incurred under clause (g) of this Section 9.3, exceed at any time outstanding $12,500,000;

(o) Indebtedness consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case, in the Ordinary Course of Business;

(p) Indebtedness incurred by the Borrower or any of its Restricted Subsidiaries in respect of warehouse receipts or similar instruments issued or created in the Ordinary Course of Business in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims;

(q) obligations in respect of performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by the Borrower or any

of its Restricted Subsidiaries, in each case in the Ordinary Course of Business or consistent with past practice;

(r) Indebtedness of the Parent Guarantors, Holdings, the Borrower, and the Guarantors incurred under the ABL Loan Agreement so long as (i) such Indebtedness is subject to the terms of the ABL/Term Intercreditor Agreement and (ii) the aggregate principal amount of Indebtedness thereunder does not exceed $175,000,000 (and any Permitted Refinancing thereof);

(s) [reserved];

(t) [reserved];

(u) [reserved];

(v) [reserved];

(w) [reserved];

(x) [reserved];

(y) subject to the rights of the Lenders set forth in the proviso herein, secured Indebtedness in an aggregate principal amount outstanding at any time not to exceed $50,000,000; *provided* that any Liens securing such Indebtedness shall be permitted under Section 9.1(y); *provided, further*, that not less than ten (10) Business Days prior to the incurrence of Indebtedness pursuant to this clause (y), the Borrower shall notify the Administrative Agent of the amount of such Indebtedness and any other applicable principal terms of such Indebtedness (including, without limitation, the interest rate and maturity date), and the Administrative Agent will promptly (and in any event no later than two (2) Business Days after receipt of written notice from the Borrower) thereafter notify each Lender of such proposed Indebtedness and such Lender's right (but not obligation) to provide in full (in lieu of) or to participate in the advance of such proposed Indebtedness on the terms presented by the Borrower; *provided, further*, that each Lender may decline or elect to participate in the advance or issuance of such proposed Indebtedness by delivering written notice of such election to the Borrower and the Administrative Agent (it being understood that if any Lender does not notify the Borrower and Administrative Agent of its election with seven (7) Business Days of such Lender's receipt of the Administrative Agent's written notice of such proposed Indebtedness, such Lender shall be deemed to have declined to provide or participate in such proposed Indebtedness); and

(z) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (a) through (z) above.

For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; *provided* that if such Indebtedness is incurred to extend, replace,

refund, refinance, renew or defease other Indebtedness denominated in a foreign currency, and such extension, replacement, refunding, refinancing, renewal or defeasance would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such extension, replacement, refunding, refinancing, renewal or defeasance, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being extended, replaced, refunded, refinanced, renewed or defeased, plus the aggregate amount of fees, underwriting discounts, premiums (including tender premiums) and other costs and expenses (including OID) incurred in connection with such refinancing.

The accrual of interest, the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 9.3. The principal amount of any non-interest bearing Indebtedness or other discount security constituting Indebtedness at any date shall be the principal amount thereof that would be shown on a balance sheet of the Borrower dated such date prepared in accordance with IFRS.

SECTION 9.4 Fundamental Changes. Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that:

(a) Holdings or any Restricted Subsidiary may merge or consolidate with the Borrower (including a merger, the purpose of which is to reorganize the Borrower into a new jurisdiction); *provided* that (x) the Borrower shall be the continuing or surviving Person, (y) such merger or consolidation does not result in the Borrower ceasing to be organized under the Laws of the United States, any state thereof or the District of Columbia and (z) in the case of a merger or consolidation of Holdings with and into the Borrower, Holdings shall not be an obligor in respect of any Indebtedness that is not permitted to be Indebtedness of the Borrower under this Agreement, shall have no direct Subsidiaries at the time of such merger or consolidation other than the Borrower and, after giving effect to such merger or consolidation, the direct parent of the Borrower shall expressly assume all the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent; provided that, notwithstanding anything to the contrary contained in this Section 9.4(a), there shall at all times be at least one intermediate holding company that (i) is directly or indirectly owned by the Parent (or any permitted successor entity) and (ii) directly holds the Equity Interests of the Borrower (or any permitted successor entity);

(b) (i) any Restricted Subsidiary that is not a Loan Party may merge or consolidate with or into any other Restricted Subsidiary of the Borrower that is not a Loan Party, (ii) any Restricted Subsidiary may merge or consolidate with or into any other Restricted Subsidiary of the Borrower that is a Loan Party, (iii) any merger the sole purpose of which is to reincorporate or reorganize a Loan Party in another jurisdiction in the United States shall be permitted subject to the conditions set forth in clause (d) below with respect thereto if it relates to the Borrower, or if it relates to any other Loan Party, subject to the conditions set forth in clause (d) below with

each reference to "Borrower" being deemed to be a reference to "Guarantor" and (iv) any Restricted Subsidiary may liquidate or dissolve or change its legal form if the Borrower determines in good faith that such action is in the best interests of the Borrower and its Restricted Subsidiaries and is not materially disadvantageous to the Lenders; *provided*, in the case of any change in legal form or jurisdiction, the Borrower will remain the Borrower and a Subsidiary that is a Guarantor will remain a Guarantor unless such Guarantor is otherwise permitted to cease being a Guarantor hereunder;

(c) any Restricted Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Borrower or another Restricted Subsidiary; *provided* that if the transferor in such a transaction is a Loan Party, then (i) the transferee must be a Loan Party (other than Parent Guarantors) or (ii) such Investment must be a permitted Investment in a Restricted Subsidiary which is not a Loan Party in accordance with Section 9.2 (other than clause (e) thereof);

(d) so long as no Default exists or would result therefrom, the Borrower may merge or consolidate with any other Person or consummate a division or become a series of entities;[11] *provided* that (i) the Borrower shall be the continuing or surviving corporation or (ii) if the Person formed by or surviving any such merger, consolidation, division or series is not the Borrower (any such Person, the "*Successor Borrower*"), (A) the Successor Borrower shall be an entity organized or existing under the laws of the United States, any state thereof or the District of Columbia, (B) the Successor Borrower shall expressly assume all the obligations of the Borrower under this Agreement and the other Loan Documents to which the Borrower is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent, (C) each Guarantor, unless it is the other party to such merger or consolidation, shall have by a supplement to the Guaranty confirmed that its Guarantee of the Obligations shall apply to the Successor Borrower's obligations under this Agreement, (D) each Loan Party, unless it is the other party to such merger or consolidation, shall have by a supplement to the Security Agreement confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement, (E) each mortgagor of a Mortgaged Property, unless it is the other party to such merger or consolidation, shall have by an amendment to or restatement of the applicable Mortgage (or other instrument reasonably satisfactory to the Collateral Agent) confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement, and (F) the Borrower shall have delivered to the Administrative Agent an officer's certificate and an opinion of counsel, each stating that such merger or consolidation and such supplement to this Agreement or any Collateral Document comply with this Agreement; *provided*, *further*, that if the foregoing are satisfied, the Successor Borrower will succeed to, and be substituted for, the Borrower under this Agreement;

(e) [reserved];

(f) so long as no Event of Default exists or would result therefrom (in the case of a merger, amalgamation or consolidation involving a Loan Party), any Restricted Subsidiary may merge or consolidate with any other Person in order to effect an Investment permitted pursuant

[11] PH changes here in ABL are not acceptable.

to Section 9.2 (other than Section 9.2(e)); *provided* that the continuing or surviving Person shall be the Borrower or a Restricted Subsidiary, which together with each of its Restricted Subsidiaries, shall have complied with the applicable requirements of Sections 8.11, 8.12 and 8.13 and if such merger, amalgamation or consolidation involves a Loan Party, the surviving Person shall be a Loan Party (other than a Parent Guarantor) (or become a Loan Party substantially simultaneously therewith) or such transaction shall constitute an Investment otherwise permitted by Section 9.2;

(g) Holdings or any Parent Guarantor may merge or consolidate with or into one another or (in the case of any such Person other than Parent) liquidate into its direct parent company (including a merger, the purpose of which is to reorganize any such Person into a new jurisdiction); provided that (x) if the merger or consolidation involves the Parent, the Parent shall be the continuing or surviving Person, (y) if the merger or consolidation involves the direct holder of the Equity Interests of the Borrower, the continuing or surviving Person shall become the direct holder of the Equity Interests of the Borrower (and shall constitute "Holdings" for all purposes under the Loan Documents), and (z) such merger or consolidation does not result in such Person ceasing to be organized under the Laws of the United States, any state thereof or the District of Columbia; provided that after giving effect to any such merger, consolidation or liquidation, the Parent shall not own the Equity Interests of the Borrower directly; and

(h) so long as no Event of Default exists or would result therefrom, a merger, dissolution, liquidation, consolidation or Disposition, the purpose of which is to effect a Disposition permitted pursuant to Section 9.5 (other than Section 9.5(e)).

SECTION 9.5 Dispositions. Make any Disposition, except:

(a) (w) Dispositions of obsolete, worn out, used or surplus property, whether now owned or hereafter acquired, in the Ordinary Course of Business, (x) Dispositions of property no longer used or useful in the conduct of the business of the Borrower and the Restricted Subsidiaries in the Ordinary Course of Business and (y) Dispositions to landlords of improvements made to leased real property pursuant to customary terms of leases entered into in the Ordinary Course of Business;

(b) Dispositions of inventory held for sale and goods, in each case, in the Ordinary Course of Business;

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

(d) Dispositions of property from a Loan Party to another Loan Party (other than a Parent Guarantor);

(e) Dispositions permitted by Sections 9.2 (other than Section 9.2(e)), 9.4 (other than Section 9.4(h)) and 9.6 (other Section 9.6(d)) and Liens permitted by Section 9.1 (other than Section 9.1(m)(ii));

(f) Dispositions of property pursuant to Sale-Leasebacks;

(g) Dispositions of Cash Equivalents;

(h) (i) leases, subleases, non-exclusive licenses, cross-licenses or non-exclusive sublicenses (including the provision of software under an open source license), in each case, in the Ordinary Course of Business and which do not materially interfere with the business of the Borrower and its Restricted Subsidiaries, taken as a whole and (ii) Dispositions of intellectual property that are not material to the business of the Loan Parties and their Restricted Subsidiaries taken as a whole;

(i) Dispositions constituting Casualty Events;

(j) Dispositions of property (other than Intellectual Property (as defined in the Security Agreement) that is material to the business of the Loan Parties and the Restricted Subsidiaries taken as a whole) not otherwise permitted under this Section 9.5; *provided* that (i) at the time of such Disposition (other than any such Disposition made pursuant to a legally binding commitment entered into at a time when no Default exists), no Default or Event of Default exists or would result from such Disposition, (ii) with respect to any Disposition pursuant to this clause (j) for a purchase price in excess of $10,000,000 or with respect to any Disposition of ABL Priority Collateral regardless of the purchase price, the Borrower or any of the Restricted Subsidiaries shall receive not less than 75% of such consideration in the form of cash or Cash Equivalents (in each case, free and clear of all Liens at the time received, other than Liens permitted by Section 9.1); *provided*, *however*, that for the purposes of this clause (ii), (A) any liabilities (as shown on the Borrower's or such Restricted Subsidiary's most recent balance sheet provided hereunder or in the footnotes thereto) of the Borrower or such Restricted Subsidiary, other than liabilities that are by their terms subject to unsecured debt for borrowed money, junior liens or subordinated to the payment in cash of the Obligations, that (I) are assumed by the transferee with respect to the applicable Disposition, or (II) are otherwise cancelled or terminated in connection with the transaction and such transferee (other than intercompany debt owed to the Borrower or its Restricted Subsidiaries) and, in each case, for which the Borrower and all of the Restricted Subsidiaries shall have been validly released by all applicable creditors in writing, (B) any securities, notes or other obligations or assets received by the Borrower or the applicable Restricted Subsidiary from such transferee that are converted by the Borrower or such Restricted Subsidiary into cash or Cash Equivalents (to the extent of the cash received) within one hundred and eighty (180) days following the closing of the applicable Disposition and (C) any Designated Non-Cash Consideration received in respect of such Disposition having an aggregate fair market value as determined by the Borrower in good faith, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (C) that is at that time outstanding, not in excess of $5,000,000 at the time of the receipt of such Designated Non-Cash Consideration, with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value, shall be deemed to be cash;

(k) Dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(l) Dispositions or discounts without recourse of accounts receivable in connection with the collection or compromise thereof;

(m) any issuance or sale of Equity Interests in, or sale of Indebtedness or other securities of, an Unrestricted Subsidiary;

(n) to the extent allowable under Section 1031 of the Code (or a comparable or successor provision), any exchange of like property (excluding any boot thereon permitted by such provision) for use in any business conducted by the Borrower or any of its Restricted Subsidiaries that is not in contravention of Section 9.7; *provided* that (x) to the extent the property being transferred constitutes Collateral, such replacement property shall constitute Collateral and (y) to the extent the property being transferred constitutes Term Priority Collateral, such replacement property shall constitute Term Priority Collateral;

(o) the unwinding of any Swap Contract;

(p) sales or other dispositions by the Borrower or any Restricted Subsidiary of assets in connection with the closing or sale of a Store (including a factory Store) either (i) in connection with or related to the implementation of or the requirements under the Chapter 11 Plan which closures have been disclosed to the Administrative Agent in writing prior to the Closing Date and identified as proposed closures pursuant to this sub-clause (i) or (ii) in the Ordinary Course of Business of the Borrower and its Subsidiaries, in each case, which consist of leasehold interests in the premises of such Store, the equipment and fixtures located at such premises and the books and records relating exclusively and directly to the operations of such Store; *provided* that, with respect to clause (ii) only as to each and all such sales and closings, (A) no Event of Default shall result therefrom and (B) such store closures and related asset dispositions, together with any store closures and related inventory dispositions under clause (q) of this Section 9.5, shall not exceed since the Closing Date ten percent (10%) of the number of the Loan Parties' stores as of the Closing Date (net of [stores permitted to be closed under clause (i) above][12] and net of new store openings) (the "*TTM Store Amount*"); and provided further that with respect to clauses (i) and (ii), such sale shall be on commercially reasonable prices and terms in a bona fide arm's-length transaction;

(q) bulk sales or other Dispositions of the inventory of a Restricted Subsidiary not in the Ordinary Course of Business in connection with Store closings, at arm's length; *provided* that as to each and all such sales and closings, such store closures and related Inventory dispositions, together with any store closures and related asset dispositions under clause (p) of this Section 9.5, shall not exceed since such date ten percent (10%) of the TTM Store Amount;

(r) any issuance or sale of Equity Interests (other than of Disqualified Equity Interests) in Parent to the extent such issuance or sale does not result in a Change of Control;

(s) the lapse or abandonment in the Ordinary Course of Business of any registrations or applications for registration of any immaterial IP Rights;

[12] Under review by MF.

(t) Dispositions of non-core assets acquired in connection with Permitted Acquisitions taking place following the Closing Date; *provided* that the Borrower shall (x) have Excess Availability on a Pro Forma Basis giving effect to the consummation of such sale or disposition on the date thereof and (y) have had Excess Availability (calculated on a Pro Forma Basis as though such sale or disposition were consummated on the first date of such 30 day period) on each day during the 30 day period immediately prior giving effect to the consummation of such sale or disposition, in each case, in excess of $20,000,000 (which amount shall automatically increase proportionately by an amount equal to the proportionate increase to the Revolving Credit Commitments in connection with any Revolving Commitment Increase pursuant to Section 2.15 of the ABL Loan Agreement;

(u) any swap of assets in exchange for services or other assets in the Ordinary Course of Business of comparable or greater value or usefulness to the business of the Borrower and its Restricted Subsidiaries as a whole, as determined in good faith by the management of the Borrower;

(v) Dispositions by any Loan Party to any wholly owned Restricted Subsidiary of the type described in clauses (b), (c) and (d) of the definition of "Excluded Subsidiary" to the extent consisting of contributions or other Dispositions of Equity Interests in other Subsidiaries of the type described in clauses (b), (c) and (d) of the definition of "Excluded Subsidiary" to such wholly owned Restricted Subsidiary;

(w) Dispositions (other than Dispositions of Intellectual Property (as defined in the Security Agreement) that is material to the business of Borrower and its Restricted Subsidiaries taken as a whole) in the aggregate pursuant to this clause (w) not to exceed $5,000,000 as determined at the time of such Disposition; *provided* that in the case of a Disposition of Collateral pursuant to this clause (w), Excess Availability is not less than $15,000,000 after giving effect to such Disposition; and

(x) other Dispositions in an aggregate amount not exceeding $[ ] in any fiscal year; *provided* that such Disposition shall not be permitted, if at the time of or as a result of such Disposition, a Default or Event of Default exists or would result therefrom.

provided that any Disposition of any property pursuant to this Section 9.5 (except pursuant to Sections 9.5(a), (d), (e), (h), (i), (k), (l), (o), (s) and (v) and except for Dispositions from the Borrower or a Restricted Subsidiary that is a Loan Party to the Borrower or a Restricted Subsidiary that is a Loan Party), shall be for no less than the fair market value of such property at the time of such Disposition as determined by the Borrower in good faith. To the extent any Collateral is Disposed of as expressly permitted by this Section 9.5 to any Person other than a Parent Guarantor, Holdings, the Borrower or any Restricted Subsidiary, such Collateral shall be sold free and clear of the Liens created by the Loan Documents, and the Administrative Agent shall be authorized to take any actions deemed appropriate in order to effect the foregoing; *provided*, *further*, that nothing herein shall be deemed to permit any Disposition that is not otherwise permitted under Section 9.5 or waive any other requirement in respect of the Collateral.

SECTION 9.6 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, except:

(a) each Loan Party (other than Parent) and any Restricted Subsidiary may make Restricted Payments to any Loan Party (other than Parent) that is its direct parent (and, in the case of a Restricted Payment by a non-wholly owned Restricted Subsidiary, to the Borrower and any of its other Restricted Subsidiaries and to each other owner of Equity Interests of such Restricted Subsidiary based on their relative ownership interests of the relevant class of Equity Interests);

(b) each Loan Party and each of its Restricted Subsidiaries may declare and make dividend payments or other distributions payable solely in the Equity Interests (other than Disqualified Equity Interests not otherwise permitted by Section 9.3) of such Person;

(c) each Loan Party may declare and/or make Restricted Payments with the proceeds of any Qualified Equity Interests issued by any Parent Guarantor or Holdings and contributed to the common equity capital of the Borrower (other than Cure Amounts);

(d) to the extent constituting Restricted Payments, any Loan Party (other than Parent), Borrower and the Restricted Subsidiaries may enter into and consummate transactions expressly permitted by any provision of Section 9.2 (other than Section 9.2(e)), 9.4 (other than a merger or consolidation of Parent and Holdings, or Holdings and the Borrower, or Parent and Borrower) or 9.8 (other than Sections 9.8(a) or (i));

(e) to the extent constituting cashless exercises, repurchases of Equity Interests in Parent deemed to occur upon exercise of stock options or warrants or the settlement or vesting of other equity-based awards if such Equity Interests represent a portion of the exercise price of, or tax withholdings with respect to, such options or warrants or other equity-based awards;

(f) each Loan Party (other than Parent) and each Restricted Subsidiary may (i) pay in cash (or make Restricted Payments to allow Holdings or any direct or indirect parent thereof to pay in cash) for the repurchase, retirement or other acquisition or retirement for value of Equity Interests or settlement of equity-based awards of such Restricted Subsidiary (or of the Borrower or any other such direct or indirect parent thereof) (or of any such direct or indirect parent thereof) held by any future, present or former employee, manager, director, consultant or distributor (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of such Restricted Subsidiary (or the Borrower or any other direct or indirect parent thereof) or any of its Restricted Subsidiaries or (ii) make Restricted Payments in cash in the form of distributions to allow Holdings or any direct or indirect parent of Holdings to pay principal or interest on promissory notes that were issued to any future, present or former employee, officer, director, manager or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributes of any of the foregoing) of such Restricted Subsidiary (or the Borrower or any other direct or indirect parent thereof) in lieu of cash payments for the repurchase, retirement or other acquisition or retirement for value of such Equity Interests or equity-based awards held by such Persons, in each case, upon the death, disability, retirement or termination of employment of any such Person or otherwise pursuant to any employee, manager or director equity plan, employee, manager or director stock option plan

or any other employee or director benefit plan or any agreement (including any stock subscription or shareholder agreement) with any employee, director, consultant or distributor of the Borrower (or any direct or indirect parent of the Borrower) or any of its Subsidiaries in an aggregate amount after the Closing Date together with the aggregate amount of loans and advances to Holdings (or any direct or indirect parent thereof) made pursuant to Section 9.2(m) in lieu of Restricted Payments permitted by this clause (f) not to exceed $7,500,000 in any Fiscal Year (with the unused amounts thereof carried forward to subsequent Fiscal Years); *provided* that cancellation of Indebtedness owing to any Loan Party or any Restricted Subsidiary from members of management of the Borrower, any of the Borrower's direct or indirect parent companies or any of the Borrower's Restricted Subsidiaries in connection with a repurchase of Equity Interests of any of the Borrower's direct or indirect parent companies will not be deemed to constitute a Restricted Payment for purposes of this covenant or any other provision of this Agreement;

(g) the Borrower may make Restricted Payments in cash to Holdings or to any direct or indirect parent of Holdings:

(A) with respect to any taxable period for which the Borrower and/or its Subsidiaries are members of a consolidated, combined, unitary or affiliated tax group for U.S. federal and/or applicable state or local tax purposes of which a direct or indirect parent of the Borrower is a common parent ("*Tax Group*") the proceeds of which will be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) the Tax liability to each federal, state or local jurisdiction in respect of which such Tax Group return is filed by Parent, (or such direct or indirect parent that is a common group of such Tax Group) that includes the Borrower and/or any of its Subsidiaries, to the extent such Tax liability does not exceed the lesser of (A) the Taxes that would have been payable by the Borrower and/or its Subsidiaries as a stand-alone group and (B) the actual Tax liability of Parent's Tax Group (or, if Parent is not the parent of the Tax Group, the Taxes that would have been paid by the Parent Guarantors, Holdings, the Borrower and/or the Borrower's Subsidiaries as a stand-alone group), reduced by any such Taxes paid or to be paid directly by the Borrower or its Subsidiaries; *provided* that Restricted Payments or other distributions in respect of an Unrestricted Subsidiary shall be permitted only to the extent that cash distributions were made by such Unrestricted Subsidiary to the Borrower or any of its Restricted Subsidiaries for such purpose;

(B) the proceeds of which shall be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) its operating costs and expenses incurred in the Ordinary Course of Business and other corporate overhead costs and expenses (including administrative, legal, accounting and similar expenses provided by third parties), which are reasonable and customary and incurred in the Ordinary Course of Business, attributable to the ownership or operations of the Borrower and its Subsidiaries;

(C) the proceeds of which shall be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof which does not own other Subsidiaries besides Holdings, its Subsidiaries and the direct or indirect parents of Holdings to pay) (A) franchise Taxes and other fees, similar Taxes and expenses required

to maintain its (or any of such direct or indirect parents') corporate existence or (B) costs and expenses incurred by it or any of its direct or indirect parents in connection with such entity being a public company, including costs and expenses relating to ongoing compliance with federal and state securities laws and regulations, SEC rules and regulations and the Sarbanes-Oxley Act of 2002;

(D) to finance any Investment permitted to be made pursuant to Section 9.2; *provided* that (A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment and (B) the Loan Parties and the Borrower shall, immediately following the closing thereof, cause (1) all property acquired (whether assets or Equity Interests) to be contributed to the Borrower or a Restricted Subsidiary or (2) the merger (to the extent permitted in Section 9.4) of the Person formed or acquired into the Borrower or a Restricted Subsidiary in order to consummate such Permitted Acquisition, in each case, in accordance with the requirements of Section 8.11 and 9.2;

(E) the proceeds of which shall be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) costs, fees and expenses (other than to Affiliates) related to any unsuccessful equity or debt offering permitted by this Agreement; and

(F) the proceeds of which (A) shall be used to pay salary, commissions, bonus and other benefits payable to and indemnities provided on behalf of officers, employees, directors and members of management of Holdings or any direct or indirect parent company of Holdings and any payroll, social security or similar taxes hereof to the extent such salaries, commissions, bonuses and other benefits are attributable to the ownership or operation of the Borrower and the Restricted Subsidiaries or (B) shall be used to make payments permitted under Sections 9.8(g) and (i) (but only to the extent such payments have not been and are not expected to be made by the Borrower or a Restricted Subsidiary);

(h) the Loan Parties or any of the Restricted Subsidiaries may pay (or make Restricted Payments to allow Parent to pay) cash in lieu of fractional Equity Interests in connection with any dividend, split or combination thereof or any Permitted Acquisition;

(i) [reserved];

(j) repurchases of Equity Interests (i) deemed to occur on the exercise of options by the delivery of Equity Interests in satisfaction of the exercise price of such options or (ii) in consideration of withholding or similar Taxes payable by any future, present or former employee, director, manager or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing), including deemed repurchases in connection with the exercise of stock options;

(k) Restricted Payments made on the Closing Date to effectuate the transactions contemplated by the Chapter 11 Plan;

(l) the proceeds of which shall be used by Holdings to pay (or to make Restricted Payments to allow any direct or indirect parent thereof to pay) (A) fees and expenses (other than to Affiliates) related to any unsuccessful equity or debt offering by Holdings (or any direct or indirect parent thereof) that is directly attributable to the operations of the Borrower and its Restricted Subsidiaries and (B) expenses and indemnities of the trustee with respect to any debt offering by Holdings (or any direct or indirect parent thereof), permitted hereunder, and which is directly attributable to the Borrower and its Restricted Subsidiaries;

(m) in addition to the foregoing Restricted Payments, so long as (i) no Default has occurred and is continuing or would result therefrom, (ii) the Borrower shall have Excess Availability of not less than $30,000,000 (which amount shall automatically increase proportionately by an amount equal to the proportionate increase to the Revolving Credit Commitment in connection with any Revolving Commitment Increase pursuant to Section 2.15 of the ABL Loan Agreement) on a Pro Forma Basis giving effect to such Restricted Payment and (iii) the Loan Parties are in compliance with a minimum Fixed Charge Coverage Ratio of at least 1.00 to 1.00, the Borrower may make Restricted Payments (or make Restricted Payments to allow Holdings or any Parent Guarantor to make Restricted Payments) in cash in an aggregate amount, together with the aggregate amount of prepayments, redemptions, purchases, defeasances and other payments in respect of Junior Financings made pursuant to Section 9.12(a)(i)(D), not to exceed $5,000,000, in each case determined at the time of such Restricted Payment; and

(n) the payment of any dividend or distribution within sixty (60) days after the date of declaration thereof, if at the date of declaration (i) such payment would have complied with the provisions of this Agreement and (ii) no Event of Default occurred and was continuing.

SECTION 9.7 Change in Nature of Business.

Engage in any material line of business substantially different from those lines of business conducted by the Borrower and the Restricted Subsidiaries on the Closing Date or any business or any other activities reasonably related, complementary, synergistic or ancillary thereto or reasonable extensions thereof.

SECTION 9.8 Transactions with Affiliates.

Enter into any transaction of any kind with any Affiliate of the Borrower involving aggregate payments or consideration in excess of $2,500,000 for any individual transaction or series of related transactions, whether or not in the Ordinary Course of Business, other than:

(a) transactions between or among the Loan Parties or any of their Restricted Subsidiaries or any entity that becomes a Restricted Subsidiary as a result of such transaction,

(b) transactions on terms substantially as favorable to any Loan Party or such Restricted Subsidiary as would be obtainable by any Loan Party or such Restricted Subsidiary at the time in a comparable arm's-length transaction with a Person other than an Affiliate,

(c) the Transaction and the payment of fees and expenses (including the Transaction Expenses) related to the Transaction,

(d) the issuance of Equity Interests or equity-based awards of Holdings or any direct or indirect parent thereof to any officer, director, employee or consultant of the Loan Parties or any of their Subsidiaries, including in connection with the Transaction,

(e) employment and severance arrangements between the Loan Parties and/or their Restricted Subsidiaries and their respective officers and employees in the Ordinary Course of Business and transactions pursuant to stock option plans and employee benefit plans and arrangements,

(f) the non-exclusive licensing of trademarks, copyrights or other IP Rights in the Ordinary Course of Business to permit the commercial exploitation of IP Rights between or among Affiliates and Subsidiaries of any Loan Party,

(g) (i) the payment of customary fees and reasonable out-of-pocket costs to, and indemnities provided on behalf of, directors, officers and employees of any Loan Party and its Restricted Subsidiaries in the Ordinary Course of Business to the extent attributable to the ownership or operation of the Loan Parties and their Restricted Subsidiaries and (ii) the payments contemplated under clause (o) of the definition of "Consolidated Net Income",

(h) any agreement, instrument or arrangement as in effect as of the Closing Date and set forth on Schedule 9.8, or any amendment thereto (so long as any such amendment is not adverse to the Lenders in any material respect as compared to the applicable agreement as in effect on the Closing Date),

(i) Restricted Payments permitted under Section 9.6 (and any restricted payments made by Holdings or any Parent Guarantor as a result thereof or in connection therewith),

(j) [reserved],

(k) transactions in which any Loan Party or any of the Restricted Subsidiaries, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to such Loan Party or such Restricted Subsidiary from a financial point of view or meets the requirements of clause (b) of this Section 9.8,

(l) the issuance or transfer of Equity Interests (other than Disqualified Equity Interests) of Holdings or any Parent Guarantor to any of its equity holders or to any former, current or future director, manager, officer, employee or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of the Borrower, any of its Subsidiaries or any direct or indirect parent thereof to the extent otherwise permitted by this Agreement and to the extent such issuance or transfer would not give rise to a Change of Control,

(m) [reserved],

(n) payments to or from, and transactions with, Joint Ventures (to the extent any such Joint Venture is only an Affiliate as a result of Investments by Holdings, the Borrower and the Restricted Subsidiaries in such Joint Venture) in the Ordinary Course of Business to the extent otherwise permitted under Section 9.2; and

(o) the ABL Loan Documents and the documents governing the Stripes PIK Facility, and each of the transactions contemplated thereby.

SECTION 9.9 Burdensome Agreements. Enter into or permit to exist any Contractual Obligation (other than this Agreement, any other Loan Document, any ABL Loan Document or the Stripes PIK Facility[13]) that prohibits, restricts, imposes any condition on or limits the ability of (a) any Restricted Subsidiary that is not a Loan Party to make Restricted Payments to (directly or indirectly) or to make or repay loans or advances to any Loan Party or to Guarantee the Obligations of any Loan Party under the Loan Documents or (b) any Loan Party to create, incur, assume or suffer to exist Liens on property of such Person for the benefit of the Lenders with respect to the Obligations under the Loan Documents; *provided* that the foregoing clauses (a) and (b) shall not apply to Contractual Obligations that:

(i) (x) exist on the Closing Date and (to the extent not otherwise permitted by this Section 9.9) are listed on Schedule 9.9 hereto and (y) to the extent Contractual Obligations permitted by clause (x) are set forth in an agreement evidencing Indebtedness, are set forth in any agreement evidencing any permitted modification, replacement, renewal, extension or refinancing of such Indebtedness so long as such modification, replacement, renewal, extension or refinancing does not expand the scope of such Contractual Obligation,

(ii) are binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary, so long as such Contractual Obligations were not entered into in contemplation of such Person becoming a Restricted Subsidiary,

(iii) represent Indebtedness of a Restricted Subsidiary that is not a Loan Party that is permitted by Section 9.3,

(iv) are customary restrictions that arise in connection with (x) any Lien permitted by Sections 9.1(a), (l), (m), (s), (t)(i), (t)(ii), (u) and (ee) and relate to the property subject to such Lien or (y) any Disposition permitted by Section 9.5 applicable pending such Disposition solely to the assets subject to such Disposition,

(v) are customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted under Section 9.2 and applicable solely to such joint venture,

(vi) are negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 9.3 but solely to the extent any negative pledge relates to the property financed by or the subject of such Indebtedness (and excluding in

[13] Need for PIK Facility carve-out TBD.

any event any Indebtedness constituting any Junior Financing) and the proceeds and products thereof,

(vii) are customary restrictions on leases, subleases, licenses, cross-licenses, sublicenses or asset sale agreements otherwise permitted hereby so long as such restrictions relate to the property interest, rights or the assets subject thereto,

(viii) comprise restrictions imposed by any agreement relating to secured Indebtedness permitted pursuant to Sections 9.3(e), (g), or (o)(i), to the extent that such restrictions apply only to the property or assets securing such Indebtedness,

(ix) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Borrower or any Restricted Subsidiary,

(x) are customary provisions restricting assignment of any agreement entered into in the Ordinary Course of Business,

(xi) are restrictions on cash or other deposits imposed by customers under contracts entered into in the Ordinary Course of Business,

(xii) [reserved],

(xiii) arise in connection with cash or other deposits permitted under Section 9.1 or Section 9.2, or

(xiv) comprise restrictions imposed by any agreement governing Indebtedness entered into on or after the Closing Date and permitted under Section 9.3 that are, taken as a whole, in the good faith judgment of the Borrower, no more restrictive with respect to the Borrower or any Restricted Subsidiary than customary market terms for Indebtedness of such type (and, in any event, are no more restrictive than the restrictions contained in this Agreement), so long as the Borrower shall have determined in good faith that such restrictions will not affect its obligation or ability to make any payments required hereunder.

SECTION 9.10 Amendments to Organization Documents.

Amend, modify, waive or change in any manner materially adverse to the Lenders, as reasonably determined in good faith by the Borrower, any term or condition of the any Organization Document of the Loan Parties or any of their Restricted Subsidiaries without the consent of the Administrative Agent.

SECTION 9.11 Accounting Changes.

Make any change in Fiscal Year or any material change in accounting treatment or reporting practices, except as required by IFRS or GAAP (whichever is then applicable); *provided, however*, that the Loan Parties and their Subsidiaries may, upon written notice to the Administrative Agent, change its Fiscal Year to any other Fiscal Year reasonably acceptable to the Administrative Agent, in which case the Parent Guarantors, Holdings, the Borrower and the

Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary to reflect such change in Fiscal Year.

SECTION 9.12 Prepayments, Etc. of Indebtedness.

(a) (i) Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner (it being understood that payments of regularly scheduled principal, interest and mandatory prepayments shall be permitted) any unsecured Indebtedness for borrowed money, any Indebtedness that is secured by Liens that are junior to the Term Priority Collateral, or any Indebtedness that is subordinated in right of payment to the Obligations expressly by its terms (other than (x) Indebtedness among the Loan Parties and their Restricted Subsidiaries (other than any Indebtedness owing by the Borrower or any of its Restricted Subsidiaries to the Parent), (y) the ABL Obligations and (z) any other secured Indebtedness which is permitted hereunder to be junior to the Term Priority Collateral but pari passu with or senior to the ABL Priority Collateral) (collectively, "*Junior Financing*"), except:

(A) the refinancing thereof with the Net Cash Proceeds of, or in exchange for, any Permitted Refinancing,

(B) the conversion of any Junior Financing to Equity Interests (other than Disqualified Equity Interests) of Parent or any of its direct or indirect parents,

(C) the prepayment of any other Junior Financing of any Person with the proceeds of any other Junior Financing of such Person otherwise permitted by Section 9.3; or

(D) prepayments, redemptions, purchases, defeasances and other payments in respect of any Junior Financing prior to its scheduled maturity in an aggregate amount, together with the aggregate amount of Restricted Payments made pursuant to Section 9.6(m), not to exceed $5,000,000, in each case determined at the time of such payment; *provided* that such payment pursuant to this clause (D) shall only be permitted so long as (x) no Default has occurred and is continuing or would result therefrom, (y) the Borrower shall have Excess Availability of not less than $30,000,000 on a Pro Forma Basis giving effect to such payment of Junior Financing and (z) the Borrower is in compliance with a minimum Fixed Charge Coverage Ratio of at least 1.00:1.00; *provided* that any payment that would also require the making of a Restricted Payment in order to permit such payment must also be permitted under Section 9.6 (it being understood that any such payment that constitutes a Restricted Payment that is then used by the recipient to make a payment in respect of Junior Financing under this clause (D) shall only reduce the $5,000,000 limit under Section 9.6(m) and not this Section 9.12(a)(i)(D), except that the making of the payment in respect of the Junior Financing under this clause (D) shall reduce the $5,000,000 set forth herein, and

(E) prepayments, redemptions, purchases, defeasances and other payments in respect of any Junior Financing so long as the Payment Conditions are satisfied before and after giving effect thereto; *provided*, *however*, that any such payment

that would constitute a Restricted Payment must also separately be permitted under Section 9.6; or

(ii) make any payment in violation of any subordination terms of any Junior Financing Documentation.

(b) Amend, modify or change in any manner materially adverse to the interests of the Lenders, as reasonably determined in good faith by the Borrower, any term or condition of the loan documents governing the Stripes PIK Facility or any Junior Financing Documentation in respect of any Indebtedness having an aggregate outstanding principal amount in excess of the Threshold Amount (other than as a result of a Permitted Refinancing thereof) without the consent of the Administrative Agent (which consent shall not be unreasonably withheld, conditioned or delayed).

(c) [Reserved].

(d) Amend, modify or change any term or condition of the ABL Loan Documents (i) without the consent of the Administrative Agent and the Requisite Lenders unless expressly permitted by the ABL/Term Intercreditor Agreement or (ii) in any manner inconsistent with, or contrary to, the ABL/Term Intercreditor Agreement.

SECTION 9.13 Holdings. In the case of Holdings, conduct, transact or otherwise engage in any business or operations other than the following (and any activities incidental thereto): (i) its direct ownership of the Equity Interests of the Borrower and its indirect ownership of the Equity Interests of the Subsidiaries of the Borrower and activities incidental thereto, including payment of dividends and other amounts in respect of its Equity Interests, (ii) the maintenance of its legal existence (including the ability to incur fees, costs and expenses relating to such maintenance), (iii) the performance of its obligations with respect to the Loan Documents and the ABL Loan Documents, (iv) financing activities, including the issuance of securities, incurrence of debt, payment of dividends, making contributions to the capital of its Subsidiaries and guaranteeing the obligations of its Subsidiaries in each case solely to the extent permitted hereunder, (v) participating in tax, accounting and other administrative matters as a member of the consolidated group with the Borrower, (vi) holding any cash or property received in connection with Restricted Payments made by the Borrower in accordance with Section 9.6 pending application thereof by Holdings, (vii) providing indemnification to officers and directors and (viii) activities incidental to the businesses or activities described in clauses (i) to (vii) of this Section 9.13.

SECTION 9.14 Parent Guarantors. In the case of the Parent Guarantors, conduct, transact or otherwise engage in any business or operations other than the following (and any activities incidental thereto): (i) its indirect ownership of the Equity Interests of Holdings and the Subsidiaries of Holdings and activities incidental thereto, including payment of dividends and other amounts in respect of its Equity Interests, (ii) the maintenance of its legal existence (including the ability to incur fees, costs and expenses relating to such maintenance), (iii) the performance of its obligations with respect to the Loan Documents, the ABL Loan Documents and, to the extent applicable, the documents governing the Stripes PIK Facility, (iv) financing activities, including the issuance of securities, incurrence of debt, making contributions to the

capital of its Subsidiaries and guaranteeing the obligations of its Subsidiaries in each case solely to the extent permitted hereunder, (v) participating in tax, accounting and other administrative matters as a member of the consolidated group with the Borrower, (vi) providing indemnification to officers and directors and (vii) activities incidental to the businesses or activities described in clauses (i) to (vi) of this Section 9.14.

SECTION 9.15 New Stores. Open, acquire or lease stores in an aggregate amount in excess of (x) the number of stores notified in writing to the Administrative Agent prior to the Closing Date or (y) the number of stores identified in the most recently delivered Projections delivered under Section 7.1(d); provided that such additional number of stores identified in all such Projections, collectively do not exceed more than 20% of the number of stores identified in clause (x) in the aggregate for all such updates since the Closing Date.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

SECTION 10.1 Events of Default.

Each of the events referred to in clauses (a) through (l) of this Section 10.1 shall constitute an "Event of Default":

(a) Non-Payment. The Borrower fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan, or (ii) within five (5) Business Days after the same becomes due, any interest on any Loan or any other amount payable hereunder or with respect to any other Loan Document; or

(b) Specific Covenants.

(i) The Borrower, any Restricted Subsidiary, Holdings or any Parent Guarantor, fails to perform or observe any term, covenant or agreement contained in (A) Article VI (other than Section 6.3(a)); *provided* that, any failure to comply with Section 6.1 shall be subject to cure to the extent provided in Section 10.4, (B) Section 7.3(a), (C) Section 8.1(a) (solely with respect to the Borrower), (D) Section 8.13(b) or (E) Article IX;

(ii) [reserved]; or

(iii) [reserved]; or

(iv) the Borrower or any other Loan Party fails to perform or observe (or to cause to be performed or observed) any covenant or agreement contained in Section 7.1(g) or Section 7.1(h), as applicable, and in either case such failure continues for five (5) Business Days after receipt by the Borrower of written notice thereof from the Administrative Agent; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in Section 10.1(a) or (b) above and, for the purpose of clarity, including

any failure to perform or observe any covenant or agreement contained in Section 8.12, but excluding any failure to comply with Section 6.3(a)) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after receipt by the Borrower of written notice thereof from the Administrative Agent; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by any Loan Party herein, in any other Loan Document, or in any document required to be delivered in connection herewith or therewith shall be incorrect in any material respect (or, with respect to any representation and warranty that is qualified as to "materiality", "Material Adverse Effect" or similar language, in any respect (after giving effect to any qualification therein)) when made or deemed made; or

(e) Cross-Default. Any Loan Party or any Restricted Subsidiary (A) fails to make any payment beyond the applicable grace period, if any, whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, in respect of any Indebtedness (other than Indebtedness hereunder) (i) having an aggregate outstanding principal amount (individually or in the aggregate with all other Indebtedness as to which such a failure shall exist) of not less than the Threshold Amount or (ii) under the ABL Loan Agreement or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness, or any other event occurs (other than, with respect to Indebtedness consisting of Swap Contracts, termination events or equivalent events pursuant to the terms of such Swap Contracts and not as a result of any other default thereunder by any Loan Party), the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity; *provided* that this clause (e)(B) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; *provided*, *further*, that such failure is unremedied and is not waived by the holders of such Indebtedness prior to any termination of the Aggregate Commitments or acceleration of the Loans pursuant to Section 10.2; and *provided*, *further*, that with respect to a failure under clause (B) above with respect to the ABL Loan Documents, such failure shall continue unremedied or unwaived for thirty (30) consecutive days;[14] or

(f) Insolvency Proceedings, Etc. Any of Parent Guarantor, Holdings, the Borrower or any Material Subsidiary institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material

[14] ABL to be revised to provide corresponding "grace" period for violation of TL financial covenants.

part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty (60) calendar days, or an order for relief is entered in any such proceeding; or

(g) Judgments. There is entered against any Loan Party or any Restricted Subsidiary a final judgment or order for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer has been notified of such judgment or order and has not denied or failed to acknowledge coverage thereof) and such judgment or order shall not have been satisfied, vacated, discharged or stayed or bonded pending an appeal for a period of sixty (60) consecutive days; or

(h) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or would reasonably be expected to result in liability of any Loan Party or their respective ERISA Affiliates under Title IV of ERISA in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect or (ii) any Loan Party or any of their respective ERISA Affiliates fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its Withdrawal Liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect; or

(i) Invalidity of Loan Documents. Any material provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder (including as a result of a transaction permitted under Section 9.4 or 9.5) or the satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party contests in writing the validity or enforceability of any provision of any Loan Document; or any Loan Party denies in writing that it has any or further liability or obligation under any Loan Document (other than as a result of repayment in full of the Obligations and termination of the Aggregate Commitments), or purports in writing to revoke or rescind any Loan Document; or

(j) Collateral Documents. Any Collateral Document after delivery thereof pursuant to Section 4.1 or 8.11 shall for any reason (other than pursuant to the terms hereof or thereof including as a result of a transaction permitted under Section 9.4 or 9.5) cease to create, or any Lien purported to be created by any Collateral Document shall be asserted in writing by any Loan Party not to be, a valid and perfected lien, with the priority required by the Collateral Documents or the ABL/Term Intercreditor Agreement (or other security purported to be created on the applicable Collateral) on and security interest in any material portion of the Collateral purported to be covered thereby, subject to Liens permitted under Section 9.1, (x) except to the extent that any such perfection or priority is not required pursuant to the Collateral and Guarantee Requirement or the loss of such perfection or priority results from the failure of the Administrative Agent, the Collateral Agent or any Term Agent to maintain possession of certificates actually delivered to it representing securities pledged under the Collateral Documents or to file UCC continuation statements and except as to Collateral consisting of real property to the extent that such losses are covered by a lender's title insurance policy and such insurer has not denied coverage; or

(k) Junior Financing Documentation. (i) Any of the Obligations of the Loan Parties under the Loan Documents for any reason shall cease to be "Senior Indebtedness" (or any

comparable term) or "Senior Secured Financing" (or any comparable term) under, and as defined in any Junior Financing Documentation governing Junior Financing subordinated in right of payment to the Obligations under the Loan Documents with an aggregate principal amount of not less than the Threshold Amount or (ii) the subordination provisions set forth in any Junior Financing Documentation governing Junior Financing subordinated in right of payment to the Obligations under the Loan Documents with an aggregate principal amount of not less than the Threshold Amount shall, in whole or in part, cease to be effective or cease to be legally valid, binding and enforceable against the holders of any such Junior Financing, if applicable; or

(l) Change of Control. There occurs any Change of Control.

SECTION 10.2 Remedies upon Event of Default.

(a) If any Event of Default occurs and is continuing, the Administrative Agent may with the consent of, and shall at the request of, the Requisite Lenders take any or all of the following actions:

(i) [reserved];

(ii) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document (including the Prepayment Premium) to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(iii) [reserved]; and

(iv) exercise (or direct the Collateral Agent to exercise) on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable Law;

provided that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower or any Guarantor under the Bankruptcy Code of the United States, the Term Loan Commitments of each Lender shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts (including the Prepayment Premium) as aforesaid shall automatically become due and payable, without further act of the Administrative Agent or any Lender.

(b) Without limitation of the rights of the Agents or Secured Parties under Section 8.12, the Borrower hereby irrevocably waives the right to direct the application of any and all payments in respect of the Obligations and any proceeds of Collateral after the occurrence and during the continuance of an Event of Default and agrees that during the continuance of an Event of Default, and notwithstanding Section 2.13(f) above but subject to the terms of the ABL/Term Intercreditor Agreement, the Administrative Agent or Collateral Agent may in its sole discretion, and, upon either (A) the written direction of the Requisite Lenders or (B) the acceleration of the Obligations pursuant to Section 10.2(a), deliver a notice to each Approved Account Bank instructing them to cease complying with any instructions from any Loan Party and to transfer all

funds therein to the Administrative Agent and the Administrative Agent shall apply all payments in respect of any Obligations and all other proceeds of Collateral in the order specified in Section 10.3 hereof.

(c) Notwithstanding anything to the contrary, if the only Events of Default then having occurred and continuing are the failure to comply with Section 6.1 or Section 6.3(a) (or as a result of a breach of Section 6.1 of the ABL Loan Agreement)[15], in each case, with respect to the Test Period most recently ended, then the Administrative Agent may not take any of the actions set forth in subclauses (i), (ii), (iii) and (iv) of Section 10.2(a) or, in respect of Section 6.3(a), the actions set forth in Section 6.3(b), in each case, during the period commencing on the date that the Administrative Agent receives a Notice of Intent to Cure and ending on the Cure Expiration Date with respect thereto in accordance with and to the extent permitted by Section 10.4.

SECTION 10.3 Application of Funds. Except as may be otherwise provided in any applicable Incremental Amendment with respect to Obligations under the applicable Term Loan Commitment Increase or any Extension Amendment with respect to Obligations under Extended Term Loans in accordance with Section 12.1, after the exercise of remedies provided for in Section 10.2 (or after the Loans have automatically become immediately due and payable), any amounts received on account of the Obligations shall, subject to the terms of the ABL/Term Intercreditor Agreement, be applied by the Administrative Agent in the following order:

First, ratably, pay any fees, indemnities, or expense reimbursements then due to the Administrative Agent or the Collateral Agent from the Borrower;

Second, ratably, to pay any fees or expense reimbursements then due to the Lenders from the Borrower (other than in connection with Obligations in respect of Secured Hedge Agreements);

Third, to pay interest due and payable in respect of any Loans;

Fourth, to pay principal of the Loans, including the Prepayment Premium;

Fifth, to pay any amounts owing with respect to unpaid Obligations under Secured Hedge Agreements, ratably;

Sixth, to the payment of any other Obligation due to the Administrative Agent, Collateral Agent or any Lender by the Borrower; and

Seventh, after all of the Obligations have been paid in full, to the Borrower or as the Borrower shall direct or as otherwise required by Law.

Notwithstanding the foregoing, if sufficient funds are not available to fund all payments to be made in respect of any Secured Obligation described in any specific level of the waterfall in clauses First through Seventh above, the available funds being applied with respect to any

[15] PH change here in ABL is not acceptable.

such Secured Obligation (unless otherwise specified in such clause) shall be allocated to the payment of such Secured Obligation ratably, based on the proportion of the Administrative Agent's, Collateral Agent's, and each Lender's interest in the aggregate outstanding Secured Obligations described in such clauses. Except as may be otherwise provided in Section 12.1, the order of priority set forth in clauses First through Seventh above may at any time and from time to time be changed by the agreement of all Lenders without necessity of notice to or consent of or approval by the Borrower, any Secured Party that is not a Lender or by any other Person that is not a Lender. Except as may be otherwise provided in Section 12.1, the order of priority set forth in clauses First through Seventh above may be changed only with the prior written consent of the Administrative Agent in addition to that of all Lenders.

SECTION 10.4 Company's Right to Cure.

(a) Notwithstanding anything to the contrary contained in Section 10.1, in the event of any Event of Default under Section 6.1 or 6.3 and until the expiration of the tenth (10th) Business Day after the date on which the Total Net Leverage Ratio or Minimum Consolidated EBITDA calculation, as applicable, would be required to be delivered pursuant to Section 7.1 or Section 7.2(a) (such date, the "*Cure Expiration Date*"), following delivery of a Notice of Intent to Cure in accordance herewith, the Borrower may designate any portion of the Net Cash Proceeds of any issuance of common Equity Interests of Parent that is contributed to the Borrower as a cash capital contribution or of any cash capital contribution to the common equity of Parent that is contributed to Borrower as a cash capital contribution, in each case, which issuance and contribution occurs after the end of the most recently ended Fiscal Quarter for which the Total Net Leverage Ratio or Minimum Consolidated EBITDA calculation, as applicable, would be required to be delivered pursuant to Section 7.1 or Section 7.2(a) and before the Cure Expiration Date as an increase to Consolidated EBITDA with respect to such applicable quarter; *provided* that all such Net Cash Proceeds to be so designated (i) are actually received by the Borrower as cash common equity contributions (including through capital contribution of such Net Cash Proceeds to the Borrower) that is contributed after the end of the most recently ended Fiscal Quarter for which the Total Net Leverage Ratio or Minimum Consolidated EBITDA calculation, as applicable, would be required to be delivered pursuant to Section 7.1 or Section 7.2(a) and before the Cure Expiration Date and (ii) the aggregate amount of such Net Cash Proceeds or cash capital contribution that are so designated shall not exceed 100% of the aggregate amount necessary to cure such Event of Default under Section 6.1 or 6.3 for any applicable period.

(b) Upon receipt by the Borrower of any such designated Net Cash Proceeds or cash capital contribution (the "*Cure Amount*") in accordance with this Section 10.4, Consolidated EBITDA for any period of calculation which includes the last Fiscal Quarter of the Test Period ending immediately prior to the date on which such Cure Amount was received shall be increased, solely for the purpose of calculating any financial ratio set forth in Section 6.1 or 6.3, by an amount equal to the Cure Amount. The resulting increase to Consolidated EBITDA and any reduction in Indebtedness, if applicable, from designation of a Cure Amount shall not result in any adjustment to Consolidated EBITDA or any other financial definition for any purpose under this Agreement other than for purposes of calculating the financial ratio set forth in Section 6.1 or 6.3 and for additional clarification shall not adjust the calculation of Consolidated

EBITDA for purposes of determining the Total Net Leverage Ratio or Minimum Consolidated EBITDA (other than for purposes of actual compliance with Section 6.1 or 6.3 as of the end of any applicable Test Period).

(c) If, after giving effect to the foregoing recalculations, the Borrower shall then be in compliance with the requirements of Section 6.1 or 6.3, the Borrower shall be deemed to have satisfied the requirements of Section 6.1 or 6.3 as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable existing breach or default of Section 6.1 or 6.3 shall be deemed cured for this purpose of the Agreement.

(d) In each period of four Fiscal Quarters, there shall be at least two (2) Fiscal Quarters for which Consolidated EBITDA is not increased by exercise of a cure pursuant to Section 10.4(a). The Notice of Intent to Cure shall be exercised no more than five times over the term of this Agreement. For the avoidance of doubt, after the delivery of a Notice of Intent to Cure, no new Borrowings shall be permitted until such time as the Cure Amount is received.[16]

ARTICLE XI

THE ADMINISTRATIVE AGENT AND OTHER AGENTS

SECTION 11.1 Appointment and Authority of the Administrative Agent and Collateral Agent.

(a) Each of the Lenders hereby irrevocably appoints Barclays to act on its behalf as the Administrative Agent and Collateral Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent and Collateral Agent, as applicable, to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent or Collateral Agent, as applicable, by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Each of the Lenders hereby authorizes the Administrative Agent to enter into (i) any Customary Intercreditor Agreements in connection with Indebtedness permitted under Section 9.1(p), Section 9.1(y) and Section 9.1(hh) and (ii) the ABL/Term Intercreditor Agreement. The provisions of this Article XI (other than Sections 11.6 and 11.11) are solely for the benefit of the Administrative Agent and the Lenders, and the Borrower shall not have rights as a third party beneficiary of any such provision.

(b) The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders (including in its capacities as a Lender and a potential Hedge Bank) hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or in trust for) such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as "collateral agent" (and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent or Collateral Agent pursuant to Section 11.5 for purposes

[16] PH change here in the ABL is not acceptable.

of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article XI and Article XII (including Sections 11.3, 11.14, 12.3, 12.4 and 12.5, as though such co-agents, sub-agents and attorneys-in-fact were the "collateral agent" under the Loan Documents) as if set forth in full herein with respect thereto. Without limiting the generality of the foregoing, the Lenders hereby expressly authorize the Administrative Agent and the Collateral Agent to execute any and all documents (including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto, as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by any Agent shall bind the Lenders.

SECTION 11.2 Rights as a Lender.

Any Person serving as an Agent (including as Administrative Agent) hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include each Person serving as an Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not an Agent hereunder and without any duty to account therefor to the Lenders. The Lenders acknowledge that, pursuant to such activities, any Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that no Agent shall be under any obligation to provide such information to them.

SECTION 11.3 Exculpatory Provisions. Neither the Administrative Agent nor any other Agent shall have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, an Agent (including the Administrative Agent):

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing and without limiting the generality of the foregoing, the use of the term "agent" herein and in the other Loan Documents with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law and instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that such Agent is required to exercise as directed in writing by the Requisite Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), *provided* that no Agent shall be required to

take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by any Person serving as an Agent or any of its Affiliates in any capacity.

Neither Administrative Agent or any other Agent shall be liable for any action taken or not taken by it (i) with the consent or at the request of the Requisite Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 12.1 and 12.2) or (ii) in the absence of its own gross negligence or willful misconduct as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Borrower or a Lender.

No Agent-Related Person shall be responsible for or have any duty to ascertain or inquire into (i) any recital statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or the Collateral Agent, or (vii) the inspection of the properties, books or records of any Loan Party or any Affiliate thereof.

SECTION 11.4 Reliance by the Agents.

The Administrative Agent and each other Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent and each other Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Administrative Agent and each other Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for

any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Other than in respect of any actions at the direction of the Borrower, the Administrative Agent and each other Agent shall be fully justified in failing or refusing to take any action under any Loan Document unless it shall first receive such advice or concurrence of the Requisite Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent and each other Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Requisite Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders; *provided* that neither the Administrative Agent not any other Agent shall be required to take any action that, in its opinion or in the opinion of its counsel, may expose the Administrative Agent or such Agent to liability or that is contrary to any Loan Document or applicable Law.

SECTION 11.5 Delegation of Duties.

The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Documents by or through any one or more sub agents appointed by the Administrative Agent. The Agents and any such sub agent may perform any and all of its duties and exercise its rights and powers by or through their respective Agent-Related Persons. The exculpatory provisions of this Article shall apply to any such sub agent and to the Agent-Related Persons of the Agents and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent or any other Agent. No Agent shall be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Agent acted with gross negligence or willful misconduct in the selection of such sub agents.

SECTION 11.6 Resignation of Administrative Agent or Collateral Agent.

(a) The Administrative Agent or Collateral Agent may resign upon ten (10) days' notice of its resignation to the Lenders and the Borrower; *provided* that if no successor agent is appointed in accordance with the terms set forth below within such 10-day period, the Administrative Agent and/or the Collateral Agent shall not be permitted to resign until the earlier to occur of (x) the date of the appointment of the successor agent or (y) the date that is twenty (20) days after the last day of such 10-day period. If the Administrative Agent or Collateral Agent, as applicable, is subject to an Agent-Related Distress Event, the Requisite Lenders or the Borrower may remove the Administrative Agent or the Collateral Agent, as applicable, upon ten (10) days' notice. Upon the removal or receipt of any such notice of resignation, the Requisite Lenders shall have the right, with the consent of the Borrower at all times other than during the existence of an Event of Default (which consent of the Borrower shall not be unreasonably withheld or delayed if such successor is a commercial bank with a combined capital and surplus of at least $5,000,000,000 that is a "U.S. person" and a "financial institution" within the meaning

of Treasury Regulation Section 1.1441-1, and otherwise may be withheld at the Borrower's sole discretion), to appoint a successor, which shall be a Lender or a bank with an office in the United States, or an Affiliate of any such Lender or bank with an office in the United States. If no such successor shall have been so appointed by the Requisite Lenders and shall have accepted such appointment within twenty (20) days after the last day of such 10-day period, then the retiring or removed Administrative Agent or Collateral Agent, as applicable, may on behalf of the Lenders, appoint a successor Administrative Agent or Collateral Agent, as applicable, meeting the qualifications set forth above; *provided* that if the Administrative Agent or Collateral Agent, as applicable, shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring or removed Administrative Agent or Collateral Agent, as applicable, shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent or Collateral Agent on behalf of the Lenders under any of the Loan Documents, the retiring or removed Agent shall continue to hold such collateral security until such time as a successor of such Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time as the Requisite Lenders appoint a successor Administrative Agent as provided for above in this Section 11.6. Upon the acceptance of a successor's appointment as Administrative Agent or Collateral Agent, as applicable, hereunder and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Requisite Lenders may request, in order to (i) continue the perfection of the Liens granted or purported to be granted by the Collateral Documents or (ii) otherwise ensure that the Collateral and Guarantee Requirement is satisfied, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) or removed Administrative Agent or Collateral Agent, as applicable, and the retiring or removed Administrative Agent or Collateral Agent, as applicable, shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent or Collateral Agent, as applicable, shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Sections 12.3, 12.4 and 12.5 shall continue in effect for the benefit of such retiring or removed Agent, its sub-agents and their respective Agent-Related Persons in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Agent was acting as Administrative Agent or Collateral Agent, as applicable.

SECTION 11.7 Non-Reliance on Administrative Agent and Other Lenders; Disclosure of Information by Agents.

Each Lender acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any

Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower and the other Loan Parties hereunder. Each Lender also represents that it will, independently and without reliance upon the Administrative Agent, any other Agent, or any other Lender or any of their Agent-Related Persons and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

SECTION 11.8 No Other Duties; Other Agents, Arranger, Etc.

Barclays Bank PLC was appointed as an Arranger hereunder on the Closing Date, and each Lender authorized Barclays Bank PLC to act as an Arranger in accordance with the terms hereof and the other Loan Documents. Each Agent hereby agrees to act in its capacity as such upon the express conditions contained herein and the other Loan Documents, as applicable. Anything herein to the contrary notwithstanding, neither the Arrangers nor any Agent shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, the Collateral Agent, or a Lender hereunder and such Persons shall have the benefit of this Article XI. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any agency or fiduciary or trust relationship with any Lender, Holdings, the Borrower or any of their respective Subsidiaries. Each Lender acknowledges that it has not relied, and will not rely, on the Arranger, any of the Lenders, or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder. Subject to Section 11.6, any Agent or Arranger may resign from such role at any time, with immediate effect, by giving prior written notice thereof to the Administrative Agent and Borrower.

SECTION 11.9 [Reserved].

SECTION 11.10 Administrative Agent May File Proofs of Claim.

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or

otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.12, 12.3 and 12.4) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 2.12, 12.3 and 12.4.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

SECTION 11.11 Collateral and Guaranty Matters.

Each of the Lenders irrevocably authorizes the Administrative Agent and the Collateral Agent, and each of the Administrative Agent and the Collateral Agent agrees that it will:

(a) automatically release any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than (x) obligations and liabilities under Secured Hedge Agreements and (y) contingent indemnification obligations not yet accrued and payable and as to which no claim has been asserted), (ii) at the time the property subject to such Lien is transferred or to be transferred as part of or in connection with any transfer permitted hereunder or under any other Loan Document to any Person other than Holdings, the Borrower or any of its Domestic Subsidiaries that are Guarantors, (iii) subject to Section 12.1, if the release of such Lien is approved, authorized or ratified in writing by the Requisite Lenders, (iv) if the property subject to such Lien is owned by a Guarantor, upon release of such Guarantor from its obligations under its Guaranty pursuant to clause (c) below or (v) if such property becomes Excluded Assets;

(b) release or subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 9.1(i);

(c) release any Guarantor from its obligations under the Guaranty if (i) in the case of any Subsidiary, such Person ceases to be a Restricted Subsidiary as a result of a transaction or designation permitted hereunder or (ii) in the case of Holdings, as a result of a transaction permitted hereunder; *provided* that no such release shall occur if such Guarantor continues to be a guarantor in respect of any Junior Financing; and

(d) if any Guarantor shall cease to be a Material Subsidiary (as certified in writing by a Responsible Officer) or becomes an Excluded Subsidiary, and the Borrower notifies the Administrative Agent in writing that it wishes such Guarantor to be released from its obligations under the Guaranty and provides the Administrative Agent and the Collateral Agent such certifications or documents as either such Agent shall reasonably request, (i) release such Subsidiary from its obligations under the Guaranty and (ii) release any Liens granted by such Subsidiary or Liens on the Equity Interests of such Subsidiary; *provided* that no such release shall occur if such Subsidiary continues to be a guarantor in respect of any Junior Financing or the ABL Loan Obligations.][17]

Upon request by the Administrative Agent or Collateral Agent at any time, the Requisite Lenders will confirm in writing the Administrative Agent's and Collateral Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 11.11. In each case as specified in this Section 11.11, the applicable Agent will (and each Lender irrevocably authorizes the applicable Agent to), at the Borrower's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release or subordination of such item of Collateral from the assignment and security interest granted under the Collateral Documents, or to evidence the release of such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 11.11.

Notwithstanding anything contained in any of the Loan Documents to the contrary, the Loan Parties, the Agents and each Lender hereby agree that (1) no Lender shall have any right individually to realize upon any of the Collateral under any Collateral Document or to enforce the Guarantee, it being understood and agreed that all powers, rights and remedies under the Collateral Documents and the Guarantee may be exercised solely by the Administrative Agent or the Collateral Agent, as applicable, acting as agent for and representative of Lenders in accordance with the terms thereof, and (2) in the event of a foreclosure by the Administrative Agent or the Collateral Agent, as applicable, on any of the Collateral pursuant to a public or private sale or a sale under Section 363 of the Bankruptcy Code, the Administrative Agent or the Collateral Agent, as applicable, or any Lender may be the purchaser of any or all of such Collateral at any such sale and the Administrative Agent or the Collateral Agent, as applicable, as agent for and representative of Lenders (but not any Lender or Lenders in its or their

[17] To be revised to be consistent with the ABL.

respective individual capacities unless the Requisite Lenders shall otherwise agree in writing) shall be entitled (at the direction of the Requisite Lenders), for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Administrative Agent or the Collateral Agent, as applicable, at such sale.

SECTION 11.12 Appointment of Supplemental Administrative Agents.

(a) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually as a "*Supplemental Administrative Agent*" and collectively as "*Supplemental Administrative Agents*").

(b) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or such Supplemental Administrative Agent, and (ii) the provisions of this Article XI and of Sections 12.3 and 12.4 that refer to the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be references to the Administrative Agent and/or such Supplemental Administrative Agent, as the context may require.

(c) Should any instrument in writing from any Loan Party be required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrower or Holdings, as applicable, shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and

duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

SECTION 11.13 Secured Hedge Agreements.

(a) Except as otherwise expressly set forth herein or in any Guaranty or any Collateral Document, no Hedge Bank that obtains the benefits of Section 10.3, any Guaranty or any Collateral by virtue of the provisions hereof or of any Guaranty or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article XI to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Hedge Agreements unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the Hedge Bank.

(b) Each Secured Party hereby agrees (i) that, after the occurrence and during the continuance of an Event of Default, it will provide to the Administrative Agent, promptly upon the written request of the Administrative Agent, a summary of all Obligations owing to it under this Agreement and (ii) that the benefit of the provisions of the Loan Documents directly relating to the Collateral or any Lien granted thereunder shall extend to and be available to any Secured Party that is not an Agent, a Lender party hereto as long as, by accepting such benefits, such Secured Party agrees, as among Agent and all other Secured Parties, that such Secured Party is bound by (and, if requested by Agent, shall confirm such agreement in a writing in form and substance reasonably acceptable to Agent) this Article XI and Sections 3.1, 12.4, 12.6, 12.19, 12.23 and 12.26, and the decisions and actions of any Agent and the Requisite Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders or other parties hereto as required herein) to the same extent a Lender is bound; *provided*, *however*, that, notwithstanding the foregoing clause (ii), (x) such Secured Party shall be bound by Sections 12.3, 12.4 and 12.5 only to the extent of liabilities, reimbursement obligations, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, or disbursements with respect to or otherwise relating to the Liens and Collateral held for the benefit of such Secured Party, in which case the obligations of such Secured Party thereunder shall not be limited by any concept of pro rata share or similar concept, (y) each of Agents, the Lenders party hereto shall be entitled to act at its sole discretion, without regard to the interest of such Secured Party, regardless of whether any Obligation to such Secured Party thereafter remains outstanding, is deprived of the benefit of the Collateral, becomes unsecured or is otherwise affected or put in jeopardy thereby, and without any duty or liability to such Secured Party or any such Obligation and (z) such Secured Party shall not have any right to be notified of, consent to, direct, require or be heard with respect to, any action taken or omitted in respect of the Collateral or under any Loan Document.

SECTION 11.14 Indemnification of Agents.

Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand the Agents and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent) (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless the Agents and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent) from and against any and all Indemnified Liabilities incurred by it; *provided* that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person's own gross negligence or willful misconduct, as determined by the final judgment of a court of competent jurisdiction; *provided* that no action taken in accordance with the directions of the Requisite Lenders (or such other number or percentage of the Lenders as shall be required by the Loan Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 11.14. In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 11.14 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent and Collateral Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent or Collateral Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent or Collateral Agent is not reimbursed for such expenses by or on behalf of the Borrower, *provided* that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto, *provided*, *further*, that the failure of any Lender to indemnify or reimburse the Administrative Agent or Collateral Agent shall not relieve any other Lender of its obligation in respect thereof. The undertaking in this Section 11.14 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation of the Administrative Agent or the Collateral Agent.

ARTICLE XII

MISCELLANEOUS

SECTION 12.1 Amendments, Etc. Except as otherwise set forth in this Agreement, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Requisite Lenders (other than with respect to any amendment or waiver contemplated in Sections 12.1(a) through (j) below, which shall only require the consent of the Lenders expressly set forth therein and not the Requisite Lenders) (or by the Administrative Agent with the consent of the Requisite Lenders) and the Borrower or the applicable Loan Party, as the case may be and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; *provided* that, no such amendment, waiver or consent shall:

(a) extend or increase the Term Loan Commitment of any Lender without the written consent of each Lender directly and adversely affected thereby (it being understood that (i) a waiver of any condition precedent set forth in Section 4.2 and (ii) the waiver of any Default, mandatory prepayment or mandatory reduction of the Term Loan Commitments shall not constitute an extension or increase of any Term Loan Commitment of any Lender);

(b) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest under Section 2.6 or 2.10 without the written consent of each Lender directly and adversely affected thereby, it being understood that the waiver of (or amendment to the terms of) any mandatory prepayment of the Loans shall not constitute a postponement of any date scheduled for the payment of principal or interest;

(c) reduce the principal of, or the rate of interest specified herein on, any Loan, or (subject to clause (iii) of the second proviso to this Section 12.1) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly and adversely affected thereby; *provided* that only the consent of the Requisite Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate;

(d) change any provision of this Section 12.1, Section 12.7 (in a manner that would alter the pro rata sharing of payments or setoffs required thereby), the definition of "Requisite Lenders", "Requisite Class Lenders" or any other provision specifying the number of Lenders or portion of the Loans or Term Loan Commitments required to take any action under the Loan Documents, without the written consent of each Lender affected thereby;

(e) other than in a transaction permitted under Section 9.4 or 9.5, release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

(f) other than in a transaction permitted under Section 9.4 or 9.5, release all or substantially all of the aggregate value of the Guaranty, without the written consent of each Lender;

(g) [reserved];

(h) [reserved];

(i) without the prior written consent of all Lenders directly affected thereby, (i) subordinate the Obligations hereunder in right of payment to any other Indebtedness, (ii) except as provided by operation of applicable Law, or as expressly contemplated hereby subordinate the Liens on the Term Priority Collateral granted hereunder or under the other Loan Documents to any other Lien and (iii) except as provided by operation of applicable law or as expressly contemplated hereby, subordinate the Liens on any ABL Term Collateral granted hereunder or under the other Loan Documents to any other Lien; or

(j) change the order of the application of funds specified in Section 10.3 without the written consent of each Lender directly affected thereby;

and *provided, further*, that (i) [reserved]; (ii) [reserved]; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent and Collateral Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent or Collateral Agent under this Agreement or any other Loan Document; (iv) Section 12.2(g) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification; (v) the consent of Requisite Class Lenders shall be required with respect to any amendment that by its terms adversely affects the rights of Lenders under such Class in respect of payments hereunder in a manner different than such amendment affects other Classes and (vi) only the consent of the Borrower and the Administrative Agent shall be required to effect any amendment, waiver or consent under the Fee Letter. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Term Loan Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

Notwithstanding anything to the contrary contained in this Section 12.1, guarantees, collateral security documents and related documents executed by Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities or defects or (iii) to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Loan Documents.

If the Administrative Agent and the Borrower shall have jointly identified an obvious error (including, but not limited to, an incorrect cross-reference) or any error or omission of a technical or immaterial nature, in each case, in any provision of this Agreement or any other Loan Document (including, for the avoidance of doubt, any exhibit, schedule or other attachment to any Loan Document), then the Administrative Agent and the Borrower or any other relevant Loan Party shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Loan Document. Notification of such amendment shall be made by the Administrative Agent to the Lenders promptly upon such amendment becoming effective.

Notwithstanding anything in this Section 12.1 to the contrary, technical and conforming modifications to the Loan Documents may be made with the consent of the Borrower and the Administrative Agent (and no other Person) to the extent necessary to (i) integrate any Incremental Amendment with respect to Obligations under the applicable Term Loan Commitment Increase in accordance with Section 2.15(a) on substantially the same basis as the

Loans, or any Extension Amendment with respect to Obligations under Extended Term Loans in accordance with Section 2.17, and/or (ii) modify any other provision hereunder or under any other Loan Document in a manner more favorable to the then-existing Lenders, in each case in connection with the issuance or incurrence of any Term Loan Commitment Increase or other Indebtedness permitted hereunder, where the terms of any such Term Loan Commitment Increase or such other Indebtedness are more favorable to the lenders thereof than the corresponding terms applicable to other Loans or Term Loan Commitments then existing hereunder, and it is intended that one or more then-existing Classes of Loans or Term Loan Commitments under this Agreement share in the benefit of such more favorable terms in order to comply with the provisions hereof relating to the incurrence of such Term Loan Commitment Increase or such other Indebtedness.

If any Lender does not consent to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the consent of each Lender and that has been approved by the Requisite Lenders, the Borrower may replace such non-consenting Lender in accordance with Section 3.7; *provided* that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Borrower to be made pursuant to this paragraph).

SECTION 12.2 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither Holdings nor the Borrower may, except as permitted by Section 9.4, assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section, or (iv) to an SPC in accordance with the provisions of subsection (g) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Agent-Related Persons of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Term Loan Commitment and the Loans at the time owing to it); *provided* that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Term Loan Commitment and the Loans of any Class at the time

owing to it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $1,000,000 unless each of the Administrative Agent and, so long as no Event of Default under Section 10.1(a) or (f), solely with respect to the Borrower, has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); *provided*, *however*, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Term Loan Commitment assigned;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender;

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500; *provided*, *however*, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The Eligible Assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire. All assignments shall be by novation.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to Holdings, the Borrower or any of the Borrower's Affiliates or Subsidiaries, or (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), (C) to a natural person or (D) to any Disqualified Institution; *provided* that the Administrative Agent shall have no duties or responsibilities for monitoring or enforcing prohibitions on participations to Disqualified Institutions.

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative

Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.[18]

Subject to acceptance and recording thereof by the Administrative Agent pursuant to clause (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.1, 3.4, 3.5, 12.3, 12.4 and 12.5 with respect to facts and circumstances occurring prior to the effective date of such assignment). Upon request, and the surrender by the assigning Lender of its Term Loan Note, the Borrower (at its expense) shall execute and deliver a Term Loan Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Term Loan Commitments of, and principal amounts (and related interest amounts) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "*Register*"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Agents and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. In addition, the Administrative Agent shall maintain on the Register information regarding the designation, and revocation of designation, of any Lender as a Defaulting Lender. The Register shall be available for inspection by the Borrower, any Agent or any Lender (but, only in the case of a Lender, at the Administrative Agent's Office and with respect to any entry relating to such Lender's Term Loan

[18] LW: retain.

Commitments, Loans and other Obligations), at any reasonable time and from time to time upon reasonable prior notice. This Section 12.2(c) and Section 2.7 shall be construed so that all Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations).

(d) Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person, a Disqualified Institution, a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "*Participant*") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Term Loan Commitment and/or the Loans owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) such participation is recorded in the Participant Register and (iv) the Borrower, the Agents, the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 12.1 (other than clause (d) thereof) that directly affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Section 3.1 (subject to the requirements of Sections 3.1(b), (c) or (d), as applicable), Section 3.4 and Section 3.5 (through the applicable Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 12.6 as though it were a Lender; *provided* such Participant agrees to be subject to Section 12.7 as though it were a Lender.

(e) Limitations upon Participant Rights. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.1, 3.4 and 3.5 (subject to the requirements and limitations therein, including the requirements under Section 3.1(b), (c) or (d), as applicable, (it being understood that the documentation required under to Section 3.1(b), (c) or (d) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; *provided* that such Participant (i) agrees to be subject to the provisions of Sections 3.1, 3.4, 3.5 and 3.7 as if it were an assignee under paragraph (b) of this Section; and (ii) shall not be entitled to receive any greater payment under Section 3.1, 3.4 or 3.5 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation or the sale of the participation to such Participant is made with the Borrower's prior written consent. Each Lender that sells a

participation shall (acting solely for this purpose as a non-fiduciary agent of the Borrower) maintain a register on which is entered the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement (the "*Participant Register*"). A Lender shall not be obligated to disclose the Participant Register to any Person except to the extent such disclosure is necessary to establish that any Loan or other obligation is in registered form under Section 5f.103-1(c) and Proposed Treasury Regulations 1.163-5(b) of the United States Treasury regulations (or any successor version) or is otherwise required thereunder. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. The portion of any Participant Register relating to any Participant requesting payment from the Borrower or seeking to exercise its rights under Section 12.9 shall be available for inspection by the Borrower upon reasonable request to the extent that such disclosure is necessary to establish that such commitment, loan or other obligation is in registered form under Section 5f.103-1(c) and Proposed Treasury Regulations 1.163-5(b) of the United States Treasury Regulations (or any successor version) or is otherwise required thereunder.

(f) Any Lender may, at any time, pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Term Loan Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other central bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an "*SPC*") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; *provided* that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof or, if it fails to do so, to make such payment to the Administrative Agent as is required under Section 2.13(e) and (iii) such SPC and the applicable Loan or any applicable part thereof, shall be appropriately reflected in the Participant Register. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Sections 3.1, 3.4 and 3.5), (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Term Loan Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the

payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee of $3,500 (which processing fee may be waived by the Administrative Agent in its sole discretion), assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

SECTION 12.3 Attorney Costs and Expenses.

The Borrower agrees (a) to pay or reimburse the Administrative Agent, the Collateral Agent, and the Arranger for all reasonable and documented or invoiced out-of-pocket costs and expenses (but limited, in the case of Attorney Costs, as set forth below) incurred in connection with the preparation, negotiation, syndication and execution of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated), and the consummation and administration of the transactions contemplated hereby and thereby, including all Attorney Costs of Paul Hastings LLP and Latham & Watkins LLP and, if reasonably necessary, one local counsel in each relevant jurisdiction material to the interests of the Lenders taken as a whole, and, solely in the case of a conflict of interest, additional counsel in each relevant jurisdiction for group members who are similarly situated, and (b) to pay or reimburse the Administrative Agent, the Collateral Agent and the Lenders for all of their reasonable and documented or invoiced out-of-pocket costs and expenses (but limited, in the case of Attorney Costs and financial advisory (or similar) firm costs and expenses, as set forth below) incurred in connection with the enforcement of any rights or remedies under this Agreement or the other Loan Documents (including (i) all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, but limited in the case of Attorney Costs to those of Paul Hastings LLP, Latham & Watkins LLP and Richards, Layton & Finger and Ashby & Geddes P.A. (and, one local counsel as designated by the Administrative Agent to act in any relevant material jurisdiction and, in the event of any conflict of interest, one additional counsel in each relevant jurisdiction to each group of affected Lenders similarly situated taken as a whole) and (ii) but limited, in the case of costs and expenses of any financial advisory firm, to those of PJT Partners or a replacement if conflicted). The agreements in this Section 12.3 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 12.3 shall be paid within thirty (30) days following receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail; provided that, with respect to the Closing Date, all amounts due under this Section 12.3 shall be paid on the Closing Date solely to the extent invoiced on or prior to the Closing Date. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion. The Borrower and each other Loan Party hereby acknowledge that the Administrative Agent, Collateral Agent, and

any Issuer and/or any Lender may receive a benefit, including a discount, credit or other accommodation, from any of such counsel based on the fees such counsel may receive on account of their relationship with the Administrative Agent, Collateral Agent, such Issuer and/or such Lender, including fees paid pursuant to this Agreement or any other Loan Document. This Section 12.3 shall not apply to Indemnified Taxes, or amounts excluded from the definition of Indemnified Taxes pursuant to clauses (i) through (v) of the first sentence of Section 3.1(a), that are imposed with respect to payments to or for the account of any Agent or any Lender under any Loan Document, which shall be governed by Section 3.1. This Section 12.3 also shall not apply to Other Taxes or to taxes covered by Section 3.4.

SECTION 12.4 Indemnification by the Borrower.

The Borrower shall indemnify and hold harmless the Agents, each Lender, the Arranger and their respective Affiliates and such Persons' and their Affiliates' respective directors, officers, employees, agents, partners, trustees or advisors and other representatives (collectively the "*Indemnitees*") from and against any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements (including Attorney Costs) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnitee in any way relating to or arising out of or in connection with (but limited, in the case of legal fees and expenses, to the reasonable and documented or invoiced out-of-pocket fees, disbursements and other charges of one counsel to all Indemnitees taken as a whole and a single local counsel for all Indemnitees taken as a whole in each relevant jurisdiction that is material to the interest of the Lenders, and solely in the case of a conflict of interest, one additional counsel in each relevant jurisdiction to each group of affected Indemnitees similarly situated taken as a whole), (i) the execution, delivery, enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated hereby or thereby (including the Commitment Letter, Fee Letter and the Backstop Commitment Letter) or the consummation of the transactions contemplated thereby, (ii) any Term Loan Commitment or Loan or the use or proposed use of the proceeds therefrom, or (iii) any actual or alleged presence or release of Hazardous Materials on or from any property currently or formerly owned or operated by the Borrower, any Subsidiary or any other Loan Party, or any Environmental Liabilities arising out of the activities or operations of the Borrower, any Subsidiary or any other Loan Party, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) and regardless of whether any Indemnitee or a Loan Party is a party thereto (all the foregoing, collectively, the "*Indemnified Liabilities*"); *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements resulted from (x) the gross negligence, bad faith or willful misconduct of such Indemnitee or of any Related Indemnified Person, as determined by a final, non-appealable judgment of a court of competent jurisdiction, (y) a material breach of any obligations under any Loan Document by such Indemnitee or of any Related Indemnified Person, in each case as determined by a final, non-appealable judgment of a court of competent jurisdiction or (z) any dispute solely among Indemnitees other than any claims against an Indemnitee in its

capacity or in fulfilling its role as an administrative agent, collateral agent, or arranger or any similar role under any Class of Loans and other than any claims arising out of any act or omission of the Borrower or any of its Affiliates. To the extent that the undertakings to indemnify and hold harmless set forth in this Section 12.4 may be unenforceable in whole or in part because they are violative of any applicable law or public policy, the Borrower shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by the Indemnitees or any of them. No Indemnitee shall be liable for any damages arising from the use by others of any information or other materials obtained through IntraLinks or other similar information transmission systems in connection with this Agreement (except for direct (as opposed to indirect, special, punitive or consequential) damages resulting from the gross negligence, bad faith or willful misconduct, as determined by a court of competent jurisdiction in a final and non-appealable judgment, of any such Indemnitee), nor shall any Indemnitee or any Loan Party have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date) (other than, in the case of any Loan Party, in respect of any such damages incurred or paid by an Indemnitee to a third party). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 12.4 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors, stockholders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents is consummated. All amounts due under this Section 12.4 shall be paid within twenty (20) Business Days after written demand therefor (together with reasonably detailed backup documentation supporting such reimbursement request); *provided*, *however*, that such Indemnitee shall promptly refund such amount to the extent that it is determined by a final, non-appealable judgment of a court of competent jurisdiction that such Indemnitee was not entitled to indemnification rights with respect to such payment pursuant to the express terms of this Section 12.4. The agreements in this Section 12.4 shall survive the resignation of the Administrative Agent or the Collateral Agent, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. This Section 12.4 shall not apply to Indemnified Taxes, or amounts excluded from the definition of Indemnified Taxes pursuant to clauses (i) through (iv) of the first sentence of Section 3.1(a), that are imposed with respect to payments to or for account of any Agent or any Lender under any Loan Document, which shall be governed by Section 3.1. This Section 12.4 also shall not apply to Other Taxes or to taxes covered by Section 3.4.

No Loan Party shall, nor shall any Loan Party permit any of its Subsidiaries, without the prior written consent of any affected Indemnitee (which consent shall not be unreasonably withheld or delayed), effect any settlement of any pending or threatened proceedings in respect of which indemnity could have been sought hereunder by such Indemnitee unless such settlement (i) includes an unconditional release of such Indemnitee from all liability or claims that are the subject matter of such proceeding and (ii) does not include any statement as to or any admission of fault, culpability or wrongdoing by or on behalf of any Indemnitee; *provided* that any Indemnitee may reasonably withhold its consent to any settlement if such settlement does not comply with clauses (i) and (ii) above.

SECTION 12.5 Removal of Responsible Officers or Directors. If any Responsible Officer or member of the Board of Directors of the Borrower or its Subsidiaries is found guilty (as determined by a final non-appealable judgment of a court of competent jurisdiction) after the Closing Date of (a) any felony offense under laws relating to fraud and abuse, theft, embezzlement, false statements to third parties, money laundering, kickbacks, breach of fiduciary responsibility or (b) other felony-level financial misconduct or (c) with respect to any act or omission in a program operated by or financed in whole or in part by any federal, state or local governmental agency, violating laws relating to the interference with or obstruction of any investigations into any offenses described in this Section 12.5, then, in the event of any of the foregoing, at the request of the Requisite Lenders, the Borrower or such applicable Subsidiary shall promptly (but in no event later thirty (30) days following receipt of such request) remove such Responsible Officer or member of the Board of Directors to the extent it is then legally permitted to do so.

SECTION 12.6 Right of Setoff.

If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Administrative Agent, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by such Lender or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such other Loan Party (other than, with respect to any Guarantor, Excluded Swap Obligations of such Guarantor) now or hereafter existing under this Agreement or any other Loan Document to such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such indebtedness; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.16 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and its Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender or its Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, *provided* that the failure to give such notice shall not affect the validity of such setoff and application.

SECTION 12.7 Sharing of Payments.

If, other than as expressly provided elsewhere herein, any Lender shall obtain payment in respect of any principal of or interest on account of the Loans made by it (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify

the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them, as shall be necessary to cause such purchasing Lender to share the excess payment of principal of or interest on such Loans or such participations, as the case may be, pro rata with each of them; *provided* that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 12.15 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. For avoidance of doubt, the provisions of this paragraph shall not be construed to apply to (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement as in effect from time to time or (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant permitted hereunder. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of set-off, but subject to Section 12.6) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 12.7 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 12.7 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

SECTION 12.8 Notices and Other Communications; Facsimile Copies.

(a) General. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to Holdings, the Borrower, the Administrative Agent (which address shall also be used for Collateral Agent), to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 12.8;

(ii) [reserved]; and

(iii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, *provided* that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, *provided* that approval of such procedures may be limited to particular notices or communications.

(c) Receipt. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), *provided* that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(d) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall any Agent or any of its Agent-Related Persons or the Arranger (collectively, the "*Agent Parties*") have any liability to Holdings, the Borrower, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; *provided*, *however*, that in no event shall

any Agent Party have any liability to Holdings, the Borrower, any Lender or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(e) Change of Address. Each of Holdings, the Borrower, the Administrative Agent and the Collateral Agent, may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Borrower and the Administrative Agent. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

(f) Reliance by Administrative Agent and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Notices of Borrowing) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, each Lender and the Agent-Related Persons of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower in the absence of gross negligence, willful misconduct or bad faith of such Person, as determined by a final non-appealable judgment of a court of competent jurisdiction. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

SECTION 12.9 No Waiver; Cumulative Remedies.

No failure by any Lender, the Administrative Agent or the Collateral Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

SECTION 12.10 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "*Judgment Currency*") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "*Agreement Currency*"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrower in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable Law).

SECTION 12.11 Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower, Holdings and the Administrative Agent and the Administrative Agent shall have been notified by each Lender that each such Lender has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, Holdings, each Agent and each Lender and their respective successors and assigns.

SECTION 12.12 [Reserved].

SECTION 12.13 Governing Law; Submission to Jurisdiction; Service of Process.

(a) THIS AGREEMENT AND EACH OTHER LOAN DOCUMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) EACH PARTY HERETO EACH IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT.

EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE AGENTS AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE LOAN DOCUMENTS OR IN THE EXERCISE OF ANY RIGHTS UNDER ANY COLLATERAL DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) EACH PARTY HERETO EACH IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 12.8. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

SECTION 12.14 Waiver of Jury Trial.

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 12.15 Marshaling; Payments Set Aside.

None of the Administrative Agent, the Collateral Agent or any Lender shall be under any obligation to marshal any assets in favor of the Loan Parties or any other party or against or in payment of any or all of the Obligations. To the extent that any payment by or on behalf of the Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of

set-off, and such payment or the proceeds of such set-off or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such set-off had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect.

SECTION 12.16 [Reserved].

SECTION 12.17 Counterparts; Integration; Effectiveness.

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. The Credit Agreement became effective on the Closing Date. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 12.18 Electronic Execution of Assignments and Certain Other Documents.

Delivery by telecopier, .pdf, or other electronic imaging means of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 12.19 Confidentiality.

Each of the Administrative Agent, the Collateral Agent and the Lenders agrees to maintain the confidentiality of the Information in accordance with its customary procedures (as set forth below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, trustees, advisors, service

providers, and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, *provided* that the Administrative Agent or such Lender, as applicable, agrees that it will notify the Borrower as soon as practicable in the event of any such disclosure by such Person (other than at the request of a regulatory authority) unless such notification is prohibited by law, rule or regulation, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions at least as restrictive as those of this Section 12.19, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or any Eligible Assignee invited to be an Additional Lender or (ii) any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower; (h) to any rating agency when required by it on a customary basis and after consultation with the Borrower (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender); or (i) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, any Lender, or any of their respective Affiliates on a nonconfidential basis from a source other than Holdings, the Borrower or any Subsidiary thereof, and which source is not known by such Agent or Lender to be subject to a confidentiality restriction in respect thereof in favor of the Borrower or any Affiliate of the Borrower.

For purposes of this Section, "Information" means all information received from any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary thereof or their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by any Loan Party or any Subsidiary thereof other than as a result of a breach of this Section 12.19, it being understood that all information received from any Parent Guarantor, Holdings, the Borrower or any Subsidiary after the Closing Date shall be deemed confidential unless such information is clearly identified at the time of delivery as not being confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so in accordance with its customary procedures if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Collateral Agent, and the Lenders acknowledges that (a) the Information may include material non-public information concerning any Loan Party or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

SECTION 12.20 Use of Name, Logo, Etc.

Each Loan Party consents to the publication in the ordinary course by the Administrative Agent or the Arranger of customary advertising material relating to the financing transactions contemplated by this Agreement using such Loan Party's name, product photographs, logo or trademark. Such consent shall remain effective until revoked by such Loan Party in writing to the Administrative Agent and the Arranger.

SECTION 12.21 USA PATRIOT Act Notice.

Each Lender that is subject to the USA PATRIOT Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act. The Borrower shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

SECTION 12.22 [Reserved].

SECTION 12.23 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each of the Borrower and Holdings acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Agents and the Arranger are arm's-length commercial transactions between the Borrower, Holdings and their respective Affiliates, on the one hand, and the Agents and the Arranger, on the other hand, (B) each of the Borrower and Holdings has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each of the Borrower and Holdings is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Agents, the Arranger and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower, Holdings or any of their respective Affiliates, or any other Person and (B) none of the Agents, the Arranger, or any Lender has any obligation to the Borrower, Holdings or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Agents, the Arranger, the Lender and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower, Holdings their respective Affiliates, and none of the Agents, the Arranger, or any Lender has any obligation to disclose any of such interests to the Borrower, Holdings or any of their respective Affiliates. To the fullest extent permitted by law, each of the Borrower and Holdings hereby waives and releases any claims that it may have against the Agents, the

Arranger or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

SECTION 12.24 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 12.24, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, then such provisions shall be deemed to be in effect only to the extent not so limited.

SECTION 12.25 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Agents and each Lender, regardless of any investigation made by the Agents or any Lender or on their behalf and notwithstanding that any Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid (other than (i) contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements).

SECTION 12.26 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party under any of the Loan Documents or the Secured Hedge Agreements (including the exercise of any right of set-off, rights on account of any banker's lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, without the prior written consent of the Administrative Agent (which shall not be withheld in contravention of Section 11.4). The provision of this Section 12.26 are for the sole benefit of the Lenders and shall not afford any right to, or constitute a defense available to, any Loan Party.

SECTION 12.27 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non usurious interest permitted by applicable Law (the "*Maximum Rate*"). If any Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by an Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or

unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

SECTION 12.28 [Reserved].

SECTION 12.29 Contractual Recognition of Bail-In.

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; and

(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.

SECTION 12.30 ABL/Term Intercreditor Agreement. REFERENCE IS MADE TO THE ABL/TERM INTERCREDITOR AGREEMENT. EACH LENDER HEREUNDER (a) AGREES THAT IT WILL BE BOUND BY AND WILL TAKE NO ACTIONS CONTRARY TO THE PROVISIONS OF THE ABL/TERM INTERCREDITOR AGREEMENT AND (b) AUTHORIZES AND INSTRUCTS THE ADMINISTRATIVE AGENT TO ENTER INTO THE ABL/TERM INTERCREDITOR AGREEMENT AS "TERM ADMINISTRATIVE AGENT" AND ON BEHALF OF SUCH LENDER. THE PROVISIONS OF THIS SECTION 12.30 ARE NOT INTENDED TO SUMMARIZE ALL RELEVANT PROVISIONS OF THE ABL/TERM INTERCREDITOR AGREEMENT. REFERENCE MUST BE MADE TO THE ABL/TERM INTERCREDITOR AGREEMENT ITSELF TO UNDERSTAND ALL TERMS AND CONDITIONS THEREOF. EACH LENDER IS RESPONSIBLE FOR MAKING ITS OWN ANALYSIS AND REVIEW OF THE ABL/TERM INTERCREDITOR AGREEMENT AND THE TERMS AND PROVISIONS THEREOF, AND NEITHER THE ADMINISTRATIVE AGENT NOR ANY OF ITS AFFILIATES MAKES ANY REPRESENTATION TO ANY LENDER AS TO THE SUFFICIENCY OR ADVISABILITY OF THE PROVISIONS CONTAINED IN THE ABL/TERM INTERCREDITOR AGREEMENT.

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

MATTRESS FIRM, INC., as Borrower

By:_____
Name:_____
Title:_____

MATTRESS HOLDING CORP., as Holdings

By:_____
Name:_____
Title:_____

[PARENT GUARANTORS]

By:_____
Name:_____
Title:_____

BARCLAYS BANK PLC, as Administrative Agent, Collateral Agent and a Lender

By:_____
Name:_____
Title:_____

LENDERS

[_____]

DRAFT **EXHIBIT A**

[FORM OF] ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (this "*Assignment and Assumption*") is dated as of the Effective Date set forth below and is entered into by and between [the][each][1] Assignor identified in item 1 below ([the][each, an] "*Assignor*") and [the][each][2] Assignee identified in item 2 below ([the][each, an] "*Assignee*"). [It is understood and agreed that the rights and obligations of [the Assignors][the Assignees][3] hereunder are several and not joint.][4] Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (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 Assignment and Assumption as if set forth herein in full.

For an agreed consideration, [the][each] Assignor hereby irrevocably sells and assigns to [the Assignee][the respective Assignees], and[the][each] Assignee hereby irrevocably purchases and assumes from [the Assignor][the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of[the Assignor's][the respective Assignors'] rights and obligations in [its capacity as a Lender][their respective capacities as Lenders] 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][the respective Assignors] under the respective facilities identified below 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)][the respective Assignors (in their respective capacities as Lenders)] 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, but not limited to, 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 by [the][any] Assignor to [the][any] Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as [the][an] "*Assigned Interest*"). Each such sale and assignment is without recourse to [the][any] Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by [the][any] Assignor.

1. Assignor[s]: _____

2. Assignee[s]: _____

---

[1] For bracketed language here and elsewhere in this form relating to the Assignor(s), if the assignment is from a single Assignor, choose the first bracketed language. If the assignment is from multiple Assignors, choose the second bracketed language.

[2] For bracketed language here and elsewhere in this form relating to the Assignee(s), if the assignment is to a single Assignee, choose the first bracketed language. If the assignment is to multiple Assignees, choose the second bracketed language.

[3] Select as appropriate.

[4] Include bracketed language if there are either multiple Assignors or multiple Assignees.

[for each Assignee *identify Lender*]

3. Borrower: Mattress Firm, Inc.

4. Administrative Agent: Barclays Bank PLC, including any successor thereto, as the administrative agent under the Credit Agreement

5. Credit Agreement: The Term Loan Credit Agreement, dated as of November [•], 2018 (as such may be amended, restated, extended, supplemented or otherwise modified from time to time) among, *inter alios*, MATTRESS HOLDING CORP., MATTRESS FIRM, INC., BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto (collectively, the "*Lenders*" and individually, a "*Lender*").

6. Assigned Interest:

Assignor[s][5]	Assignee[s][6]	Aggregate Amount of Loans for all Lenders[7]	Amount of Loans Assigned	Percentage Assigned of Loans[8]
		$	$	%
		$	$	%
		$	$	%

[7. Trade Date: _____[9]]

Effective Date: _____, 20__ [TO BE INSERTED BY THE ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

[5] List each Assignor, as appropriate.
[6] List each Assignee, as appropriate.
[7] Amounts in this column and in the column immediately to the right to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.
[8] Set forth, to at least 9 decimals, as a percentage of the Loans of all Lenders thereunder.
[9] To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: _____
Name:
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By: _____
Name:
Title:

[Consented to and][10] Accepted:

BARCLAYS BANK PLC, as Administrative Agent

By: _____
Name:
Title:

[Consented to: [_____]

By: _____
Name:
Title:][11]

[10] To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.
[11] To be added only if the consent of the Borrower and/or other parties is required by the terms of the Credit Agreement.

ANNEX 1
TO ASSIGNMENT AND ASSUMPTION

Term Loan Credit Agreement, dated as of November [•], 2018 (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among, MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP. ("*Holdings*"), the Parent Guarantors, BARCLAYS BANK PLC, as administrative agent (in such capacity, including any successor thereto, the "*Administrative Agent*") and as collateral agent under the Loan Documents, and each lender from time to time party thereto (collectively, the "*Lenders*" and individually, a "*Lender*")

STANDARD TERMS AND CONDITIONS FOR

ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1. Assignor. [The][Each] Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of [the][[the relevant] Assigned Interest, (ii) [the][such] Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption 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 or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. [The][Each] Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under Section 12.2(b)(iii) and (v) of the Credit Agreement (subject to such consents, if any, as may be required under Section 12.2(b)(iii) of the Credit Agreement), (iii) from and after the Effective Date referred to in this Assignment and Assumption, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of [the][the relevant] Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by [the][such] Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire [the][such] Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 7.1(a) and (b) thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the][such] Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the][such] Assigned Interest and (vii) attached hereto is any documentation required to

be delivered by it pursuant to the terms of the Credit Agreement, including but not limited to any documentation required pursuant to Section 3.1 of the Credit Agreement, duly completed and executed by [the][such] Assignee; and (b) agrees that (i) it will, independently and without reliance upon the Administrative Agent, [the][any] 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 Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of [the][each] Assigned Interest(including payments of principal, interest, fees and other amounts) to [the][the relevant] Assignor for amounts which have accrued to but excluding the Effective Date and to [the][the relevant] Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts (and by different parties hereto indifferent counterparts), each of which shall constitute an original, but all of which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

DRAFT **EXHIBIT B**

[FORM OF] TERM LOAN NOTE

$_____.00 _____ ___, 20__

FOR VALUE RECEIVED, the undersigned (the "*Borrower*", together with all successors and assigns), promises to pay _____(hereinafter, together with its successors in title and assigns, the "*Lender*"), the principal sum of _____ DOLLARS ($_____.00), or, if less, the aggregate unpaid principal balance of Loans made by the Lender to or for the account of the Borrower pursuant to the Credit Agreement (as hereafter defined), with interest, fees, expenses and costs at the rate and payable in the manner stated in the Credit Agreement. As used herein, the "Credit Agreement" means and refers to that certain Term Loan Credit Agreement, dated as of November [•], 2018 (as such may be amended, restated, extended, supplemented or otherwise modified from time to time) among, MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP, the Parent Guarantors, BARCLAYS BANK PLC, as administrative agent (in such capacity, including any successor thereto, the "*Administrative Agent*") and as collateral agent under the Loan Documents, and each lender from time to time party hereto (collectively, the "*Lenders*" and individually, a "*Lender*"). Capitalized terms used herein and not otherwise defined herein are used herein as defined in the Credit Agreement.

This is a "Term Loan Note" to which reference is made in the Credit Agreement and is subject to all terms and provisions thereof. This Term Loan Note is also entitled to the benefits of the Guaranty and is secured by the Collateral. The principal of, and interest on, this Term Loan Note shall be payable at the times, in the manner, and in the amounts as provided in the Credit Agreement and shall be subject to prepayment and acceleration as provided therein. The Administrative Agent's books and records concerning the Term Loans, the accrual of interest and fees thereon, and the repayment of such Term Loans shall be prima facie evidence of the indebtedness to the Lender hereunder, absent manifest error. This Term Loan Note is a registered obligation, transferable only upon notation in the Register, and no assignment hereof shall be effective until recorded therein.

No delay or omission by the Administrative Agent or the Lender in exercising or enforcing any of the Administrative Agents' or Lender's powers, rights, privileges, remedies, or discretions hereunder shall operate as a waiver thereof on that occasion nor on any other occasion. No waiver of any Event of Default shall operate as a waiver of any other Event of Default, nor as a continuing waiver.

The Borrower waives presentment, demand, notice, and protest, and also waives any delay on the part of the holder hereof. The Borrower assents to any extension or other indulgence (including, without limitation, the release or substitution of Collateral) permitted by the Administrative Agent and/or the Lender with respect to this Term Loan Note and/or any Collateral Document or any extension or other indulgence with respect to any other liability or any collateral given to secure any other liability of the Borrower or any other Person obligated on account of this Term Loan Note.

This Term Loan Note shall be binding upon the Borrower and upon their respective successors, assigns, and representatives, and shall inure to the benefit of the Lender and its successors, endorsees and assigns.

The Borrower agrees that any action or proceeding arising out of or relating to this Term Loan Note or for recognition or enforcement of any judgment, shall be brought in the courts of the state of New York sitting in New York City in the Borough of Manhattan or of the United States for the Southern District of New York, and any appellate court from any thereof, and by execution and delivery of this Term Loan Note, the Borrower and the Lender each consent, for itself and in respect of its property, to the exclusive jurisdiction of those courts. To the fullest extent permitted by applicable law, the Borrower irrevocably waives any objection, including any objection to the laying of venue or based on the grounds of *forum non conveniens*, which it may now or hereafter have to the bringing of any action or proceeding in the courts of the state of New York sitting in New York City in the Borough of Manhattan or of the United States for the Southern District of New York, and any appellate court from any thereof.

THIS TERM LOAN NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

The Borrower makes the following waiver knowingly, voluntarily, and intentionally, and understands that the Administrative Agent and the Lender, in the establishment and maintenance of their respective relationship with the Borrower contemplated by this Term Loan Note, are each relying thereon. THE BORROWER, AND THE LENDER BY ITS ACCEPTANCE HEREOF, HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS TERM LOAN NOTE OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY).

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the undersigned has caused this Term Loan Note to be duly executed and delivered by its duly authorized officer as of the date first above written.

MATTRESS FIRM, INC.

By: _____
Name:
Title:

LOANS AND PAYMENTS

Date	Amount of Loan	Maturity Date	Payments of Principal/Interest	Principal Balance of Note	Name of Person Making this Notation

DRAFT **EXHIBIT C**

[FORM OF] NOTICE OF BORROWING

_____ __, 20__

Barclays Bank PLC, as Administrative Agent
745 Seventh Avenue
New York, NY 10019
Attention: Charlie Goetz, Bank Debt Management
Electronic Mail: Charlie.Goetz@barclays.com

Re: MATTRESS FIRM, INC.

Reference is made to that certain Term Loan Credit Agreement, dated as of November [•], 2018 (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC., a Delaware corporation (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto (collectively, the "*Lenders*" and individually, a "*Lender*"). Capitalized terms used herein and not otherwise defined herein are used herein as defined in the Credit Agreement.

The Borrower hereby gives you notice, irrevocably, pursuant to Section 2.2 of the Credit Agreement that the undersigned hereby requests a Borrowing under the Credit Agreement and, in connection therewith, sets forth below the information relating to the Borrowing (the "*Proposed Borrowing*") as required by Section 2.2 of the Credit Agreement:

(a) The date of the Proposed Borrowing is _____ __, 20__ (the "*Funding Date*").

(b) The aggregate amount of the Borrowing is [$]_____.

(c) [$] _____ of the Borrowing shall be of [Base Rate Loans] and/or [Eurocurrency Rate Loans].

(d) For Eurocurrency Rate Loan: with an Interest Period of _____ months (such Interest Period to comply with the provisions of the definition of "*Interest Period*").

(e) The Class of the Borrowing shall be _____.

The undersigned hereby represents and warrants that the conditions set forth in Sections [4.1,][1] 4.2(b) and (c) of the Credit Agreement shall be satisfied on the Funding Date both immediately before and immediately after giving effect to the Proposed Borrowing and to the application of the proceeds therefrom.

[Remainder of page intentionally left blank]

[1] For use for the Borrowing on the Closing Date only.

MATTRESS FIRM, INC.

By: _____
Name:
Title:

DRAFT **EXHIBIT D**

[RESERVED]

DRAFT **EXHIBIT E**

[RESERVED]

DRAFT **EXHIBIT F**

[FORM OF] NOTICE OF CONVERSION OR CONTINUATION

_____ __, 20__

Barclays Bank PLC, as Administrative Agent
745 Seventh Avenue
New York, NY 10019
Attention: Charlie Goetz, Bank Debt Management
Electronic Mail: Charlie.Goetz@barclays.com

Re: MATTRESS FIRM, INC.

Reference is made to that certain Term Loan Credit Agreement, dated as of November [•], 2018, (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto. Capitalized terms used herein and not otherwise defined herein are used herein as defined in the Credit Agreement.

The Borrower hereby gives you notice, irrevocably, pursuant to Section 2.11 of the Credit Agreement that the undersigned hereby requests a [conversion on _____ __, 20__] [continuation] of [$]_____ in principal amount of presently outstanding Loans that are [Base Rate Loans] [Eurocurrency Rate Loan] having an Interest Period ending on _____ __, 20__ [to] [as][Base Rate] [Eurocurrency Rate] Loans. The Interest Period for such amount requested to be converted to or continued as Eurocurrency Rate Loans is _____ month[s]).

[Remainder of page intentionally left blank]

In connection herewith, the undersigned has executed this notice as of the date first set forth above.

MATTRESS FIRM, INC.

By: _____
Name:
Title:

FORM OF GUARANTY

[*To be provided under separate cover*]

FORM OF SECURITY AGREEMENT

[*To be provided under separate cover*]

DRAFT **EXHIBIT I**

[RESERVED]

DRAFT **EXHIBIT J**

[RESERVED]

DRAFT **EXHIBIT K**

FORM OF INTERCOMPANY SUBORDINATION AGREEMENT

[*To be provided under separate cover*]

[FORM OF] SOLVENCY CERTIFICATE
of
MATTRESS FIRM, INC.
AND ITS SUBSIDIARIES

[•], 20[•]

Pursuant to that certain Term Loan Credit Agreement, dated as of the date hereof (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "*Credit Agreement*"), among Mattress Firm, Inc., a Delaware corporation ("*Borrower*"), Mattress Holding Corp., a Delaware corporation ("*Holdings*"), the Parent Guarantors, the Lenders from time to time party thereto, and Barclays Bank PLC, as Administrative Agent and Collateral Agent thereunder (in such capacities, the "*Agent*"), the undersigned hereby certifies, solely in such undersigned's capacity as chief financial officer of the Borrower and not individually, as follows:

As of the date hereof, after giving effect to the consummation of the Transactions, including the making of the Loans under the Credit Agreement on the date hereof, and after giving effect to the application of the proceeds of such Loans:

a. The fair value of the assets of the Borrower and its Restricted Subsidiaries, on a consolidated basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise;

b. The present fair saleable value of the property of the Borrower and its Restricted Subsidiaries, on a consolidated basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured;

c. The Borrower and its Restricted Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured; and

d. The Borrower and its Restricted Subsidiaries, on a consolidated basis, are not engaged in, and are not about to engage in, business for which they have unreasonably small capital.

For purposes of this Certificate, the amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

The undersigned is familiar with the business and financial position of the Borrower and its Restricted Subsidiaries. In reaching the conclusions set forth in this Certificate, the undersigned has made such other investigations and inquiries as the undersigned has deemed appropriate, having taken into account the nature of the particular business anticipated to be conducted by the Borrower and its subsidiaries after consummation of the Transactions.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the undersigned has executed this Certificate in such undersigned's capacity as chief financial officer of the Borrower, on behalf of the Borrower, and not individually, as of the date first stated above.

MATTRESS FIRM, INC.

By: _____
Name:
Title: Chief Financial Officer

DRAFT **EXHIBIT M**

[RESERVED]

DRAFT **EXHIBIT N-1**

[FORM OF] NON−BANK CERTIFICATE
(For Non-U.S. Lenders That Are Not Partnerships or Pass−Through Entities For U.S. Federal Income Tax Purposes)

Reference is made to that certain Term Loan Credit Agreement, dated as of November [•], 2018, (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement. _____ (the "*Non-U.S. Lender*") is providing this certificate pursuant to Section 3.1(b) of the Credit Agreement.

The Non-U.S. Lender hereby represents and warrants that:

1. The Non-U.S. Lender is the sole record and beneficial owner of the Loans (as well as any notes evidencing such Loans) in respect of which it is providing this certificate.

2. The Non-U.S. Lender is not a "bank" for purposes of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "*Code*").

3. The Non-U.S. Lender is not a "ten percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code.

4. The Non-U.S. Lender is not a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has duly executed this certificate on the _____ day of _____, 20__.

[NAME OF NON-U.S. LENDER]

By: _____
Name:
Title:

DRAFT **EXHIBIT N-2**

[FORM OF] NON−BANK CERTIFICATE
(For Non-U.S. Lenders That Are Partnerships or Pass−Through Entities For U.S. Federal Income Tax Purposes)

Reference is made to that certain Term Loan Credit Agreement, dated as of November [•], 2018, (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto (collectively, the "*Lenders*" and individually, a "*Lender*"). Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement. _____ (the "*Non-U.S. Lender*") is providing this certificate pursuant to Section 3.1(b) of the Credit Agreement.

The Non-U.S. Lender hereby represents and warrants that:

1. The Non-U.S. Lender is the sole record owner of the Loans (as well as any notes evidencing such Loans) in respect of which it is providing this certificate.

2. The Non-U.S. Lender's direct or indirect partners/members are the sole beneficial owners of the Loans (as well as any notes evidencing such Loans).

3. Neither the Non-U.S. Lender nor any of its direct or indirect partners/members is a "bank" for purposes of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "**Code**").

4. None of the Non-U.S. Lender's direct or indirect partners/members is a 10−percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code.

5. None of the Non-U.S. Lender's direct or indirect partners/members is a "controlled foreign corporation" related to the Borrower within the meaning of Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E, or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has duly executed this certificate on the _____ day of _____, 20__.

[NAME OF NON-U.S. LENDER]

By: _____
Name:
Title:

DRAFT **EXHIBIT N-3**

[FORM OF] NON−BANK CERTIFICATE
(For Non-U.S. Participants That Are Not Partnerships or Pass−Through Entities For U.S. Federal Income Tax Purposes)

Reference is made to that certain Term Loan Credit Agreement, dated as of November [•], 2018, (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto (collectively, the "*Lenders*" and individually, a "*Lender*"). Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement._____ (the "*Non-U.S. Participant*") is providing this certificate pursuant to Section 3.1(b) and Section 12.2(d) of the Credit Agreement.

The Non-U.S. Participant hereby represents and warrants that:

1. The Non-U.S. Participant is the sole record and beneficial owner of the participation in respect of which it is providing this certificate.

2. The Non-U.S. Participant is not a "bank" for purposes of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "*Code*").

3. The Non-U.S. Participant is not a "ten percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code.

4. The Non-U.S. Participant is not a controlled foreign corporation within the meaning of Section 881(c)(3)(C) of the Code related to the Borrower within the meaning of Section 864(d) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has duly executed this certificate on the _____ day of _____, 20__.

[NAME OF NON-U.S. PARTICIPANT]

By: _____
Name:
Title:

DRAFT **EXHIBIT N-4**

[FORM OF] NON−BANK CERTIFICATE
(For Non-U.S. Participants That Are Partnerships or Pass−Through Entities For U.S. Federal Income Tax Purposes)

Reference is made to that certain Term Loan Credit Agreement, dated as of November [•], 2018, (as such may be amended, restated, extended, supplemented or otherwise modified from time to time, the "*Credit Agreement*") among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP., the Parent Guarantors, BARCLAYS BANK PLC, as Administrative Agent and as Collateral Agent under the Loan Documents, and each lender from time to time party thereto. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement. _____ (the "*Non U.S. Participant*") is providing this certificate pursuant to Section 3.1(b) and Section 12.2(d) of the Credit Agreement.

The Non-U.S. Participant hereby represents and warrants that:

1. The Non-U.S. Participant is the sole record owner of the participation in respect of which it is providing this certificate.

2. The Non-U.S. Participant's direct or indirect partners/members are the sole beneficial owners of such participation.

3. Neither the Non-U.S. Participant nor any of its direct or indirect partners/members is a "bank" for purposes of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "Code").

4. None of the Non-U.S. Participant's direct or indirect partners/members is a "ten percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code.

5. None of the Non-U.S. Participant's direct or indirect partners/members is a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the undersigned has duly executed this certificate on the _____ day of _____, 20__.

[NAME OF NON-U.S. PARTICIPANT]

By: _____
Name:
Title:

DRAFT **EXHIBIT O**

FORM OF COMPLIANCE CERTIFICATE

[*See attached*]

[RESERVED]

DRAFT **\EXHIBIT Q**

[FORM OF] CUSTOMS BROKER AGREEMENT

[DATE]

Name and Address of [Customs Broker/Freight Forwarder/Carrier]:

_____
_____
_____
Email Address: _____
Fax Number: _____

Dear Sir/Madam:

[Mattress Firm, Inc.][Insert name of other Loan Party], a [Delaware][_____] corporation with its principal executive offices at [Insert Address of Company][Insert address for Loan Party] (referred to herein as the "Company"), among others, has entered into a Security Agreement dated as of November [•], 2018 (the "Security Agreement") with Barclays Bank PLC, with offices at 745 Seventh Avenue, New York, New York 10019, as collateral agent (in such capacity, herein the "Agent") for the ratable benefit of the Secured Parties, as defined under that certain Credit Agreement dated as of November [•], 2018 (the "Credit Agreement") by and among Mattress Firm, Inc. as the Borrower, Mattress Holding Corp., the Parent Guarantors, the Lenders and Issuers from time to time party thereto, Barclays Bank PLC as Administrative Agent and Collateral Agent and the other agents named therein, pursuant to which Security Agreement, the Company, among others, has granted a security interest to the Agent in and to, substantially all of the assets of the Company, including, among other things, all of the Company's inventory, goods, documents, bills of lading and other documents of title. Capitalized terms used but not defined herein have the meanings assigned to such terms in the Credit Agreement.

The Agent has requested that you (together with any affiliates providing services to the Company or its affiliates, the "[Customs Broker/Freight Forwarder/Carrier]") act as the Agent's agent for the limited purpose of more fully perfecting and protecting the security interest of the Agent in the Title Documents (as defined below) and the Property (as defined below), and the [Customs Broker/Freight Forwarder/Carrier] has agreed to do so. This letter agreement (this "Agreement") shall set forth the terms of the [Customs Broker/Freight Forwarder/Carrier]'s engagement.

1. **Acknowledgment of Security Interest; Power of Attorney:** The [Customs Broker/Freight Forwarder/Carrier] acknowledges that the Company has granted a security interest to the Agent in all of the Company's right, title, and interest in, to and under the Title Documents (as defined below), the Property (as defined below) and any contracts or agreements relating thereto. The Company advises the [Customs Broker/Freight Forwarder/Carrier], and the [Customs Broker/Freight Forwarder/Carrier] acknowledges that the Company has irrevocably constituted and appointed the Agent as the Company's true and lawful attorney, with full power of substitution to exercise all of such rights, title, and interest, which appointment has been

coupled with an interest. The [Customs Broker/Freight Forwarder/Carrier] further acknowledges and agrees that: (i) the Company holds title to all Title Documents (as defined below) and Property (as defined below) while in the custody or control of the [Customs Broker/Freight Forwarder/Carrier]; (ii) upon receipt of any such Title Documents or Property, the [Customs Broker/Freight Forwarder/Carrier] shall promptly notify the Company that it is holding such Title Documents or Property on behalf of the Company; (iii) [the [Customs Broker/Freight Forwarder] shall not deliver any Property to a third party for shipment and delivery unless any related Title Documents reflects a Loan Party as "consignor/shipper" and a Loan Party as "consignee" and such third party is advised of the Agent's liens on such Title Documents and Property and rights with respect thereto][1]; and (iv) if the [Customs Broker/Freight Forwarder/Carrier] receives notice from any seller of any Property of such seller's intent to stop delivery of such Property to the Company, the [Customs Broker/Freight Forwarder/Carrier] shall promptly notify the Agent of the same and, in all such cases, shall follow solely the instructions of the Agent concerning the release, transfer, or other disposition of the Property and will not follow any instructions of the Company or any other person concerning same, unless instructed otherwise by the Agent.

2. **Appointment Of [Customs Broker/Freight Forwarder/Carrier] as Agent of Agent:** The [Customs Broker/Freight Forwarder/Carrier] is hereby appointed as agent for the Agent to receive and retain possession of (i) all bills of lading, waybills, documents, and any other documents of title or carriage constituting, evidencing, or relating to the Company's inventory (collectively, the "Title Documents") heretofore or at any time hereafter issued for any goods, inventory, or other property of the Company which are received by the [Customs Broker/Freight Forwarder/Carrier] for processing (collectively, the "Property"), and (ii) all Property, as applicable, such receipt and retention of possession being for the purpose of more fully perfecting and preserving the Agent's security interests in the Title Documents and the Property. The [Customs Broker/Freight Forwarder/Carrier] will maintain possession of the Title Documents and Property, as applicable, subject to the security interests of the Agent, and will note the security interests of the Agent on the [Customs Broker/Freight Forwarder/Carrier]'s books and records.

3. **Delivery of Title Documents. Release of Goods:** Until the [Customs Broker/Freight Forwarder/Carrier] receives written notification from the Agent pursuant to paragraph 4 below to the contrary the [Customs Broker/Freight Forwarder/Carrier] may deliver:

(a) the Title Documents to the [issuing carrier or to its agent (who shall act on the [Customs Broker/Freight Forwarder]'s behalf as the [Customs Broker/Freight Forwarder]'s sub−agent hereunder) for the purpose of permitting the Company, as consignee, to obtain possession or control of the Property subject to such Title Documents][2][Company or as otherwise directed by the Company][3]; and

(b) the Property as directed by the Company.

[1] Insert if used with a Freight Forwarder or Customs Broker, if applicable.
[2] Inserted if used with a Customs Broker or Carrier.
[3] Inserted if used with a Carrier.

4. **Notice From Agent To Follow Agent's Instructions:** Upon the [Customs Broker/Freight Forwarder/Carrier]'s receipt of written notification from the Agent, the [Customs Broker/Freight Forwarder/Carrier] shall thereafter follow solely the instructions of the Agent concerning the disposition of the Title Documents and the Property and will not follow any instructions of the Company or any other person concerning the same, unless, in each case, instructed otherwise by the Agent.

5. **Limited Authority:** The [Customs Broker/Freight Forwarder/Carrier]'s sole authority as the agent of the Agent is to receive and maintain possession of the Title Documents and Property on behalf of the Agent and to follow the instructions of the Agent as provided herein. Except as may be specifically authorized and instructed in writing by the Agent, the [Customs Broker/Freight Forwarder/Carrier] shall have no authority as the agent of the Agent to undertake any other action or to enter into any other commitments on behalf of the Agent.

6. **Expenses:** The Agent shall not be obligated to compensate the [Customs Broker/Freight Forwarder/Carrier] for serving as agent hereunder, nor shall the Agent be responsible for any fees, expenses, customs, duties, taxes, or other charges relating to the Title Documents or the Property. The [Customs Broker/Freight Forwarder/Carrier] acknowledges that the Company is solely responsible for payment of any compensation and charges which are to the Company's account. The Company is further responsible for paying any fees, expenses, customs duties, taxes, or other charges which are, or may accrue, to the account of the Property. The Agent, at its sole option, may authorize the [Customs Broker/Freight Forwarder/Carrier] to perform specified services on behalf of the Agent at mutually agreed to rates of compensation, which shall be to the Agent's account, and payable to the [Customs Broker/Freight Forwarder/Carrier] by the Agent; *provided, however*, that such payments shall not affect any obligations of the Company to reimburse the Agent for any such compensation or other costs or expenses incurred by the Agent as required by the Credit Agreement or any other Loan Document.

7. **Term**:

(a) In the event that the [Customs Broker/Freight Forwarder/Carrier] desires to terminate this Agreement, the [Customs Broker/Freight Forwarder/Carrier] shall furnish the Agent with sixty (60) days prior written notice of the [Customs Broker/Freight Forwarder/Carrier]'s intention to do so. During such 60 day period (which may be shortened by written notice to the [Customs Broker/Freight Forwarder/Carrier] by the Agent), the [Customs Broker/Freight Forwarder/Carrier] shall continue to serve as agent hereunder. The [Customs Broker/Freight Forwarder/Carrier] shall also cooperate with the Agent and execute all such documentation and undertake all such action as may be reasonably required by the Agent in connection with such termination.

(b) All notices given under this Agreement shall be delivered to the following addresses (or to such other addresses as may be provided to the other parties hereto via written notice) and shall be delivered via overnight currier or registered mail:

If to Agent:

Barclays Bank PLC, as Administrative Agent
745 Seventh Avenue
New York, NY 10019
Attention: Charlie Goetz, Bank Debt Management
Electronic Mail: Charlie.Goetz@barclays.com

Attn:
Re: Mattress Firm, Inc.

If to [Customs Broker/Freight Forwarder/Carrier]

_____
_____
_____

(c) Except as provided in Section 7(a), above, this Agreement shall remain in full force and effect until the [Customs Broker/Freight Forwarder/Carrier] receives written notification from the Agent of the termination of the [Customs Broker/Freight Forwarder/Carrier]'s responsibilities hereunder.

8. **Customs Broker/Freight Forwarder/Carrier]'s Lien:** The [Customs Broker/Freight Forwarder/Carrier] hereby waives any lien, security interest, hypothecation or right of retention (whether arising by contract, statute or otherwise) it now has or hereafter may acquire on or in any Title Documents and Property. The [Customs Broker/Freight Forwarder/Carrier] certifies that it does not know of any security interest or other claim with respect to any of the Property other than the security interest in favor of the Agent which is the subject of this Agreement.

9. **Counterparts; Integration**. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement constitutes the entire agreement between the [Customs Broker/Freight Forwarder/Carrier] and Agent relating to the subject matter hereof and supersedes any and all contemporaneous or previous agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement shall become effective when it shall have been executed by the parties and when the Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic means shall be effective as delivery of a manually executed counterpart of this Agreement. No party hereto shall have any liability to any other party for any direct, incidental, special, consequential, punitive or exemplary damage, or damages for loss of profit, business or data, arising out of this Agreement or the matters contemplated hereunder.

10. **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

[*Signature Page Follows*]

EXHIBIT Q

If the foregoing correctly sets forth our understanding, please indicate the [Customs Broker/Freight Forwarder/Carrier]'s acknowledgment and agreement to the foregoing.

Very truly yours,

COMPANY:

[MATTRESS FIRM, INC.][LOAN PARTY]

By: _____
Name: _____
Title: _____

Agreed, Acknowledged and Accepted:

[CUSTOMS BROKER/FREIGHT FORWARDER/CARRIER]:

_____

By: _____
Name: _____
Title: _____

Acknowledged:

AGENT:

BARCLAYS BANK PLC

By: _____
Name:
Title:

EXHIBIT C

Intercreditor Agreement

ABL/TERM INTERCREDITOR AGREEMENT

among

MATTRESS FIRM, INC.,

each of the Guarantors party hereto from time to time,

BARCLAYS BANK PLC,
as ABL Administrative Agent for the ABL Secured Parties,

BARCLAYS BANK PLC,
as Term Administrative Agent for the Term Secured Parties,

and

each additional Representative from time to time party hereto

dated as of [•], 2018

ABL/TERM INTERCREDITOR AGREEMENT, dated as of [•], 2018 (as amended, supplemented or otherwise modified from time to time, this "Agreement"), among MATTRESS FIRM, INC., a Delaware corporation ("Mattress Firm"), each of the Guarantors (as defined below) party hereto from time to time, Barclays Bank PLC, as administrative agent for the ABL Credit Agreement Secured Parties (as defined below) (in such capacity and together with its successors in such capacity, the "ABL Administrative Agent"), Barclays Bank PLC, as administrative agent for the Term Credit Agreement Secured Parties (as defined below) (in such capacity and together with its successors in such capacity, the "Term Administrative Agent"), and each additional Representative that from time to time becomes a party hereto pursuant to Section 5.03 and Section 8.09.

In consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the ABL Administrative Agent (for itself and on behalf of the ABL Secured Parties), the Term Administrative Agent (for itself and on behalf of the Term Secured Parties), and each other Representative party hereto from time to time (for itself and on behalf of the Secured Parties under the applicable Debt Facility), intending to be legally bound, hereby agree as follows:

ARTICLE I

Definitions

SECTION 1.01. Certain Defined Terms. Capitalized terms used but not otherwise defined herein have the meanings set forth in the ABL Credit Agreement or, if not defined therein, the Term Credit Agreement. Any other terms (whether capitalized or lower case) used in this Agreement that are defined in the Uniform Commercial Code shall be construed and defined as set forth in the Uniform Commercial Code unless otherwise defined herein; provided, that to the extent that the Uniform Commercial Code is used to define any term used herein and if such term is defined differently in different Articles of the Uniform Commercial Code, the definition of such term contained in Article 9 of the Uniform Commercial Code shall govern. As used in this Agreement, the following terms have the meanings specified below:

"ABL Administrative Agent" has the meaning specified in the preamble and shall include any successor administrative agent appointed in accordance with the ABL Credit Agreement to so act; provided that such successor administrative agent has executed and delivered a Joinder Agreement pursuant to which such successor administrative agent shall agree to be bound as the ABL Administrative Agent for all purposes of this Agreement. After any Refinancing of the ABL Credit Agreement, a reference herein to the ABL Administrative Agent shall be deemed to be a reference to the then-applicable ABL Representative, as the context may require.

"ABL Bank Product Obligations" means all Obligations under ABL Secured Hedge Agreements and ABL Secured Cash Management Agreements.

"ABL Credit Agreement" means that certain Credit Agreement, dated as of [•], 2018, among the Parent Guarantors, Holdings, Mattress Firm, the lenders party thereto, the ABL Administrative Agent and the other parties party thereto, as amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time.

"ABL Credit Agreement Loan Documents" means the ABL Credit Agreement and the other "Loan Documents" as defined in the ABL Credit Agreement.

"ABL Credit Agreement Obligations" means all Obligations of the Credit Parties under the ABL Credit Agreement Loan Documents.

"ABL Credit Agreement Secured Parties" means (i) the ABL Administrative Agent, (ii) each Person that is a Lender under the ABL Credit Agreement from time to time, (iii) each Issuer party to the ABL Credit Agreement from time to time, (iv) the beneficiaries of each indemnification obligation undertaken by Mattress Firm or any Credit Party under any of the ABL Credit Agreement Loan Documents, (v) each Hedge Bank (as defined in the ABL Credit Agreement) that is a party to an ABL Secured Hedge Agreement and (vi) each Cash Management Bank (as defined in the ABL Credit Agreement) that is a party to an ABL Secured Cash Management Agreement.

"ABL Debt Documents" means the ABL Credit Agreement Loan Documents, any ABL Secured Hedge Agreements, any ABL Secured Cash Management Agreements and any Replacement ABL Debt Documents, as the context may require.

"ABL Debt Facilities" means the ABL Credit Agreement and any Replacement ABL Debt Facility, as the context may require.

"ABL Guarantors" means each of the Credit Parties that provides a Guarantee in respect of any of the Obligations of any other Credit Party under the ABL Debt Documents. Each of the ABL Guarantors existing on the date hereof is listed on the signature pages hereto as an ABL Guarantor.

"ABL Mortgages" means a collective reference to each mortgage, deed of trust and other document or instrument under which any Lien on real property owned or leased by any Credit Party is granted to secure any of the ABL Obligations or under which rights or remedies with respect to any such Liens are governed, as amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time.

"ABL Obligations" means all Obligations of the Credit Parties and their Restricted Subsidiaries under the ABL Debt Documents (including all ABL Bank Product Obligations).

"ABL Priority Collateral" means all Collateral (including, for the avoidance of doubt, any such assets that, but for the application of Section 552 of the Bankruptcy Code (or any provision of any other Debtor Relief Law), would constitute ABL Priority Collateral) consisting of the following (wherever located and whether now owned or hereafter acquired):

(a) all Accounts, Credit Card Receivables (as defined in the ABL Debt Documents), Payment Intangibles, and other rights to payment (other than identifiable Proceeds of equity interests of Mattress Firm and its Subsidiaries or any other Guarantor, real estate, equipment and intellectual property), all amounts advanced as revolving loans under the ABL Credit Agreement, and all intercompany loans among the Credit Parties;

(b) all Inventory;

(c) all cash and cash equivalents (except to the extent constituting identifiable Proceeds of equity interests of Mattress Firm and its Subsidiaries or any other Guarantor, real estate, equipment and intellectual property, including, without limitation, such identifiable Proceeds which are held in a Term Cash Collateral Account);

(d) all Deposit Accounts, Commodity Accounts, and Securities Accounts (in each case, other than any Term Cash Collateral Account);

(e) all Chattel Paper;

(f) tax refunds and related tax payments, and obligations owed by any of the Subsidiaries to the Parent or any other Subsidiary of the Parent;

(g) to the extent relating to, arising from, substituting for, evidencing or governing any of the items referred to in the preceding clauses (a), (b), (c), (d), (e) and/or (f), all Documents, Instruments, Investment Property, insurance, Commercial Tort Claims and General Intangibles;

(h) all books and records relating to the foregoing (including, without limitation, books, databases, customer lists and records, whether tangible or electronic which contain any information relating to any of the foregoing);

(i) all substitutions, replacements, accessions of any of the foregoing, in any form, and all claims against third parties for loss or damage to, or destruction of, or other involuntary conversion (including claims in respect of condemnation) of any kind or nature of any or all of the foregoing (excluding claims under policies of business interruption insurance and all proceeds of business interruption insurance);

(j) all Supporting Obligations, including, without limitation, guaranties, contracts of suretyship, letters of credit, letter-of-credit rights, security and other credit enhancements (including repurchase agreements), in each case in respect of the foregoing, including (i) rights of stoppage in transit, replevin, repossession, reclamation, and other rights and remedies of an unpaid vendor, and (ii) identifiable deposits by and property of account debtors or other persons securing the obligations of account debtors in respect of Accounts or Payment Intangibles; and

(k) all Proceeds of the foregoing, including insurance proceeds.

Notwithstanding the foregoing, (x) ABL Priority Collateral shall not include any Term Cash Collateral Account or the assets on deposit therein or credited thereto that constitute Term Priority Collateral, and (y) any of the items set forth in this definition that are or become branded, or produced through the use or other application of, any intellectual property, whether pursuant to any exercise of remedies or otherwise, shall constitute ABL Priority Collateral, and no proceeds arising from any disposition of any such ABL Priority Collateral shall be, or be deemed to be, attributable to Term Loan Collateral.

"ABL Priority Collateral Documents" means the "Collateral Documents" as defined in the ABL Credit Agreement and any other collateral agreement, security agreement, deed of trust or other instrument or document executed and delivered by any Credit Party for purposes of providing collateral security for any ABL Obligation.

"ABL Priority Collateral Enforcement Event" has the meaning specified in Section 5.09(c)(i).

"ABL Priority Collateral Processing and Sale Period" has the meaning specified in Section 5.09(c)(i).

"ABL Priority DIP Financing" has the meaning specified in Section 6.01(a).

"ABL Priority Lien" means the Liens on the ABL Priority Collateral granted in favor, or for the benefit, of the ABL Secured Parties whether created under the ABL Priority Collateral Documents or acquired by possession, statute, operation of law, judgment, subrogation of otherwise.

"ABL Representative" means (a) in the case of any ABL Credit Agreement Obligations or the ABL Credit Agreement Secured Parties thereunder, the ABL Administrative Agent and (b) in the case of any Replacement ABL Debt Facility and the Replacement ABL Secured Parties thereunder, the trustee, administrative agent, or other similar agent under such Replacement ABL Debt Facility that is named as the representative in respect of such Replacement ABL Debt Facility in the applicable Joinder Agreement.

"ABL Secured Cash Management Agreement" means a "Secured Cash Management Agreement" as defined in the ABL Credit Agreement.

"ABL Secured Hedge Agreement" means a "Secured Hedge Agreement" as defined in the ABL Credit Agreement.

"ABL Secured Parties" means, collectively, the "Secured Parties" as defined in the ABL Credit Agreement, the ABL Credit Agreement Secured Parties, and any Replacement ABL Secured Parties, as the context may require.

"ABL Security Agreement" means the "Security Agreement" as defined in the ABL Credit Agreement, as amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time.

"Adequate Protection Liens" means any Liens granted in any Insolvency or Liquidation Proceeding to any Secured Party as adequate protection of the Secured Obligations held by such Secured Party.

"Agreement" has the meaning assigned to such term in the introductory paragraph of this Agreement.

"Bankruptcy Code" means Title 11 of the United States Code, as amended or any similar federal or state law for the relief of debtors.

"Cash Collateralize" shall have the meaning set forth in the ABL Credit Agreement.

"Collateral" means (a) the ABL Priority Collateral and the Term Priority Collateral and (b) for purposes of this Agreement (including, without limitation, Sections 6.01, 6.02 and 6.04 of this Agreement), all Collateral and any property, rights or interests of any Credit Party of any nature whatsoever that would constitute Collateral under the ABL Debt Documents or the Term Debt Documents but for the operation of Section 552 of the Bankruptcy Code or any similar provision of any other Debtor Relief Law shall also constitute Collateral.

"Collateral Access Agreement" has the meaning specified in Section 5.05(a).

"Collateral Agents" means the ABL Administrative Agent and the Term Administrative Agent, as the context may require.

"Collateral Documents" means the ABL Priority Collateral Documents and/or the Term Priority Collateral Documents, as the context may require.

"Credit Party" means Mattress Firm, each Parent Guarantor and each Guarantor from time to time.

"Debt" means Indebtedness (as defined in the ABL Credit Agreement).

"Debt Facility" means any ABL Debt Facility and/or any Term Debt Facility.

"Defaulting ABL Secured Party" has the meaning specified in Section 5.07.

"DIP Financing" means the obtaining of credit or incurring debt secured by Liens on the Collateral pursuant to Section 364 of the Bankruptcy Code (or similar Debtor Relief Law).

"Discharge of ABL Obligations" means the date on which the following conditions are satisfied:

(a) irrevocable payment in full in cash of the principal of and interest, fees, costs, and expenses (including all Post-Petition Interest) on all outstanding indebtedness constituting ABL Obligations;

(b) irrevocable payment in full in cash of all other monetary ABL Obligations that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest are paid (other than contingent indemnification obligations for which no claim or demand for payment, whether oral or written, has been threatened or made at such time);

(c) termination or expiration of any unfunded commitments to extend credit that would be ABL Obligations;

(d) either (i) termination of all Letters or Credit, (ii) all Letters of Credit having been Cash Collateralized (pursuant to documentation in form and substance reasonably satisfactory to ABL Administrative Agent) or (iii) the making of other arrangements satisfactory to the applicable letter of credit issuer in its sole discretion of all Letters of Credit;

(e) all ABL Secured Hedge Agreements and ABL Secured Cash Management Agreements shall have been terminated or expired in full and all amounts due from any Credit Party or Affiliate in connection therewith have been paid in full in cash (in immediately available funds) or the cash collateralization of all such applicable ABL Secured Hedge Agreements or ABL Secured Cash Management Agreements on terms reasonably satisfactory to each applicable counterparty (or the making of other arrangements reasonably satisfactory to the applicable counterparty); and

(f) there are no outstanding Obligations (other than contingent indemnification obligations for which no claim or demand for payment, whether oral or written, has been threatened or made at such time) of any of the Credit Parties under any of the ABL Debt Documents that are required to be secured by the Collateral in accordance with the terms of such ABL Debt Documents (other than the cash collateral referred to in clauses (d) and (e) above);

provided that the Discharge of ABL Obligations shall not be deemed to have occurred in connection with a Refinancing of all of the ABL Credit Agreement Obligations with a Replacement ABL Debt Facility secured by all or a material portion of the Collateral under Replacement ABL Debt Documents.

"Discharge of Senior Priority Obligations" means (a) with respect to the ABL Priority Collateral, the Discharge of ABL Obligations and (b) with respect to the Term Priority Collateral, the Discharge of Term Obligations.

"Discharge of Term Obligations" means the date on which the following conditions are satisfied:

(a) irrevocable payment in full in cash of the principal of and interest, fees, costs, and expenses (including all Post-Petition Interest) on all outstanding indebtedness constituting Term Obligations;

(b) irrevocable payment in full in cash of all other monetary Term Obligations that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest are paid (other than contingent indemnification obligations for which no claim or demand for payment, whether oral or written, has been threatened or made at such time);

(c) termination or expiration of any unfunded commitments to extend credit that would be Term Obligations;

(d) all Term Secured Hedge Agreements shall have been terminated or expired in full and all amounts due from any Credit Party or Affiliate in connection therewith have been paid in full in cash (in immediately available funds) or the cash collateralization of all such applicable Term Secured Hedge Agreements on terms reasonably satisfactory to each applicable counterparty (or the making of other arrangements reasonably satisfactory to the applicable counterparty); and

(e) there are no outstanding Obligations (other than contingent indemnification obligations for which no claim or demand for payment, whether oral or written, has been threatened or made at such time) of any of the Credit Parties under any of the Term Debt Documents that are required to be secured by the Collateral in accordance with the terms of such Term Debt Documents (other than the cash collateral referred to in clause (d) above);

provided that the Discharge of Term Obligations shall not be deemed to have occurred in connection with a Refinancing of any of the Term Credit Agreement Obligations or any of the Term Obligations with a Replacement Term Debt Facility secured by all or substantially all of the Collateral under one or more Replacement Term Debt Documents.

"Enforcement Action" means an action (including, without limitation, an action in any Insolvency or Liquidation Proceeding) under applicable law to:

(a) foreclose, execute, levy, or collect on, take possession or control of (other than for purposes of perfecting a security interest therein), sell or otherwise realize upon (judicially or non-judicially), or lease, license, or otherwise dispose of (whether publicly or privately), Collateral, or otherwise exercise or enforce remedial rights with respect to Collateral under the ABL Debt Documents or the Term Debt Documents (including by way of set-off, recoupment notification of a public or private sale or other disposition pursuant to the UCC. or other

applicable law, notification to account debtors, notification to depositary banks under deposit account control agreements, or exercise of rights under landlord consents, if applicable),

(b) solicit bids from third Persons to conduct the liquidation or disposition of Collateral or to engage or retain sales brokers, marketing agents, investment bankers, accountants, appraisers, auctioneers, or other third Persons for the purposes of valuing, marketing, promoting, and selling Collateral,

(c) to receive a transfer of Collateral in satisfaction of Debt or any other Obligation secured thereby,

(d) to otherwise enforce a security interest or exercise another right or remedy, as a secured creditor or otherwise, pertaining to the Collateral at law, in equity, or pursuant to the ABL Debt Documents or Term Debt Documents (including the commencement of applicable legal proceedings or other actions with respect to all or any portion of the Collateral to facilitate the actions described in the preceding clauses, and exercising voting rights in respect of equity interests comprising Collateral),

(e) effect the Disposition of Collateral by any Credit Party after the occurrence and during the continuation of an event of default under the ABL Debt Documents or the Term Debt Documents with the consent of the ABL Administrative Agent or the Term Administrative Agent, as applicable, or

(f) the commencement or filing or joining with other Persons in the commencement or filing of a petition in an Insolvency or Liquidation Proceeding;

provided, that the following shall not constitute an "Enforcement Action": (i) the establishment of borrowing base reserves, excluding assets from the Borrowing Base, or the establishment of other terms or conditions for revolving loans or letters of credit, (ii) the changing of advance rates or advance sublimits, (iii) the imposition of a default rate or a late fee, (iv) the suspension or termination of the commitments to lend under the ABL Credit Agreement, including upon the occurrence of a default or the existence of an overadvance, (v) the filing of a proof of claim in any Insolvency or Liquidation Proceeding, or (vi) the acceleration of the Term Obligations or the ABL Obligations.

"Event of Default" means (a) an Event of Default (as defined in the ABL Credit Agreement) and (b) any Event of Default (as defined in the Term Credit Agreement).

"Exigent Circumstances" shall mean any one or more events or circumstances occur or exist that, in the reasonable judgment of any ABL Secured Party, materially and imminently threatens the an ABL Secured Party's ability promptly to realize upon all or any material part of the ABL Priority Collateral, such as, without limitation, fraudulent removal, concealment or abscondment thereof, destruction (to the extent not covered by insurance) or material waste of any of the ABL Priority Collateral.

"Guarantor" means, collectively, the ABL Guarantors and the Term Guarantors.

"Holdings" means Mattress Holding Corp.

"Insolvency or Liquidation Proceeding" means:

(a) any case commenced by or against any Credit Party under any Debtor Relief Law, any other similar proceeding for the reorganization, recapitalization or adjustment or marshalling of the assets or liabilities of any Credit Party, any receivership or general assignment for the benefit of creditors relating to any Credit Party or any similar case or proceeding relative to any Credit Party or its creditors, as such, in each case whether or not voluntary;

(b) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to any Credit Party, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency (other than intercompany liquidations or dissolutions that (i) are not prohibited by Section 9.4 of the ABL Credit Agreement or Term Credit Agreement and (ii) do not constitute or result in an Event of Default under any ABL Debt Document or and Term Debt Document); or

(c) any other proceeding of any type or nature in which substantially all claims of creditors of any Credit Party are determined and any payment or distribution is or may be made on account of such claims.

"Joinder Agreement" means a supplement to this Agreement in substantially the form of Annex II hereof.

"Junior Priority Collateral" means (a) with respect to the ABL Secured Parties, the Term Priority Collateral and (b) with respect to the Term Secured Parties, the ABL Priority Collateral.

"Junior Priority Collateral Documents" means (a) with respect to ABL Priority Collateral, the Term Priority Collateral Documents and (b) with respect to Term Priority Collateral, the ABL Priority Collateral Documents.

"Junior Priority Debt Documents" means (a) with respect to ABL Priority Collateral, the Term Debt Documents and (b) with respect to the Term Priority Collateral, the ABL Debt Documents.

"Junior Priority Facilities" means (a) with respect to ABL Priority Collateral, Term Debt Facilities and (b) with respect to Term Priority Collateral, ABL Debt Facilities.

"Junior Priority Liens" means (a) with respect to ABL Priority Collateral, the Term Priority Liens and (b) with respect to Term Priority Collateral, the ABL Priority Liens.

"Junior Priority Obligations" means (a) with respect to ABL Priority Collateral, the Term Obligations and (b) with respect to Term Priority Collateral, the ABL Obligations.

"Junior Priority Representative" means (a) with respect to ABL Priority Collateral, the Term Representatives and (b) with respect to Term Priority Collateral, the ABL Representatives.

"Junior Priority Secured Parties" means (a) with respect to ABL Priority Collateral, the Term Secured Parties and (b) with respect to Term Priority Collateral, the ABL Secured Parties.

"Mattress Firm" has the meaning specified in the preamble.

"Obligations" means, with respect to any Secured Debt Document, any payment, performance or other obligation of any Credit Party of any kind, under or in respect of such Secured Debt Document, including, any liability of any Credit Party on any claim, whether or not the right of any

Secured Party to payment in respect of such claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, disputed, undisputed, legal, equitable, secured or unsecured and whether not such claim is discharged, stayed, allowed, authorized or otherwise affected by any Insolvency or Liquidation Proceeding. Without limiting the generality of the foregoing, the Obligations of any Credit Party under any Secured Debt Document shall include (a) the obligation to pay principal, interest, termination payments, breakage costs, reimbursement obligations in respect of Letters of Credit, obligations to provide cash collateral in respect of Letters of Credit (whether or not drawn), commissions, fees, premiums, charges, expenses, attorneys' fees and disbursements, indemnities and other amounts payable by such Credit Party under such Secured Debt Document, (b) Post-Petition Interest and (c) any reimbursement obligations of any Credit Party in respect of any amounts paid in advance or on behalf of such Credit Party by any applicable Secured Party.

"Parent" has the meaning set forth in the Credit Agreements.

"Parent Guarantors" means (a) Stripes US Holding, Inc., (b) Mattress Firm Holding Corp., and (c) Mattress Holdco, Inc.

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

"Pledged or Controlled Collateral" has the meaning assigned to such term in Section 5.05(a).

"Post-Petition Interest" means interest, fees, costs, expenses and other charges that pursuant to any of the Secured Debt Documents accrue or would accrue, or are incurred, after the commencement of any Insolvency or Liquidation Proceeding, whether or not such interest, fees, costs expenses and other charges are allowed or allowable under the Debtor Relief Law or in any such Insolvency or Liquidation Proceeding.

"Proceeds" means the proceeds of any sale, collection or other liquidation of any Collateral and any payment or distribution made in respect of any Collateral in an Insolvency or Liquidation Proceeding and any amounts received by the ABL Administrative Agent or any other ABL Secured Party from a Term Secured Party in respect of any Collateral pursuant to this Agreement.

"Recovery" has the meaning specified in Section 6.06(a).

"Refinance" means, (a) in respect of any agreement with reference to the ABL Credit Agreement, the ABL Obligations, or any Replacement ABL Debt, that such agreement refunds, refinances or replaces the ABL Credit Agreement, the ABL Obligations, or such Replacement ABL Debt in full and is consummated in compliance with Section 5.03 and Section 8.09 and (b) in respect of any agreement with reference to the Term Debt Documents, the Term Obligations or any Replacement Term Debt, that such Debt refunds, refinances or replaces the Term Debt Documents, the Term Obligations or such Replacement Term Debt in full and is consummated in accordance with Section 5.03 and Section 8.09. "Refinance," "Refinanced" and "Refinancing" shall have correlative meanings.

"Replacement ABL Debt" means any Debt that is incurred, issued or guaranteed by Mattress Firm and/or any Credit Party which Debt is secured by the ABL Priority Collateral (or a portion thereof) and which Debt replaces or Refinances such ABL Credit Agreement Obligations and otherwise is in accordance with the requirements of Section 5.03 and Section 8.09.

"Replacement ABL Debt Documents" means, with respect to any series, issue or class of Replacement ABL Debt, the loan agreements, the promissory notes, indentures, the ABL Priority Collateral Documents or other operative agreements evidencing or governing such Debt.

"Replacement ABL Debt Facility" means any debt facility with respect to which the requirements contained in Section 5.03 and Section 8.09 of this Agreement have been satisfied, which is secured by the ABL Priority Collateral (or a portion thereof) and that Refinances all of the ABL Credit Agreement or any other Replacement ABL Debt Facility then in existence with Replacement ABL Debt and designated as a "ABL Debt Facility" pursuant to Section 8.09; provided that any ABL Priority Lien securing such Replacement ABL Debt Facility shall be subject to the terms of this Agreement for all purposes (including the lien priorities as set forth herein as of the date hereof).

"Replacement ABL Secured Parties" means, with respect to any series, issue or class of Replacement ABL Debt, the holders of such Debt, the ABL Representative with respect thereto, and the beneficiaries of each indemnification obligation undertaken by Mattress Firm or any Credit Party under any related Replacement ABL Debt Document.

"Replacement Term Debt" means any Debt that is incurred, issued or guaranteed by Mattress Firm and/or any Credit Party which Debt is secured by the Term Priority Collateral (or a portion thereof) and which Debt replaces or Refinances such Term Credit Agreement Obligations and otherwise is in accordance with the requirements of Section 5.03 and Section 8.09.

"Replacement Term Debt Documents" means, with respect to any series, issue or class of Replacement Term Debt, the loan agreements, the promissory notes, indentures, the Term Priority Collateral Documents or other operative agreements evidencing or governing such Debt.

"Replacement Term Debt Facility" means any debt facility with respect to which the requirements contained in Section 5.03 and Section 8.09 of this Agreement have been satisfied and that Refinances any of the ABL Obligations or Term Obligations then outstanding through Mattress Firm's and any other Credit Party's incurrence, issuance or guaranty of any Replacement Term Debt. For the avoidance of doubt, no Replacement Term Debt Facility shall be required to be an indenture or notes offering and may be a facility evidenced or governed by a credit agreement, loan agreement, note agreement, promissory note, indenture or any other agreement or instrument; provided that any Term Priority Lien securing such Replacement Term Debt Facility shall be subject to the terms of this Agreement for all purposes (including the lien priorities as set forth herein as of the date hereof).

"Replacement Term Secured Parties" means, with respect to any series, issue or class of Replacement Term Debt, the holders of such Debt, the Term Representative with respect thereto, and the beneficiaries of each indemnification obligation undertaken by Mattress Firm or any other Credit Party under any related Replacement Term Debt Document.

"Representatives" means the ABL Representatives and the Term Representatives, as the context may require.

"Secured Debt Documents" means the ABL Debt Documents and the Term Debt Documents, as the context may require.

"Secured Obligations" means the ABL Obligations and the Term Obligations, as the context may require.

"Secured Parties" means the ABL Secured Parties and the Term Secured Parties, as the context may require.

"Senior Priority Collateral" means (a) with respect to the ABL Secured Parties, the ABL Priority Collateral and (b) with respect to the Term Secured Parties, the Term Priority Collateral.

"Senior Priority Collateral Documents" means (a) with respect to ABL Priority Collateral, the ABL Priority Collateral Documents and (b) with respect to Term Priority Collateral, the term Collateral Documents.

"Senior Priority Debt Documents" means (a) with respect to ABL Priority Collateral, the ABL Debt Documents and (b) with respect to the Term Priority Collateral, the Term Debt Documents.

"Senior Priority Facilities" means (a) with respect to ABL Priority Collateral, ABL Debt Facilities and (b) with respect to Term Priority Collateral, Term Debt Facilities.

"Senior Priority Liens" means (a) with respect to ABL Priority Collateral, the ABL Priority Liens and (b) with respect to Term Priority Collateral, the Term Priority Liens.

"Senior Priority Obligations" means (a) with respect to ABL Priority Collateral, the ABL Obligations and (b) with respect to Term Priority Collateral, the Term Obligations.

"Senior Priority Representative" means (a) with respect to ABL Priority Collateral, the ABL Representatives and (b) with respect to Term Priority Collateral, the Term Representatives.

"Senior Priority Secured Parties" means (a) with respect to ABL Priority Collateral, the ABL Secured Parties and (b) with respect to Term Priority Collateral, the Term Secured Parties.

"Standstill Notice" has the meaning specified in Section 3.01(c).

"Standstill Period" has the meaning specified in Section 3.01(c).

"Subsidiary" has the meaning provided in the Credit Agreements.

"Term Administrative Agent" has the meaning specified in the preamble and shall include any successor administrative agent appointed in accordance with the Term Credit Agreement to so act; provided that such successor administrative agent has executed and delivered a Joinder Agreement pursuant to which such successor administrative agent shall agree to be bound as the Term Administrative Agent for all purposes of this Agreement. After any Refinancing of the Term Credit Agreement, a reference herein to the Term Administrative Agent shall be deemed to be a reference to the then-applicable Term Representative, as the context may require.

"Term Bank Product Obligations" means all Obligations under Term Secured Hedge Agreements.

"Term Cash Collateral Account" means the Term Priority Collateral Proceeds Account as defined in the Term Credit Agreement.

"Term Credit Agreement" means that certain Term Loan Agreement, dated as of [•], 2018, among the Parent Guarantors, Holdings, Mattress Firm,, the lenders party thereto, the Term

Administrative Agent and the other parties party thereto, as amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time.

"Term Credit Agreement Loan Documents" means the Term Credit Agreement and the other "Loan Documents" as defined in the Term Credit Agreement.

"Term Credit Agreement Obligations" means all Obligations of the Credit Parties under the Term Credit Agreement Loan Documents.

"Term Credit Agreement Secured Parties" means (i) the Term Administrative Agent, (ii) each Person that is a Lender under the Term Credit Agreement from time to time, (iii) the beneficiaries of each indemnification obligation undertaken by Mattress Firm or any Credit Party under any of the Term Credit Agreement Loan Documents, and (v) each Hedge Bank (as defined in the Term Credit Agreement) that is a party to a Term Secured Hedge Agreement.

"Term Debt Documents" means the Term Credit Agreement Loan Documents, any Term Secured Hedge Agreements and any Replacement Term Debt Documents, as the context may require.

"Term Debt Facilities" means the Term Credit Agreement and any Replacement Term Debt Facilities, as the context may require.

"Term Guarantors" means each of the Credit Parties that provides a Guarantee in respect of any of the Obligations of any other Credit Party under the Term Debt Documents; provided that no Credit Party shall be a "Term Guarantor" unless it is also an ABL Guarantor.

"Term Mortgages" means a collective reference to each mortgage, deed of trust and other document or instrument under which any Lien on real property owned or leased by any Credit Party is granted to secure any Term Obligations or under which rights or remedies with respect to any such Liens are governed, as amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time.

"Term Obligations" means all Obligations of the Credit Parties and their Restricted Subsidiaries under the Term Debt Documents (including Term Bank Product Obligations).

"Term Priority Collateral" means all Collateral (including, for the avoidance of doubt, any such assets that, but for the application of Section 552 of the Bankruptcy Code (or any provision of any other Debtor Relief Law), would constitute Term Priority Collateral) that is not ABL Priority Collateral and including the following:

(a) all Equipment, IP Collateral, Pledged Equity (as each such term is defined in the Term Security Agreement as in effect on the date hereof) (in each case, to the extent not constituting ABL Priority Collateral);

(b) the equity interests issued by SUSHI (as such term is defined in the Term Credit Agreement as in effect on the date hereof) and all interests in real estate;

(c) the Term Cash Collateral Account;

(d) to the extent relating to, arising from, substituting for, evidencing or governing any of the items referred to in the preceding clauses (a), (b) and (c) all Documents, Instruments,

Investment Property, insurance, Commercial Tort Claims and General Intangibles (in each case, to the extent not constituting ABL Priority Collateral);

(e) all books and records relating to the foregoing (including, without limitation, books, databases, customer lists and records, whether tangible or electronic which contain any information relating to any of the foregoing);

(f) all substitutions, replacements, accessions of any of the foregoing, in any form, and all claims against third parties for loss or damage to, or destruction of, or other involuntary conversion (including claims in respect of condemnation) of any kind or nature of any or all of the foregoing, and all claims under policies of business interruption insurance and all proceeds of business interruption insurance;

(g) all Supporting Obligations in respect of the foregoing (in each case, to the extent not constituting ABL Priority Collateral); and

(k) all Proceeds of the foregoing, including insurance proceeds.

"Term Priority Collateral Documents" means the "Collateral Documents" as defined in the Term Credit Agreement and any other collateral agreement, security agreement, deed of trust or other instrument or document executed and delivered by any Credit Party for purposes of providing collateral security for any Term Obligation.

"Term Priority Collateral Enforcement Action Notice" has the meaning specified in Section 5.09(c)(i).

"Term Priority Collateral Enforcement Actions" has the meaning specified in Section 5.09(c)(i).

"Term Priority DIP Financing" has the meaning specified in Section 6.01(b).

"Term Priority Lien" means the Liens on the Term Priority Collateral in favor of Term Representative or Term Secured Parties under Term Priority Collateral Documents.

"Term Representative" means (a) in the case of any Term Credit Agreement Obligations or the Term Credit Agreement Secured Parties thereunder, the Term Administrative Agent and (b) in the case of any Replacement Term Debt Facility and the Replacement Term Secured Parties thereunder, the trustee, administrative agent, or other similar agent under such Replacement Term Debt Facility that is named as the representative in respect of such Replacement Term Debt Facility in the applicable Joinder Agreement.

"Term Secured Hedge Agreement" means a "Secured Hedge Agreement" as defined in the Term Credit Agreement.

"Term Secured Parties" means, collectively, the "Secured Parties" as defined in the Term Credit Agreement, the Term Credit Agreement Secured Parties, and any Replacement Term Secured Parties, as the context may require.

"Term Security Agreement" means that certain "Security Agreement" as defined in the Term Credit Agreement, as amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time.

"Third Party Purchaser" has the meaning specified in Section 5.09(c)(i).

"Uniform Commercial Code" or "UCC" the Uniform Commercial Code as in effect in the State of New York; provided that if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, "UCC" means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

SECTION 1.02. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument, other document, statute or regulation herein shall be construed as referring to such agreement, instrument, other document, statute or regulation as from time to time amended, supplemented or otherwise modified, (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, but shall not be deemed to include the subsidiaries of such Person unless express reference is made to such subsidiaries, (c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections and Annexes shall be construed to refer to Articles, Sections and Annexes of this Agreement, (e) unless otherwise expressly qualified herein, the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (f) the term "or" is not exclusive. Any waivers, consents or approvals to be provided (or withheld) under this Agreement by any Collateral Agent or Representative may be provided (or withheld) only after obtaining the requisite consent from the applicable Secured Parties required, if any, under the ABL Debt Documents or the Term Debt Documents, as the case may be.

ARTICLE II

Priorities and Agreements with Respect to Collateral

SECTION 2.01. Subordination.

(a) Notwithstanding the date, time, manner, method or order of filing or recordation of any document or instrument or of grant, attachment or perfection of any Liens granted to, or on behalf of, any of the Collateral Agents or any other Secured Party on the Collateral (or any actual or alleged defect, or deficiency or failure to perfect, in any of the foregoing) and notwithstanding any provision of the UCC, any Debtor Relief Law or other applicable law, any Secured Debt Document or any other circumstance whatsoever:

(i) the Term Administrative Agent and each Term Representative, on behalf of itself and each Term Secured Party under its Term Debt Facility, hereby agrees that (i) any Lien on the ABL Priority Collateral securing any ABL Obligations now or hereafter held by or on behalf of

the ABL Administrative Agent, any other ABL Representative, any other ABL Secured Party or any other agent or trustee therefor, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall have priority over and be senior in all respects and prior to any Lien on the ABL Priority Collateral securing any Term Obligations and (ii) any Lien on the ABL Priority Collateral securing any Term Obligations now or hereafter held by or on behalf of any Term Secured Party or any other agent or trustee therefor, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall be junior and subordinate in right, priority, operation, effect and all other respects to all Liens on the ABL Priority Collateral securing any ABL Obligations, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall be junior and subordinate in right, priority, operation, effect and all other respects to all Liens on the ABL Priority Collateral securing any ABL Obligations; and

(ii) the ABL Administrative Agent and each ABL Representative, on behalf of itself and each ABL Secured Party under its ABL Debt Facility, hereby agrees that (i) any Lien on the Term Priority Collateral securing any Term Obligations now or hereafter held by or on behalf of the Term Administrative Agent, any other Term Representative, any other Term Secured Party or any other agent or trustee therefor, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall have priority over and be senior in all respects and prior to any Lien on the Term Priority Collateral securing any ABL Obligations and (ii) any Lien on the Term Priority Collateral securing any ABL Obligations now or hereafter held by or on behalf of any ABL Secured Party or any other agent or trustee therefor, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall be junior and subordinate in right, priority, operation, effect and all other respects to all Liens on the Term Priority Collateral securing any Term Obligations, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall be junior and subordinate in right, priority, operation, effect and all other respects to all Liens on the Term Priority Collateral securing any Term Obligations.

(b) All Liens on (i) the ABL Priority Collateral securing any ABL Obligations shall be and remain senior in right, priority, operation, effect and all other respects and prior to all Liens on the ABL Priority Collateral securing any Term Obligations for all purposes, whether or not such Liens securing any ABL Obligations are subordinated in any respect to any Lien securing any other obligation of any Credit Party or any other Person or otherwise subordinated, voided, avoided, invalidated or lapsed and (ii) the Term Priority Collateral securing any Term Obligations shall be and remain senior in right, priority, operation, effect and all other respects and prior to all Liens on the Term Priority Collateral securing any ABL Obligations for all purposes, whether or not such Liens securing any Term Obligations are subordinated in any respect to any Lien securing any other obligation of any Credit Party or any other Person or otherwise subordinated, voided, avoided, invalidated or lapsed.

SECTION 2.02. Nature of Claims.

(a) The Term Administrative Agent and each Term Representative, on behalf of itself and each Term Secured Party under its Term Debt Facility, acknowledges that, in accordance with the provisions of the ABL Debt Documents (i) the ABL Obligations are revolving in nature and that the amount thereof that may be outstanding at any time or from time to time may be increased or reduced and subsequently reborrowed, (ii) the terms of the ABL Debt Documents and the ABL Obligations may be amended, supplemented or otherwise modified, and the ABL Obligations, or a portion thereof, may be Refinanced from time to time and (iii) the aggregate amount of the ABL Obligations may be increased, in

each case, other than as set forth in Section 5.03(a), without notice to or consent by the Term Representative or any other Term Secured Party and without affecting the provisions hereof.

(b) The ABL Administrative Agent and each ABL Representative, on behalf of itself and each ABL Secured Party under its ABL Debt Facility, acknowledges that, in accordance with the provisions of the Term Debt Documents (i) the terms of the Term Debt Documents and the Term Obligations may be amended, supplemented or otherwise modified, and the Term Obligations, or a portion thereof, may be Refinanced from time to time, and (ii) the aggregate amount of the Term Obligations may be increased, in each case, other than as set forth in Section 5.03(a), without notice to or consent by the ABL Representative or any other ABL Secured Party and without affecting the provisions hereof.

(c) The Lien priorities provided for in Section 2.01 shall not be altered or otherwise affected by any amendment, supplement or other modification, or any Refinancing, of any of the Secured Obligations or any portion thereof (other than any Refinancing of any Term Obligations with a Replacement Term Debt Facility). As between the Credit Parties and the Secured Parties, the foregoing provisions will not limit or otherwise affect the obligations of any Credit Party contained in any Secured Debt Document with respect to the incurrence of additional Secured Obligations (whether constituting ABL Obligations or Term Obligations, as the case may be).

SECTION 2.03. Prohibition on Contesting Liens.

(a) The Term Administrative Agent and each of the Term Representatives, for itself and on behalf of each Term Secured Party under its Term Debt Facility as a secured creditor, unsecured creditor or otherwise, agrees that it shall not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the validity, extent, perfection, priority or enforceability of any Lien securing any ABL Obligations held (or purported to be held) or deemed to be held by virtue of the ABL Debt Documents or this Agreement by or on behalf of the ABL Administrative Agent, any of the other ABL Secured Parties or any other agent or trustee therefor in any of the ABL Priority Collateral.

(b) The ABL Administrative Agent and each ABL Representative, for itself and on behalf of each ABL Secured Party under its ABL Debt Facility as a secured creditor, unsecured creditor or otherwise, agrees that it shall not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the validity, extent, perfection, priority or enforceability of any Lien securing any Term Obligations held (or purported to be held) or deemed to be held by virtue of the Term Debt Documents or this Agreement by or on behalf of the Term Administrative Agent, any of the other Term Secured Parties or any other agent or trustee therefor in any of the Term Priority Collateral.

(c) Notwithstanding the foregoing, no provision in this Agreement shall be construed to prevent or impair the rights of (i) the ABL Administrative Agent or any other ABL Secured Party to enforce the ABL Debt Documents or this Agreement (including the priority of the Liens securing the ABL Obligations as provided in Section 2.01) or any of the ABL Debt Documents or (ii) the Term Administrative Agent or any other Term Secured Party to enforce the Term Debt Documents or this Agreement (including the priority of the Liens securing the Term Obligations as provided in Section 2.01) or any of the Term Debt Documents.

SECTION 2.04. No Other Liens, Rights or Remedies.

(a) The parties hereto agree that, so long as both the ABL Obligations and the Term Obligations are outstanding, none of the Credit Parties shall, or shall permit any of its Subsidiaries to, grant or permit any Lien on any asset to secure any Junior Priority Obligation and no Secured Party shall hold any Lien on any asset to secure any Junior Priority Obligation, unless such Credit Party has granted, or concurrently therewith grants, a senior priority Lien on such asset to secure all Senior Priority Obligations. To the extent that the provisions of the immediately preceding sentence are not complied with for any reason, without limiting any other right or remedy available to any Senior Priority Representative or any other Senior Priority Secured Party, each Junior Priority Representative, for itself and on behalf of the other Junior Priority Secured Parties under its Junior Priority Facility, agrees that (i) the Junior Priority Representative and the other Junior Priority Secured Parties shall be deemed to hold and have held such Lien for the benefit of each of the Senior Priority Secured Parties and (ii) any amounts received by or distributed to any Junior Priority Secured Party pursuant to or as a result of any Lien granted in contravention of this Section 2.04 shall be subject to Section 4.02.

(b) To the extent any of the Credit Parties or any of their respective Subsidiaries grants or permits any Junior Priority Representative or any other Junior Priority Secured Party any right or remedy with respect to any of the Collateral that has not also been granted or permitted to the Senior Priority Representative or any other Senior Priority Secured Party, each Junior Priority Representative, for itself and on behalf of the other Junior Priority Secured Parties under its Junior Priority Facility, agrees that until the Discharge of Senior Priority Obligations (i) the Junior Priority Representative and each Junior Priority Secured Party shall be required to exercise such right or remedy solely at the direction of the Senior Priority Representative and (ii) any exercise of such right or remedy by the Junior Priority Representative or any other Junior Priority Secured Party shall be for the benefit of the Senior Priority Secured Parties pursuant to and in accordance with the terms of this Agreement.

(c) The parties hereto acknowledge and agree that it is their intention that the Collateral securing the ABL Obligations and the Collateral securing the Term Obligations be identical. In furtherance of the foregoing, the parties hereto agree:

(i) to cooperate in good faith in order to determine, upon any reasonable written request by the ABL Representative or the Term Representative, the specific assets included in the ABL Priority Collateral and the Term Priority Collateral, the steps taken to perfect the ABL Priority Liens and the Term Priority Liens thereon and the identity of the respective parties obligated under the ABL Debt Documents and the Term Debt Documents; and

(ii) that the documents, agreements and instruments creating or evidencing the ABL Priority Liens shall be in all material respects in the same form as the documents, agreements and instruments creating or evidencing the Term Priority Liens, other than the identity of the Secured Parties that are parties thereto or secured thereby and other matters contemplated by this Agreement.

SECTION 2.05. Perfection of Liens. Subject to Section 5.05, none of the Senior Priority Secured Parties shall be responsible for perfecting or maintaining the perfection of Liens with respect to the Collateral for the benefit of the Junior Priority Secured Parties. The provisions of this Agreement are intended to govern the respective Lien priorities as between the ABL Secured Parties and the Term Secured Parties and shall not impose on the ABL Secured Parties, the Term Secured Parties, or any agent or trustee therefor any obligations in respect of the disposition of Proceeds of any Collateral which would conflict with prior perfected claims therein, or any order or decree of any court or governmental authority or any applicable law, in favor of any other Person. To the extent a Secured Party does not maintain a

perfected Lien on any portion of Collateral, any Proceeds received in respect of such portion of Collateral shall be paid over to the extent necessary pursuant to Section 4.01 as if all Secured Parties held such a perfected Lien.

SECTION 2.06. Designation of Bank Product/Hedge Obligations. With respect to any ABL Bank Product Obligations and any Term Bank Product Obligations that would otherwise constitute both ABL Obligations and Term Obligations hereunder, such ABL Bank Product Obligations and Term Bank Product Obligations shall solely constitute ABL Obligations for all purposes of this Agreement unless at the time that the relevant Credit Party or its Restricted Subsidiary enters into the related agreement giving rise to ABL Bank Product Obligations or Term Bank Product Obligations, such Credit Party shall designate the related ABL Bank Product Obligations and/or Term Bank Product Obligations under such agreement giving rise to ABL Bank Product Obligations or Term Bank Product Obligations as Term Obligations in a written designation to the related swap counterparty or provider of ABL Bank Product Obligation or Term Bank Product Obligation with a copy to each Collateral Agent in which case such ABL Bank Product Obligations or Term Bank Product Obligations shall solely constitute Term Obligations for all purposes of this Agreement.

ARTICLE III

Enforcement

SECTION 3.01. Exercise of Remedies.

(a) Subject to the first proviso in Section 3.01(c) below, so long as the Discharge of Senior Priority Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against any Credit Party, (i) none of the Junior Priority Representative nor any other Junior Priority Secured Party will (x) take or seek to take any Enforcement Action in respect of any Junior Priority Obligation, or institute any action or proceeding with respect to any Enforcement Action (including any action of foreclosure), (y) contest, protest or object to any foreclosure proceeding or other Enforcement Action brought with respect to any Senior Priority Collateral by the Senior Priority Representative or any other Senior Priority Secured Party in respect of the Senior Priority Obligations, the exercise of any right by the Senior Priority Representative or any other Senior Priority Secured Party (or any agent or sub-agent on their behalf) in respect of the Senior Priority Obligation under any lockbox agreement, control agreement, landlord waiver or bailee's letter or similar agreement or arrangement to which the Senior Priority Representative or any other Senior Priority Secured Party either is a party or may have rights as a third party beneficiary, or any other exercise by any Senior Priority Secured Party of any rights and remedies relating to the Senior Priority Collateral under the Senior Priority Debt Documents or otherwise in respect of the Senior Priority Collateral or the Senior Priority Obligations or (z) object to the forbearance by the Senior Priority Secured Parties from bringing or pursuing any foreclosure proceeding or action, any other Enforcement Action or any other exercise of any rights or remedies relating to the Senior Priority Collateral in respect of Senior Priority Obligations, and (ii) the Senior Priority Representative and the other Senior Priority Secured Parties shall have the exclusive right to take Enforcement Actions and otherwise enforce rights, exercise remedies (including setoff and the right to credit bid their debt) and make determinations regarding the release, disposition or restrictions with respect to the Senior Priority Collateral without any consultation with or the consent of the Junior Priority Representative or any other Junior Priority Secured Party; provided, however, that (A) in any Insolvency or Liquidation Proceeding commenced by or against a Credit Party, any Junior Priority Representative may vote on any plan of reorganization, arrangement, compromise or liquidation, file any proof of claim, and make other filings in any Insolvency or Liquidation Proceeding; provided that no such

action is, or could reasonably be expected to be, inconsistent with this Agreement, (B) the Junior Priority Representative may take any action (not adverse to the prior status of the Liens on the Senior Priority Collateral securing the Senior Priority Obligations or the rights of the Senior Priority Representative or the other Senior Priority Secured Parties to exercise remedies in respect thereof) in order to create, prove, perfect, preserve or protect (but not enforce) its rights in, and perfection and priority of its Lien on, such Junior Priority Collateral, (C) the Junior Priority Secured Parties may file any responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any person objecting to or otherwise seeking the disallowance of the claims of such Junior Priority Secured Party or the avoidance of any Junior Priority Lien, to the extent not inconsistent with the terms of this Agreement, (D) the Junior Priority Secured Parties may exercise rights and remedies as unsecured creditors, solely as expressly provided in Section 5.04, (E) the Junior Priority Secured Parties may (i) present a cash bid for Senior Priority Collateral or purchase Senior Priority Collateral for cash in any sale pursuant to Section 363 or Section 1129 of the Bankruptcy Code or at any public or judicial foreclosure sale, and (ii) credit bid for Senior Priority Collateral pursuant to Section 363(k) of the Bankruptcy Code (provided that such credit bid may only be made if the cash proceeds of such bid are otherwise sufficient to cause the Discharge of Senior Priority Obligations immediately upon the closing of such credit bid), and (F) subject to the limitations set forth in Section 3.01(c), the Junior Priority Representative and the other Junior Priority Secured Parties may enforce any of their rights and exercise any of their remedies with respect to the Collateral after the termination of the Standstill Period. In taking Enforcement Actions and otherwise exercising rights and remedies with respect to the Senior Priority Collateral, the Senior Priority Representatives and the other Senior Priority Secured Parties may enforce the provisions of the Senior Priority Debt Documents and exercise remedies thereunder, all in such order and in such manner as they may determine in the exercise of their sole discretion and without consultation with the Junior Priority Representative or any other Junior Priority Secured Party and regardless of whether any such exercise is adverse to the claims or interest of any Junior Priority Secured Party. Such exercise and enforcement shall include the rights of an agent appointed by them to sell, credit bid for or otherwise dispose of Senior Priority Collateral upon foreclosure, to incur expenses in connection with such sale, credit bid or disposition and to exercise all the rights and remedies of a secured lender under the Uniform Commercial Code of any applicable jurisdiction and of a secured creditor under Debtor Relief Laws or other applicable laws of any applicable jurisdiction.

(b) So long as the Discharge of Senior Priority Obligations has not occurred, except as expressly provided in the proviso to Section 3.01(a)(ii) and in the first proviso to Section 3.01(c), each Junior Priority Representative, on behalf of itself and each Junior Priority Secured Party under its Junior Priority Facility each agrees that it will not, in the context of its role as creditor, take or receive any Senior Priority Collateral or any Proceeds of Senior Priority Collateral in connection with the exercise of any right or remedy (including setoff) with respect to any Senior Priority Collateral in respect of any Junior Priority Obligation. Without limiting the generality of the foregoing, unless and until the Discharge of Senior Priority Obligations has occurred, except as expressly provided in the proviso to Section 3.01(a)(ii) and in the first proviso to Section 3.01(c), the sole right of the Junior Priority Representative and the other Junior Priority Secured Parties with respect to the Senior Priority Collateral is to hold a Lien on the Senior Priority Collateral in respect of Junior Priority Obligations pursuant to the Junior Priority Debt Documents for the period and to the extent granted therein and to receive a share of the Proceeds thereof, if any, after the Discharge of Senior Priority Obligations has occurred.

(c) Subject to the proviso to Section 3.01(a)(ii), each Junior Priority Representative, for itself and on behalf of each Junior Priority Secured Party under its Junior Priority Facility, agrees that none of the Junior Priority Representative nor any other Junior Priority Secured Party will take any action that would hinder any Enforcement Action or other exercise of remedies undertaken by the Senior

Priority Representative or any Senior Priority Secured Party with respect to the Senior Priority Collateral under the Senior Priority Debt Documents, including any sale, credit bid, lease, exchange, transfer or other disposition of the Senior Priority Collateral, whether by foreclosure or otherwise, and (ii) the Junior Priority Representative, for itself and on behalf of each Junior Priority Secured Party under its Junior Priority Facility each hereby waives any and all rights it or any Junior Priority Secured Party may have as a creditor or otherwise to object to the manner in which the Senior Priority Representative or the other Senior Priority Secured Parties seek to enforce or collect the Senior Priority Obligations or the Liens granted on any of the Senior Priority Collateral, regardless of whether any action or failure to act by or on behalf of the Senior Priority Representative or any other Senior Priority Secured Party is adverse to the interests of the Junior Priority Secured Parties; provided, however, that the Junior Priority Representative may, subject to the other provisions of this Agreement (including the turnover provisions of Section 4.02), take any Enforcement Action against the Senior Priority Collateral, not otherwise in contravention of this Agreement after a period of 180 consecutive days has elapsed since the date on which the Junior Priority Representative has delivered to the Senior Priority Representative (or replacement Senior Priority Representative) written notice of Junior Priority Representative's intention to exercise any rights or remedies with respect to any Senior Priority Collateral in respect of any Junior Priority Obligations ("Standstill Notice"), which notice may only be delivered after the date on which an Event of Default under any Junior Priority Debt Document has occurred and only while such Event of Default is continuing (the "Standstill Period") (*provided* that such period shall be tolled if a stay or injunction has arisen or been imposed by a court of competent jurisdiction (including, without limitation, in an Insolvency or Liquidation Proceeding) that prevents any Senior Priority Representative or Senior Priority Secured Party from exercising secured creditor rights and remedies with respect to the Senior Priority Collateral) (it being understood that if, at any time after the delivery of a Standstill Notice, such Event of Default is cured or waived in accordance with Junior Priority Debt Documents, the Junior Priority Representative shall not take any Enforcement Action until the passage of a new Standstill Period commenced by a new Standstill Notice relative to the occurrence of a new Event of Default that had not occurred as of the date of the delivery of the earlier Standstill Notice); provided further, however, that notwithstanding the expiration of the Standstill Period or anything herein to the contrary, in no event shall the Junior Priority Representative or any other Junior Priority Secured Party commence an Enforcement Action with respect to any Senior Priority Collateral, or commence, join with any Person in commencing, or petition for or vote in favor of any resolution for, any such Enforcement Action, if the Senior Priority Representative or any other Senior Priority Secured Party shall have commenced, and shall be diligently pursuing (except that such Senior Priority Secured Party shall have no obligation to seek or request relief from or modification of the automatic stay or any other stay in any Insolvency or Liquidation Proceeding to enable the commencement and pursuit thereof), an Enforcement Action with respect to any portion of the Senior Priority Collateral.

(d) Each Junior Priority Representative (for itself and on behalf of each Junior Priority Secured Party under its Junior Priority Facilities) hereby acknowledges and agrees that no covenant, agreement or restriction contained in any Junior Priority Debt Document shall be deemed to restrict in any way the rights and remedies of the Senior Priority Secured Parties with respect to the Senior Priority Collateral as set forth in this Agreement and the Senior Priority Debt Documents.

(e) Subject to the first proviso in Section 3.01(c) above, until the Discharge of Senior Priority Obligations, the Senior Priority Representative shall have the exclusive right to take Enforcement Actions or otherwise exercise any right or remedy with respect to the Senior Priority Collateral and shall have the exclusive right to determine and direct the time, method and place for exercising such right or remedy or conducting any proceeding with respect thereto. Following the Discharge of Senior Priority Obligations, the Junior Priority Representative shall have the exclusive right to exercise any right or

remedy with respect to the Collateral, and the Junior Priority Representative shall have the exclusive right to direct the time, method and place of exercising or conducting any proceeding for the exercise of any right or remedy available to the Junior Priority Secured Parties with respect to the Collateral, or of exercising or directing the exercise of any trust or power conferred on the Junior Priority Representative, or for the taking of any other action authorized by the Junior Priority Collateral Documents; provided, however, that nothing in this Section 3.1(e) shall impair the right of any Junior Priority Representative or other agent or trustee acting on behalf of the Junior Priority Secured Parties to take such actions with respect to the Collateral after the Discharge of Senior Priority Obligations as may be otherwise required or authorized pursuant to any intercreditor agreement or other arrangements governing the Junior Priority Secured Parties or the Junior Priority Obligations.

(f) [reserved].

(g) The parties hereto understand and acknowledge that the provisions of this Section 3.01 do not modify or affect the exercise of the purchase right set forth in Section 5.07.

SECTION 3.02. Cooperation. Subject to the proviso in Section 3.01(a)(ii) and to the first provio in Section 3.01(c), each Junior Priority Representative, on behalf of itself and each Junior Priority Secured Party under its Junior Priority Facility, agrees that, unless and until the Discharge of Senior Priority Obligations has occurred, it will not commence, or join with any Person (other than the Senior Priority Secured Parties and the Senior Priority Representatives upon the written request of the Senior Priority Representatives) in commencing, any Enforcement Action with respect to any Lien held by it in the Senior Priority Collateral under any of the Junior Priority Debt Documents or otherwise in respect of any Junior Priority Obligations.

SECTION 3.03. Actions upon Breach. Should any Junior Priority Secured Party, contrary to this Agreement, in any way take, attempt to take or threaten to take any Enforcement Action with respect to the Senior Priority Collateral (including any attempt to realize upon or enforce any remedy with respect to this Agreement) or fail to take any action required by this Agreement, this Agreement shall create an admission by such Junior Priority Secured Party that the Senior Priority Secured Parties (in its or their own name or in the name of any Credit Party) or any Credit Party may obtain relief against such Junior Priority Secured Party by injunction, specific performance or other appropriate equitable relief. Each Junior Priority Representative, on behalf of itself and each Junior Priority Secured Party under its Junior Priority Facility, hereby (a) agrees that the Senior Priority Secured Parties' damages from the actions of the Junior Priority Secured Parties may at that time be difficult to ascertain and may be irreparable and waives any defense that any Credit Party or the Senior Priority Secured Parties cannot demonstrate damage or be made whole by the awarding of damages and (b) irrevocably waives any defense based on the adequacy of a remedy at law and any other defense that might be asserted to bar the remedy of specific performance in any action that may be brought by the Senior Priority Representative or any other Senior Priority Secured Party.

SECTION 3.04. Voting. Except as otherwise provided herein and to the extent not inconsistent with the provisions of this Agreement, with respect to the ABL Priority Collateral, the applicable ABL Representative shall take direction and comply with the instructions of the applicable ABL Secured Parties in accordance with the applicable ABL Debt Documents. Except as otherwise provided herein and to the extent not inconsistent with the provisions of this Agreement, with respect to the Term Priority Collateral, the applicable Term Representative shall take direction and comply with the instructions of the applicable Term Secured Parties in accordance with the applicable Term Debt Documents.

SECTION 3.05. Tracing of Priorities in Proceeds. Each ABL Representative, for itself and on behalf of each other ABL Secured Party represented by it, and each Term Representative, for itself and on behalf of each Term Secured Party represented by it, agree that prior to an Enforcement Action or the commencement of any Insolvency or Liquidation Proceeding, (i) any proceeds of ABL Priority Collateral used by any Credit Party to acquire any Term Priority Collateral shall be treated as Term Priority Collateral, so long as such use of ABL Priority Collateral is otherwise not in contravention of the terms of this Agreement or the ABL Debt Documents and (ii) any proceeds of Term Priority Collateral used by any Credit Party to acquire any ABL Priority Collateral shall be treated as ABL Priority Collateral, so long as such use of Term Priority Collateral is otherwise not in contravention of the terms of this Agreement or the Term Debt Documents. In addition, unless and until the Discharge of ABL Obligations has occurred the Term Representatives and the Term Secured Parties each hereby consents to the application, prior to the receipt by the ABL Administrative Agent of a Term Priority Collateral Enforcement Action Notice issued by the Term Representative (unless any Insolvency or Liquidation Proceeding with respect to any Credit Party has commenced), of Proceeds of Term Priority Collateral deposited in accounts subject to control agreements to the repayment of ABL Obligations pursuant to the ABL Debt Documents, and agrees that such Proceeds of Term Priority Collateral shall constitute ABL Priority Collateral; provided that subsequent to the date that an ABL Representative has received written notice that a Term Representative has commenced any Enforcement Action or subsequent to an Insolvency or Liquidation Proceeding, if such ABL Representative receives Term Priority Collateral or Proceeds thereof and has been notified by a Term Representative that such Collateral constitutes Term Priority Collateral or Proceeds thereof at any time before or within sixty (60) days of the application thereof to the ABL Obligations, then such ABL Representative shall, to the extent not prohibited by law, turn over to the applicable Term Representative an amount equal to that portion of such funds constituting Term Priority Collateral or Proceeds thereof from the next proceeds of ABL Priority Collateral deposited in deposit accounts in which such ABL Representative has control (and the Credit Parties hereby authorize and direct such ABL Representative to pay over to such Term Representative all such amounts as required hereunder).

ARTICLE IV

Payments

SECTION 4.01. Application of Proceeds of Senior Priority Collateral.

(a) Unless and until the Discharge of ABL Obligations has occurred and regardless of whether an Insolvency or Liquidation Proceeding has been commenced, any ABL Priority Collateral or Proceeds thereof received in connection with the sale or other disposition of, or collection on, such ABL Priority Collateral, and any ABL Priority Collateral or Proceeds thereof (or amounts distributed on account of a Lien on the ABL Priority Collateral or the Proceeds thereof) received in connection with any Insolvency or Liquidation Proceeding involving a Credit Party, shall be distributed by the ABL Administrative Agent to the ABL Obligations in such order as specified in the relevant ABL Debt Documents until the Discharge of ABL Obligations has occurred. Upon the Discharge of ABL Obligations, the ABL Administrative Agent shall deliver promptly to the Term Administrative Agent any Collateral or Proceeds thereof held by it in the same form as received, with any necessary enforcements, or as a court of competent jurisdiction may otherwise direct, to be applied by the Term Administrative Agent to the Term Obligations in such order as specified in the relevant Term Debt Documents.

(b) Unless and until the Discharge of Term Obligations has occurred and regardless of whether an Insolvency or Liquidation Proceeding has been commenced, any Term Priority Collateral

or Proceeds thereof received in connection with the sale or other disposition of, or collection on, such Term Priority Collateral, and any Term Priority Collateral or Proceeds thereof (or amounts distributed on account of a Lien on the Term Priority Collateral or the Proceeds thereof) received in connection with any Insolvency or Liquidation Proceeding involving a Credit Party, shall be distributed by the Term Administrative Agent in such order as specified in the relevant Term Debt Documents until the Discharge of Term Obligations has occurred. Upon the Discharge of Term Obligations, the Term Administrative Agent shall deliver promptly to the ABL Administrative Agent any Collateral or Proceeds thereof held by it in the same form as received, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct, to be applied by the ABL Administrative Agent to the ABL Obligations in such order as specified in the ABL Debt Documents.

SECTION 4.02. Payment Over.

(a) Unless and until the Discharge of ABL Obligations has occurred, any ABL Priority Collateral or Proceeds thereof received by any Term Representative or any Term Secured Party in connection with the exercise of any right or remedy (including Enforcement Actions) or otherwise in contravention hereof shall be segregated and held in trust for the benefit of and forthwith paid over to the ABL Administrative Agent for the benefit of the ABL Secured Parties in the same form as received, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct. The ABL Administrative Agent is hereby authorized to make any such endorsements as agent for the Term Representative and any such Term Secured Party with respect to the ABL Priority Collateral. This authorization is coupled with an interest and is irrevocable until the Discharge of ABL Obligations.

(b) Unless and until the Discharge of Term Obligations has occurred, any Term Priority Collateral or Proceeds thereof received by any ABL Representative or any ABL Secured Party in connection with the exercise of any right or remedy (including Enforcement Actions) or otherwise in contravention hereof shall be segregated and held in trust for the benefit of and forthwith paid over to the Term Representative for the benefit of the Term Secured Parties in the same form as received, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct. The Term Representative is hereby authorized to make any such endorsements as agent for the ABL Representative or any such ABL Secured Party with respect to the Term Priority Collateral. This authorization is coupled with an interest and is irrevocable until the Discharge of Term Obligations.

(c) Notwithstanding anything contained in this Agreement to the contrary, in the event of any disposition or series of related dispositions that includes (i) the equity interests issued by a Credit Party that has an interest in any ABL Collateral, or (ii) ABL Collateral, then solely for purposes of this Agreement, unless otherwise agreed by ABL Administrative Agent and Term Administrative Agent, the proceeds of any such disposition shall be allocated to the ABL Collateral in an amount equal to the sum of (A) the book value of any ABL Collateral consisting of Inventory that is the subject of such disposition (or, in the case of a disposition of equity interests issued by a Credit Party, any ABL Collateral consisting of Inventory in which such Credit Party has an interest), determined as of the date of such disposition, (B) the face amount of any ABL Collateral consisting of Accounts, Credit Card Receivables or Payment Intangibles that are the subject of such disposition (or, in the case of a disposition of equity interests issued by a Credit Party, any ABL Collateral consisting of Accounts, Credit Card Receivables or Payment Intangibles in which such Credit Party has an interest), determined as of the date of such disposition, and (C) the fair market value of all other ABL Collateral that is the subject of such disposition (or, in the case of a disposition of equity interests issued by a Grantor, any other ABL Collateral in which such Credit Party has an interest), determined as of the date of such disposition.

ARTICLE V

Other Agreements

SECTION 5.01. Releases.

(a) Each Junior Priority Representative, for itself and on behalf of each Junior Priority Secured Party under its Junior Priority Facility, agrees that, prior to the Discharge of Senior Priority Obligations:

(i) if in connection with any exercise of any of the Senior Priority Secured Parties' secured creditor rights or remedies in respect of the Senior Priority Collateral, the Senior Priority Representative for itself or on behalf of any of the Senior Priority Secured Parties, releases any of its Liens on any part of the Senior Priority Collateral;

(ii) if in the event of a sale, transfer or other disposition of any specified item of Senior Priority Collateral (including all or substantially all of the equity interests of any Subsidiary of Mattress Firm), as permitted pursuant to the terms of the Senior Priority Debt Documents, or otherwise consented to by the Senior Priority Secured Parties in accordance with the Senior Priority Debt Documents (and, in each case, other than in connection with the Discharge of Senior Priority Obligations), (A) the Senior Priority Representative, for itself or on behalf of any of the Senior Priority Secured Parties, releases any of its Liens on any part of the Senior Priority Collateral, and (B) no Event of Default has occurred and is continuing under the Junior Priority Debt Documents or would result from such sale, transfer or other disposition;

(iii) if in the event of any disposition in any Insolvency or Liquidation Proceeding, including pursuant to a sale under Section 363 or Section 1129 of the Bankruptcy Code or under a chapter 11 plan, the Senior Priority Representative, for itself or on behalf of any of the Senior Priority Secured Parties, releases any of its Liens on any part of the Senior Priority Collateral; or

(iv) if, in the event the Senior Priority Representative waives the requirement that a Senior Priority Lien attach to any Senior Priority Collateral,

then, with respect to clauses (i) to (v) above (including the preamble), (x) the Liens, if any, of the Junior Priority Representative, for itself or for the benefit of the Junior Priority Secured Parties, on such Collateral shall be automatically, unconditionally and simultaneously waived, released and terminated, as applicable, automatically and without any further action, concurrently with the termination, waiver and release, as applicable, of all Liens granted upon such Collateral to secure Senior Priority Obligations and the Junior Priority Representative shall take such reasonable steps as are necessary (including at the request of the Senior Priority Representative) to effectuate the foregoing termination and release at the applicable Credit Party's sole cost and expense, in each case so long as all Senior Priority Liens and Junior Priority Liens attach to the proceeds of the sale for application in accordance with the distribution provisions of Section 4.01 (it being understood and agreed that such proceeds may not be sufficient to effect the Discharge of ABL Obligations, or the Discharge of Term Obligations, as the case may be) and (y) the Junior Priority Secured Parties will not object to and will be deemed to have consented to any such waiver, release and termination. Promptly upon delivery to the Junior Priority Representative of a certificate from the Senior Priority Representative or any Credit Party stating that any such termination and release of Senior Priority Liens securing the Senior Priority Obligations will occur, the Junior Priority Representative, for itself and on behalf of the Junior Priority Secured

Parties, shall execute and deliver, at the applicable Credit Party's sole cost and expense, to the Senior Priority Representative or such Credit Party such termination statements, releases and other documents (including documents which are corresponding junior lien versions of termination statements, releases and other documents that the Senior Priority Representative delivers under the Senior Priority Facility to the extent applicable) so as to confirm the foregoing releases referred to in clauses (i) to (v) of the first sentence of this clause (a) when such Senior Priority Representative's releases occur. For the avoidance of doubt, nothing in this Section 5.01(a) permits or requires any Senior Priority Secured Party's Liens on its Senior Priority Collateral to be released in the event of a sale, transfer or other disposition of any specified item of such Senior Priority Secured Party's Junior Priority Collateral.

(b) Each Junior Priority Representative, for itself and on behalf of each Junior Priority Secured Party under its Junior Priority Facility, hereby irrevocably constitutes and appoints the Senior Priority Representative and any officer, employee or agent of the Senior Priority Representative, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Junior Priority Representative or any other Junior Priority Secured Party and in the Senior Priority Representative's own name, from time to time in the Senior Priority Representative's discretion (but only if the Junior Priority Representative fails to promptly execute any and all Lien releases or other documents reasonably requested by the Senior Priority Representative in connection therewith), for the purpose of carrying out the terms of Section 5.01(a), to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of Section 5.01(a), including any termination statements, endorsements or other instruments of transfer or release.

(c) Notwithstanding anything to the contrary in any Junior Priority Collateral Document, in the event the terms of a Junior Priority Collateral Document require any Credit Party (i) to deliver or afford control over any item of Junior Priority Collateral to, or deposit any item of Junior Priority Collateral with, (ii) to register ownership of any item of Junior Priority Collateral in the name of or make an assignment of ownership of any Junior Priority Collateral or the rights thereunder to, (iii) to cause any securities intermediary, commodity intermediary or other Person acting in a similar capacity to agree to comply, in respect of any item of Junior Priority Collateral, with instructions or orders from, or to treat, in respect of any item of Junior Priority Collateral, as the entitlement holder of, (iv) to hold any item of Junior Priority Collateral in trust for (to the extent such item of Junior Priority Collateral cannot be held in trust for multiple parties under applicable law), (v) to obtain the agreement of a bailee or other third party to hold any item of Junior Priority Collateral for the benefit of or subject to the control of or, in respect of any item of Junior Priority Collateral for, or (vi) to follow the instructions of or to obtain the agreement of a landlord with respect to access to leased premises where any item of Junior Priority Collateral is located or waivers or subordination of rights with respect to any item of Junior Priority Collateral in favor of, in any case, the Junior or Junior Priority Secured Party, such Credit Party may, until the Discharge of Senior Priority Obligations has occurred, be deemed to have complied with such requirement under the Junior Priority Collateral Documents as it relates to such Junior Priority Collateral by taking any of the actions set forth above only with respect to, or in favor of, the Senior Priority Representative. Until the Discharge of Senior Priority Obligations occurs, to the extent that the Senior Priority Representative or Senior Priority Secured Parties (x) have released any Senior Priority Lien and any such Liens are later reinstated, (y) obtain any new Senior Priority Liens from any Credit Party or (z) extends the time period for the provision of any Senior Priority Collateral (or any other discretionary matter relating to the Senior Priority Collateral), then the Junior Priority Representative, for itself and the Junior Priority Secured Parties, shall be granted a Lien on any such Senior Priority Collateral, subject to the lien subordination provisions of this Agreement or, in the case of clause (z), such period or other

matter subject to such discretionary determination shall automatically apply to the Junior Priority Debt Documents in the same manner as it applies to the Senior Priority Credit Agreement Loan Documents.

SECTION 5.02. Insurance and Condemnation Awards. (x) Unless and until the Discharge of Senior Priority Obligations has occurred, the Senior Priority Representative and the Senior Priority Secured Parties shall have the sole and exclusive right, subject to the rights of the Credit Parties under, and to the extent required by, and subject to any limitations in, the applicable Senior Priority Debt Documents, (a) to adjust settlement for any insurance policy covering the Senior Priority Collateral in the event of any loss thereunder and (b) to approve any award granted in any condemnation or similar proceeding affecting the Senior Priority Collateral. To effectuate the foregoing, and to the extent that the pertinent insurance company agrees to issue such endorsements, each ABL Representative and each Term Representative shall each receive separate lender's loss payable endorsements naming themselves as loss payee, as their interests may appear, with respect to policies which insure the ABL Priority Collateral and the Term Priority Collateral. Unless and until the Discharge of Senior Priority Obligations has occurred, all proceeds of any such policy and any such award, if in respect of the Senior Priority Collateral, shall, if no Event of Default shall have occurred and be continuing, be applied (i) first, prior to the occurrence of the Discharge of Senior Priority Obligations, to the Senior Priority Representative for the benefit of the Senior Priority Secured Parties pursuant to the terms of the Senior Priority Debt Documents (or, if not entitled thereto, to the Credit Parties), (ii) second, after the occurrence of the Discharge of Senior Priority Obligations, to the Junior Priority Representative for the benefit of the Junior Priority Secured Parties pursuant to the terms of the applicable Junior Priority Debt Documents, and (iii) third, if no Junior Priority Obligations are outstanding, be paid to the owners of the subject property, or such other Person as may be entitled thereto or as a court of competent jurisdiction may otherwise direct. If the Junior Priority Representative or any other Junior Priority Secured Party shall, at any time, receive any proceeds of any such insurance policy or any such award in contravention of this Agreement, it shall pay such proceeds over to the Senior Priority Representative for further application in accordance with the terms of Section 4.01 or this Section 5.02, as applicable.

SECTION 5.03. Amendments to Debt Documents.

(a) No Junior Priority Debt Documents (including, for the avoidance of doubt, Junior Priority Collateral Documents) and no Senior Priority Debt Documents (including, for the avoidance of doubt, Senior Priority Collateral Documents) may be amended, supplemented, otherwise modified or Refinanced or entered into to the extent such amendment, supplement or modification, Refinancing or the terms of any new Junior Priority Debt Document or Senior Priority Debt Document:

(i) would be prohibited by or inconsistent with any of the terms of this Agreement;

(ii) except in connection with a DIP Financing that meets the requirements of Section 6.01(a) or 6.01(b), as applicable, (A) modify the applicable margin or similar component of the interest rate such that the blended/weighted average margin for interest applicable to all Junior Priority Obligations or Senior Priority Obligations (as applicable) would be increased by more than 3.00 percentage points per annum (excluding increases resulting from (1) the accrual of interest at the default rate, (2) exercise of flex provisions set forth in the Fee Letter (as defined in the ABL Credit Agreement), (3) increases in the underlying reference rate not caused by an amendment, supplement, modification or refinancing of the Junior Priority Debt Documents or Senior Priority Debt Documents (as applicable) or (4) the application of any pricing grid set forth in the Junior Priority Debt Documents or Senior Priority Debt Documents (as applicable) or (B) would add any new recurring fees or recurring charges;

(iii) except in connection with a DIP Financing that meets the requirements of Section 6.01(a) or 6.01(b), as applicable, change to more restrictive any covenants, defaults, or events of default under any Junior Priority Debt Documents or Senior Priority Debt Documents (as applicable) (including the addition of covenants, defaults, or events of default not contained any Junior Priority Debt Documents or Senior Priority Debt Documents (as applicable) as in effect on the date hereof) or to restrict any Credit Party from making payments of the Junior Priority Obligations or Senior Priority Obligations (as applicable) that would otherwise be permitted under any Junior Priority Debt Documents or Senior Priority Debt Documents (as applicable) as in effect on the date hereof;

(iv) no Term Debt Document (including, for the avoidance of doubt, Term Priority Collateral Document) may be amended, supplemented, otherwise modified, Refinanced or entered into to the extent such amendment, supplement or modification, or the terms of any new Term Debt Documents would (A) change to earlier dates any dates upon which payments of principal or interest are due on the Term Obligations or would change the mandatory prepayment provisions of such Term Debt Document in a manner that makes them more restrictive to the Credit Parties or (B) add amortization or otherwise shorten the weighted average life to maturity of the Term Obligations;

(v) except in connection with a DIP Financing that meets the requirements of Section 6.01(a) or 6.01(b), as applicable, no ABL Debt Document may be amended, supplemented, otherwise modified, Refinanced or entered into to the extent such amendment, supplement, modification, Refinancing or the terms of any new ABL Debt Documents would result in the aggregate revolving credit commitments thereunder to exceed $175,000,000; and

(vi) except in connection with a DIP Financing that meets the requirements of Section 6.01(a) or 6.01(b), as applicable, no Term Debt Document may be amended, supplemented, otherwise modified, Refinanced or entered into to the extent such amendment, supplement, modification, Refinancing or the terms of any new Term Debt Documents would result in the aggregate outstanding principal amount of Term Obligations exceeding the result of (A) the sum of (x) $400,000,000, (y) the original principal amount of Incremental Term Loans (as defined in the Term Credit Agreement as in effect on the date hereof) made pursuant to and in accordance with the terms and conditions of the Term Credit Agreement as in effect on the date hereof, and (z) fees and interest that are paid in kind thereon, minus (B) the aggregate amount of all permanent principal repayments thereof (other than permanent payments pursuant to a Refinancing thereof that is permitted hereunder).

(b) The ABL Administrative Agent, for itself and on behalf of each ABL Secured Party under the ABL Credit Agreement, agrees that each ABL Priority Collateral Document (other than this Agreement) shall include the following language (or language to a similar effect as reasonably approved by the Term Administrative Agent):

"Notwithstanding anything herein to the contrary, (i) the liens and security interests granted to the [ABL Administrative Agent] on the Term Priority Collateral (as defined in the ABL/Term Intercreditor Agreement referred to below) pursuant to this Agreement are expressly subject to and subordinate to the liens and security interests granted in favor of the Term Secured Parties (as defined in the ABL/Term Intercreditor Agreement referred to below) on the Term Priority Collateral and (ii) the exercise of any right or remedy by the [ABL Administrative Agent] hereunder with respect to the Term

Priority Collateral is subject to the limitations and provisions contained in the ABL/Term Intercreditor Agreement, dated as of [•], 2018 (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the "ABL/Term Intercreditor Agreement"), among Barclays Bank PLC, as Term Administrative Agent, Barclays Bank PLC, as ABL Administrative Agent, the Borrower, the other grantors party thereto and each other representative from time to time party thereto. In the event of any conflict between the terms of the ABL/Term Intercreditor Agreement and the terms of this Agreement, the terms of the ABL/Term Intercreditor Agreement shall govern."

(c) The Term Administrative Agent, for itself and on behalf of each Term Secured Party under the Term Credit Agreement, agrees that each Term Priority Collateral Document (other than this Agreement) shall include the following language (or language to a similar effect as reasonably approved by the ABL Administrative Agent):

"Notwithstanding anything herein to the contrary, (i) the liens and security interests granted to the [Term Administrative Agent] on the ABL Priority Collateral (as defined in the ABL/Term Intercreditor Agreement referred to below) pursuant to this Agreement are expressly subject to and subordinate to the liens and security interests granted in favor of the ABL Secured Parties (as defined in the ABL/Term Intercreditor Agreement referred to below) on the ABL Priority Collateral and (ii) the exercise of any right or remedy by the [Term Administrative Agent] hereunder with respect to the ABL Priority Collateral is subject to the limitations and provisions contained in the ABL/Term Intercreditor Agreement, dated as of [•], 2018 (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the "ABL/Term Intercreditor Agreement"), among Barclays Bank PLC, as Term Administrative Agent, Barclays Bank PLC, as ABL Administrative Agent, the Borrower, the other grantors party thereto and each other representative from time to time party thereto. In the event of any conflict between the terms of the ABL/Term Intercreditor Agreement and the terms of this Agreement, the terms of the ABL/Term Intercreditor Agreement shall govern."

The inclusion of the foregoing language in the Collateral Documents does not modify or impair the rights of the applicable Secured Parties against the applicable Credit Parties. The failure to include such language in any Collateral Document shall not give rise to any liability on the part of any party to this Agreement with respect to such Collateral Document.

(d) Except as otherwise explicitly provided in this Agreement, (i) the ABL Debt Documents may be amended, amended and restated, waived, supplemented, extended, or otherwise modified and Indebtedness thereunder may be increased, extended or Refinanced without the consent of any Term Secured Party and (ii) the Term Debt Documents may be amended, amended and restated, waived, supplemented, extended or otherwise modified and Indebtedness thereunder may be increased, extended or Refinanced without the consent of any ABL Secured Party.

(e) Mattress Firm agrees to deliver to each Collateral Agent copies of (i) any amendments, supplements or other modifications to the Secured Debt Documents and (ii) any new Secured Debt Documents promptly after effectiveness thereof.

SECTION 5.04. Rights as Unsecured Creditors. The Senior Priority Secured Parties may exercise rights and remedies as unsecured creditors (including the ability to file any pleadings, objections, motions or agreements which assert rights or interests available to unsecured creditors of the Credit Parties arising under either Debtor Relief Laws, any Insolvency or Liquidation Proceeding or applicable non-bankruptcy law, in each case, in accordance with the terms of this Agreement) against any Credit Party in accordance with the terms of the Senior Priority Debt Documents and applicable law. The Junior Priority Representatives, on behalf of itself and all applicable Junior Priority Secured Parties, may exercise rights and remedies as unsecured creditors (other than Enforcement Actions (except as expressly permitted pursuant to Section 3.01(c))) against any Credit Party in accordance with the terms of the Junior Priority Debt Documents and applicable law so long as such exercise is not inconsistent with any express provision of this Agreement, including without limitation that none of the Junior Priority Representatives or any Junior Priority Secured Parties shall take any action to challenge (x) the validity or enforceability of any Senior Priority Obligation or Senior Priority Debt Document, (y) the validity, attachment, perfection or priority of any Senior Priority Lien securing Senior Priority Obligations or (z) the validity or enforceability of the priorities, right or duties established by the provisions of this Agreement; provided that each Junior Priority Representative, on behalf of itself and all applicable Junior Priority Secured Parties, will not take any action as an unsecured creditor or as an equity holder that such party could not take as a secured creditor under Section 2.03. Nothing in this Agreement shall prohibit the receipt by any Junior Priority Secured Party of the required payments of principal, premium, interest, fees and other amounts due under the Junior Priority Debt Documents so long as such receipt is not the direct or indirect result of the exercise by any Junior Priority Representative or Junior Priority Secured Party of rights or remedies as a secured creditor in respect of the Collateral; provided that the foregoing shall not limit the provisions of Section 6.04 hereof. In the event any Junior Priority Secured Party becomes a judgment lien creditor in respect of the Junior Priority Collateral as a result of its enforcement of its rights as an unsecured creditor in respect of Junior Priority Obligations, or otherwise, such judgment lien shall be subordinated to the Liens securing Senior Priority Obligations on the same basis as the other Liens securing the Junior Priority Obligations are so subordinated to such Liens securing Senior Priority Obligations under this Agreement. Nothing in this Agreement shall impair or otherwise adversely affect any rights or remedies the Senior Priority Secured Parties may have with respect to the Senior Priority Collateral.

SECTION 5.05. Gratuitous Bailee for Perfection.

(a) Each Senior Priority Representative acknowledges and agrees that if it shall at any time possess or control any Collateral that also secures any Junior Priority Obligations that can be perfected by the possession or control of such Collateral or of any account in which such Collateral is held, and if such Collateral or any such account is in fact in the possession or under the control of the Senior Priority Representative, or of agents or bailees of such Person (such Collateral being referred to herein as the "Pledged or Controlled Collateral"), or if it shall any time obtain any landlord waiver or bailee's letter or any similar agreement or arrangement (a "Collateral Access Agreement") granting it rights or access to Collateral, the applicable Senior Priority Representative shall also hold such Pledged or Controlled Collateral, or take such actions with respect to such Collateral Access Agreement, as sub-agent or gratuitous bailee for the Junior Priority Representatives, in each case solely for the purpose of perfecting the Liens granted under the relevant Junior Priority Collateral Documents and subject to the terms and conditions of this Section 5.05.

(b) Except as otherwise specifically provided herein, until the Discharge of Senior Priority Obligations has occurred, the Senior Priority Representatives and the Senior Priority Secured Parties shall be entitled to deal with and administer the Pledged or Controlled Collateral and exercise

rights under the Collateral Access Agreements in accordance with the terms of the Senior Priority Debt Documents without notice to the Junior Priority Representative or any other Junior Priority Secured Party as if the Liens under the Junior Priority Collateral Documents did not exist. The rights of the Junior Priority Representative and the Junior Priority Secured Parties with respect to the Pledged or Controlled Collateral and Collateral Access Agreements shall at all times be subject to the terms of this Agreement.

(c) The Senior Priority Representatives and the other Senior Priority Secured Parties shall have no obligation whatsoever to any Junior Priority Secured Party to assure that any of the Pledged or Controlled Collateral is genuine or owned by the Credit Parties or to protect or preserve rights or benefits of any Person or any rights pertaining to the Collateral, except as expressly set forth in this Section 5.05 or elsewhere in this Agreement. The duties or responsibilities of the Senior Priority Representative under this Section 5.05 shall be limited solely to holding or controlling the Collateral and the related Liens referred to in paragraphs (a) and (b) of this Section 5.05 as sub-agent and gratuitous bailee for the Junior Priority Representative for purposes of perfecting the Lien held by the Junior Priority Representatives.

(d) The Senior Priority Representatives shall not have by reason of the Junior Priority Debt Documents or this Agreement, or any other document, a fiduciary relationship in respect of any Junior Priority Secured Party, and each Junior Priority Representative, for itself and on behalf of each Junior Priority Secured Party under its Junior Priority Debt Facility, each hereby waives and releases the Senior Priority Representatives from all claims and liabilities arising pursuant to the Senior Priority Representative's roles under this Section 5.05 as sub-agents and gratuitous bailees with respect to the Collateral.

(e) Upon the Discharge of Senior Priority Obligations, each applicable Senior Priority Representative shall, at Mattress Firm's sole cost and expense, (i) (A) deliver to the Junior Priority Representative, all Collateral, including all proceeds thereof, held or controlled by such Senior Priority Representative or any of its agents or bailees, including the transfer of possession and control, as applicable, of the Pledged or Controlled Collateral, together with any necessary endorsements and notices to depositary banks, securities intermediaries and commodities intermediaries, and assign its rights under any Collateral Access Agreement, or (B) direct and deliver such Collateral as a court of competent jurisdiction may otherwise direct, and (ii) at the request of the Junior Priority Representative, (A) notify any applicable insurance carrier that it is no longer entitled to be a loss payee or additional insured under the insurance policies of any Credit Party issued by such insurance carrier and (B) notify any governmental authority involved in any condemnation or similar proceeding involving any Credit Party that the Junior Priority Representative is entitled to approve any awards granted in such proceeding. The Credit Parties shall take such further action as is required to effectuate the transfer contemplated hereby. The Senior Priority Representatives shall have no obligation to follow instructions from the Junior Priority Representative or any other Junior Priority Secured Party in contravention of this Agreement.

(f) Neither the Senior Priority Representatives nor any of the other Senior Priority Secured Parties shall be required to marshal any present or future collateral security for any obligations of any Credit Party to the Senior Priority Representative or any Senior Priority Secured Party under the Senior Priority Debt Documents or any assurance of payment in respect thereof, or to resort to such collateral security or other assurances of payment in any particular order, and all of their rights in respect of such collateral security or any assurance of payment in respect thereof shall be cumulative and in addition to all other rights, however existing or arising.

SECTION 5.06. When Discharge of Obligations Deemed To Not Have Occurred. If, at any time any Credit Party consummates any Refinancing in accordance with Section 5.03 and Section 8.09 of any Senior Priority Obligations or Junior Priority Obligations, as applicable, then a Discharge of Senior Priority Obligations or Discharge of Junior Priority Obligations, as the case may be, shall automatically be deemed not to have occurred for all purposes of this Agreement (other than with respect to any actions taken prior to the date of such designation as a result of the occurrence of a Discharge of Senior Priority Obligations or Discharge of Junior Priority Obligations, as the case may be), and the applicable agreement governing such Senior Priority Obligations or Junior Priority Obligations, as applicable, shall automatically be treated as a Senior Priority Debt Document or Junior Priority Debt Documents, as applicable, for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth herein and the collateral agent, for the holders of such Senior Priority Obligations or Junior Priority Obligations, as the case may be, shall be the Senior Priority Representative or Junior Priority Representative, as applicable, for all purposes of this Agreement. Upon receipt of notice of such incurrence (including the identity of the new Senior Priority Representative or Junior Priority Representative, as applicable), each Person party hereto shall promptly (a) enter into such documents and agreements, including amendments or supplements to this Agreement, as Mattress Firm or such new Collateral Agent shall reasonably request in writing in order to provide the new Senior Priority Representative or Junior Priority Representative, as applicable, the rights of a Senior Priority Representative or Junior Priority Representative, as applicable contemplated hereby, (b) to the extent that such Refinancing is in respect of the Senior Priority Obligations, deliver to such Senior Priority Representative, or, to the extent that the Discharge of Senior Priority Obligations has occurred and such Refinancing is in respect of the Junior Priority Obligations, such Junior Priority Representative, to the extent that it is legally permitted to do so, all Collateral, including all proceeds thereof, held or controlled by the Junior Priority Representative or any of their respective agents or bailees (to the extent applicable), including the transfer of possession and control, as applicable, of the Pledged or Controlled Collateral, together with any necessary endorsements and notices to depositary banks, securities intermediaries and commodities intermediaries, and assign its rights under any Collateral Access Agreement, except in the event and to the extent that (i) the Junior Priority Representative or any other Junior Priority Secured Party has retained or otherwise acquired such Collateral in full or partial satisfaction of any of the Junior Priority Obligations in a transaction not prohibited by this Agreement, (ii) such Collateral is sold or otherwise disposed of by the Senior Priority Representative or by a Credit Party as provided herein or (iii) it is otherwise required by any order of any court or other Governmental Authority or applicable law, (c) notify any applicable insurance carrier that it is no longer entitled to be a loss payee or additional insured under the insurance policies of any Credit Party issued by such insurance carrier and (d) notify any governmental authority involved in any condemnation or similar proceeding involving any Credit Party that the new Senior Priority Representative or Junior Priority Representative, as applicable, is entitled to approve any awards granted in such proceeding; provided that any reasonable costs or other expenses incurred in connection with clauses (a) to (d) above shall be the exclusive responsibility of the Credit Parties.

SECTION 5.07. Purchase Right. Notwithstanding anything in this Agreement to the contrary, no later than ten (10) Business Days following irrevocable written notice of the exercise thereof made by one or more of the Term Secured Parties to the ABL Administrative Agent and Mattress Firm, such Term Secured Party may require the ABL Secured Parties to transfer and assign to such Term Secured Parties, without warranty or representation or recourse (except for representations and warranties required to be made by assigning lenders pursuant to the Assignment and Assumption (as such term is defined in the ABL Credit Agreement in effect as of the date hereof)), all (but not less than all) of the ABL Obligations; *provided* that (x) such assignment shall not conflict with any law, rule or regulation or order of any court or other governmental authority having jurisdiction, (y) the Term Secured Parties shall have paid to the

ABL Administrative Agent, for the account of the ABL Secured Parties, in immediately available funds, an amount equal to 100% of the principal of the ABL Obligations plus all accrued and unpaid interest (including breakage costs and Post-Petition Interest) thereon plus all accrued and unpaid fees and expenses plus all the other ABL Obligations then outstanding (including, with respect to (i) the aggregate face amount of the letters of credit outstanding under the ABL Credit Agreement, an amount in cash equal to 105% thereof, and (ii) Secured Hedge Agreements that constitute ABL Obligations, the amount that would be payable by the relevant Credit Party thereunder if such Credit Party were to terminate such Specified Hedge Agreement on the date of the purchase or if it will remain outstanding cash collateralization of not less than 105% of the aggregate credit exposure with respect thereto), and shall have made in immediately available funds all other payments required to effectuate a Discharge of ABL Obligations, and (z) such assignment shall become effective within ten (10) Business Days after delivery of such irrevocable written notice by the Term Secured Parties. In order to effectuate the foregoing, the ABL Administrative Agent shall calculate, upon the written request of the Term Representative from time to time, the amount in cash that would be necessary so to purchase the ABL Obligations. Each ABL Secured Party will retain all rights to indemnification provided by Mattress Firm and the other Credit Parties in the relevant ABL Debt Documents for all claims and other amounts pursuant to this Section 5.07. For the avoidance of doubt, the Term Administrative Agent (on behalf of itself and the other Term Secured Parties) hereby acknowledges and agrees that (A) the obligations of the ABL Secured Parties to sell their respective ABL Obligations under this Section 5.07 are several and not joint and several, (B) to the extent any ABL Secured Party breaches its obligation to sell its ABL Obligations under this Section 5.07 (a "Defaulting ABL Secured Party"), nothing in this Section 5.07 shall be deemed to require the ABL Administrative Agent or any other ABL Secured Party to purchase such Defaulting ABL Secured Party's ABL Obligations for resale to the Term Secured Parties and (C) in all cases, the ABL Administrative Agent and each ABL Secured Party complying with the terms of this Section 5.07 shall not be deemed to be in default of this Agreement or otherwise be deemed liable for any action or inaction of any Defaulting ABL Secured Party. During the ten (10) Business Day notice period referred to above in this Section 5.07, absent Exigent Circumstances, no ABL Representative shall take any Enforcement Actions, to the extent any such actions have not been implemented prior to such period, or request that any Term Secured Parties release their Liens on ABL Priority Collateral pursuant to Section 5.01, in each case, without the consent of the purchasing Term Secured Parties. Any purchase notice provided by the Term Secured Parties pursuant to this Section 5.07 shall be irrevocable.

SECTION 5.08. No Interference. Except as provided in Section 3.01, each Junior Priority Representative, for itself and on behalf of each Junior Priority Secured Party under its Junior Priority Facility, hereby agrees that it and each of the other Junior Priority Secured Parties:

(a) will not support, take or cause to be taken any action to make any Junior Priority Lien *pari passu* with, or to give any Junior Priority Secured Party any preference or priority relative to, any Senior Priority Lien securing Senior Priority Obligations with respect to the Senior Priority Collateral or any part thereof;

(b) will not challenge or question in any proceeding (x) the validity or enforceability of any Senior Priority Obligations or Senior Priority Debt Document, or (y) the validity, attachment, perfection or priority of any Senior Priority Lien securing Senior Priority Obligations, or (z) the validity or enforceability of the priorities, rights or duties established by the provisions of this Agreement;

(c) will not support, take or cause to be taken any action to interfere, hinder or delay, in any manner, whether by judicial proceedings or otherwise, any sale, transfer or other

disposition of the Senior Priority Collateral, prior to the Discharge of Senior Priority Obligations, by any Senior Priority Secured Party or the Senior Priority Representative in any enforcement action;

(d) prior to the Discharge of Senior Priority Obligations, shall have no right to (i) direct the Senior Priority Representative or any other Senior Priority Secured Party to exercise any right, remedy or power with respect to any Senior Priority Collateral, (ii) consent to the exercise by the Senior Priority Representative or any other Senior Priority Secured Party of any right, remedy or power with respect to any Senior Priority Collateral or (iii) object to the forbearance by the Senior Priority Representative or any other Senior Priority Secured Party from commencing or pursuing any foreclosure action or proceeding or failing to act by or on behalf of the Senior Priority Representative or any other Senior Priority Secured Party even if such action or inaction is, or could be, adverse to the interests of the Junior Priority Secured Parties and further, will not assert and hereby waives, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or claim the benefit of any marshalling, appraisal, valuation or other similar right that may be available under applicable law with respect to the Senior Priority Collateral;

(e) will not institute any suit or assert in any suit or Insolvency or Liquidation Proceeding any claim against the Senior Priority Representative or other Senior Priority Secured Party seeking damages from or other relief by way of specific performance, instructions or otherwise with respect to, and neither the Senior Priority Representative nor any other Senior Priority Secured Party shall be liable for, any action taken or omitted to be taken by the Senior Priority Representative or other Senior Priority Secured Party with respect to any Senior Priority Collateral securing Senior Priority Obligations;

(f) will not seek, and hereby waives any right, to have any Senior Priority Collateral or any part thereof marshaled upon any foreclosure or other disposition of such Senior Priority Collateral; and

(g) will not, directly or indirectly, whether by judicial proceedings or otherwise, challenge the enforceability of any provision of this Agreement.

SECTION 5.09. Cooperation with Respect to ABL Priority Collateral.

(a) Consent to License to Use Intellectual Property Collateral. The Term Representatives (i) consent (without any representation, warranty or obligation whatsoever) to the grant by the Credit Parties to the ABL Administrative Agent of a non-exclusive royalty-free license (subject to, in the case of trademarks, reasonable rights to quality control and inspection in favor of a relevant Credit Party to avoid the risk of invalidation of such trademark) to use during the ABL Priority Collateral Processing and Sale Period any IP Collateral (as defined in the ABL Security Agreement) and (ii) grant, in their capacity as secured parties and Representatives of the other Term Secured Parties, to the ABL Administrative Agent a non-exclusive royalty-free license to use during the ABL Priority Collateral Processing and Sale Period, any IP Collateral that is subject to a Lien held by (or owned by any Term Secured Parties, their successors, assigns or affiliates as a result of the exercise of their remedies by the Term Representatives) the Term Representatives, in each case in connection with the enforcement of any Lien held by the ABL Administrative Agent upon any inventory or other ABL Priority Collateral of any Credit Party and to the extent the use of such IP Collateral is necessary or appropriate, in the good faith

opinion of the ABL Administrative Agent, to process, ship, produce, store, complete, supply, lease, sell or otherwise dispose of any such ABL Priority Collateral in any lawful manner.

(b) Access to Information. If any Term Representative takes actual possession of any documentation of a Credit Party (whether such documentation is in the form of a writing or is stored in any data equipment or data record in the physical possession of such Term Representative), then upon request of the ABL Administrative Agent and reasonable advance notice, such Term Representative will permit the ABL Administrative Agent or its representative to inspect and copy such documentation if and to the extent the ABL Administrative Agent certifies to the Term Representatives that:

(i) such documentation contains or may contain information necessary or appropriate, in the good faith opinion of the ABL Administrative Agent, to the enforcement of the ABL Administrative Agent's Liens upon any ABL Priority Collateral; and

(ii) the ABL Administrative Agent and the ABL Secured Parties are entitled to receive and use such information under applicable law and, in doing so, will comply with all obligations imposed by law or contract in respect of the disclosure or use of such information.

(c) Access to Property to Process and Sell Inventory.

(i) In addition to the rights granted to the ABL Administrative Agent under clauses (a) and (b) of this Section 5.09, (A) if the ABL Administrative Agent exercises any of its rights or remedies (including, but not limited to, any action of foreclosure), enforcement, collection or execution with respect to the ABL Priority Collateral ("ABL Priority Collateral Enforcement Actions") or (B) if the Term Administrative Agent or any other Term Representative exercises any of its rights or remedies (including any action of foreclosure), enforcement, collection or execution with respect to the Term Priority Collateral and the Term Administrative Agent or any other Term Representative (or a purchaser (a "Third Party Purchaser") at a sale conducted in connection with the enforcement of any Term Representatives' Liens) takes actual or constructive possession of Term Priority Collateral of any Credit Party ("Term Priority Collateral Enforcement Actions"), then (a) (x) if the ABL Administrative Agent has commenced an ABL Priority Collateral Enforcement Action, the ABL Administrative Agent shall furnish the Term Representatives with prompt written notice of the commencement of such action and (y) if the Term Administrative Agent or any other Term Representative has commenced a Term Priority Collateral Enforcement Action, the Term Representative shall furnish the ABL Administrative Agent with prompt written notice of the commencement of such action (the "Term Priority Collateral Enforcement Action Notice") and (b) in all cases, the Term Representatives shall (x) cooperate with the ABL Administrative Agent (and with its officers, employees, representatives and agents) in its efforts to conduct ABL Priority Collateral Enforcement Actions with respect to the ABL Priority Collateral and to finish any work-in-process and process, ship, produce, store, complete, supply, lease, sell or otherwise handle, deal with, assemble or dispose of, in any lawful manner, the ABL Priority Collateral, (y) not hinder or restrict in any respect the ABL Administrative Agent from conducting ABL Priority Collateral Enforcement Actions with respect to the ABL Priority Collateral or from finishing any work-in-process or processing, shipping, producing, storing, completing, supplying, leasing, selling or otherwise handling, dealing with, assembling or disposing of, in any lawful manner, the ABL Priority Collateral and (z) permit (and require, as a condition to the sale of any Term Priority Collateral to any Third Party Purchaser, that such Third Party Purchaser agree to permit) the ABL Administrative Agent, its employees, agents, advisers and representatives, at the cost and expense of the ABL Secured Parties, to enter

upon, use and/or access the Term Priority Collateral (including, without limitation, fee and leased real estate, equipment, processors, computers and other machinery related to the storage or processing of records, documents or files and intellectual property), for a period commencing on (I) the earlier of the date of the initial ABL Priority Collateral Enforcement Action or the date of furnishing to the ABL Administrative Agent of the Term Priority Collateral Enforcement Action Notice, as the case may be and (II) ending on the earlier of the date occurring 180 days thereafter and the date on which all ABL Priority Collateral (other than ABL Priority Collateral abandoned by the ABL Administrative Agent in writing) has been sold or disposed of (such period, as the same may be extended with the written consent of each Term Representative, the "ABL Priority Collateral Processing and Sale Period"); *provided, however*, that nothing contained in this Agreement shall restrict the rights of the Term Representatives from selling, assigning or otherwise transferring any Term Priority Collateral prior to the expiration of such ABL Priority Collateral Processing and Sale Period if the purchaser, assignee or transferee thereof agrees in writing (for the benefit of the ABL Administrative Agent and the ABL Secured Parties) to be bound by the provisions of this Section 5.09. If any stay or other order prohibiting the exercise of remedies with respect to the ABL Priority Collateral has been entered by a court of competent jurisdiction, such ABL Priority Collateral Processing and Sale Period shall be tolled during the pendency of any such stay or other order.

(ii) During the period of actual occupation, use and/or control by the ABL Secured Parties and/or the ABL Administrative Agent (or their respective employees, agents, advisers and representatives) of any Term Priority Collateral, the ABL Secured Parties and the ABL Administrative Agent shall be obligated to repair at their expense any physical damage to such Term Priority Collateral resulting from such occupancy, use or control by the ABL Secured Parties and/or the ABL Administrative Agent (or their respective employees, agents, advisers and representatives), and to leave such Term Priority Collateral in substantially the same condition as it was at the commencement of such occupancy, use or control, ordinary wear and tear excepted. Notwithstanding the foregoing, in no event shall the ABL Secured Parties or the ABL Administrative Agent have any liability to the Term Secured Parties pursuant to Section 5.09(c)(i) as a result of any condition (including any environmental condition, claim or liability) on or with respect to the Term Priority Collateral existing prior to the date of the exercise by the ABL Secured Parties (or the ABL Administrative Agent, as the case may be) of their rights under Section 5.09(c)(i) and the ABL Secured Parties shall have no duty or liability to maintain the Term Priority Collateral in a condition or manner better than that in which it was maintained prior to the use thereof by the ABL Secured Parties, or for any diminution in the value of the Term Priority Collateral that results from ordinary wear and tear resulting from the use of the Term Priority Collateral by the ABL Secured Parties in the manner and for the time periods specified under Section 5.09(c)(i). Without limiting the rights granted in Section 5.09(c)(i), the ABL Secured Parties and the ABL Administrative Agent shall cooperate with the Term Secured Parties in connection with any efforts made by the Term Secured Parties to sell the Term Priority Collateral.

(d) Credit Party Consent. The Credit Parties consent to the performance by the Term Representatives of the obligations set forth in this Section 5.09 and acknowledge and agree that neither the Term Representatives (nor any holder of Term Obligations) shall ever be accountable or liable for any action taken or omitted by the ABL Administrative Agent or any ABL Secured Party or its or any of their officers, employees, agents successors or assigns in connection therewith or incidental thereto or in consequence thereof, including any improper use or disclosure of any proprietary information or other intellectual property by the ABL Administrative Agent or any ABL Secured Party or its or any of their

officers, employees, agents, successors or assigns or any other damage to or misuse or loss of any property of the Credit Parties as a result of any action taken or omitted by the ABL Administrative Agent or its officers, employees, agents, successors or assigns; *provided* that the foregoing shall not exculpate the Term Representatives or any holder of Term Obligations from any liability to which it would otherwise be subject for its own actions or omissions.

ARTICLE VI

Insolvency or Liquidation Proceedings.

SECTION 6.01. Use of Cash Collateral and DIP Financing.

(a) If, prior to the occurrence of the Discharge of ABL Obligations, any Credit Party becomes subject to any Insolvency or Liquidation Proceeding, and if the ABL Administrative Agent consents (or does not object) to the use of ABL Priority Collateral (for the avoidance of doubt, including but not limited to the use of any ABL Priority Collateral that is cash collateral) by any Credit Party during such Insolvency or Liquidation Proceeding or provides financing to any Credit Party under Section 364 of the Bankruptcy Code secured by ABL Priority Collateral (and, if secured by Term Priority Collateral, secured only by Liens on Term Priority Collateral that are junior to the Liens on such Term Priority Collateral securing the Term Obligations) or consents (or does not object) to the provision of such financing to any Credit Party by ABL Secured Parties or any third party (any such financing, whether provided by the ABL Administrative Agent or any ABL Secured Parties (or any of them) or any third party, being referred to herein as an "ABL Priority DIP Financing"), then the Term Administrative Agent agrees, on behalf of itself and the other Term Secured Parties, that the Term Administrative Agent and each Term Secured Party (a) will be deemed to have consented to, will raise no objection to, and will not support any other Person objecting to, the use of such ABL Priority Collateral or to such ABL Priority DIP Financing, (b) shall not request or accept adequate protection in connection with the use of such ABL Priority Collateral or such ABL Priority DIP Financing except as permitted by Section 6.04 hereof, (c) will subordinate (and will be deemed hereunder to have subordinated) its Liens on any ABL Priority Collateral and any Adequate Protection Liens provided in respect thereof (i) to the Liens on such ABL Priority Collateral securing such ABL Priority DIP Financing on the same terms and conditions as the Liens of each Term Representative on such ABL Priority Collateral are subordinated to the Liens on such ABL Priority Collateral securing such ABL Priority DIP Financing (and such subordination will not alter in any manner the terms of this Agreement), (ii) to any adequate protection with respect to the ABL Priority Collateral provided to the ABL Secured Parties, including, without limitation, Adequate Protection Liens on the ABL Priority Collateral provided to the ABL Secured Parties and (iii) to any "carve-out" with respect to the ABL Priority Collateral for professional and United States Trustee fees agreed to by the ABL Administrative Agent or the other ABL Secured Parties and (d) agrees that any notice of such events found to be adequate by the bankruptcy court shall be adequate notice, *provided*, that:

(i) each Term Representative retains a Lien on the Collateral (including proceeds thereof acquired after the commencement of such Insolvency or Liquidation Proceeding) with the same priority as existed prior to the commencement of such Insolvency or Liquidation Proceeding, subordinated to the Liens securing such ABL Priority DIP Financing (excepting Liens on Term Priority Collateral securing the Term Obligations, which shall not be so subordinated);

(ii) each Term Representative receives a replacement Lien on post-petition assets to the same extent granted to the Persons providing such ABL Priority DIP Financing, which Lien will be subordinated to the Liens securing the ABL Obligations and such ABL Priority DIP Financing on the same basis as the other Liens on ABL Priority Collateral securing the Term Obligations are so subordinated to the Liens on ABL Priority Collateral securing the ABL Obligations under this Agreement;

(iii) the aggregate principal amount of the loans and other obligations outstanding under such ABL Priority DIP Financing, together with the aggregate principal amount of the loans and other obligations outstanding under the ABL Debt Documents (or otherwise refinanced with or "rolled up" by such ABL Priority DIP Financing), does not exceed the greater of (A) [$200,000,000 and (B) 120% of the Borrowing Base (as defined in the ABL Credit Agreement); and]

(iv) until the Discharge of Term Obligations and subject to Section 4.02(c), (1) all Proceeds of the Term Priority Collateral shall either (x) be remitted to the Term Representative for application to the Term Obligations or (y) only be used by Credit Parties subject to terms and conditions reasonably acceptable to the Term Representative, and (2) unless otherwise agreed by the Term Representative, no portion (or Proceeds) of the Term Priority Collateral shall be used to repay the ABL Obligations outstanding as of the date of the commencement of any Insolvency or Liquidation Proceeding.

Until the Discharge of Term Obligations, each Term Representative agrees that it shall not, nor shall any of the Term Secured Parties, directly or indirectly, provide, offer to provide, or support any DIP Financing secured by a Lien on the ABL Priority Collateral senior to or pari passu with the Liens securing the ABL Obligations.

(b) If, prior to the occurrence of the Discharge of Term Obligations, any Credit Party becomes subject to any Insolvency or Liquidation Proceeding, and if the Term Administrative Agent consents (or does not object) to the use of Term Priority Collateral by any Credit Party during such Insolvency or Liquidation Proceeding or provides financing to any Grantor under Section 364 of the Bankruptcy Code secured by Term Priority Collateral (and, if secured by ABL Priority Collateral, secured only by Liens on ABL Priority Collateral that are junior to the Liens on the ABL Priority Collateral securing the ABL Obligations) or consents (or does not object) to the provision of such financing to any Credit Party by Term Secured Parties or any third party (any such financing, whether provided by the Term Administrative Agent or any Term Secured Parties (or any of them) or any third party, being referred to herein as an **"**Term Priority DIP Financing"), then the ABL Administrative Agent, on behalf of itself and the ABL Secured Parties, agrees, on behalf of itself and the other ABL Secured Parties, that the ABL Administrative Agent and each ABL Secured Party (a) will be deemed to have consented to, will raise no objection to, and will not support any other Person objecting to, the use of such Term Priority Collateral or to such Term Priority DIP Financing, (b) shall not request or accept adequate protection in connection with the use of such Term Priority Collateral or such Term Priority DIP Financing except as permitted by Section 6.04 hereof, (c) will subordinate (and will be deemed hereunder to have subordinated) its Liens on any Term Priority Collateral and any Adequate Protection Liens provided in respect thereof (i) to the Liens on such Term Priority Collateral securing such Term Priority DIP Financing on the same terms and conditions as the Liens of the ABL Administrative Agent on such Term Priority Collateral are subordinated to the Liens on such Term Priority Collateral securing such Term Priority DIP Financing (and such subordination will not alter in any manner the terms of this Agreement), (ii) to any adequate protection with respect to the Term Priority Collateral provided to the Term Secured

Parties, including, without limitation, Adequate Protection Liens on the Term Priority Collateral provided to the Term Secured Parties and (iii) to any "carve-out" with respect to the Term Priority Collateral for professional and United States Trustee fees agreed to by the Term Administrative Agent with respect to the Term Priority Collateral or the other Term Secured Parties with respect to the Term Priority Collateral and (d) agrees that any notice of such events found to be adequate by the bankruptcy court shall be adequate notice; *provided*, that:

(i) the ABL Administrative Agent retains a Lien on the Collateral (including proceeds thereof acquired after the commencement of such Insolvency or Liquidation Proceeding) with the same priority as existed prior to the commencement of such Insolvency or Liquidation Proceeding, subordinated to the Liens securing such Term Priority DIP Financing (excepting Liens on ABL Priority Collateral securing the ABL Obligations, which shall not be so subordinated).

(ii) the ABL Administrative Agent receives a replacement Lien on post-petition assets to the same extent granted to the Persons providing such Term Priority DIP Financing, which Lien will be subordinated to the Liens securing the Term Obligations and such Term Priority DIP Financing on the same basis as the other Liens on Term Priority Collateral securing the ABL Obligations are so subordinated to the Liens on Term Priority Collateral securing the Term Obligations under this Agreement;

(v) the aggregate principal amount of the loans and other obligations outstanding under such Term Priority DIP Financing, together with the aggregate principal amount of the loans and other obligations outstanding under the Term Debt Documents (or otherwise refinanced with or "rolled up" by such Term Priority DIP Financing), does not exceed 115% of the aggregate principal amount of the loans outstanding under the Term Credit Agreement Loan Documents as of the petition date; and

(iii) until the Discharge of ABL Obligations and subject to Section 4.02(c), (1) all Proceeds of the ABL Priority Collateral shall either (x) be remitted to the ABL Administrative Agent for application to the ABL Obligations or (y) only be used by Credit Parties subject to terms and conditions reasonably acceptable to the ABL Administrative Agent, and (2) unless otherwise agreed by the ABL Administrative Agent, no portion (or Proceeds) of the ABL Priority Collateral shall be used to repay the Term Obligations outstanding as of the date of the commencement of any Insolvency or Liquidation Proceeding.

Until the Discharge of ABL Obligations, the ABL Administrative Agent agrees that it shall not, and nor shall any of the ABL Secured Parties, directly or indirectly, provide, offer to provide, or support any DIP Financing secured by a Lien on the Term Priority Collateral senior to or pari passu with the Liens securing the Term Obligations.

SECTION 6.02. Sale of Assets.

(a) The Term Administrative Agent and each Term Representative agrees, for itself and on behalf of each Term Secured Party under its Term Debt Facility, that it will not contest, protest, or object, and will be deemed to have consented pursuant to Section 363(f) of the Bankruptcy Code or any similar provision of any other Debtor Relief Law, to a Disposition of ABL Priority Collateral free and clear of its Liens or other interests under Section 363 or Section 1129 of the Bankruptcy Code or any similar provision of any other Debtor Relief Law (and to bid protections, sale procedures and other

similar matters related to such Disposition) if the ABL Administrative Agent consents in writing to the Disposition, provided that

(i) either (i) pursuant to court order, all ABL Priority Liens and Term Priority Liens attach to the proceeds of the sale for application in accordance with the distribution and allocation provisions of Sections 4.01 and 4.02 (it being understood and agreed that such proceeds may not be sufficient to effect the Discharge of ABL Obligations or the Discharge of Term Obligations, as the case may be), or (ii) the Proceeds of a Disposition of ABL Priority Collateral received by ABL Administrative Agent in excess of those necessary to achieve the Discharge of ABL Obligations, are distributed in accordance with this Agreement, the UCC and applicable law, and

(ii) the Term Secured Parties are not deemed to have waived any rights to credit bid on the ABL Priority Collateral in any such Disposition in accordance with Section 363(k) of the Bankruptcy Code or any similar provision of any other Debtor Relief Law; provided that the cash proceeds of such bid must be sufficient to cause the Discharge of ABL Obligations immediately upon the closing of any resulting Disposition.

(b) The ABL Administrative Agent and each ABL Representative agrees, for itself and on behalf of each ABL Secured Party under its ABL Debt Facility, that it will not contest, protest, or object, and will be deemed to have consented pursuant to Section 363(f) of the Bankruptcy Code or any similar provision of any other Debtor Relief Law, to a Disposition of Term Priority Collateral free and clear of its Liens or other interests under Section 363 or Section 1129 of the Bankruptcy Code or any similar provision of any other Debtor Relief Law (and to bid protections, sale procedures and other similar matters related to such Disposition) if the Term Administrative Agent consents in writing to the Disposition, provided that

(i) either (i) pursuant to court order, all ABL Priority Liens and Term Priority Liens attach to the proceeds of the sale for application in accordance with the distribution and allocation provisions of Section 4.01 and 4.02 (it being understood and agreed that such proceeds may not be sufficient to effect the Discharge of ABL Obligations or the Discharge of Term Obligations, as the case may be), or (ii) the Proceeds of a Disposition of Term Priority Collateral received by the Term Administrative Agent in excess of those necessary to achieve the Discharge of Term Obligations, are distributed in accordance with this Agreement, the UCC and applicable law, and

(ii) the ABL Secured Parties are not deemed to have waived any rights to credit bid on the Term Priority Collateral in any such Disposition in accordance with Section 363(k) of the Bankruptcy Code or any similar provision of any other Debtor Relief Law; provided that the cash proceeds of such bid must be sufficient to cause the Discharge of Term Obligations immediately upon the closing of any resulting Disposition.

SECTION 6.03. Relief From the Automatic Stay. Until the Discharge of Senior Priority Obligations, no Junior Priority Secured Party may seek, or support any person in seeking, relief from the automatic stay or any other stay in an Insolvency or Liquidation Proceeding in respect of the Junior Priority Collateral without the Senior Priority Representative's prior written consent or oppose any request by the Senior Priority Representative for relief from such stay with respect to the Senior Priority Collateral.

SECTION 6.04. Adequate Protection.

(a) No Term Secured Party will (A) contest, protest, or object or support any other Person in contesting, protesting, objecting to or contesting a request by an ABL Secured Party for adequate protection with respect to the ABL Liens or the ABL Priority Collateral, any objection by the ABL Administrative Agent or the ABL Secured Parties to any motion, relief, action or proceeding based on the ABL Administrative Agent or any ABL Secured Party claiming a lack of adequate protection with respect to the ABL Liens or the ABL Priority Collateral or (B) the payment of Post-Petition Interest, prepetition interest, fees, expenses or costs to the ABL Administrative Agent or any ABL Secured Party under Section 506(b) of the Bankruptcy Code or any similar provision of any Debtor Relief Law or assert or support any claim for costs or expenses of preserving or disposing of any ABL Priority Collateral under Section 506(c) of the Bankruptcy Code or any similar provision of any other Debtor Relief Law.

(b) Notwithstanding the preceding Section 6.04(a), in an Insolvency or Liquidation Proceeding:

(1) If an ABL Secured Party is granted adequate protection with respect to ABL Priority Liens or ABL Priority Collateral in the form of additional or replacement collateral or administrative or super-priority claims in connection with any DIP Financing or use of cash collateral under Section 363 or 364 of the Bankruptcy Code or any similar provision of any other Debtor Relief Law or otherwise, then each Term Representative, for itself and on behalf of each Term Secured Party under its Term Debt Facility, may seek or request adequate protection in the form of a replacement Lien or administrative or super-priority claim on such additional or replacement collateral, which Lien will be subordinated to the Liens securing such adequate protection, the ABL Obligations and any ABL Priority DIP Financing (and all Obligations related thereto), on the same basis as the other Liens on ABL Priority Collateral securing the Term Obligations are subordinated to the Liens on ABL Priority Collateral securing ABL Obligations under this Agreement.

(2) In the event any Term Representative, for itself and on behalf of the Term Secured Parties under its Term Debt Facilities, seeks or requests adequate protection and such adequate protection is granted in the form of additional or replacement collateral constituting ABL Priority Collateral, then such Term Representative, for itself and on behalf of each Term Secured Party under its Term Debt Facilities, agrees that the ABL Administrative Agent shall be entitled to a senior priority Lien on such additional or replacement collateral as security for the ABL Obligations and any such ABL Priority DIP Financing and that any Lien on such additional or replacement collateral securing the Term Obligations shall be subordinated to the Liens on such collateral securing the ABL Obligations and any such ABL Priority DIP Financing (and all obligations relating thereto) and any other Liens granted to the ABL Secured Parties as adequate protection on the same basis as the other Liens on the ABL Priority Collateral securing the Term Obligations are so subordinated to the Liens on ABL Priority Collateral securing ABL Obligations under this Agreement.

(3) In the event any Term Representative, for itself and on behalf of the Term Secured Parties under its Term Debt Facilities, seeks or requests adequate protection and such adequate protection is granted in the form of an administrative or super-priority claim in respect of ABL Priority Collateral, then such Term Representative, for itself and on behalf of each Term Secured Party under its Term Debt Facilities, agrees that the ABL Administrative Agent shall be granted adequate protection in the form of an

administrative or super-priority claim in respect of ABL Priority Collateral, which administrative or super-priority claim shall be senior to the super-priority claim of such Term Representative and the Term Secured Parties.

(c) No ABL Secured Party will (A) contest, protest, or object, or support any other Person objecting to or contesting any (i) request by a Term Secured Party for adequate protection with respect to the Term Liens or the Term Priority Collateral, any objection by the Term Representative or the Term Secured Parties to any motion, relief, action or proceeding based on the Term Representative or any Term Secured Party claiming a lack of adequate protection with respect to the Term Liens or the Term Priority Collateral or the payment of Post-Petition Interest, prepetition interest, fees, expenses or costs to the Term Representative or any Term Secured Party under Section 506(b) of the Bankruptcy Code or any similar provision of any other Debtor Relief Law under any Debtor Relief Law, or (B) assert or support any claim for costs or expenses of preserving or disposing of any Term Priority Collateral under Section 506(c) of the Bankruptcy Code or any similar provision of any other Debtor Relief Law.

(d) Notwithstanding the preceding Section 6.04(c), in an Insolvency or Liquidation Proceeding:

(1) If a Term Secured Party is granted adequate protection with respect to Term Priority Liens or Term Priority Collateral in the form of additional or replacement collateral or super-priority claims in connection with any DIP Financing or the use of cash collateral under Section 363 or 364 of the Bankruptcy Code or any similar provision of any other Debtor Relief Law or otherwise, then the ABL Administrative Agent, for itself and on behalf of the ABL Secured Parties, may seek or request adequate protection in the form of a replacement Lien or administrative or super-priority claim on such additional or replacement collateral, which Lien or administrative or super-priority claim will be subordinated to the Liens securing such adequate protection, the Term Obligations and any Term Priority DIP Financing, and all related Obligations, on the same basis as the other Liens on Term Priority Collateral securing the ABL Obligations are subordinated to the Liens on Term Priority Collateral securing Term Obligations under this Agreement.

(2) In the event any ABL Representative, for itself and on behalf of the ABL Secured Parties under its ABL Debt Facilities, seeks or requests adequate protection and such adequate protection is granted in the form of additional or replacement collateral constituting Term Priority Collateral, then such ABL Representative, for itself and on behalf of each ABL Secured Party under its ABL Debt Facilities, agrees that the Term Administrative Agent shall be entitled to a senior priority Lien on such additional or replacement collateral as security for the Term Obligations and any such Term Priority DIP Financing and that any Lien on such additional or replacement collateral securing the ABL Obligations shall be subordinated to the Liens on such collateral securing the Term Obligations and any such Term Priority DIP Financing (and all obligations relating thereto) and any other Liens granted to the Term Secured Parties as adequate protection on the same basis as the other Liens on the Term Priority Collateral securing the ABL Obligations are so subordinated to the Liens on Term Priority Collateral securing the Term Obligations under this Agreement.

(3) In the event any ABL Representative, for itself and on behalf of the ABL Secured Parties under its ABL Debt Facilities, seeks or requests adequate protection and such

adequate protection is granted in the form of an administrative or super-priority claim in respect of Term Priority Collateral, then such ABL Representative, for itself and on behalf of each ABL Secured Party under its ABL Debt Facilities, agrees that the Term Administrative Agent shall be granted adequate protection in the form of an administrative or super-priority claim in respect of Term Priority Collateral, which administrative or super-priority claim shall be senior to the administrative or super-priority claim of such ABL Representative and the ABL Secured Parties.

(e) In any Insolvency or Liquidation Proceeding, if the Senior Priority Secured Parties (or any subset thereof) are granted adequate protection of their interest in Senior Priority Collateral in the form of periodic cash payments of interest, fees and expenses, then the Junior Priority Secured Parties (or any subset thereof) may seek or request adequate protection of their interest in the Junior Priority Collateral in the form of periodic cash payments in an amount not exceeding interest at the non-default contract rate, together with payment of reasonable fees and reasonable out-of-pocket expenses; ; *provided*, that if, upon the effective date of any plan or the conclusion or dismissal of the applicable Insolvency or Liquidation Proceeding, the Discharge of Senior Priority Obligations has not occurred, then the Junior Priority Secured Parties will be required to remit to the Senior Priority Representative (for application pursuant to Section 4.01) an amount equal to the lesser of (i) such adequate protection payments received by the Junior Priority Secured Parties from the Junior Priority Collateral and (ii) the amount necessary to cause the Discharge of Senior Priority Obligations.

SECTION 6.05. No Waiver of Rights of Senior Priority Secured Parties. Until the Discharge of Senior Priority Obligations, except with respect to actions Senior Priority Secured Parties have expressly agreed to pursuant to this Agreement, nothing in this Article VI limits a Senior Priority Secured Party from objecting in an Insolvency or Liquidation Proceeding or otherwise to any action taken by a Junior Priority Secured Party in respect of its Junior Priority Collateral, including the Junior Priority Secured Party's seeking adequate protection or asserting any of its rights and remedies under the Junior Priority Debt Documents or otherwise. Nothing in this Section 6.05 shall prevent any Junior Priority Secured Party from taking any action it is permitted to take under this Agreement.

SECTION 6.06. Avoidance; Reinstatement of Obligations.

(a) If a Senior Priority Secured Party receives payment or property on account of a Senior Priority Obligation, and the payment is subsequently invalidated, avoided, voided, declared to be fraudulent or preferential, set aside, or otherwise required to be transferred to a trustee, receiver, or the estate of any Credit Party (a "Recovery"), then, to the extent of the Recovery, the Senior Priority Obligations intended to have been satisfied by the payment will be reinstated as Senior Priority Obligations on the date of the Recovery, and no Discharge of the Senior Priority Obligations will be deemed to have occurred for all purposes under this Agreement. If this Agreement is terminated prior to a Recovery, this Agreement will be reinstated in full force and effect, and such prior termination will not diminish, release, discharge, impair, or otherwise affect the obligations of the parties thereto from the date of reinstatement. No Junior Priority Secured Party may benefit from a Recovery, and any payment, distribution or other transfer made to a Junior Priority Secured Party as a result of a Recovery will be paid over to the Senior Priority Representative for application in accordance with Section 4.01.

(b) Until the Discharge of Senior Obligations, if any Junior Priority Secured Party obtains knowledge of or is notified by the Senior Priority Representative that a payment or distribution made to a Senior Priority Secured Party in respect of Senior Priority Obligations is rescinded for any reason whatsoever, such Junior Priority Secured Party shall promptly pay or remit to the Senior Priority

Representative any payment or distribution received by it in respect of any Junior Priority Collateral subject to any Senior Priority Liens securing such Senior Priority Obligations, and the provisions set forth in this Agreement shall be reinstated as if such payment or distribution had not been made.

SECTION 6.07. Reorganization Securities. If, in an Insolvency or Liquidation Proceeding, debt Obligations of any reorganized Credit Party (or its successor) secured by Liens upon any property of the reorganized Credit Party (or its successor) are distributed pursuant to a plan of reorganization or similar dispositive restructuring plan, both on account of ABL Obligations and on account of Term Obligations, then, to the extent the debt Obligations distributed on account of the ABL Obligations and on account of the Term Obligations are secured by Liens upon the same property, the provisions of this Agreement will survive the distribution of such debt Obligations pursuant to such plan and will apply with like effect to the Liens securing such debt Obligations.

SECTION 6.08. Other Matters. Notwithstanding the provisions of Section 1129(b) of the Bankruptcy Code, each Junior Priority Secured Party, and each Junior Priority Representative, for itself and on behalf of each Junior Priority Secured Party under its Junior Priority Debt Facility, agree that it will not directly or indirectly propose, sponsor, support, agree to or vote in favor of any plan of reorganization or liquidation of Credit Parties that (i) is to be confirmed pursuant to Section 1129(b) of the Bankruptcy Code with respect to any class composed of secured Senior Priority Obligations or the secured claims of the Senior Priority Secured Parties; (ii) is inconsistent with this Agreement; or (iii) without the consent of the Senior Priority Representative, does not provide for the Discharge of Senior Priority Obligations on the effective date of such plan.

SECTION 6.09. Post-Petition Interest.

(a) No Junior Priority Secured Party may oppose or seek to challenge any claim by a Senior Priority Secured Party for allowance or payment in any Insolvency or Liquidation Proceeding of Senior Priority Obligations consisting of Post-Petition Interest to the extent of the value of any Senior Priority Secured Party's Lien on the Collateral, without regard to the existence of the Lien on the Liens of any Junior Priority Representative of any other Junior Priority Secured Party on the Collateral.

(b) No Senior Priority Secured Party may oppose or seek to challenge any claim by a Junior Priority Secured Party for allowance in any Insolvency or Liquidation Proceeding of Junior Priority Obligations consisting of Post-Petition Interest to the extent of the value of any Junior Priority Secured Party's Lien on the Collateral (after taking into account the amount of the Senior Priority Obligations).

SECTION 6.10. Waivers.

Each Junior Priority Representative waives:

(a) any claim it may hereafter have against any Senior Priority Secured Party arising out of any cash collateral or financing arrangement or out of any grant of a security interest in connection with the Junior Priority Collateral in an Insolvency or Liquidation Proceeding; and

(b) any right to assert or enforce any claim under Section 506 or 552 of the Bankruptcy Code as against Senior Priority Secured Parties or any of the Junior Priority Collateral to the extent securing the Senior Priority Obligations; and solely in its capacity as a holder of a Lien on Junior Priority Collateral, any claim or cause of action that any Credit Party

may have against any Senior Priority Secured Party, except to the extent arising from a breach by such Senior Priority Secured Party of the provisions of this Agreement.

SECTION 6.11. Separate Grants of Security and Separate Classification. Each Junior Priority Representative, for itself and on behalf of each Junior Priority Secured Party under its Junior Priority Facility, acknowledges and agrees that (i) the grants of Liens pursuant to the Senior Priority Collateral Documents and the Junior Priority Collateral Documents constitute two separate and distinct grants and (ii) because of, among other things, their differing rights in the Collateral, the Junior Priority Obligations with respect to any Collateral are fundamentally different from the Senior Priority Obligations with respect to such Collateral and must be separately classified in any plan of reorganization in an Insolvency or Liquidation Proceeding. Junior Priority Secured Parties in respect of any Collateral will not seek in an Insolvency or Liquidation Proceeding to be treated as part of the same class of creditors as Senior Priority Secured Parties in respect of such Collateral and will not oppose or contest any pleading by Senior Priority Secured Parties in respect of such Collateral seeking separate classification of their respective secured claims.

SECTION 6.12. Effectiveness In Insolvency or Liquidation Proceeding. The parties hereto acknowledge that this Agreement is a "subordination agreement" under Section 510(a) of the Bankruptcy Code and any similar provision of any other Debtor Relief Law, which will be effective before, during, and after the commencement of an Insolvency or Liquidation Proceeding. All references in this Agreement to any Credit Party will include such Person as a debtor-in-possession and any receiver or trustee for such Person in an Insolvency or Liquidation Proceeding.

ARTICLE VII

Reliance; Etc.

SECTION 7.01. Reliance. All loans and other extensions of credit made or deemed made on and after the date hereof by the Secured Parties to any Credit Party shall be deemed to have been given and made in reliance upon this Agreement. Each Junior Priority Representative, on behalf of itself and each Junior Priority Secured Party under its Junior Priority Facility, acknowledges that it and such Junior Priority Secured Parties have, independently and without reliance on any Senior Priority Representative or other Senior Priority Secured Party, and based on documents and information deemed by them appropriate, made their own credit analysis and decision to enter into the Junior Priority Debt Documents to which they are a party or by which they are bound, this Agreement and the transactions contemplated hereby and thereby, and that it and such Junior Priority Secured Parties will continue to make their own credit decisions in taking or not taking any action under the Junior Priority Debt Documents or this Agreement.

SECTION 7.02. No Warranties or Liability. Each Junior Priority Representative, on behalf of itself and each Junior Priority Secured Party under its Junior Priority Facility, acknowledge that neither the Senior Priority Representative nor any other Senior Priority Secured Party has made any express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectability or enforceability of any Senior Priority Debt Documents, the ownership of any Collateral or the perfection or priority of any Liens thereon. The Senior Priority Secured Parties will be entitled to manage and supervise their respective loans and extensions of credit under the Senior Priority Debt Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate, and the Senior Priority Secured Parties may manage their loans and extensions of credit without regard to any rights or interests that the Junior Priority Representative or any other Junior Priority

Secured Party has in the Collateral or otherwise, except as otherwise provided in this Agreement. Neither the Senior Priority Representative nor any other Senior Priority Secured Party shall have any express or implied duty to the Junior Priority Representative or any other Junior Priority Secured Party to act or refrain from acting in a manner that allows, or results in, the occurrence or continuance of an event of default or default under any agreement with any Credit Party or Subsidiary (including the Junior Priority Debt Documents), regardless of any knowledge thereof that they may have or be charged with. Except as expressly set forth in this Agreement, none of the Secured Parties have otherwise made to each other, nor do they hereby make to each other, any warranties, express or implied, nor do they assume any liability to each other with respect to (a) the enforceability, validity, value or collectability of any of the Secured Obligations, any Guarantee or security which may have been granted to any of them in connection therewith, (b) the Credit Parties' title to or right to transfer any of the Collateral or (c) any other matter except as expressly set forth in this Agreement.

SECTION 7.03. Obligations Unconditional. All rights, interests, agreements and obligations of the Secured Parties hereunder shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any Secured Debt Document;

(b) any change in the time, manner or place of payment of, or in any other terms of, all or any of the ABL Obligations or Term Obligations or any amendment or waiver or other modification, including any increase in the amount thereof, whether by course of conduct or otherwise, of the terms of any Term Debt Document or ABL Debt Document made in accordance with Section 5.03 and Section 8.09;

(c) any exchange of any security interest in any Collateral or any other collateral or any amendment, waiver or other modification, whether in writing or by course of conduct or otherwise, of all or any of the Secured Obligations or any Guarantee in respect thereof;

(d) the commencement of any Insolvency or Liquidation Proceeding in respect of any Credit Party; or

(e) any other circumstances that otherwise might constitute a defense available to (i) any Credit Party in respect of the Secured Obligations (other than the Discharge of Senior Priority Obligations subject to Section 5.06 and Section 6.04) or (ii) any Junior Priority Secured Party in respect of its obligations under this Agreement.

No right of any of the Secured Parties, any Collateral Agent or any of them to enforce any provision of this Agreement or any Secured Debt Document shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of any Credit Party or by any act or failure to act by any other Secured Party or any Collateral Agent, or by any noncompliance by any person with the terms, provisions, and covenants of this Agreement, any of the Secured Debt Documents, regardless of any knowledge thereof which any Collateral Agent or any other Secured Party may have (or be otherwise charged with).

ARTICLE VIII

Miscellaneous

SECTION 8.01. Conflicts.

(a) In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of any other Secured Debt Document, the provisions of this Agreement shall govern. Notwithstanding the foregoing, the relative rights and obligations of the Term Administrative Agent, the Term Representatives and the Term Secured Parties (as amongst themselves) with respect to any Collateral shall be governed by terms of any intercreditor agreement agreed to among the Term Secured Parties and in the event of any conflict between such intercreditor agreement and this Agreement as to such relative rights and obligations, the provisions of such intercreditor agreement shall control.

(b) The parties hereto acknowledge that the secured creditor relationship between different classes of Term Obligations may be governed separately from this Agreement, including by a second lien intercreditor agreement. Notwithstanding the foregoing, the parties hereto acknowledge and agree that this Agreement shall govern the secured creditor relationship between the ABL Obligations and the Term Obligations, and that in the event of any conflict between the terms of this Agreement and that of an intercreditor agreement governing the rights among different classes of Term Debt Facilities, this Agreement shall control.

SECTION 8.02. Continuing Nature of this Agreement; Severability. This is a continuing agreement of Lien subordination, and the Senior Priority Secured Parties may continue, at any time and without notice to the Junior Priority Representatives or any other Junior Priority Secured Party, to extend credit and other financial accommodations and lend monies to or for the benefit of any Credit Party constituting Senior Priority Obligations in reliance hereon. The terms of this Agreement shall survive and continue in full force and effect in any Insolvency or Liquidation Proceeding. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions. The terms of this Agreement shall govern even if part or all of the Secured Obligations or the Liens securing payment and performance thereof are not perfected or are avoided, voided, disallowed, set aside or otherwise invalidated in any judicial proceeding or otherwise. All references to any Credit Party shall include such Credit Party as debtor and debtor in possession and any receiver, trustee or similar person for any Credit Parties (as the case may be) in any Insolvency or Liquidation Proceeding. Subject to Sections 5.06 and 6.06 hereof, this Agreement shall continue to be effective until the earlier of the Discharge of ABL Obligations or the Discharge of Term Obligations.

SECTION 8.03. Amendments; Waivers.

(a) No failure or delay on the part of any party hereto in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the parties hereto are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 8.03, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on any party hereto in any case shall entitle such party to any other or further notice or demand in similar or other circumstances. This Agreement constitutes the

entire agreement between the parties hereto (or bound hereby) and supersedes all prior agreements, oral or written, relating to its subject matter.

(b) This Agreement may be amended, supplemented or waived only in writing signed by each Collateral Agent party to this Agreement at the time of such amendment, supplement or waiver each Representative that is a party to this Agreement at the time of such amendment, supplement or waiver (in each case, acting in accordance with the documents governing the applicable Debt Facility) and each other Secured Party that is a direct party hereto at the time of such amendment, supplement or waiver (and with respect to any amendment supplement or waiver which by the terms of this Agreement requires Mattress Firm's consent or which increases the obligations or reduces the rights of any Credit Party (including with respect to debt caps and permitted amendments), with the consent of Mattress Firm). Any such amendment, supplement or waiver shall be in writing and shall be binding upon all of the Secured Parties and their respective successors and assigns.

(c) Notwithstanding the foregoing, without the consent of any Secured Party, any Collateral Agent or Representative may become a party hereto by execution and delivery of a Joinder Agreement in accordance with Section 8.09 of this Agreement and upon such execution and delivery, such Collateral Agent or Representative and the Secured Parties and Secured Obligations of the Debt Facility for which such Representative is acting shall be subject to the terms hereof.

(d) Notwithstanding anything in this Agreement to the contrary, it is understood and agreed that the Credit Parties, Collateral Agents and the Representatives then party to this Agreement, without the consent of any other ABL Secured Party or any other Term Secured Party, may enter into a supplemental agreement (which may take the form of an amendment and restatement of this Agreement) to give effect to any amendments in connection with a Refinancing of any of the Secured Obligations or to effectuate the subordination of Liens as required by this Agreement; provided, that any such supplemental agreement is not prohibited by any of the Secured Debt Documents then in effect in accordance with the terms thereof and a certificate of a responsible officer delivered to the Collateral Agents and applicable Representatives certifying such compliance shall be conclusive and the Collateral Agents and such Representatives may rely thereon without further inquiry and shall be fully protected in doing so; and provided, further, that the Representatives shall execute and deliver such supplemental agreement at the other's request and such supplemental agreement may contain additional intercreditor terms applicable solely to the holders of such Replacement ABL Debt or Replacement Term Debt vis-à-vis the holders of the relevant obligations hereunder.

SECTION 8.04. Information Concerning Financial Condition of Mattress Firm and the Subsidiaries. None of the Collateral Agents, Representatives or other Secured Parties shall have any duty to inform the other parties of (a) the financial condition of Mattress Firm and the Subsidiaries and all endorsers or guarantors of the Secured Obligations and (b) all other circumstances bearing upon the risk of nonpayment of the Secured Obligations. No Secured Parties shall have any duty to advise any other party hereunder of information known to it or them regarding such condition or any such circumstances or otherwise. In the event that any Secured Party, in its sole discretion, undertakes at any time or from time to time to provide any such information to any other party, it shall be under no obligation to (i) make, and no Secured Party shall be deemed to have made, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided, (ii) provide any additional information or to provide any such information on any subsequent occasion, (iii) undertake any investigation or (iv) disclose any information that, pursuant to accepted or reasonable commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential.

SECTION 8.05. Subrogation. Each Junior Priority Representative, on behalf of itself and each Junior Priority Secured Party under its Junior Priority Facility, hereby waives any rights of subrogation it may acquire as a result of any payment hereunder in respect of Junior Priority Collateral until the Discharge of Senior Priority Obligations has occurred.

SECTION 8.06. Application of Payments. Except as otherwise provided herein, all payments received by the Senior Priority Secured Parties may be applied, reversed and reapplied, in whole or in part, to such part of the Senior Priority Obligations as the Senior Priority Secured Parties, in their sole discretion, deem appropriate and consistent with the terms of the Senior Priority Debt Documents. Except as otherwise provided herein, each Junior Priority Representative, on behalf of itself and each Junior Priority Secured Party under its Junior Priority Facility, consents to any extension or postponement of the time of payment of the Senior Priority Obligations or any part thereof and to any other indulgence with respect thereto, to any substitution, exchange or release of any Collateral that may at any time secure any part of the Senior Priority Obligations and to the addition or release of any other Person primarily or secondarily liable therefor.

SECTION 8.07. Additional Guarantors. Mattress Firm agrees that, if any Subsidiary or direct or indirect parent of Mattress Firm shall, in accordance with any of the Secured Debt Documents, become an ABL Guarantor or Term Guarantor after the date hereof, it will promptly cause such Subsidiary or parent to become party hereto by executing and delivering an instrument in the form of Annex I. Upon such execution and delivery, such Subsidiary or parent will become an ABL Guarantor and Term Guarantor hereunder with the same force and effect as if originally named as an ABL Guarantor and Term Guarantor herein. The execution and delivery of such instrument shall not require the consent of any other party hereunder, and will be acknowledged by each of the Collateral Agents. The rights and obligations of each Guarantor hereunder shall remain in full force and effect notwithstanding the addition of any new Guarantor as a party to this Agreement.

SECTION 8.08. Interpretation. Any determinations as to whether the Discharge of ABL Obligations or the Discharge of Term Obligation has occurred shall be made without taking into account any limitations on any such obligations imposed by the Bankruptcy Court or other applicable Debtor Relief Law.

SECTION 8.09. Refinancings, Etc.

(a) Subject to Section 5.03 and the execution of Joinders by any replacement ABL Administrative Agent, ABL Representative, Term Administrative Agent or Junior Priority Representative, the Secured Obligations may be Refinanced without affecting the Lien priorities provided for herein or the other provisions hereof (it is understood that the foregoing shall in no way be interpreted to limit the ability of any Credit Party to undertake any refinancing or replacement transaction otherwise permitted by the Secured Debt Documents); provided that on or before the date of such incurrence, the Debt incurred to effect such Refinancing shall be designated as an "ABL Debt Facility" or "Term Debt Facility", as applicable. Upon the consummation of such Refinancing and satisfaction of the requirements set forth in this Section 8.09, the holders, lenders and agents of such Replacement ABL Debt or Replacement Term Debt shall be entitled to the benefits, rights and obligations of this Agreement as (x) in the case of any Replacement ABL Debt, as ABL Secured Parties and (y) in the case of any Replacement Term Debt, as Term Secured Parties.

(b) Mattress Firm and the Guarantors may enter into Secured Hedge Agreements and Secured Cash Management Agreements without notice to or the consent (except to the extent a consent is

otherwise required under any Secured Debt Document) of any Collateral Agent, Representative or any other Secured Party, all without affecting the Lien priorities provided for herein or the other provisions hereof.

SECTION 8.10. Dealing with Credit Parties. Upon any application or demand by a Credit Party to any Representative to take or permit any action under any of the provisions of this Agreement or under any Collateral Document (if such action is subject to the provisions hereof), such Credit Party, shall, upon the request of such Representative, furnish to such Representative a certificate of a Responsible Officer (an "Officer's Certificate") stating that all conditions precedent, if any, provided for in this Agreement or such Collateral Document, as the case may be, relating to the proposed action have been complied with, except that in the case of any such application or demand as to which the furnishing of such documents is specifically required by any provision of this Agreement or any Collateral Document relating to such particular application or demand, no additional certificate need be furnished.

SECTION 8.11. [Reserved].

SECTION 8.12. Notices; Effectiveness; Electronic Communications.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, if to any Credit Party or any Secured Party, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 8.12. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communications. (i) Notices and other communications sent to any Secured Party to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Reliance. The Secured Parties shall be entitled to rely and act upon any notices purportedly given by or on behalf of any Credit Party even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. All telephonic notices to and other telephonic communications with any Secured Party may be recorded by such Secured Party, and each of the parties hereto hereby consents to such recording.

SECTION 8.13. Transfers. The Term Administrative Agent, each Term Representative, on behalf of itself and each Term Secured Party under its Term Debt Facility, each agrees that the Term Debt Documents will not permit the assignment, transfer, pledge or grant of a security interest in all or any part of the Term Obligations unless (a) such assignment, transfer, pledge or grant is made subject to the terms of this Agreement and (b) the applicable assignee, transferee, pledgee or grantee is bound by this Agreement. The ABL Administrative Agent, on behalf of itself and each ABL Secured Party, each agrees that the ABL Debt Documents will not permit the assignment, transfer, pledge or grant of a security interest in all or any part of the ABL Obligations unless (a) such assignment, transfer, pledge or grant is made subject to the terms of this Agreement and (b) the applicable assignee, transferee, pledgee or grantee is bound by this Agreement.

SECTION 8.14. Further Assurances. The ABL Administrative Agent, each ABL Representative, on behalf of itself and each ABL Secured Party under the ABL Debt Facility for which it is acting, the Term Administrative Agent and each Term Representative, on behalf of itself, and each Term Secured Party under its Term Debt Facility, each agrees that it will, at Mattress Firm's sole cost and expense, take such further action and shall execute and deliver such additional documents and instruments (in recordable form, if requested) as the other parties hereto may reasonably request to effectuate the terms of, and the Lien priorities contemplated by, this Agreement.

SECTION 8.15. GOVERNING LAW; JURISDICTION; ETC.

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER SECURED DEBT DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT; PROVIDED, THAT NOTWITHSTANDING THE FOREGOING EACH PARTY HERETO AGREES THAT IT AND EACH OTHER PARTY HERETO MAY, SEEK TO COMMENCE ANY SUCH ACTION OR PROCEEDING IN ANY COURT HAVING JURISDICTION OVER AN INSOLVENCY OR LIQUIDATION PROCEEDING OF A CREDIT PARTY). EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(c) WAIVER OF VENUE. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER SECURED DEBT DOCUMENT IN ANY COURT REFERRED

TO IN PARAGRAPH (b) OF THIS SECTION 8.15. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 8.12. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

SECTION 8.16. Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER SECURED DEBT DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 8.16.

SECTION 8.17. Binding on Successors and Assigns. This Agreement shall be binding upon each of the Secured Parties, each of the Credit Parties hereto and their respective successors and assigns.

SECTION 8.18. Section Titles. The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of this Agreement.

SECTION 8.19. Counterparts. This Agreement may be executed in one or more counterparts, including by means of facsimile or other electronic method, each of which shall be an original and all of which shall together constitute one and the same document. Delivery of an executed signature page to this Agreement by facsimile or other electronic transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

SECTION 8.20. Authorization; Specific Performance.

(a) By its signature, each Person executing this Agreement on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Agreement. The ABL Secured Parties have appointed the ABL Administrative Agent as collateral agent pursuant to the ABL Credit Agreement on behalf of the ABL Secured Parties and the ABL Administrative Agent represents and warrants that it has duly accepted such appointment. Each of the Term Secured Parties has appointed the Term Administrative Agent as collateral agent pursuant to the terms of the Term Debt Documents on behalf of the Term Secured Parties and the Term Administrative Agent represents and warrants that it has duly accepted such appointment.

(b) Each Secured Party may demand specific performance of this Agreement. The ABL Administrative Agent, the Term Administrative Agent and each Representative, on behalf of itself

and the Secured Parties under its Debt Facility, hereby irrevocably waives any defense based on the adequacy of a remedy at law and any other defense that might be asserted to bar the remedy of specific performance in any action that may be brought by any Secured Party against any other Secured Party in respect of this Agreement.

SECTION 8.21. No Third Party Beneficiaries; Successors and Assigns. The lien priorities set forth in this Agreement and the rights and benefits hereunder in respect of such lien priorities shall inure solely to the benefit of the ABL Administrative Agent, ABL Representatives, the other ABL Secured Parties, the Term Administrative Agent, the Term Representatives, the other Term Secured Parties, and their respective permitted successors and assigns, and no other Person (including the Credit Parties, or any trustee, receiver, debtor in possession or bankruptcy estate in a bankruptcy or like proceeding, except with respect to Section 8.03(b) above) shall have or be entitled to assert such rights. Nothing in this Agreement is intended to or shall impair the obligations of any Credit Party, which are absolute and unconditional, to pay the Secured Obligations as and when the same shall become due and payable in accordance with their terms.

SECTION 8.22. Effectiveness. This Agreement shall become effective as of the date hereof when executed and delivered by the parties hereto. Upon the occurrence of the foregoing, each of the Secured Parties shall recognize the existence and permissibility of the other Secured Parties and their respective Debt, Liens and/or Obligations pursuant to the terms of this Agreement.

SECTION 8.23. Collateral Agent and Representative.

(a) It is understood and agreed that the ABL Administrative Agent is entering into this Agreement in its capacity as administrative agent, as applicable, under the ABL Credit Agreement and the provisions of Article XI of the ABL Credit Agreement applicable to the Administrative Agent (as defined therein) thereunder shall also apply to the ABL Administrative Agent hereunder.

(b) It is understood and agreed that the Term Administrative Agent is entering into this Agreement in its capacity as administrative agent, as applicable, under the Term Credit Agreement and the provisions of Article XI of the Term Credit Agreement applicable to the Administrative Agent (as defined therein) thereunder shall also apply to the Term Administrative Agent hereunder.

SECTION 8.24. Survival of Agreement. All covenants, agreements, representations and warranties made by any party in this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement.

SECTION 8.25. Certain Notices. Mattress Firm agrees to give the Junior Priority Representative reasonable notice of the occurrence of the Discharge of Senior Priority Obligations.

SECTION 8.26. Indirect Action. Unless otherwise expressly stated, if a party may not take an action under this Agreement, then it may not take that action indirectly, or take any action assisting or supporting any other Person in taking that action directly or indirectly. "Taking an action indirectly" means taking an action that is not expressly prohibited for the party but is intended to have substantially the same effect as the prohibited action.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

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

MATTRESS FIRM, INC.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

[Signature Page to Intercreditor Agreement]

GUARANTORS:

MATTRESS HOLDING CORP.

By: _____
Name: _____

STRIPES US HOLDING INC.

By: _____
Name: _____
Title: _____

MATTRESS FIRM HOLDING CORP

By: _____
Name: _____
Title: _____

MATTRESS HOLDCO, INC.

By: _____
Name: _____
Title: _____

TO BE COMPLETED]

By: _____
Name: _____
Title: _____

ABL ADMINISTRATIVE AGENT:

BARCLAYS BANK PLC.

By: _____
Name: _____
Title: _____

[Signature Page to Intercreditor Agreement]

TERM ADMINISTRATIVE AGENT:

BARCLAYS BANK PLC

By: _____
Name: _____
Title: _____

[Signature Page to Intercreditor Agreement]

SCHEDULE 8.12

Address for Notices

ANNEX I

GUARANTOR JOINDER AGREEMENT

Reference is made to that certain ABL/Term Intercreditor Agreement, dated as of [•], 2018 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Intercreditor Agreement"), among BARCLAYS BANK PLC, as ABL Administrative Agent for the ABL Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the "ABL Administrative Agent"); BARCLAYS BANK PLC, as Term Administrative Agent for the Term Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the "Term Administrative Agent"); MATTRESS FIRM, INC., a Delaware corporation (the "Company"), each of the GUARANTORS from time to time party thereto and each additional Representative from time to time party thereto. Capitalized terms used herein and not defined herein have the meaning ascribed thereto in the Intercreditor Agreement.

Pursuant to the terms of Section 8.07 of the Intercreditor Agreement, [ ], a [ ] [ ] (the "Additional Obligor"), hereby agrees to be bound by the Intercreditor Agreement as a Guarantor thereunder. The Additional Obligor represents and warrants to each Secured Party that this Joinder Agreement has been duly authorized, executed and delivered by the Additional Obligor and constitutes the legal, valid and binding obligation, enforceable against it in accordance with its terms.

THIS JOINDER AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Dated: [ ], 20[ ]

[ ]

By: _____
Name: [ ]
Title: [ ]

Signature Page to Guarantor Joinder Agreement

ANNEX II

JOINDER AGREEMENT

Reference is made to that certain ABL/Term Intercreditor Agreement, dated as of [•], 2018 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Intercreditor Agreement"), among BARCLAYS BANK PLC, as ABL Administrative Agent for the ABL Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the "ABL Administrative Agent"); BARCLAYS BANK PLC, as Term Administrative Agent for the Term Credit Agreement Secured Parties (in such capacity and together with its successors in such capacity, the "Term Administrative Agent"); MATTRESS FIRM, INC., a Delaware corporation (the "Company"), each of the GUARANTORS from time to time party thereto and each additional Representative from time to time party thereto. Capitalized terms used herein and not defined herein have the meaning ascribed thereto in the Intercreditor Agreement.

Pursuant to the terms of [Section [5.03][8.09] of] the Intercreditor Agreement, [ ], a [ ] [ ] (the "Replacement [Agent] [Representative]"), hereby agrees to be bound by the Intercreditor Agreement as [a] [an] [ABL Administrative Agent] [ABL Representative] [Term Representative] [Term Representative] thereunder. The Replacement [Agent] [Representative] represents and warrants to each other Secured Party, the Company and the Guarantors that this Joinder Agreement has been duly authorized, executed and delivered by the Replacement [Agent] [Representative] and constitutes the legal, valid and binding obligation, enforceable against it in accordance with its terms.

THIS JOINDER AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Dated: [ ], 20[ ]

[ ]

By: _____
Name: [ ]
Title: [ ]

Signature Page to Joinder Agreement

EXHIBIT D

Guaranties and Security Agreements

GUARANTY

dated as of

November [•], 2018

among

MATTRESS HOLDING CORP.,
as Holdings,

THE OTHER GUARANTORS PARTY HERETO FROM TIME TO TIME,

and

BARCLAYS BANK PLC,
as Administrative Agent and Collateral Agent

TABLE OF CONTENTS

Page

SCHEDULES

EXHIBITS

This GUARANTY, dated as of November [•], 2018, is among MATTRESS FIRM, INC., a Delaware corporation (the "*Borrower*"), MATTRESS HOLDING CORP., a Delaware corporation ("*Holdings*"), Stripes US Holding, Inc., a Delaware corporation, Mattress Firm Holding Corp., a Delaware corporation, Mattress Holdco, Inc., a Delaware corporation, the other Guarantors set forth on Schedule I hereto and BARCLAYS BANK PLC, as Administrative Agent and Collateral Agent for the Secured Parties (as defined below).

Reference is made to the ABL Credit Agreement, dated as of November [•], 2018 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*ABL Credit Agreement*"), among the Borrower, Holdings, the Parent Guarantors, the Lenders and Issuers party thereto from time to time, and Barclays Bank PLC, as Administrative Agent and Collateral Agent for the Lenders.

The Lenders have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the ABL Credit Agreement, and the Issuers have agreed to issue Letters of Credit for the account of the Borrower or a Restricted Subsidiary on the terms and conditions set forth therein. The obligations of the Lenders to extend such credit, and the obligation of the Issuers to issue Letters of Credit, are, in each case, conditioned upon, among other things, the execution and delivery of this Agreement by each Guarantor (as defined below). The Guarantors are affiliates of one another, will derive substantial direct and indirect benefits from (i) the extensions of credit to the Borrower pursuant to the ABL Credit Agreement and (ii) the issuance of Letters of Credit by the Issuers for the account of the Borrower and, in accordance with the ABL Credit Agreement, the Restricted Subsidiaries, and are willing to execute and deliver this Agreement in order to induce the Lenders to extend such credit and the Issuers to issue such Letters of Credit. Accordingly, the parties hereto agree as follows:

ARTICLE I

Definitions

Section 1.01 ABL Credit Agreement Definitions.

(a) Capitalized terms used in this Agreement, including the preamble and introductory paragraphs hereto, and not otherwise defined herein have the meanings specified in the ABL Credit Agreement.

(b) The rules of construction specified in Article I of the ABL Credit Agreement also apply to this Agreement.

Section 1.02 Other Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"*ABL Credit Agreement*" has the meaning assigned to such term in the preliminary statement of this Agreement.

"*ABL/Term Intercreditor Agreement*" has the meaning specified in the ABL Credit Agreement.

"*Accommodation Payment*" has the meaning assigned to such term in Article III.

"*Agreement*" means this Guaranty.

"*Allocable Amount*" has the meaning assigned to such term in Article III.

"*Guaranteed Obligations*" mean the "Obligations" as defined in the ABL Credit Agreement; *provided* that when used with respect to the Borrower, the term "Guaranteed Obligations" shall mean only those obligations described in clauses (b) and (c) of the definitions of Obligations to the extent incurred by Holdings or any other Guarantor as the primary obligor thereunder.

"*Guarantors*" means, collectively, Holdings, Stripes US Holding, Inc., Mattress Firm Holding Corp., Mattress Holdco, Inc., the Borrower, each other Person listed on Schedule I hereto and any other Person that becomes a party to this Agreement after the Closing Date pursuant to Section 4.13; *provided* that if any such Guarantor is released from its obligations hereunder as provided in Section 4.12(b), such Person shall cease to be a Guarantor hereunder effective upon such release.

"*Guaranty Supplement*" means an instrument substantially in the form of Exhibit I hereto.

"*Qualified ECP Guarantor*" means in respect of any Swap Obligation, each Loan Party that, at the time the relevant guarantee (or grant of the relevant security interest, as applicable) becomes or would become effective with respect to such Swap Obligation, has total assets exceeding $10,000,000 or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and which may cause another person to qualify as an "eligible contract participant" with respect to such Swap Obligation at such time by entering into a keepwell pursuant to Section 1a(18)(A)(v)(II) of the Commodity Exchange Act (or any successor provision thereto).

"*Secured Parties*" has the meaning provided in the ABL Credit Agreement.

"*Specified Loan Party*" means any Loan Party that is not a Qualified ECP Guarantor.

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

"*UFCA*" has the meaning assigned to such term in Article III.

"*UFTA*" has the meaning assigned to such term in Article III.

ARTICLE II

Guarantee

Section 2.01 Guarantee.

Each Guarantor irrevocably, absolutely and unconditionally guarantees, jointly with the other Guarantors and severally, as a primary obligor and not merely as a surety, the due and punctual payment and performance of the Guaranteed Obligations, in each case, whether such Guaranteed Obligations are now existing or hereafter incurred under, arising out of or in connection with any Loan Document, Secured Hedge Agreements or Secured Cash Management Agreements, and whether at maturity, by acceleration or otherwise. Each of the Guarantors further agrees that the Guaranteed Obligations may be extended, increased or renewed, amended or modified, in whole or in part, without notice to, or further assent from, such Guarantor and that such Guarantor will remain bound upon its guarantee hereunder notwithstanding any such extension, increase, renewal, amendment or modification of any Guaranteed Obligation. Each of the Guarantors waives promptness, presentment to, demand of payment from, and protest to, any Guarantor or any other Loan Party of any of the Guaranteed Obligations, and also waives notice of acceptance of its guarantee and notice of protest for nonpayment.

Section 2.02 Guarantee of Payment.

Each of the Guarantors further agrees that its guarantee hereunder constitutes a guarantee of payment when due (whether or not any bankruptcy or similar proceeding shall have stayed the accrual of collection of any of the Guaranteed Obligations or operated as a discharge thereof) and not of collection, and waives any right to require that any resort be had by the Administrative Agent or any other Secured Party to any security held for the payment of any of the Guaranteed Obligations, or to any balance of any deposit account or credit on the books of the Administrative Agent or any other Secured Party in favor of any other Guarantor or any other Person. The obligations of each Guarantor hereunder are independent of the obligations of any other Guarantor or the Borrower, and a separate action or actions may be brought and prosecuted against each Guarantor whether or not action is brought against any other Guarantor or the Borrower and whether or not any other Guarantor or the Borrower be joined in any such action or actions. Any payment required to be made by a Guarantor hereunder may be required by the Administrative Agent or any other Secured Party on any number of occasions.

Section 2.03 No Limitations.

(a) Except for termination or release of a Guarantor's obligations hereunder as expressly provided in Section 4.12, to the fullest extent permitted by applicable Law, the obligations of each Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense or set-off, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any of the Guaranteed Obligations, any impossibility in the performance of any of the Guaranteed Obligations, or otherwise. Without limiting the generality of the foregoing, to the

fullest extent permitted by applicable Law and except for termination or release of a Guarantor's obligations hereunder in accordance with the terms of Section 4.12 (but without prejudice to Section 2.04), the obligations of each Guarantor hereunder shall not be discharged, impaired or otherwise affected by (i) the failure of the Administrative Agent, any other Secured Party or any other Person to assert any claim or demand or to enforce any right or remedy under the provisions of any Loan Document or otherwise; (ii) any rescission, waiver, amendment or modification of, or any release from any of the terms or provisions of, any Loan Document or any other agreement, including with respect to any other Guarantor under this Agreement; (iii) the release of, or any impairment of any security held by the Collateral Agent or any other Secured Party for the Guaranteed Obligations; (iv) any default, failure or delay, willful or otherwise, in the performance of the Guaranteed Obligations; (v) the failure to perfect any security interest in, or the release of, any of the Collateral held by or on behalf of the Collateral Agent or any other Secured Party; (vi) any change in the corporate existence, structure or ownership of any Loan Party, the lack of legal existence of the Borrower or any other Guarantor or legal obligation to discharge any of the Guaranteed Obligations by the Borrower or any other Guarantor for any reason whatsoever, including, without limitation, in any insolvency, bankruptcy or reorganization of any Loan Party; (vii) the existence of any claim, set-off or other rights that any Guarantor may have at any time against the Borrower, the Administrative Agent, any other Secured Party or any other Person, whether in connection with the ABL Credit Agreement, the other Loan Documents or any unrelated transaction; (viii) this Agreement having been determined (on whatsoever grounds) to be invalid, non-binding or unenforceable against any other Guarantor *ab initio* or at any time after the Closing Date or (ix) any other circumstance (including statute of limitations), any act or omission that may or might in any manner or to any extent vary the risk of any Guarantor or otherwise operate as a defense to, or discharge of, the Borrower, any Guarantor or any other guarantor or surety as a matter of law or equity (in each case, other than the payment in full in cash of all the Guaranteed Obligations (excluding contingent obligations as to which no claim has been made)). Each Guarantor expressly authorizes the applicable Secured Parties, to the extent permitted by the Security Agreement, to take and hold security for the payment and performance of the Guaranteed Obligations, to exchange, waive or release any or all such security (with or without consideration), to enforce or apply such security and direct the order and manner of any sale thereof in their sole discretion or to release or substitute any one or more other guarantors or obligors upon or in respect of the Guaranteed Obligations all without affecting the obligations of any Guarantor hereunder. Anything contained in this Agreement to the contrary notwithstanding, the obligations of each Guarantor under this Agreement shall be limited to an aggregate amount equal to the largest amount that would not render its obligations under this Agreement subject to avoidance as a fraudulent transfer or conveyance under Section 548 of the Bankruptcy Code of the United States or any comparable provisions of any similar federal or state law.

(b) To the fullest extent permitted by applicable Law and except for termination or release of a Guarantor's obligations hereunder in accordance with the terms of Section 4.12 (but without prejudice to Section 2.04), each Guarantor waives any defense based on or arising out of any defense of the Borrower or any other Guarantor or the unenforceability of the Guaranteed Obligations or any part thereof from any cause, or the cessation from any cause of the liability of the Borrower or any other Guarantor, other than the payment in full in cash of all the Guaranteed Obligations (excluding contingent obligations as to which no claim

has been made). The Administrative Agent and the other Secured Parties may in accordance with the terms of the Collateral Documents, at their election, foreclose on any security held by one or more of them by one or more judicial or nonjudicial sales, accept an assignment of any such security in lieu of foreclosure, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with the Borrower or any other Guarantor or exercise any other right or remedy available to them against any Guarantor, without affecting or impairing in any way the liability of any Guarantor hereunder except to the extent the Guaranteed Obligations have been paid in full in cash (excluding contingent obligations as to which no claim has been made). To the fullest extent permitted by applicable Law, each Guarantor waives any defense arising out of any such election even though such election operates, pursuant to applicable Law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of such Guarantor against the Borrower or any other Guarantor, as the case may be, or any security. To the fullest extent permitted by applicable Law, each Loan Party waives any and all suretyship defenses.

Section 2.04 Reinstatement.

Notwithstanding anything to contrary contained in this Agreement, each of the Guarantors agrees that (a) its guarantee hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Guaranteed Obligation is rescinded or must otherwise be restored by the Administrative Agent or any other Secured Party upon the bankruptcy or reorganization (or any analogous proceeding in any jurisdiction) of the Borrower or any other Guarantor or otherwise and (b) the provisions of this Section 2.04 shall survive the termination of this Agreement.

Section 2.05 Agreement To Pay; Subrogation.

In furtherance of the foregoing and not in limitation of any other right that the Administrative Agent or any other Secured Party has at law or in equity against any Guarantor by virtue hereof, upon the failure of the Borrower or any other Guarantor to pay any Guaranteed Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice of prepayment or otherwise, each Guarantor hereby promises to and will forthwith pay, or cause to be paid, to the Administrative Agent for distribution to the applicable Secured Parties in cash the amount of such unpaid Guaranteed Obligation. Upon payment by any Guarantor of any sums to the Administrative Agent as provided above, all rights of such Guarantor against the Borrower or any other Guarantor arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subject to Article III.

Section 2.06 Information.

Each Guarantor assumes all responsibility for being and keeping itself informed of the Borrower's and each other Guarantor's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks that such Guarantor assumes and incurs hereunder, and agrees that none of the Administrative Agent or the other Secured Parties will have any duty to

advise such Guarantor of information known to it or any of them regarding such circumstances or risks.

ARTICLE III

Indemnity, Subrogation and Subordination

Upon payment by any Guarantor of any Guaranteed Obligations, all rights of such Guarantor against the Borrower or any other Guarantor arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior payment in full in cash of all the Guaranteed Obligations (excluding contingent obligations as to which no claim has been made) and the termination of all Revolving Credit Commitments to any Loan Party under any Loan Document. If any amount shall erroneously be paid to the Borrower or any other Guarantor on account of (i) such subrogation, contribution, reimbursement, indemnity or similar right or (ii) any such indebtedness of the Borrower or any other Guarantor, such amount shall be held in trust for the benefit of the Secured Parties and shall forthwith be paid to the Administrative Agent to be credited against the payment of the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms of the ABL Credit Agreement and the other Loan Documents. Subject to the foregoing, to the extent that any Guarantor shall, under this Agreement or the ABL Credit Agreement as a joint and several obligor, repay any of the Guaranteed Obligations constituting Loans made to another Loan Party under the ABL Credit Agreement (an "*Accommodation Payment*"), then the Guarantor making such Accommodation Payment shall be entitled to contribution and indemnification from, and be reimbursed by, each of the other Guarantors in an amount equal to a fraction of such Accommodation Payment, the numerator of which fraction is such other Guarantor's Allocable Amount and the denominator of which is the sum of the Allocable Amounts of all of the Guarantors; provided that such rights of contribution and indemnification shall be subordinated to the prior payment in full, in cash, of all of the Guaranteed Obligations (excluding contingent obligations as to which no claim has been made). As of any date of determination, the "*Allocable Amount*" of each Guarantor shall be equal to the maximum amount of liability for Accommodation Payments which could be asserted against such Guarantor hereunder and under the ABL Credit Agreement without (a) rendering such Guarantor "insolvent" within the meaning of 11 U.S.C. § 101(32) of the Bankruptcy Code of the United States, Section 2 of the Uniform Fraudulent Transfer Act ("*UFTA*") or Section 2 of the Uniform Fraudulent Conveyance Act ("*UFCA*"), (b) leaving such Guarantor with unreasonably small capital or assets, within the meaning of 11 U.S.C. § 548 of the Bankruptcy Code of the United States, Section 4 of the UFTA, or Section 5 of the UFCA, or (c) leaving such Guarantor unable to pay its debts as they become due within the meaning of 11 U.S.C. § 548 of the Bankruptcy Code of the United States or Section 4 of the UFTA, or Section 5 of the UFCA.

ARTICLE IV

Miscellaneous

Section 4.01 Notices.

All communications and notices hereunder shall (except as otherwise expressly permitted herein) be in writing and given as provided in Section 12.8 of the ABL Credit Agreement. All communications and notice hereunder to a Guarantor other than Holdings shall be given in care of the Borrower.

Section 4.02 Waivers; Amendment.

(a) No failure by any Secured Party to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 4.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Revolving Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default or Event of Default, regardless of whether any Loan Party may have had notice or knowledge of such Default or Event of Default at the time.

(b) Subject to the ABL/Term Intercreditor Agreement, neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties with respect to which such waiver, amendment or modification is to apply, subject to any consent required in accordance with Section 12.1 of the ABL Credit Agreement.

Section 4.03 Administrative Agent's and Collateral Agent's Fees and Expenses; Indemnification.

(a) Each Guarantor, jointly with the other Guarantors and severally, agrees to reimburse the Administrative Agent and the Collateral Agent for its fees and expenses incurred hereunder as provided in Section 12.3 of the ABL Credit Agreement and indemnity for its actions in connection herewith as provided in Section 12.4 of the ABL Credit Agreement; provided that each reference therein to the "Borrower" shall be deemed to be a reference to "each Guarantor".

(b) Any such amounts payable as provided hereunder shall be additional Guaranteed Obligations guaranteed hereby and secured by the Collateral Documents. The provisions of this Section 4.03 shall remain operative and in full force and effect regardless of the termination of this Agreement, any other Loan Document or any Secured Hedge Agreement or any Secured Cash Management Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Guaranteed Obligations, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, any resignation of the Administrative Agent or Collateral Agent or any document governing any of

the Obligations arising under any Secured Hedge Agreements or Obligations arising under any Secured Cash Management Agreement, or any investigation made by or on behalf of the Administrative Agent or any other Secured Party. All amounts due under this Section 4.03 shall be payable within twenty (20) Business Days of written demand therefor.

Section 4.04 Successors and Assigns.

Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party; and all covenants, promises and agreements by or on behalf of any Guarantor or any Secured Party that are contained in this Agreement shall bind and inure to the benefit of their respective permitted successors and assigns. Except as provided in Section 12.2 of the ABL Credit Agreement, no Guarantor may assign any of its rights or obligations hereunder without the written consent of the Administrative Agent.

Section 4.05 Survival of Agreement.

All covenants, agreements, indemnities, representations and warranties made by the Guarantors in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the Secured Parties and shall survive the execution and delivery of the Loan Documents and the making of any Loans and the issuance of any Letters of Credit, regardless of any investigation made by any Secured Party or on its behalf and notwithstanding that any Secured Party may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended under the ABL Credit Agreement or any other Loan Document, and shall continue in full force and effect until this Agreement is terminated as provided in Section 4.12 hereof, or with respect to any individual Guarantor until such Guarantor is otherwise released from its obligations under this Agreement in accordance with the terms hereof.

Section 4.06 Counterparts; Effectiveness; Several Agreement.

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when it shall have been executed by the Guarantors, the Administrative Agent and the Collateral Agent and thereafter shall be binding upon and inure to the benefit of each Guarantor, the Administrative Agent, the Collateral Agent, the other Secured Parties and their respective permitted successors and assigns, subject to Section 4.04 hereof. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement. This Agreement shall be construed as a separate agreement with respect to each Guarantor and may be amended, restated, modified, supplemented, waived or released with respect to any Guarantor without the approval of any other Guarantor and without affecting the obligations of any other Guarantor hereunder.

Section 4.07 Severability.

If any provision of this Agreement is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 4.08 GOVERNING LAW, ETC.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) THE GUARANTORS, THE ADMINISTRATIVE AGENT AND THE COLLATERAL AGENT EACH IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE ADMINISTRATIVE AGENT AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW. EACH PARTY HERETO AGREES THAT THE ADMINISTRATIVE AGENT AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER THIS AGREEMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) THE GUARANTORS, THE ADMINISTRATIVE AGENT AND THE COLLATERAL AGENT EACH IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

Section 4.09 WAIVER OF RIGHT TO TRIAL BY JURY.

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 4.10 Headings.

Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

Section 4.11 Obligations Absolute.

All rights of the Collateral Agent, the Administrative Agent and the other Secured Parties hereunder and all obligations of each Guarantor hereunder shall be absolute and unconditional irrespective of (a) any lack of validity or enforceability of the ABL Credit Agreement, any other Loan Document, any agreement with respect to any of the Guaranteed Obligations or any other agreement or instrument relating to any of the foregoing, (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligations, or any other amendment or waiver of or any consent to any departure from the ABL Credit Agreement, any other Loan Document, or any other agreement or instrument, (c) any release or amendment or waiver of or consent under or departure from any guarantee guaranteeing all or any of the Guaranteed Obligations or (d) subject only to termination or release of a Guarantor's obligations hereunder in accordance with the terms of Section 4.12, but without prejudice to reinstatement rights under Section 2.04, any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Guarantor in respect of the Guaranteed Obligations or this Agreement.

Section 4.12 Termination or Release.

(a) This Agreement and the Guarantees made herein shall terminate with respect to all Guaranteed Obligations when (i) all Revolving Credit Commitments have expired or been terminated and the Lenders have no further commitment to lend under the ABL Credit Agreement and (ii) all principal and interest in respect of each Loan (including Swing Loans) and all other Guaranteed Obligations (other than (A) contingent indemnification obligations not yet accrued and payable and (B) Guaranteed Obligations in respect of any Secured Hedge

Agreement and Guaranteed Obligations in respect of any Secured Cash Management Agreement) shall have been paid in full in cash, (iii) all Letters of Credit shall have expired or terminated (other than Letters of Credit as to which other arrangements reasonably satisfactory to the Administrative Agent and each applicable Issuer shall have been made).

(b) A Guarantor that is a Restricted Subsidiary shall automatically be released in the circumstances set forth in Section 11.11 of the ABL Credit Agreement.

(c) In connection with any termination or release pursuant to clauses (a) or (b) above, the Administrative Agent and the Collateral Agent shall promptly execute and deliver to any Guarantor, at such Guarantor's expense, all documents that such Guarantor shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section 4.12 shall be without recourse to or warranty by the Administrative Agent or the Collateral Agent.

(d) At any time that the respective Guarantor desires that the Administrative Agent or the Collateral Agent take any of the actions described in immediately preceding paragraph (c), it shall, upon request of the Administrative Agent or the Collateral Agent, deliver to the Administrative Agent an officer's certificate certifying that the release of the respective Guarantor is permitted pursuant to clause (a) or (b) above. The Administrative Agent and the Collateral Agent shall have no liability whatsoever to any Secured Party as a result of any release of any Guarantor by it as permitted (or which the Administrative Agent in good faith believes to be permitted) by this Section 4.12.

Section 4.13 Additional Guarantors.

Pursuant to Section 8.11 of the ABL Credit Agreement, certain Restricted Subsidiaries of the Loan Parties that are wholly owned Material Domestic Subsidiaries and not Excluded Subsidiaries and that were not in existence or not Restricted Subsidiaries on the date of the ABL Credit Agreement and certain Parent Guarantors are, in each case, required to enter in this Agreement as Guarantors (for avoidance of doubt, the Borrower may cause any Restricted Subsidiary or any Parent Guarantor that is not an Excluded Subsidiary to Guarantee the Obligations by causing such Person to execute a Guaranty Supplement in accordance with the provisions of this Section 4.13 and any such Person shall be a Guarantor hereunder with the same force and effect as if originally named as a Guarantor herein). Upon execution and delivery by the Administrative Agent and a Restricted Subsidiary or Parent Guarantor of a Guaranty Supplement, such Restricted Subsidiary or Parent Guarantor shall become a Guarantor hereunder with the same force and effect as if originally named as a Guarantor herein. The execution and delivery of any such instrument shall not require the consent of any other Guarantor hereunder. The rights and obligations of each Guarantor hereunder shall remain in full force and effect notwithstanding the addition of any new Guarantor as a party to this Agreement.

Section 4.14 Recourse; Limited Obligations.

This Agreement is made with full recourse to each Guarantor and pursuant to and upon all the warranties, representations, covenants and agreements on the part of such Guarantor contained herein, in the ABL Credit Agreement and the other Loan Documents and otherwise in writing in connection herewith or therewith. It is the desire and intent of each Guarantor and each applicable Secured Party that this Agreement shall be enforced against each Guarantor to the fullest extent permissible under applicable Law applied in each jurisdiction in which enforcement is sought.

Section 4.15 Intercreditor.

The Guarantors, the Collateral Agent and the Administrative Agent acknowledge that the exercise of certain of the Collateral Agent's and the Administrative Agent's rights and remedies hereunder may be subject to, and restricted by, the provisions of the ABL/Term Intercreditor Agreement. Except as specified herein, nothing contained in the ABL/Term Intercreditor Agreement shall be deemed to modify any of the provisions of this Agreement, which, as among the Guarantors, the Collateral Agent and the Administrative Agent shall remain in full force and effect in accordance with the terms hereof.

Section 4.16 Keepwell.

Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally, and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each Specified Loan Party to honor all of such Specified Loan Party's obligations under this Guaranty in respect of any Swap Obligation (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 4.16 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 4.16, or otherwise under this Guaranty, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 4.16 shall remain in full force and effect until the payment in full and discharge of the Guaranteed Obligations. Each Qualified ECP Guarantor intends that this Section 4.16 constitute, and this Section 4.16 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each Specified Loan Party for all purposes of section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

[Signature Pages Follow]

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

GUARANTORS:

MATTRESS HOLDING CORP.

By: _____
Name:
Title:

MATTRESS FIRM, INC.

By: _____
Name:
Title:

GUARANTORS:

CUSTOM FUNDRAISING SOLUTIONS, LLC
THE MATTRESS VENTURE, LLC
AMERICAN INTERNET SALES LLC
THE SLEEP TRAIN, INC.
ST SAN DIEGO, LLC
SLEEP COUNTRY USA, LLC
CCP IV HOLDINGS, LLC
CXV HOLDINGS, LLC
CCP IV SBS HOLDINGS, LLC
HMK MATTRESS HOLDINGS LLC
HMK INTERMEDIATE HOLDINGS LLC
ACKER REALTY HOLDINGS LLC
SLEEPY'S, LLC
DIAL OPERATIONS, LLC
SINT, LLC
MD ACQUISITION LLC
1800MATTRESS.COM IP, LLC
MATTRESS DISCOUNTERS OPERATIONS LLC
MATTRESS DISCOUNTERS IP LLC
SOUTH OYSTER BAY REALTY, LLC
STRIPES US HOLDING, INC.
MATTRESS FIRM HOLDING CORP.
MATTRESS HOLDCO, INC.

By: _____
Name:
Title:

ADMINISTRATIVE AGENT AND COLLATERAL AGENT:

BARCLAYS BANK PLC,
as Administrative Agent and as Collateral Agent

By: _____
Name:
Title:

SCHEDULE I TO GUARANTY

SUBSIDIARY GUARANTORS

CUSTOM FUNDRAISING SOLUTIONS, LLC
THE MATTRESS VENTURE, LLC
AMERICAN INTERNET SALES LLC
THE SLEEP TRAIN, INC.
ST SAN DIEGO, LLC
SLEEP COUNTRY USA, LLC
CCP IV HOLDINGS, LLC
CXV HOLDINGS, LLC
CCP IV SBS HOLDINGS, LLC
HMK MATTRESS HOLDINGS LLC
HMK INTERMEDIATE HOLDINGS LLC
ACKER REALTY HOLDINGS LLC
SLEEPY'S, LLC
DIAL OPERATIONS, LLC
SINT, LLC
MD ACQUISITION LLC
1800MATTRESS.COM IP, LLC
MATTRESS DISCOUNTERS OPERATIONS LLC
MATTRESS DISCOUNTERS IP LLC
SOUTH OYSTER BAY REALTY, LLC

EXHIBIT I TO GUARANTY

FORM OF GUARANTY SUPPLEMENT

GUARANTY SUPPLEMENT NO. ___ dated as of _____ ___, 20___, to the Guaranty dated as of November [•], 2018, among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP., a Delaware corporation ("*Holdings*"), the Parent Guarantors, the other Guarantors party thereto from time to time and BARCLAYS BANK PLC, as Administrative Agent and Collateral Agent for the Secured Parties (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*Guaranty*").

A. Reference is made to the ABL Credit Agreement, dated as of November [•], 2018 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*ABL Credit Agreement*"), by, among others, the Borrower, Holdings, the Parent Guarantors, the Lenders and Issuers party thereto, and Barclays Bank PLC, as Administrative Agent and Collateral Agent for the Lenders.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the ABL Credit Agreement and the Guaranty, as applicable.

C. The Guarantors have entered into the Guaranty in order to induce (x) the Lenders to make Loans and (y) the Issuers to issue Letters of Credit. Section 4.13 of the Guaranty provides that additional Persons may become Guarantors under the Guaranty by execution and delivery of an instrument in the form of this Guaranty Supplement. The undersigned Person (the "*New Subsidiary*") is executing this Guaranty Supplement in accordance with the requirements of the ABL Credit Agreement to become a Guarantor under the Guaranty as consideration for Loans previously made.

Accordingly, the Administrative Agent and the New Subsidiary agree as follows:

Section 1. In accordance with Section 4.13 of the Guaranty, the New Subsidiary by its signature below becomes a Guarantor under the Guaranty with the same force and effect as if originally named therein as a Guarantor and the New Subsidiary hereby (a) agrees to all the terms and provisions of the Guaranty applicable to it as a Guarantor thereunder, (b) represents and warrants that the representations and warranties made by it as a Guarantor thereunder are true and correct on and as of the date hereof, provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all respects as of such earlier date and (c) irrevocably, absolutely, and unconditionally guarantees, jointly with the other Guarantors and severally, as a primary obligor and not merely as a surety, the due and punctual payment and performance of the Guaranteed Obligations, in each case, whether such Guaranteed Obligations are now existing or hereafter incurred under, arising out of or in connection with any Loan Document, Secured Hedge Agreements, Secured Cash Management Agreement or Cash Management Services, and whether at maturity, by acceleration or otherwise. Each reference to a "Guarantor" in the Guaranty shall be deemed to include the New Subsidiary as if originally named therein as a Guarantor. The Guaranty is hereby incorporated herein by reference.

Section 2. The New Subsidiary represents and warrants to the Administrative Agent and the other Secured Parties that this Guaranty Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity.

Section 3. This Guaranty Supplement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Guaranty Supplement shall become effective when the Administrative Agent shall have received a counterpart of this Guaranty Supplement that bears the signature of the New Subsidiary and the Administrative Agent has executed a counterpart hereof. Delivery of an executed counterpart of a signature page of this Guaranty Supplement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Guaranty Supplement.

Section 4. Except as expressly supplemented hereby, the Guaranty shall remain in full force and effect.

Section 5. (a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE ADMINISTRATIVE AGENT AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER THIS AGREEMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR

RELATING TO THIS AGREEMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 6. If any provision of this Guaranty Supplement is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Guaranty Supplement shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 7. All communications and notices hereunder shall be in writing and given as provided in Section 4.01 of the Guaranty.

Section 8. The New Subsidiary agrees to reimburse the Administrative Agent for its reasonable out-of-pocket expenses in connection with this Guaranty Supplement, as provided in Section 4.03(a) of the Guaranty.

IN WITNESS WHEREOF, the New Subsidiary and the Administrative Agent have duly executed this Guaranty Supplement to the Guaranty as of the day and year first above written.

[NAME OF NEW SUBSIDIARY]

By: _____
Name:
Title:

BARCLAYS BANK PLC,
as Administrative Agent and Collateral Agent

By: _____
Name:
Title:

GUARANTY

dated as of

November [•], 2018

among

MATTRESS HOLDING CORP.,
as Holdings,

THE PARENT GUARANTORS,

THE OTHER GUARANTORS PARTY HERETO FROM TIME TO TIME,

and

BARCLAYS BANK PLC,
as Administrative Agent and Collateral Agent

TABLE OF CONTENTS

Page

SCHEDULES

EXHIBITS

This GUARANTY, dated as of November [•], 2018, is among MATTRESS FIRM, INC., a Delaware corporation (the "*Borrower*"), MATTRESS HOLDING CORP., a Delaware corporation ("*Holdings*"), Stripes US Holding, Inc., a Delaware corporation, Mattress Firm Holding Corp., a Delaware corporation, Mattress Holdco, Inc., a Delaware corporation, the other Guarantors set forth on Schedule I hereto and BARCLAYS BANK PLC, as Administrative Agent and Collateral Agent for the Secured Parties (as defined below).

Reference is made to the Term Loan Credit Agreement, dated as of November [•], 2018 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*Term Loan Credit Agreement*"), among the Borrower, Holdings, the Parent Guarantors and the Lenders party thereto from time to time, and Barclays Bank PLC, as Administrative Agent and Collateral Agent for the Lenders.

The Lenders have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Term Loan Credit Agreement. The obligations of the Lenders to extend such credit, are, in each case, conditioned upon, among other things, the execution and delivery of this Agreement by each Guarantor (as defined below). The Guarantors are affiliates of one another, will derive substantial direct and indirect benefits from the extensions of credit to the Borrower pursuant to the Term Loan Credit Agreement and, in accordance with the Term Loan Credit Agreement, the Restricted Subsidiaries, and are willing to execute and deliver this Agreement in order to induce the Lenders to extend such credit. Accordingly, the parties hereto agree as follows:

ARTICLE I

Definitions

Section 1.01 Term Loan Credit Agreement Definitions.

(a) Capitalized terms used in this Agreement, including the preamble and introductory paragraphs hereto, and not otherwise defined herein have the meanings specified in the Term Loan Credit Agreement.

(b) The rules of construction specified in Article I of the Term Loan Credit Agreement also apply to this Agreement.

Section 1.02 Other Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"*ABL/Term Intercreditor Agreement*" has the meaning specified in the Term Loan Credit Agreement.

"*Accommodation Payment*" has the meaning assigned to such term in Article III.

"*Agreement*" means this Guaranty.

"*Allocable Amount*" has the meaning assigned to such term in Article III.

"*Guaranteed Obligations*" mean the "Obligations" as defined in the Term Loan Credit Agreement; *provided* that when used with respect to the Borrower, the term "Guaranteed Obligations" shall mean only those obligations described in clause (b) of the definitions of Obligations to the extent incurred by Holdings or any other Guarantor as the primary obligor thereunder.

"*Guarantors*" means, collectively, Holdings, Stripes US Holding, Inc., Mattress Firm Holding Corp., Mattress Holdco, Inc., the Borrower, each other Person listed on Schedule I hereto and any other Person that becomes a party to this Agreement after the Closing Date pursuant to Section 4.13; *provided* that if any such Guarantor is released from its obligations hereunder as provided in Section 4.12(b), such Person shall cease to be a Guarantor hereunder effective upon such release.

"*Guaranty Supplement*" means an instrument substantially in the form of Exhibit I hereto.

"*Qualified ECP Guarantor*" means in respect of any Swap Obligation, each Loan Party that, at the time the relevant guarantee (or grant of the relevant security interest, as applicable) becomes or would become effective with respect to such Swap Obligation, has total assets exceeding $10,000,000 or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and which may cause another person to qualify as an "eligible contract participant" with respect to such Swap Obligation at such time by entering into a keepwell pursuant to Section 1a(18)(A)(v)(II) of the Commodity Exchange Act (or any successor provision thereto).

"*Secured Parties*" has the meaning provided in the Term Loan Credit Agreement.

"*Specified Loan Party*" means any Loan Party that is not a Qualified ECP Guarantor.

"*Swap Obligation*" means any obligation to pay or perform under any Agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

"*Term Loan Credit Agreement*" has the meaning assigned to such term in the preliminary statement of this Agreement.

"*UFCA*" has the meaning assigned to such term in Article III.

"*UFTA*" has the meaning assigned to such term in Article III.

ARTICLE II

Guarantee

Section 2.01 Guarantee.

Each Guarantor irrevocably, absolutely and unconditionally guarantees, jointly with the other Guarantors and severally, as a primary obligor and not merely as a surety, the due and punctual payment and performance of the Guaranteed Obligations, in each case, whether such Guaranteed Obligations are now existing or hereafter incurred under, arising out of or in connection with any Loan Document or Secured Hedge Agreements, and whether at maturity, by acceleration or otherwise. Each of the Guarantors further agrees that the Guaranteed Obligations may be extended, increased or renewed, amended or modified, in whole or in part, without notice to, or further assent from, such Guarantor and that such Guarantor will remain bound upon its guarantee hereunder notwithstanding any such extension, increase, renewal, amendment or modification of any Guaranteed Obligation. Each of the Guarantors waives promptness, presentment to, demand of payment from, and protest to, any Guarantor or any other Loan Party of any of the Guaranteed Obligations, and also waives notice of acceptance of its guarantee and notice of protest for nonpayment.

Section 2.02 Guarantee of Payment.

Each of the Guarantors further agrees that its guarantee hereunder constitutes a guarantee of payment when due (whether or not any bankruptcy or similar proceeding shall have stayed the accrual of collection of any of the Guaranteed Obligations or operated as a discharge thereof) and not of collection, and waives any right to require that any resort be had by the Administrative Agent or any other Secured Party to any security held for the payment of any of the Guaranteed Obligations, or to any balance of any deposit account or credit on the books of the Administrative Agent or any other Secured Party in favor of any other Guarantor or any other Person. The obligations of each Guarantor hereunder are independent of the obligations of any other Guarantor or the Borrower, and a separate action or actions may be brought and prosecuted against each Guarantor whether or not action is brought against any other Guarantor or the Borrower and whether or not any other Guarantor or the Borrower be joined in any such action or actions. Any payment required to be made by a Guarantor hereunder may be required by the Administrative Agent or any other Secured Party on any number of occasions.

Section 2.03 No Limitations.

(a) Except for termination or release of a Guarantor's obligations hereunder as expressly provided in Section 4.12, to the fullest extent permitted by applicable Law, the obligations of each Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense or set-off, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any of the Guaranteed Obligations, any impossibility in the performance of any of the

Guaranteed Obligations, or otherwise. Without limiting the generality of the foregoing, to the fullest extent permitted by applicable Law and except for termination or release of a Guarantor's obligations hereunder in accordance with the terms of Section 4.12 (but without prejudice to Section 2.04), the obligations of each Guarantor hereunder shall not be discharged, impaired or otherwise affected by (i) the failure of the Administrative Agent, any other Secured Party or any other Person to assert any claim or demand or to enforce any right or remedy under the provisions of any Loan Document or otherwise; (ii) any rescission, waiver, amendment or modification of, or any release from any of the terms or provisions of, any Loan Document or any other agreement, including with respect to any other Guarantor under this Agreement; (iii) the release of, or any impairment of any security held by the Collateral Agent or any other Secured Party for the Guaranteed Obligations; (iv) any default, failure or delay, willful or otherwise, in the performance of the Guaranteed Obligations; (v) the failure to perfect any security interest in, or the release of, any of the Collateral held by or on behalf of the Collateral Agent or any other Secured Party; (vi) any change in the corporate existence, structure or ownership of any Loan Party, the lack of legal existence of the Borrower or any other Guarantor or legal obligation to discharge any of the Guaranteed Obligations by the Borrower or any other Guarantor for any reason whatsoever, including, without limitation, in any insolvency, bankruptcy or reorganization of any Loan Party; (vii) the existence of any claim, set-off or other rights that any Guarantor may have at any time against the Borrower, the Administrative Agent, any other Secured Party or any other Person, whether in connection with the Term Loan Credit Agreement, the other Loan Documents or any unrelated transaction; (viii) this Agreement having been determined (on whatsoever grounds) to be invalid, non-binding or unenforceable against any other Guarantor *ab initio* or at any time after the Closing Date or (ix) any other circumstance (including statute of limitations), any act or omission that may or might in any manner or to any extent vary the risk of any Guarantor or otherwise operate as a defense to, or discharge of, the Borrower, any Guarantor or any other guarantor or surety as a matter of law or equity (in each case, other than the payment in full in cash of all the Guaranteed Obligations (excluding contingent obligations as to which no claim has been made)). Each Guarantor expressly authorizes the applicable Secured Parties, to the extent permitted by the Security Agreement, to take and hold security for the payment and performance of the Guaranteed Obligations, to exchange, waive or release any or all such security (with or without consideration), to enforce or apply such security and direct the order and manner of any sale thereof in their sole discretion or to release or substitute any one or more other guarantors or obligors upon or in respect of the Guaranteed Obligations all without affecting the obligations of any Guarantor hereunder. Anything contained in this Agreement to the contrary notwithstanding, the obligations of each Guarantor under this Agreement shall be limited to an aggregate amount equal to the largest amount that would not render its obligations under this Agreement subject to avoidance as a fraudulent transfer or conveyance under Section 548 of the Bankruptcy Code of the United States or any comparable provisions of any similar federal or state law.

(b) To the fullest extent permitted by applicable Law and except for termination or release of a Guarantor's obligations hereunder in accordance with the terms of Section 4.12 (but without prejudice to Section 2.04), each Guarantor waives any defense based on or arising out of any defense of the Borrower or any other Guarantor or the unenforceability

of the Guaranteed Obligations or any part thereof from any cause, or the cessation from any cause of the liability of the Borrower or any other Guarantor, other than the payment in full in cash of all the Guaranteed Obligations (excluding contingent obligations as to which no claim has been made). The Administrative Agent and the other Secured Parties may in accordance with the terms of the Collateral Documents, at their election, foreclose on any security held by one or more of them by one or more judicial or nonjudicial sales, accept an assignment of any such security in lieu of foreclosure, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with the Borrower or any other Guarantor or exercise any other right or remedy available to them against any Guarantor, without affecting or impairing in any way the liability of any Guarantor hereunder except to the extent the Guaranteed Obligations have been paid in full in cash (excluding contingent obligations as to which no claim has been made). To the fullest extent permitted by applicable Law, each Guarantor waives any defense arising out of any such election even though such election operates, pursuant to applicable Law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of such Guarantor against the Borrower or any other Guarantor, as the case may be, or any security. To the fullest extent permitted by applicable Law, each Loan Party waives any and all suretyship defenses.

Section 2.04 Reinstatement.

Notwithstanding anything to contrary contained in this Agreement, each of the Guarantors agrees that (a) its guarantee hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Guaranteed Obligation is rescinded or must otherwise be restored by the Administrative Agent or any other Secured Party upon the bankruptcy or reorganization (or any analogous proceeding in any jurisdiction) of the Borrower or any other Guarantor or otherwise and (b) the provisions of this Section 2.04 shall survive the termination of this Agreement.

Section 2.05 Agreement To Pay; Subrogation.

In furtherance of the foregoing and not in limitation of any other right that the Administrative Agent or any other Secured Party has at law or in equity against any Guarantor by virtue hereof, upon the failure of the Borrower or any other Guarantor to pay any Guaranteed Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice of prepayment or otherwise, each Guarantor hereby promises to and will forthwith pay, or cause to be paid, to the Administrative Agent for distribution to the applicable Secured Parties in cash the amount of such unpaid Guaranteed Obligation. Upon payment by any Guarantor of any sums to the Administrative Agent as provided above, all rights of such Guarantor against the Borrower or any other Guarantor arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subject to Article III.

Section 2.06 Information.

Each Guarantor assumes all responsibility for being and keeping itself informed of the Borrower's and each other Guarantor's financial condition and assets, and of all other

circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks that such Guarantor assumes and incurs hereunder, and agrees that none of the Administrative Agent or the other Secured Parties will have any duty to advise such Guarantor of information known to it or any of them regarding such circumstances or risks.

ARTICLE III

Indemnity, Subrogation and Subordination

Upon payment by any Guarantor of any Guaranteed Obligations, all rights of such Guarantor against the Borrower or any other Guarantor arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior payment in full in cash of all the Guaranteed Obligations (excluding contingent obligations as to which no claim has been made). If any amount shall erroneously be paid to the Borrower or any other Guarantor on account of (i) such subrogation, contribution, reimbursement, indemnity or similar right or (ii) any such indebtedness of the Borrower or any other Guarantor, such amount shall be held in trust for the benefit of the Secured Parties and shall forthwith be paid to the Administrative Agent to be credited against the payment of the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms of the Term Loan Credit Agreement and the other Loan Documents. Subject to the foregoing, to the extent that any Guarantor shall, under this Agreement or the Term Loan Credit Agreement as a joint and several obligor, repay any of the Guaranteed Obligations constituting Loans made to another Loan Party under the Term Loan Credit Agreement (an "*Accommodation Payment*"), then the Guarantor making such Accommodation Payment shall be entitled to contribution and indemnification from, and be reimbursed by, each of the other Guarantors in an amount equal to a fraction of such Accommodation Payment, the numerator of which fraction is such other Guarantor's Allocable Amount and the denominator of which is the sum of the Allocable Amounts of all of the Guarantors; provided that such rights of contribution and indemnification shall be subordinated to the prior payment in full, in cash, of all of the Guaranteed Obligations (excluding contingent obligations as to which no claim has been made). As of any date of determination, the "*Allocable Amount*" of each Guarantor shall be equal to the maximum amount of liability for Accommodation Payments which could be asserted against such Guarantor hereunder and under the Term Loan Credit Agreement without (a) rendering such Guarantor "insolvent" within the meaning of 11 U.S.C. § 101(32) of the Bankruptcy Code of the United States, Section 2 of the Uniform Fraudulent Transfer Act ("*UFTA*") or Section 2 of the Uniform Fraudulent Conveyance Act ("*UFCA*"), (b) leaving such Guarantor with unreasonably small capital or assets, within the meaning of 11 U.S.C. § 548 of the Bankruptcy Code of the United States, Section 4 of the UFTA, or Section 5 of the UFCA, or (c) leaving such Guarantor unable to pay its debts as they become due within the meaning of 11 U.S.C. § 548 of the Bankruptcy Code of the United States or Section 4 of the UFTA, or Section 5 of the UFCA.

ARTICLE IV

Miscellaneous

Section 4.01 Notices.

All communications and notices hereunder shall (except as otherwise expressly permitted herein) be in writing and given as provided in Section 12.8 of the Term Loan Credit Agreement. All communications and notice hereunder to a Guarantor other than Holdings shall be given in care of the Borrower.

Section 4.02 Waivers; Amendment.

(a) No failure by any Secured Party to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 4.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the advance of a Loan shall not be construed as a waiver of any Default or Event of Default, regardless of whether any Loan Party may have had notice or knowledge of such Default or Event of Default at the time.

(b) Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties with respect to which such waiver, amendment or modification is to apply, subject to any consent required in accordance with Section 12.1 of the Term Loan Credit Agreement.

Section 4.03 Administrative Agent's and Collateral Agent's Fees and Expenses; Indemnification.

(a) Each Guarantor, jointly with the other Guarantors and severally, agrees to reimburse the Administrative Agent and the Collateral Agent for its fees and expenses incurred hereunder as provided in Section 12.3 of the Term Loan Credit Agreement and indemnity for its actions in connection herewith as provided in Section 12.4 of the Term Loan Credit Agreement; provided that each reference therein to the "Borrower" shall be deemed to be a reference to "each Guarantor".

(b) Any such amounts payable as provided hereunder shall be additional Guaranteed Obligations guaranteed hereby and secured by the Collateral Documents. The

provisions of this Section 4.03 shall remain operative and in full force and effect regardless of the termination of this Agreement, any other Loan Document or any Secured Hedge Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Guaranteed Obligations, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, any resignation of the Administrative Agent or Collateral Agent or any document governing any of the Obligations arising under any Secured Hedge Agreements, or any investigation made by or on behalf of the Administrative Agent or any other Secured Party. All amounts due under this Section 4.03 shall be payable within twenty (20) Business Days of written demand therefor.

Section 4.04 Successors and Assigns.

Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party; and all covenants, promises and agreements by or on behalf of any Guarantor or any Secured Party that are contained in this Agreement shall bind and inure to the benefit of their respective permitted successors and assigns. Except as provided in Section 12.2 of the Term Loan Credit Agreement, no Guarantor may assign any of its rights or obligations hereunder without the written consent of the Administrative Agent.

Section 4.05 Survival of Agreement.

All covenants, agreements, indemnities, representations and warranties made by the Guarantors in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the Secured Parties and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any Secured Party or on its behalf and notwithstanding that any Secured Party may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended under the Term Loan Credit Agreement or any other Loan Document, and shall continue in full force and effect until this Agreement is terminated as provided in Section 4.12 hereof, or with respect to any individual Guarantor until such Guarantor is otherwise released from its obligations under this Agreement in accordance with the terms hereof.

Section 4.06 Counterparts; Effectiveness; Several Agreement.

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when it shall have been executed by the Guarantors, the Administrative Agent and the Collateral Agent and thereafter shall be binding upon and inure to the benefit of each Guarantor, the Administrative Agent, the Collateral Agent, the other Secured Parties and their respective permitted successors and assigns, subject to Section 4.04 hereof. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as

delivery of a manually executed counterpart of this Agreement. This Agreement shall be construed as a separate agreement with respect to each Guarantor and may be amended, restated, modified, supplemented, waived or released with respect to any Guarantor without the approval of any other Guarantor and without affecting the obligations of any other Guarantor hereunder.

Section 4.07 Severability.

If any provision of this Agreement is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 4.08 GOVERNING LAW, ETC.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) THE GUARANTORS, THE ADMINISTRATIVE AGENT AND THE COLLATERAL AGENT EACH IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE ADMINISTRATIVE AGENT AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW. EACH PARTY HERETO AGREES THAT THE ADMINISTRATIVE AGENT AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER THIS AGREEMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) THE GUARANTORS, THE ADMINISTRATIVE AGENT AND THE COLLATERAL AGENT EACH IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

Section 4.09 WAIVER OF RIGHT TO TRIAL BY JURY.

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 4.10 Headings.

Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

Section 4.11 Obligations Absolute.

All rights of the Collateral Agent, the Administrative Agent and the other Secured Parties hereunder and all obligations of each Guarantor hereunder shall be absolute and unconditional irrespective of (a) any lack of validity or enforceability of the Term Loan Credit Agreement, any other Loan Document, any agreement with respect to any of the Guaranteed Obligations or any other agreement or instrument relating to any of the foregoing, (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligations, or any other amendment or waiver of or any consent to any departure from the Term Loan Credit Agreement, any other Loan Document, or any other agreement or instrument, (c) any release or amendment or waiver of or consent under or departure from any guarantee guaranteeing all or any of the Guaranteed Obligations or (d) subject only to termination or release of a Guarantor's obligations hereunder in accordance with the terms of Section 4.12, but without prejudice to reinstatement rights under Section 2.04, any other circumstance that might otherwise constitute a

defense available to, or a discharge of, any Guarantor in respect of the Guaranteed Obligations or this Agreement.

Section 4.12 Termination or Release.

(a) This Agreement and the Guarantees made herein shall terminate with respect to all Guaranteed Obligations when all principal and interest in respect of each Loan and all other Guaranteed Obligations (other than (i) contingent indemnification obligations not yet accrued and payable and (ii) Guaranteed Obligations in respect of any Secured Hedge Agreement) shall have been paid in full in cash.

(b) A Guarantor that is a Restricted Subsidiary shall automatically be released in the circumstances set forth in Section 11.11 of the Term Loan Credit Agreement.

(c) In connection with any termination or release pursuant to clauses (a) or (b) above, the Administrative Agent and the Collateral Agent shall promptly execute and deliver to any Guarantor, at such Guarantor's expense, all documents that such Guarantor shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section 4.12 shall be without recourse to or warranty by the Administrative Agent or the Collateral Agent.

(d) At any time that the respective Guarantor desires that the Administrative Agent or the Collateral Agent take any of the actions described in immediately preceding paragraph (c), it shall, upon request of the Administrative Agent or the Collateral Agent, deliver to the Administrative Agent an officer's certificate certifying that the release of the respective Guarantor is permitted pursuant to clause (a) or (b) above. The Administrative Agent and the Collateral Agent shall have no liability whatsoever to any Secured Party as a result of any release of any Guarantor by it as permitted (or which the Administrative Agent in good faith believes to be permitted) by this Section 4.12.

Section 4.13 Additional Guarantors.

Pursuant to Section 8.11 of the Term Loan Credit Agreement, certain Restricted Subsidiaries of the Loan Parties that are wholly owned Material Domestic Subsidiaries and not Excluded Subsidiaries and that were not in existence or not Restricted Subsidiaries on the date of the Term Loan Credit Agreement and certain Parent Guarantors are, in each case, required to enter in this Agreement as Guarantors (for avoidance of doubt, the Borrower may cause any Restricted Subsidiary or any Parent Guarantor that is not an Excluded Subsidiary to Guarantee the Obligations by causing such Person to execute a Guaranty Supplement in accordance with the provisions of this Section 4.13 and any such Person shall be a Guarantor hereunder with the same force and effect as if originally named as a Guarantor herein). Upon execution and delivery by the Administrative Agent and a Restricted Subsidiary or Parent Guarantor of a Guaranty Supplement, such Restricted Subsidiary or Parent Guarantor shall become a Guarantor hereunder with the same force and effect as if originally named as a Guarantor herein. The execution and delivery of any such instrument shall not require the consent of any other

Guarantor hereunder. The rights and obligations of each Guarantor hereunder shall remain in full force and effect notwithstanding the addition of any new Guarantor as a party to this Agreement.

Section 4.14 Recourse; Limited Obligations.

This Agreement is made with full recourse to each Guarantor and pursuant to and upon all the warranties, representations, covenants and agreements on the part of such Guarantor contained herein, in the Term Loan Credit Agreement and the other Loan Documents and otherwise in writing in connection herewith or therewith. It is the desire and intent of each Guarantor and each applicable Secured Party that this Agreement shall be enforced against each Guarantor to the fullest extent permissible under applicable Law applied in each jurisdiction in which enforcement is sought.

Section 4.15 Intercreditor.

The Guarantors, the Collateral Agent and the Administrative Agent acknowledge that the exercise of certain of the Collateral Agent's and the Administrative Agent's rights and remedies hereunder may be subject to, and restricted by, the provisions of the ABL/Term Intercreditor Agreement. Except as specified herein, nothing contained in the ABL/Term Intercreditor Agreement shall be deemed to modify any of the provisions of this Agreement, which, as among the Guarantors, the Collateral Agent and the Administrative Agent shall remain in full force and effect in accordance with the terms hereof.

Section 4.16 Keepwell.

Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally, and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each Specified Loan Party to honor all of such Specified Loan Party's obligations under this Guaranty in respect of any Swap Obligation (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 4.16 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 4.16, or otherwise under this Guaranty, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 4.16 shall remain in full force and effect until the payment in full and discharge of the Guaranteed Obligations. Each Qualified ECP Guarantor intends that this Section 4.16 constitute, and this Section 4.16 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each Specified Loan Party for all purposes of section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

[Signature Pages Follow]

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

GUARANTORS:

MATTRESS HOLDING CORP.

By: _____
Name:
Title:

MATTRESS FIRM, INC.

By: _____
Name:
Title:

GUARANTORS:

CUSTOM FUNDRAISING SOLUTIONS, LLC
THE MATTRESS VENTURE, LLC
AMERICAN INTERNET SALES LLC
THE SLEEP TRAIN, INC.
ST SAN DIEGO, LLC
SLEEP COUNTRY USA, LLC
CCP IV HOLDINGS, LLC
CXV HOLDINGS, LLC
CCP IV SBS HOLDINGS, LLC
HMK MATTRESS HOLDINGS LLC
HMK INTERMEDIATE HOLDINGS LLC
ACKER REALTY HOLDINGS LLC
SLEEPY'S, LLC
DIAL OPERATIONS, LLC
SINT, LLC
MD ACQUISITION LLC
1800MATTRESS.COM IP, LLC
MATTRESS DISCOUNTERS OPERATIONS LLC
MATTRESS DISCOUNTERS IP LLC
SOUTH OYSTER BAY REALTY, LLC
STRIPES US HOLDING, INC.
MATTRESS FIRM HOLDING CORP.
MATTRESS HOLDCO, INC.

By: _____
Name:
Title:

ADMINISTRATIVE AGENT AND COLLATERAL AGENT:

BARCLAYS BANK PLC,
as Administrative Agent and as Collateral Agent

By: _____
Name:
Title:

SCHEDULE I TO GUARANTY

SUBSIDIARY GUARANTORS

CUSTOM FUNDRAISING SOLUTIONS, LLC
THE MATTRESS VENTURE, LLC
AMERICAN INTERNET SALES LLC
THE SLEEP TRAIN, INC.
ST SAN DIEGO, LLC
SLEEP COUNTRY USA, LLC
CCP IV HOLDINGS, LLC
CXV HOLDINGS, LLC
CCP IV SBS HOLDINGS, LLC
HMK MATTRESS HOLDINGS LLC
HMK INTERMEDIATE HOLDINGS LLC
ACKER REALTY HOLDINGS LLC
SLEEPY'S, LLC
DIAL OPERATIONS, LLC
SINT, LLC
MD ACQUISITION LLC
1800MATTRESS.COM IP, LLC
MATTRESS DISCOUNTERS OPERATIONS LLC
MATTRESS DISCOUNTERS IP LLC
SOUTH OYSTER BAY REALTY, LLC

EXHIBIT I TO GUARANTY

FORM OF GUARANTY SUPPLEMENT

GUARANTY SUPPLEMENT NO. ___ dated as of _____ ___, 20___, to the Guaranty dated as of November [•], 2018, among MATTRESS FIRM, INC. (the "*Borrower*"), MATTRESS HOLDING CORP., a Delaware corporation ("*Holdings*"), the Parent Guarantors, the other Guarantors party thereto from time to time and BARCLAYS BANK PLC, as Administrative Agent and Collateral Agent for the Secured Parties (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*Guaranty*").

A. Reference is made to the Term Loan Credit Agreement, dated as of November [•], 2018 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*Term Loan Credit Agreement*"), by, among others, the Borrower, Holdings, the Parent Guarantors, the Lenders party thereto, and Barclays Bank PLC, as Administrative Agent and Collateral Agent for the Lenders.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Term Loan Credit Agreement and the Guaranty, as applicable.

C. The Guarantors have entered into the Guaranty in order to induce the Lenders to make Loans. Section 4.13 of the Guaranty provides that additional Persons may become Guarantors under the Guaranty by execution and delivery of an instrument in the form of this Guaranty Supplement. The undersigned Person (the "*New Subsidiary*") is executing this Guaranty Supplement in accordance with the requirements of the Term Loan Credit Agreement to become a Guarantor under the Guaranty as consideration for Loans previously made.

Accordingly, the Administrative Agent and the New Subsidiary agree as follows:

Section 1. In accordance with Section 4.13 of the Guaranty, the New Subsidiary by its signature below becomes a Guarantor under the Guaranty with the same force and effect as if originally named therein as a Guarantor and the New Subsidiary hereby (a) agrees to all the terms and provisions of the Guaranty applicable to it as a Guarantor thereunder, (b) represents and warrants that the representations and warranties made by it as a Guarantor thereunder are true and correct on and as of the date hereof, provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all respects as of such earlier date and (c) irrevocably, absolutely, and unconditionally guarantees, jointly with the other Guarantors and severally, as a primary obligor and not merely as a surety, the due and punctual payment and performance of the Guaranteed Obligations, in each case, whether such Guaranteed Obligations are now existing or hereafter incurred under, arising out of or in connection with any Loan Document or Secured Hedge Agreements, and whether at maturity, by acceleration or otherwise. Each reference to a "Guarantor" in the Guaranty shall be deemed to include the New Subsidiary as if originally named therein as a Guarantor. The Guaranty is hereby incorporated herein by reference.

Section 2. The New Subsidiary represents and warrants to the Administrative Agent and the other Secured Parties that this Guaranty Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity.

Section 3. This Guaranty Supplement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Guaranty Supplement shall become effective when the Administrative Agent shall have received a counterpart of this Guaranty Supplement that bears the signature of the New Subsidiary and the Administrative Agent has executed a counterpart hereof. Delivery of an executed counterpart of a signature page of this Guaranty Supplement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Guaranty Supplement.

Section 4. Except as expressly supplemented hereby, the Guaranty shall remain in full force and effect.

Section 5. (a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE ADMINISTRATIVE AGENT AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER THIS AGREEMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO

THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 6. If any provision of this Guaranty Supplement is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Guaranty Supplement shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 7. All communications and notices hereunder shall be in writing and given as provided in Section 4.01 of the Guaranty.

Section 8. The New Subsidiary agrees to reimburse the Administrative Agent for its reasonable out-of-pocket expenses in connection with this Guaranty Supplement, as provided in Section 4.03(a) of the Guaranty.

IN WITNESS WHEREOF, the New Subsidiary and the Administrative Agent have duly executed this Guaranty Supplement to the Guaranty as of the day and year first above written.

[NAME OF NEW SUBSIDIARY]

By: _____
Name:
Title:

BARCLAYS BANK PLC,
as Administrative Agent and Collateral Agent

By: _____
Name:
Title:

DRAFT

SECURITY AGREEMENT

dated as of November [•], 2018

among

MATTRESS FIRM, INC.,
as the Borrower,

MATTRESS HOLDING CORP.,
as Holdings,

THE PARENT GUARANTORS PARTY HERETO,

THE SUBSIDIARY GUARANTORS PARTY HERETO FROM TIME TO TIME,

and

BARCLAYS BANK PLC,

as Collateral Agent

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

SCHEDULES

EXHIBITS

This SECURITY AGREEMENT, dated as of November [•], 2018 (this "*Agreement*"), among MATTRESS FIRM, INC., a Delaware corporation (the "*Borrower*"), MATTRESS HOLDING, CORP., a Delaware corporation ("*Holdings*"), the Subsidiary Guarantors set forth on Schedule I hereto, the Parent Guarantors party hereto and BARCLAYS BANK PLC, as Collateral Agent for the Secured Parties (as defined below).

Reference is made to the ABL Credit Agreement, dated as of November [•], 2018 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*Credit Agreement*"), among the Borrower, Holdings, the Parent Guarantors, the Lenders party thereto from time to time and Barclays Bank PLC, as Administrative Agent for the Lenders and Collateral Agent for the Secured Parties.

The Lenders have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Credit Agreement, the Issuers have agreed to issue Letters of Credit for the account of the Borrower or a Restricted Subsidiary on the terms and conditions set forth in the Credit Agreement, the Hedge Banks have agreed to enter into and/or maintain one or more Secured Hedge Agreements and the Cash Management Banks have agreed to enter into and/or maintain Cash Management Services, on the terms and conditions set forth in the Credit Agreement, in such Secured Hedge Agreements and in such Cash Management Agreements, as applicable. The obligations of the Lenders to extend such credit, the obligation of the Issuers to issue Letters of Credit, the obligation of the Hedge Banks to enter into and/or maintain such Secured Hedge Agreements and the obligation of the Cash Management Banks to enter into and/or maintain such Cash Management Services are, in each case, conditioned upon, among other things, the execution and delivery of this Agreement by each Grantor (as defined below). The Grantors are affiliates of one another, will derive substantial direct and indirect benefits from (i) the extensions of credit to the Borrower pursuant to the Credit Agreement, (ii) the issuance of Letters of Credit by the Issuers for the account of the Borrower or, in accordance with the Credit Agreement, a Restricted Subsidiary, (iii) the entering into and/or maintaining by the Hedge Banks of Secured Hedge Agreements with the Borrower and/or one or more of its Restricted Subsidiaries, and (iv) the entering into and/or maintaining by the Cash Management Banks of Cash Management Services with the Borrower and/or one or more of its Restricted Subsidiaries, and are willing to execute and deliver this Agreement in order to induce the Lenders to extend such credit, the Issuers to issue such Letters of Credit, the Hedge Banks to enter into and/or maintain such Secured Hedge Agreements and the Cash Management Banks to enter into and/or maintain such Cash Management Services.

Therefore, in consideration of the mutual conditions and agreements set forth in this Agreement, and for good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

Definitions

Section 1.01. Credit Agreement.

(a) Capitalized terms used in this Agreement, including the preamble and introductory paragraphs hereto, and not otherwise defined herein have the meanings specified in the Credit Agreement.

(b) Unless otherwise defined in this Agreement or in the Credit Agreement, terms defined in Article 8 or 9 of the UCC (as defined below) are used in this Agreement as such terms are defined in such Article 8 or 9.

(c) The rules of construction specified in Article I of the Credit Agreement also apply to this Agreement.

Section 1.02. Other Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"*ABL Administrative Agent*" means Barclays, in its capacity as administrative agent (as defined in the ABL Credit Agreement).

"*ABL Priority Collateral*" has the meaning assigned to such term in the ABL/Term Intercreditor Agreement.

"*ABL/Term Intercreditor Agreement*" has the meaning assigned to such term in the Credit Agreement.

"*Accommodation Payment*" has the meaning assigned to such term in Article VII.

"*Account(s)*" means "accounts" as defined in Section 9-102 of the UCC, and also means a right to payment of a monetary obligation, whether or not earned by performance, (a) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (b) for services rendered or to be rendered, or (c) arising out of the use of a credit or charge card or information contained on or for use with the card.

"*Account Debtor*" means any Person who is or who may become obligated to any Grantor under, with respect to or on account of an Account.

"*After-Acquired Intellectual Property*" has the meaning assigned to such term in Section 4.02(f).

"*Agreement*" has the meaning assigned to such term in the introductory paragraph hereto.

"*Allocable Amount*" has the meaning assigned to such term in Article VII.

"*Article 9 Collateral*" has the meaning assigned to such term in Section 3.01(a).

"*Bankruptcy Event of Default*" means any Event of Default under Sections 10.1(f) of the Credit Agreement.

"*Blue Sky Laws*" has the meaning assigned to such term in Section 6.01.

"*Borrower*" has the meaning assigned to such term in the introductory paragraph to this Agreement.

"*Collateral*" means the Article 9 Collateral and the Pledged Collateral.

"*Collateral Account*" means the Concentration Account (as defined in the Credit Agreement), which cash collateral account shall be maintained with, and under the sole dominion and control of, the Collateral Agent for the benefit of the relevant Secured Parties.

"*Copyright License*" means any written agreement, now or hereafter in effect, granting any license or similar right to any third party under any Copyright now or hereafter owned by any Grantor or that such Grantor otherwise has the right to license, or granting any license or similar right to any Grantor under any Copyright now or hereafter owned by any third party, and all rights of such Grantor under any such agreement.

"*Copyrights*" means all of the following now owned or hereafter acquired by or assigned to any Grantor or owned by any third party with any right or license therein granted to any Grantor: (a) all copyright rights in any work subject to the copyright laws of the United States or any other country, whether as author, assignee, transferee or otherwise, whether registered or unregistered and whether published or unpublished, (b) all registrations and applications for registration of any such copyright in the United States or any other country, including registrations, recordings, supplemental registrations and pending applications for registration in the United States Copyright Office, including those listed on Schedule 9(b) to the Perfection Certificate and all: (i) rights and privileges arising under applicable Law with respect to such Grantor's use of such copyrights, (ii) reissues, renewals, and extensions thereof and amendments thereto, (iii) income, fees, royalties, damages, claims and payments now or hereafter due and/or payable with respect thereto, including damages and payments for past, present or future infringements thereof, (iv) rights corresponding thereto throughout the world and (v) rights to sue for past, present or future infringements thereof.

"*Credit Agreement*" has the meaning assigned to such term in the preliminary statement of this Agreement.

"*Closing Date Grantor*" has the meaning assigned to such term in Section 2.02 of this Agreement.

"*Debtor Relief Laws*" shall mean the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"*Discharge of ABL Obligations*" shall have the meaning assigned to such term in the ABL/Term Intercreditor Agreement.

"*Discharge of Term Obligations*" shall have the meaning assigned to such term in the ABL/Term Intercreditor Agreement.

"*Domain Names*" means all Internet domain names and associated URL addresses in or to which any Grantor now or hereafter has any right, title or interest.

"*Equipment*" shall mean (x) any "equipment" as such term is defined in Article 9 of the UCC and in any event, shall include, but shall not be limited to, all machinery, equipment, furnishings, appliances, furniture, fixtures, tools, and vehicles now or hereafter owned by any Grantor in each case, regardless of whether characterized as equipment under the UCC and (y) and any and all additions, substitutions and replacements of any of the foregoing and all accessions thereto, wherever located, whether or not at any time of determination incorporated or installed therein or attached thereto, and all replacements therefore, together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto.

"*General Intangibles*" has the meaning provided in Article 9 of the UCC and shall in any event include all choses in action and causes of action and all other intangible personal property of every kind and nature (other than Accounts) now owned or hereafter acquired by any Grantor, as the case may be, including corporate or other business records, indemnification claims, contract rights (including rights under leases, whether entered into as lessor or lessee, Swap Contracts and other agreements), goodwill, registrations, franchises, tax refund claims and any letter of credit, guarantee, claim, security interest or other security held by or granted to any Grantor.

"*Grant of Security Interest*" means a Grant of Security Interest in certain IP Collateral in the form of Exhibit III, IV or V attached hereto.

"*Grantor*" means the Borrower and each Guarantor.

"*Holdings*" has the meaning assigned to such term in the preliminary statement hereto.

"*Intellectual Property*" means all intellectual and similar property of every kind and nature now owned, licensed or hereafter acquired by any Grantor, including: inventions, designs, Patents, Copyrights, Licenses, Trademarks, Domain Names, trade secrets, confidential or proprietary technical and business information, know how, show how or other data or information, software, databases, all other proprietary information and all embodiments or fixations thereof and related documentation, registrations and all additions, improvements and accessions to, and books and records describing or used in connection with, any of the foregoing.

"*IP Collateral*" means the Collateral consisting of Intellectual Property.

"*License*" means any Patent License, Trademark License, Copyright License or other license or sublicense agreement granting any license or similar rights under Intellectual Property to which any Grantor is a party.

"*Parent Guarantors*" has the meaning specified in the Credit Agreement.

"*Patent License*" means any written agreement, now or hereafter in effect, granting to any third party any license or right to develop, commercialize, import, make, have made, offer for sale, use or sell any invention on which a Patent, now or hereafter owned by any Grantor or that any Grantor otherwise has the right to license, is in existence, or granting to any Grantor any

such license or similar right with respect to any invention on which a Patent, now or hereafter owned by any third party, is in existence, and all rights of any Grantor under any such agreement.

"*Patents*" means all of the following now owned or hereafter acquired by any Grantor or owned by a third party with any right or license therein granted to any Grantor: (a) all letters patent of the United States or the equivalent thereof in any other country, all registrations and recordings thereof, and all applications for letters patent of the United States or the equivalent thereof in any other country, including registrations, recordings and pending applications in the United States Patent and Trademark Office or any similar offices in any other country, including those listed on Schedule 9(a) to the Perfection Certificate, and (b) all (i) rights and privileges arising under applicable Law with respect to such Grantor's use of any patents, (ii) inventions and improvements described and claimed therein, (iii) reissues, reexaminations, divisions, continuations, renewals, extensions and continuations-in-part thereof and amendments thereto, (iv) income, fees, royalties, damages, claims and payments now or hereafter due and/or payable with respect to any of the foregoing including damages and payments for past, present or future infringements thereof, (v) rights corresponding thereto throughout the world and (vi) rights to sue for past, present or future infringements thereof.

"*Perfection Certificate*" means a certificate substantially in the form of Exhibit II, completed and supplemented with the schedules and attachments contemplated thereby, and duly executed by a Responsible Officer of the Borrower.

"*Pledged Collateral*" has the meaning assigned to such term in Section 2.01.

"*Pledged Debt*" has the meaning assigned to such term in Section 2.01.

"*Pledged Equity*" has the meaning assigned to such term in Section 2.01.

"*Pledged Securities*" means any Promissory Notes, stock certificates, unit certificates, limited or unlimited liability membership certificates or other Securities or Instruments now or hereafter included in the Pledged Collateral, including all Pledged Equity, Pledged Debt and all other certificates, instruments or other documents representing or evidencing any Pledged Collateral.

"*Secured Obligations*" means the "Obligations" as defined in the Credit Agreement and the "Guaranteed Obligations" (as defined in the Guaranty); it being acknowledged and agreed that the term "Secured Obligations" as used herein shall include each extension of credit under the Credit Agreement and all obligations of the Loan Parties and their respective Subsidiaries which arise under the Loan Documents (including the Guaranty) or with respect to the Obligations in respect of Secured Hedge Agreements or Obligations in respect of Secured Cash Management Agreements, in each case, whether outstanding on the date of this Agreement or extended or arising from time to time after the date of this Agreement.

"*Secured Parties*" has the meaning provided in the Credit Agreement.

"*Securities Act*" has the meaning assigned to such term in Section 6.01.

"*Securities Accounts*" means all securities accounts of any Loan Party, including "securities accounts" within the meaning given to such term in Article 8 of the UCC.

"*Security*" means a "security" as such term is defined in Article 8 of the UCC and, in any event, shall include any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities" or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

"*Security Agreement Supplement*" means an instrument substantially in the form of Exhibit I hereto.

"*Security Interest*" has the meaning assigned to such term in Section 3.01(a).

"*Term Administrative Agent*" has the meaning assigned to such term in the ABL/Term Intercreditor Agreement.

"*Term Collateral Documents*" has the meaning assigned to such term in the ABL/Term Intercreditor Agreement.

"*Term Priority Collateral*" has the meaning assigned to such term in the ABL/Term Intercreditor Agreement.

"*Term Secured Parties*" has the meaning assigned to such term in the ABL/Term Intercreditor Agreement.

"*Trademark License*" means any written agreement, now or hereafter in effect, granting to any third party any license or similar right to use any Trademark now or hereafter owned by any Grantor or that any Grantor otherwise has the right to license, or granting to any Grantor any license or similar right to use any Trademark now or hereafter owned by any third party, and all rights of any Grantor under any such agreement (not including vendor or distribution agreements that allow incidental use of intellectual property rights in connection with the sale or distribution of such products or services).

"*Trademarks*" means all of the following now owned or hereafter acquired by any Grantor or owned by any third party with any right or license therein granted to any Grantor: (a) all trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade styles, trade dress, logos, other source or business identifiers, designs and general intangibles of like nature, the goodwill of the business symbolized thereby or associated therewith, all registrations and recordings thereof, and all registration and recording applications filed in connection therewith, including registrations and registration applications in the United States Patent and Trademark Office or any similar offices in any State of the United States or any other country or any political subdivision thereof, and all extensions or renewals thereof, including those listed on Schedule 9(a) to the Perfection Certificate, (b) all rights and privileges arising under applicable Law with respect to such Grantor's use of any trademarks, (c) all extensions and renewals thereof and amendments

thereto, (d) all income, fees, royalties, damages and payments now and hereafter due and/or payable with respect to any of the foregoing, including damages, claims and payments for past, present or future infringements thereof, (e) all rights corresponding thereto throughout the world and (f) all rights to sue for past, present and future infringements or dilutions thereof or other injuries thereto.

"*UCC*" means the Uniform Commercial Code as in effect from time to time in the State of New York; provided that, if by reason of mandatory provisions of law, perfection, or the effect of perfection or non-perfection or the priority of a security interest in any Collateral or the availability of any remedy hereunder is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, "UCC" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection or priority or availability of such remedy, as the case may be.

"*UFCA*" has the meaning assigned to such term in Article VII.

"*UFTA*" has the meaning assigned to such term in Article VII.

ARTICLE II

Pledge of Securities

Section 2.01. Pledge. As security for the payment or performance, as the case may be, in full of the Secured Obligations, each Grantor hereby assigns and pledges to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, and hereby grants to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, a continuing security interest in, all of such Grantor's right, title and interest, whether now owned or hereafter acquired or arising in, to and under (a) (i) all Equity Interests held by it (including those Equity Interests listed on Schedule II) and (ii) any other Equity Interests obtained in the future by such Grantor and the certificates representing all such Equity Interests (the foregoing clauses (i) and (ii) collectively, the "*Pledged Equity*"), in each case including all dividends, distributions, return of capital, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Equity and all warrants, rights or options issued thereon or with respect thereto; provided that the Pledged Equity shall not include (A) more than 65% of the issued and outstanding Equity Interests directly owned by the Borrower or by any Subsidiary Guarantor of (x) each Restricted Subsidiary that is a CFC and (y) each Restricted Subsidiary that is a CFC Holdco or (B) Excluded Assets; (b) (i) the Promissory Notes and any Instruments evidencing indebtedness owned by it (including those listed opposite the name of such Grantor on Schedule II) and (ii) any Promissory Notes and Instruments evidencing indebtedness obtained in the future by such Grantor (the foregoing clauses (i) and (ii) collectively, the "*Pledged Debt*"), in each case including all interest, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all Pledged Debt; provided that the Pledged Debt shall not include Excluded Assets; (c) all other property that may be delivered to and held by the Collateral Agent pursuant to the terms of this Section 2.01; (d) subject to Section 2.06, all payments of principal or interest, dividends, cash, instruments and other

property from time to time received, receivable or otherwise distributed in respect of, in exchange for or upon the conversion of, and all other Proceeds received in respect of, the securities referred to in clauses (a), (b) and (c) above; (e) subject to Section 2.06, all rights and privileges of such Grantor with respect to the securities and other property referred to in clauses (a), (b), (c) and (d) above; and (f) all Proceeds of, and Security Entitlements in respect of, any of the foregoing (the items referred to in clauses (a) through (f) above being collectively referred to as the "*Pledged Collateral*").

TO HAVE AND TO HOLD the Pledged Collateral, together with all right, title, interest, powers, privileges and preferences pertaining or incidental thereto, unto the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, forever; subject, however, to the terms, covenants and conditions hereinafter set forth.

Section 2.02. Delivery of the Pledged Collateral.

(a) Subject to the ABL/Term Intercreditor Agreement, on the Closing Date (in the case of any Grantor that grants a Lien on any of its assets hereunder on the Closing Date (each, an "*Closing Date Grantor*")) or on the date on which it signs and delivers its first Security Agreement Supplement (in the case of any other Grantor), each Grantor shall deliver or cause to be delivered to the Collateral Agent for the benefit of the Secured Parties, any and all Pledged Securities (other than any Uncertificated Securities, but only for so long as such Securities remain uncertificated); provided that Promissory Notes and Instruments evidencing Indebtedness shall only be so required to be delivered to the extent required pursuant to paragraph (b) of this Section 2.02. Thereafter, whenever such Grantor acquires any other Pledged Security (other than any Uncertificated Securities, but only for so long as such Securities remain uncertificated), such Grantor shall promptly deliver or cause to be delivered to the Collateral Agent for the benefit of the Secured Parties, such Pledged Security as Collateral; provided that Promissory Notes and Instruments evidencing Indebtedness shall only be so required to be delivered to the extent required pursuant to paragraph (b) of this Section 2.02.

(b) Subject to the ABL/Term Intercreditor Agreement, as promptly as practicable (and in any event within thirty (30) days after receipt by Grantor (or such longer period as the Administrative Agent may agree in its reasonable discretion)), each Grantor will cause any Indebtedness for borrowed money having an aggregate principal amount equal to or in excess of $[5,000,000][1] owed to such Grantor by any Person (other than a Loan Party) to be evidenced by a duly executed Promissory Note that is pledged and, subject to the terms of the ABL/Term Intercreditor Agreement, delivered to the Collateral Agent for the benefit of the Secured Parties.[2]

(c) Upon delivery to the Collateral Agent or Term Administrative Agent, as applicable (i) any certificate or promissory note representing Pledged Collateral shall be accompanied by undated stock or note powers, as applicable, duly executed in blank or other undated instruments of transfer duly-executed in blank reasonably satisfactory to the Collateral Agent and by such other instruments and documents as the Collateral Agent may reasonably

[1] To be confirmed.

[2] See added Sec. 8.19 language allowing Borrower to deliver Collateral.

request and (ii) all other property comprising part of the Pledged Collateral shall be accompanied by such instruments and documents as the Collateral Agent may reasonably request. Each delivery of Pledged Securities shall be accompanied by a schedule describing such Pledged Securities, which schedule shall be deemed to supplement Schedule II and be made a part hereof; provided that failure to provide any such schedule hereto shall not affect the validity of such pledge of such Pledged Securities. Each schedule so delivered shall supplement any prior schedules so delivered.

(d) The assignment, pledge and security interest granted in Section 2.01 are granted as security only and shall not subject the Collateral Agent or any other Secured Party to, or in any way alter or modify, any obligation or liability of any Grantor with respect to or arising out of the Pledged Collateral.

Section 2.03. Representations, Warranties and Covenants. Each Grantor, jointly and severally, represents, warrants and covenants, as to itself and the other Grantors, to and with the Collateral Agent, for the benefit of the Secured Parties, that:

(a) Schedule II sets forth, as of the Closing Date and as of each date on which a supplement to Schedule II is delivered pursuant to Section 2.02(c), a true and correct list of (i) all the issued and outstanding units of each class of the Equity Interests of the issuer thereof represented by the Pledged Equity directly owned beneficially, or of record, by such Grantor specifying the issuer and certificate number (if any) of, and the number and percentage of ownership represented by, such Pledged Equity and (ii) all the Pledged Debt owned by such Grantor (other than checks to be deposited in the ordinary course of business), including all Promissory Notes and Instruments required to be pledged hereunder;

(b) the Pledged Equity issued by the Borrower, each other Grantor or their respective Subsidiaries and the Pledged Debt (solely with respect to Pledged Debt issued by a Person other than any Grantor or any of their respective Subsidiaries, to the best of each Grantor's knowledge) have been duly and validly authorized and issued by the issuers thereof and (i) in the case of Pledged Equity (other than Pledged Equity consisting of limited liability company interests or partnership interests which, pursuant to the relevant organizational or formation documents, cannot be fully paid and non-assessable), are fully paid and nonassessable and (ii) in the case of Pledged Debt (solely with respect to Pledged Debt issued by a Person other than any Grantor or any of their respective Subsidiaries to the best of each Grantor's knowledge), are legal, valid and binding obligations of the issuers thereof, subject to applicable Debtor Relief Laws and general principles of equity;

(c) Each of the Grantors (i) holds the Pledged Securities indicated on Schedule II as owned by such Grantor free and clear of all Liens, other than (A) Liens created by the Collateral Documents and, subject to the ABL/Term Intercreditor Agreement, the Term Collateral Documents and (B) other Liens expressly permitted pursuant to Section 9.1 of the Credit Agreement, (ii) will make no assignment, pledge, hypothecation or transfer of, or create or permit to exist any security interest in or other Lien on, the Pledged Collateral, other than (A) Liens created by the Collateral Documents and, subject to the ABL/Term Intercreditor Agreement, the Term Collateral Documents and (B) other Liens expressly permitted pursuant to Section 9.1 of the Credit Agreement, and (iii) will defend its title or interest thereto or therein

against any and all Liens (other than the Liens permitted pursuant to this Section 2.03(c)), however arising, of all Persons whomsoever;

(d) except for (i) restrictions and limitations imposed by the Loan Documents or securities laws generally or by Liens expressly permitted pursuant to Section 9.1 of the Credit Agreement and (ii) in the case of Pledged Equity of Persons that are not Subsidiaries, transfer restrictions that exist at the time of acquisition of Equity Interests in such Persons, the Pledged Equity is and will continue to be freely transferable and assignable, and none of the Pledged Equity is or will be subject to any option, right of first refusal, shareholders agreement, charter or by-law or other organizational document provisions or contractual restriction of any nature that might prohibit, impair, delay or otherwise affect in any manner material and adverse to the Secured Parties the pledge of such Pledged Equity hereunder, the sale or disposition thereof pursuant hereto or the exercise by the Collateral Agent of rights and remedies hereunder; provided that, to the extent any organizational document of a Grantor contains any contractual restriction requiring consent of a member thereof for the pledge of Pledged Equity hereunder, such consent is hereby given;

(e) each of the Grantors has the power and authority to pledge the Pledged Collateral pledged by it hereunder in the manner hereby done or contemplated;

(f) no consent or approval of any Governmental Authority, any securities exchange or any other Person was or is necessary to the validity and perfection of the pledge effected hereby (other than such as have been obtained and are in full force and effect);

(g) by virtue of the execution and delivery by the Grantors of this Agreement, when any Pledged Securities are delivered to the Collateral Agent or Term Administrative Agent, as applicable, in accordance with this Agreement, the Collateral Agent will (i) obtain a legal, valid and, after the Discharge of Term Obligations, first-priority, or prior to the Discharge of Term Obligations, second-priority (subject only to any nonconsensual Liens permitted pursuant to Section 9.1 of the Credit Agreement) perfected lien upon and security interest in such Pledged Securities as security for the payment and performance of the Secured Obligations, (ii) have Control of such Pledged Securities and (iii) assuming that neither the Collateral Agent nor any of the Secured Parties have "notice of an adverse claim" (as defined in Section 8-105 of the UCC) with respect to such Pledged Securities at the time such Pledged Securities are delivered to the Collateral Agent, be a protected purchaser (within the meaning of Section 8-303 of the UCC) thereof;

(h) the pledge effected hereby is effective to vest in the Collateral Agent, for the benefit of the Secured Parties, the rights of the Collateral Agent in the Pledged Collateral as set forth herein; and

(i) subject to the terms of this Agreement and to the extent permitted by applicable Law, each Grantor hereby agrees that upon the occurrence and during the continuation of an Event of Default, (i) it will comply with instructions of the Collateral Agent with respect to the Equity Interests in such Grantor that constitute Pledged Equity hereunder that are not certificated without further consent by the applicable owner or holder of such Pledged Equity

and (ii) will take all actions necessary and provide all necessary consents under such Grantor's Organization Documents to effectuate the transfers of Pledged Equity.

Section 2.04. Certification of Limited Liability Company and Limited Partnership Interests. Each Grantor acknowledges and agrees that, to the extent any interest in any limited liability company or limited partnership controlled by any Grantor and pledged under Section 2.01 is a "security" within the meaning of Article 8 of the UCC, such interest shall be represented by a certificate. Each Grantor further acknowledges and agrees that with respect to any interest in any limited liability company or limited partnership controlled on or after the date hereof by such Grantor and pledged hereunder that is not a "security" within the meaning of Article 8 of the UCC, such Grantor shall at no time elect to treat any such interest as a "security" within the meaning of Article 8 of the UCC, nor shall such interest be represented by a certificate, unless such election and such interest is represented by a certificate that is, subject to the terms of the ABL/Term Intercreditor Agreement, delivered to the Collateral Agent prior to or substantially contemporaneously with such election (or on such later date as the Administrative Agent may permit), pursuant to the terms hereof.

Section 2.05. Registration in Nominee Name; Denominations. Subject to the terms of the ABL/Term Intercreditor Agreement, if an Event of Default shall have occurred and be continuing and the Collateral Agent shall have given the Borrower notice of its intent to exercise such rights, (a) the Collateral Agent, on behalf of the Secured Parties, shall have the right (in its sole and absolute discretion) to cause each of the Pledged Securities to be transferred of record into the name of the Collateral Agent and (b) the Collateral Agent shall have the right to exchange the certificates representing Pledged Securities for certificates of smaller or larger denominations for any purpose consistent with this Agreement; provided that, notwithstanding the foregoing, if a Bankruptcy Event of Default shall have occurred and be continuing, the Collateral Agent shall not be required to give the notice referred to above in order to exercise the rights described above. Each Grantor will promptly give to the Collateral Agent copies of any material notices received by it with respect to Pledged Securities registered in the name of such Grantor. Each Grantor will take any and all actions reasonably requested by the Collateral Agent to facilitate compliance with this Section 2.05.

Section 2.06. Voting Rights; Dividends and Interest. (a) Unless and until an Event of Default shall have occurred and be continuing and the Collateral Agent shall have notified the Borrower that the rights of the Grantors under this Section 2.06 are being suspended, and subject to the ABL/Term Intercreditor Agreement:

(i) Each Grantor shall be entitled to exercise any and all voting and/or other consensual rights and powers inuring to an owner of Pledged Securities or any part thereof for any purpose consistent with the terms of this Agreement, the Credit Agreement and the other Loan Documents; provided that such rights and powers shall not be exercised in any manner that could materially and adversely affect the rights inuring to a holder of any Pledged Securities or the rights and remedies of any of the Collateral Agent or the other Secured Parties under this Agreement, the Credit Agreement or any other Loan Document or the ability of the Secured Parties to exercise the same.

(ii) The Collateral Agent shall promptly execute and deliver to each Grantor, or cause to be executed and delivered to such Grantor, all such proxies, powers of attorney and other instruments as such Grantor may reasonably request in writing for the purpose of enabling such Grantor to exercise the voting and/or consensual rights and powers it is entitled to exercise pursuant to subparagraph (i) above, in each case as shall be specified in such request and be in form and substance reasonably satisfactory to the Collateral Agent.

(iii) Each Grantor shall be entitled to receive and retain any and all dividends, interest, principal and other distributions paid on or distributed in respect of the Pledged Securities, to the extent (and only to the extent) that such dividends, interest, principal and other distributions are permitted by, and otherwise paid or distributed in accordance with, the terms and conditions of the Credit Agreement, the other Loan Documents and applicable Laws; provided that any noncash dividends, interest, principal or other distributions that would constitute Pledged Equity or Pledged Debt, whether resulting from a subdivision, combination or reclassification of the outstanding Equity Interests of the issuer of any Pledged Securities or received in exchange for Pledged Securities or any part thereof, or in redemption thereof, or as a result of any merger, consolidation, acquisition or other exchange of assets to which such issuer may be a party or otherwise, shall be and become part of the Pledged Collateral, and, if received by any Grantor, shall not be commingled by such Grantor with any of its other funds or property but shall be held separate and apart therefrom, shall be held in trust for the benefit of the Collateral Agent and the other Secured Parties and shall be forthwith delivered to the Collateral Agent in the same form as so received (with any necessary endorsement reasonably requested by the Collateral Agent). So long as no Event of Default has occurred and is continuing, the Collateral Agent shall promptly deliver to each Grantor (at the expense of such Grantor) any Pledged Securities in its possession if requested to be delivered to the issuer thereof in connection with any exchange or redemption of such Pledged Securities permitted under the Credit Agreement.

(b) Upon the occurrence and during the continuance of any Event of Default, after the Collateral Agent shall have notified the Borrower of the suspension of the rights of the Grantors under Section 2.06(a), then all rights of any Grantor to dividends, interest, principal or other distributions that such Grantor is authorized to receive pursuant to Section 2.06(a)(iii) shall cease, and all such rights shall thereupon become, subject to the rights of the Term Administrative Agent under the ABL/Term Intercreditor Agreement, vested in the Collateral Agent, which shall have the sole and exclusive right and authority to receive and retain such dividends, interest, principal or other distributions. All dividends, interest, principal or other distributions received by any Grantor contrary to the provisions of this Section 2.06 shall be held in trust for the benefit of the Collateral Agent and the other Secured Parties, shall be segregated from other property or funds of such Grantor and shall be forthwith delivered to the Collateral Agent upon demand in the same form as so received (with any necessary stock or note powers and other instruments of transfer reasonably requested by the Collateral Agent). Subject to the terms of the ABL/Term Intercreditor Agreement, any and all money and other property paid over to or received by the Collateral Agent pursuant to the provisions of this paragraph (b) shall be retained by the Collateral Agent in an account to be established by the Collateral Agent upon

receipt of such money or other property and shall be applied in accordance with the provisions of Section 6.02. After all Events of Default have been cured or waived and the Borrower shall have delivered to the Collateral Agent a certificate to such effect, the Collateral Agent shall promptly repay to each Grantor (without interest) all dividends, interest, principal or other distributions that such Grantor would otherwise be permitted to retain pursuant to the terms of Section 2.06(a)(iii) in the absence of any such Event of Default and that remain in such account, and such Grantor's right to receive and retain any and all dividends, interest, principal and other distributions paid on or distributed in respect of the Pledged Securities shall be automatically reinstated.

(c) Upon the occurrence and during the continuance of an Event of Default, after the Collateral Agent shall have notified the Borrower of the suspension of the rights of the Grantors under Section 2.06(a), then all rights of any Grantor to exercise the voting and consensual rights and powers it is entitled to exercise pursuant to Section 2.06(a)(i), and the obligations of the Collateral Agent under Section 2.06(a)(ii), shall cease, and subject to the terms of the ABL/Term Intercreditor Agreement, all such rights shall thereupon become vested in the Collateral Agent, which shall have the sole and exclusive right and authority to exercise such voting and consensual rights and powers; provided that, unless otherwise directed by the Requisite Lenders, the Collateral Agent shall have the right from time to time following and during the continuance of an Event of Default to permit the Grantors to exercise such rights. After all Events of Default have been cured or waived and the Borrower shall have delivered to the Collateral Agent a certificate to such effect, each Grantor shall have the exclusive right to exercise the voting and/or consensual rights and powers that such Grantor would otherwise be entitled to exercise pursuant to the terms of Section 2.06(a)(i), and the obligations of the Collateral Agent under Section 2.06(a)(ii) shall be reinstated.

(d) Any notice given by the Collateral Agent to the Borrower suspending the rights of the Grantors under this Section 2.06, (i) shall be given in writing, (ii) may be given with respect to one or more of the Grantors at the same or different times and (iii) may suspend the rights of the Grantors under Sections 2.06(a)(i) or (iii) in part without suspending all such rights (as specified by the Collateral Agent in its sole and absolute discretion) and without waiving or otherwise affecting the Collateral Agent's rights to give additional notices from time to time suspending other rights so long as an Event of Default has occurred and is continuing. Notwithstanding anything to the contrary contained in Section 2.06(a), (b) or (c), if a Bankruptcy Event of Default shall have occurred and be continuing, the Collateral Agent shall not be required to give any notice referred to in said Sections in order to exercise any of its rights described in such Sections, and the suspension of the rights of each of the Grantors under each such Section shall be automatic upon the occurrence of such Bankruptcy Event of Default.

Section 2.07. Collateral Agent Not a Partner or Limited Liability Company Member. Nothing contained in this Agreement shall be construed to make the Collateral Agent or any other Secured Party liable as a member of any limited liability company or as a partner of any partnership and neither the Collateral Agent nor any other Secured Party by virtue of this Agreement or otherwise (except as referred to in the following sentence) shall have any of the duties, obligations or liabilities of a member of any limited liability company or as a partner in any partnership. The parties hereto expressly agree that, unless the Collateral Agent shall become the absolute owner of Pledged Equity consisting of a limited liability company interest

or a partnership interest pursuant hereto, this Agreement shall not be construed as creating a partnership or joint venture among the Collateral Agent, any other Secured Party, any Grantor and/or any other Person.

ARTICLE III

Security Interests in Personal Property

Section 3.01. Security Interest.

(a) As security for the payment or performance, as the case may be, in full of the Secured Obligations, each Grantor hereby grants to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, a security interest (the "*Security Interest*") in, all of such Grantor's right, title and interest in, to or under any and all of the following assets and properties, whether now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "*Article 9 Collateral*"):

(i) all Accounts;

(ii) all Chattel Paper;

(iii) all Documents;

(iv) all Equipment;

(v) all General Intangibles;

(vi) all Instruments;

(vii) all Inventory;

(viii) all Investment Property:

(ix) all books and records;

(x) all Goods and Fixtures;

(xi) all Money, cash, cash equivalents and Deposit Accounts;

(xii) all Letter-of-Credit Rights;

(xiii) all Commercial Tort Claims described on Schedule III from time to time;

(xiv) the Collateral Account, and all cash, Money, Securities and other investments deposited therein;

(xv) all Supporting Obligations;

(xvi) all Security Entitlements in any or all of the foregoing;

(xvii) all Intellectual Property;

(xviii) all Securities Accounts;

(xix) all proceeds of leases of real property; and

(xx) to the extent not otherwise included, all Proceeds and products of any and all of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing;

provided that, notwithstanding anything to the contrary in this Agreement, this Agreement shall not constitute a grant of a security interest in any Excluded Assets (and no component of the Collateral (including any defined terms used therein) shall include any Excluded Assets for any purpose under this Agreement).

(b) Each Grantor hereby irrevocably authorizes the Collateral Agent for the benefit of the Secured Parties at any time and from time to time to file in any relevant jurisdiction any financing statements or continuation statements (including fixture filings) with respect to the Article 9 Collateral or any part thereof and amendments thereto that (i) describe the collateral covered thereby in any manner that the Administrative Agent or the Collateral Agent reasonably determines is necessary or advisable to ensure the perfection of the security interest in the Article 9 Collateral granted under this Agreement including indicating the Collateral as all assets or all personal property of such Grantor or words of similar effect and (ii) contain the information required by Article 9 of the UCC of each applicable jurisdiction for the filing of any financing statement or amendment, including (A) whether such Grantor is an organization, the type of organization and any organizational identification number issued to such Grantor and (B) in the case of a financing statement filed as a fixture filing, a sufficient description of the real property to which such Article 9 Collateral relates. Each Grantor agrees to provide such information to the Collateral Agent promptly upon any reasonable request.

(c) The Security Interest is granted as security only and shall not subject the Collateral Agent or any other Secured Party to, or in any way alter or modify, any obligation or liability of any Grantor with respect to or arising out of the Article 9 Collateral.

(d) Each Grantor hereby further authorizes the Collateral Agent to file a Grant of Security Interest substantially in the form of Exhibit III, IV or V, as applicable, covering relevant IP Collateral consisting of Patents (and Patents for which applications are pending), registered Trademarks (and Trademarks for which registration applications are pending) and registered Copyrights (and Copyrights for which registration applications are pending) with the United States Patent and Trademark Office or United States Copyright Office (or any successor office), as applicable, and such other documents as may be necessary or advisable for the purpose of perfecting, confirming, continuing, enforcing or protecting the Security Interest granted by such Grantor hereunder, without the signature of such Grantor, and naming such Grantor, as debtor, and the Collateral Agent, as secured party.

Section 3.02. Representations and Warranties. Each Grantor represents and warrants, as to itself and the other Grantors, to the Collateral Agent and the Secured Parties that:

(a) Each Grantor has good and valid rights (not subject to any Liens other than Liens permitted by Section 9.1 of the Credit Agreement) and/or good or marketable title in the Article 9 Collateral with respect to which it has purported to grant a Security Interest hereunder (which rights and/or title, are in any event, sufficient under Section 9-203 of the UCC), and has full power and authority to grant to the Collateral Agent the Security Interest in such Article 9 Collateral pursuant hereto and to execute, deliver and perform its obligations in accordance with the terms of this Agreement, without the consent or approval of any other Person other than any consent or approval that has been obtained.

(b) The Perfection Certificate has been duly executed and delivered to the Collateral Agent and the information set forth therein, including the exact legal name of each Grantor and its jurisdiction of organization, taken as a whole, is correct and complete in all material respects as of the Closing Date. The UCC financing statements (including fixture filings, as applicable) prepared by the Collateral Agent based upon the information provided to the Collateral Agent in the Perfection Certificate for filing in each governmental, municipal or other office specified in Schedule IV of this Agreement (or specified by notice from the applicable Grantor to the Collateral Agent after the Closing Date in the case of filings, recordings or registrations required by Section 8.11 of the Credit Agreement and the Collateral and Guarantee Requirement), are all the filings, recordings and registrations (other than any filings required to be made in the United States Patent and Trademark Office or the United States Copyright Office in order to perfect the Security Interest in Article 9 Collateral consisting of Intellectual Property) necessary to establish a legal, valid and perfected security interest in favor of the Collateral Agent (for the benefit of the Secured Parties) in respect of all Article 9 Collateral in which the Security Interest may be perfected by filing, recording or registration in the United States (or any political subdivision thereof) and its territories and possessions pursuant to the Uniform Commercial Code or other applicable federal Law, and no further or subsequent filing, refiling, recording, rerecording, registration or reregistration with respect to such Article 9 Collateral is necessary in any such jurisdiction, except as provided under applicable Law with respect to the filing of continuation statements. Each Grantor represents and warrants that, as of the Closing Date, fully executed Grants of Security Interest in the form attached as Exhibit III, IV or V, as applicable, containing a description of all IP Collateral consisting of Patents (and Patents for which applications are pending), registered Trademarks (and Trademarks for which registration applications are pending) or registered Copyrights (and Copyrights for which registration applications are pending), as applicable, have been delivered to the Collateral Agent for recording by the United States Patent and Trademark Office or the United States Copyright Office, as applicable, pursuant to 35 U.S.C. § 261, 15 U.S.C. § 1060 or 17 U.S.C. § 205 and the regulations thereunder.

(c) The Security Interest constitutes (i) a legal and valid security interest in all the Article 9 Collateral securing the payment and performance of the Secured Obligations, (ii) subject to the filings described in Section 3.02(b), a perfected security interest in all Article 9 Collateral in which a security interest may be perfected by filing, recording or registering a financing statement in the United States (or any political subdivision thereof) and its territories and possessions pursuant to the UCC and (iii) a security interest that shall be perfected in all

Article 9 Collateral (other than with respect to any Copyright that is not material to the business of the Grantors, taken as a whole) in which a security interest may be perfected upon the receipt and recording of the relevant Grants of Security Interest with the United States Patent and Trademark Office and the United States Copyright Office, as applicable, within the three month period (commencing as of the date hereof) pursuant to 35 U.S.C. § 261 or 15 U.S.C. § 1060 or the one month period (commencing as of the date hereof) pursuant to 17 U.S.C. § 205. The Security Interest is and shall be prior to any other Lien on any of the Article 9 Collateral, other than (i) any nonconsensual Lien that is expressly permitted pursuant to Section 9.1 of the Credit Agreement and has priority as a matter of law, (ii) any other Lien that is expressly permitted pursuant to Section 9.1 of the Credit Agreement, and (iii) subject to the ABL/Term Intercreditor Agreement, Liens under the Term Collateral Documents.

(d) The Article 9 Collateral is owned by the Grantors free and clear of any Lien, except for Liens expressly permitted pursuant to Section 9.1 of the Credit Agreement, and subject to the ABL/Term Intercreditor Agreement, Liens under the Term Collateral Documents. None of the Grantors has filed or consented to the filing of (i) any financing statement or analogous document under the UCC or any other applicable Laws covering any Article 9 Collateral, (ii) any assignment in which any Grantor assigns any Article 9 Collateral or any security agreement or similar instrument covering any Article 9 Collateral with the United States Patent and Trademark Office or the United States Copyright Office, or (iii) any assignment in which any Grantor assigns any Article 9 Collateral or any security agreement or similar instrument covering any Article 9 Collateral with any foreign governmental, municipal or other office, which financing statement or analogous document, assignment, security agreement or similar instrument is still in effect, except, in each case, for Liens expressly permitted pursuant to Section 9.1 of the Credit Agreement and assignments expressly permitted by the Credit Agreement.

(e) All Commercial Tort Claims of each Grantor where the amount of the damages claimed by such Grantor is in excess of $[5,000,000][3] in existence on the date of this Agreement (or on the date upon which such Grantor becomes a party to this Agreement) are described on Schedule III hereto.

(f) Except as could not reasonably be expected to have a Material Adverse Effect, with respect to the IP Collateral and any other intellectual property:

(i) such Grantor is the exclusive owner of all right, title and interest in and to the IP Collateral or has the right or license to use the IP Collateral subject only to the terms of the Licenses;

(ii) the operation of such Grantor's business as currently conducted and the use of the IP Collateral in connection therewith do not conflict with, infringe, misappropriate, dilute, misuse or otherwise violate the intellectual property rights of any third party;

[3] To be confirmed.

(iii) the IP Collateral set forth on the Perfection Certificate includes all of the patents, patent applications, domain names, trademark registrations and applications, copyright registrations and applications owned by such Grantor as of the date hereof;

(iv) the IP Collateral is subsisting and has not been opposed, cancelled or adjudged invalid or unenforceable in whole or in part, and to such Grantor's knowledge, is valid and enforceable. Such Grantor is not aware of any uses of any item of IP Collateral that could be expected to lead to such item becoming opposed, cancelled, invalid or unenforceable;

(v) such Grantor has made or performed all filings, recordings and other acts and has paid all required fees and taxes to maintain and protect its interest in each and every item of IP Collateral in full force and effect, and to protect and maintain its interest therein;

(vi) no claim, action, suit, investigation, litigation or proceeding has been asserted or is pending or threatened against such Grantor (A) based upon or challenging or seeking to deny or restrict the Grantor's rights in or use of any of the IP Collateral, (B) alleging that the Grantor's rights in or use of the IP Collateral or that any services provided by, processes used by, or products manufactured or sold by, such Grantor infringe, misappropriate, dilute, misuse or otherwise violate any patent, trademark, copyright or any other proprietary right of any third party, or (C) alleging that the IP Collateral is being licensed or sublicensed in violation or contravention of the terms of any license or other agreement. To such Grantor's knowledge, no Person is engaging in any activity that infringes, misappropriates, dilutes, misuses or otherwise violates the material IP Collateral or the Grantor's rights in or use thereof. The consummation of the transactions contemplated by the Loan Documents will not result in the termination or impairment of any of the IP Collateral;

(vii) with respect to each License: (A) such License is valid and binding and in full force and effect; (B) such Grantor has not received any notice of termination or cancellation under such License; (C) such Grantor has not received any notice of a breach or default under such License; and (D) neither such Grantor nor, to such Grantor's knowledge, any other party to such License is in breach or default thereof in any material respect, and no event has occurred that, with notice or lapse of time or both, would constitute such a breach or default or permit termination, modification or acceleration under such License; and

(viii) to such Grantor's knowledge, (A) none of the material trade secrets of such Grantor has been used, divulged, disclosed or appropriated to the detriment of such Grantor for the benefit of any other Person other than such Grantor; (B) no employee, independent contractor or agent of such Grantor has misappropriated any material trade secrets of any other Person in the course of the performance of his or her duties as an employee, independent contractor or agent of such Grantor; and (C) no employee, independent contractor or agent of such Grantor is in default or

breach of any material term of any employment agreement, non-disclosure agreement, assignment of inventions agreement or similar agreement or contract relating in any way to the protection, ownership, development, use or transfer of such Grantor's material IP Collateral.

Section 3.03. Covenants.

(a) The Borrower agrees to provide the Collateral Agent with ten (10) Business Days (or such shorter number of days as the Collateral Agent may agree in its reasonable discretion) prior written notice of any change (i) in the legal name of any Grantor, (ii) in the identity or type of organization or corporate structure of any Grantor, (iii) in the jurisdiction of organization of any Grantor, (iv) in the location of any Grantor under the UCC or (v) in the organizational identification number of any Grantor, if any, but solely to the extent such organizational identification number is required to be set forth on financing statements under the UCC. The Borrower shall take all actions reasonably satisfactory to the Collateral Agent to the extent necessary to maintain the security interests (and the priority thereof) of the Collateral Agent in the Collateral intended to be granted hereby fully perfected and in full force and effect. The Loan Parties agree not to effect or permit any change referred to in the preceding sentence unless all filings, publications and registrations, have been made (or will be made in a timely fashion) under the UCC or other applicable Law that are required in order for the Collateral Agent to continue at all times following such change to have a valid, legal and perfected first-priority security interest in the ABL Priority Collateral and second-priority interest in the Term Priority Collateral to the extent required under the Loan Documents (subject only to (i) any nonconsensual Lien that is expressly permitted pursuant to Section 9.1 of the Credit Agreement and has priority as a matter of law and (ii) Liens expressly permitted pursuant to Section 9.1 of the Credit Agreement) in all the Collateral for its own benefit and the benefit of the other Secured Parties.

(b) Each Grantor shall, at its own expense, take any and all commercially reasonable actions necessary to defend title to the Article 9 Collateral against all Persons and to defend the Security Interest of the Collateral Agent in the Article 9 Collateral and the priority thereof against any Lien not permitted pursuant to Section 9.1 of the Credit Agreement; provided that, nothing in this Agreement shall prevent any Grantor from discontinuing the operation or maintenance of any of its assets or properties if such discontinuance is (x) determined by such Grantor to be desirable in the conduct of its business and (y) permitted by the Credit Agreement.

(c) At the time of delivery of annual financial statements with respect to the preceding Fiscal Year pursuant to Section 7.1(a) of the Credit Agreement and delivery of the related Compliance Certificate, the Borrower shall deliver to the Collateral Agent a certificate executed by a Responsible Officer of the Borrower setting forth the information required pursuant to the Perfection Certificate (other than Section 2(b) of the Perfection Certificate) or confirming that there has been no change in such information since the date of such certificate or the date of the most recent certificate delivered pursuant to this Section 3.03(c).

(d) Each Grantor agrees, at its own expense, to execute, acknowledge, deliver and cause to be duly filed all such further instruments and documents and take all such actions as the Collateral Agent may from time to time reasonably request to better assure, preserve, protect

and perfect the Security Interest and the rights and remedies created hereby, including the payment of any fees and Taxes required in connection with the execution and delivery of this Agreement, the granting of the Security Interest and the filing of any financing statements (including fixture filings) or other documents in connection herewith or therewith. If any amount payable under or in connection with any of the Article 9 Collateral (other than by a Loan Party) that equals or exceeds $[2,000,000][4] shall be or become evidenced by any Promissory Note or Instrument, such Promissory Note or Instrument shall be promptly (and in any event within thirty (30) days of its acquisition or such longer period as the Collateral Agent may agree in its reasonable discretion) pledged and, subject to the terms of the ABL/Term Intercreditor Agreement, delivered to the Collateral Agent, for the benefit of the Secured Parties in a manner reasonably satisfactory to the Collateral Agent.

(e) At its option, the Collateral Agent may discharge past due taxes, assessments, charges, fees, Liens, security interests or other encumbrances at any time levied or placed on the Article 9 Collateral and not permitted pursuant to Section 9.1 of the Credit Agreement, and may pay for the maintenance and preservation of the Article 9 Collateral to the extent any Grantor fails to do so as required by the Credit Agreement, this Agreement or any other Loan Document and within a reasonable period of time after the Collateral Agent has requested that it do so, and each Grantor jointly and severally agrees to reimburse the Collateral Agent within ten (10) days after demand for any payment made or any reasonable out-of-pocket expense incurred by the Collateral Agent pursuant to the foregoing authorization; provided that nothing in this paragraph shall be interpreted as excusing any Grantor from the performance of, or imposing any obligation on the Collateral Agent or any Secured Party to cure or perform, any covenants or other promises of any Grantor with respect to taxes, assessments, charges, fees, Liens, security interests or other encumbrances and maintenance as set forth herein or in the other Loan Documents.

(f) If at any time any Grantor shall take a security interest in any property of an Account Debtor or any other Person the value of which equals or exceeds $[2,000,000][5] to secure payment and performance of an Account or related contracts, such Grantor shall, subject to the terms of the ABL/Term Intercreditor Agreement, promptly assign such security interest to the Collateral Agent for the benefit of the applicable Secured Parties. Such assignment need not be filed of public record unless necessary to continue the perfected status of the security interest against creditors of and transferees from the Account Debtor or other Person granting the security interest.

(g) Each Grantor (rather than the Collateral Agent or any Secured Party) shall remain liable (as between itself and any relevant counterparty) to observe and perform all the conditions and obligations to be observed and performed by it under each contract, agreement or instrument relating to the Article 9 Collateral, all in accordance with the terms and conditions thereof, and each Grantor jointly and severally agrees to indemnify and hold harmless the Collateral Agent and the Secured Parties from and against any and all liability for such performance.

[4] To be confirmed.

[5] To be confirmed.

(h) Notwithstanding anything in this Agreement to the contrary other than the filing of a UCC financing statement, (i) no actions shall be required to perfect the security interest granted hereunder in Letter-of-Credit Rights, (ii) no actions shall be required to perfect the security interest granted hereunder in motor vehicles and other assets subject to certificates of title and (iii) no Grantor shall be required to complete any filings or other action with respect to the perfection of the security interests created hereby in any jurisdiction outside of the United States or any State thereof.

Section 3.04. Other Actions. In order to further insure the attachment, perfection and priority of, and the ability of the Collateral Agent to enforce, the Security Interest, each Grantor agrees, in each case at such Grantor's own expense, to take the following actions with respect to the following Article 9 Collateral:

(a) Instruments. If any Grantor shall at any time hold or acquire any Instruments constituting Collateral and evidencing an amount equal to or in excess of $[2,000,000][6] such Grantor shall, subject to the ABL/Term Intercreditor Agreement, promptly endorse, assign and deliver the same to the Collateral Agent for the benefit of the applicable Secured Parties, accompanied by such undated instruments of transfer or assignment duly executed in blank as the Collateral Agent may from time to time reasonably request.

(b) Investment Property. Except to the extent otherwise provided in Article II, if any Grantor shall, subject to the terms of the ABL/Term Intercreditor Agreement, at any time hold or acquire any Certificated Securities, such Grantor shall promptly endorse, assign and deliver the same to the Collateral Agent for the benefit of the applicable Secured Parties, accompanied by such undated instruments of transfer or assignment duly executed in blank as the Collateral Agent may from time to time reasonably request. Subject to the terms of the ABL/Term Intercreditor Agreement, if any Securities now or hereafter acquired by any Grantor are uncertificated and are issued to such Grantor or its nominee directly by the issuer thereof, upon the Collateral Agent's request and following the occurrence of an Event of Default such Grantor shall promptly notify the Collateral Agent thereof and, at the Collateral Agent's reasonable request, pursuant to an agreement in form and substance reasonably satisfactory to the Collateral Agent, either (but only to the extent such Securities and other Investment Property constitute Collateral) (i) cause the issuer to agree to comply with instructions from the Collateral Agent as to such Securities, without further consent of any Grantor or such nominee, or (ii) arrange for the Collateral Agent to become the registered owner of the Securities. Subject to the terms of the ABL/Term Intercreditor Agreement, if any Securities, whether certificated or uncertificated, or other Investment Property are held by any Grantor or its nominee through a Securities Intermediary, upon the Collateral Agent's request and following the occurrence of an Event of Default (or, with respect to any Securities Account, during any Cash Dominion Period), such Grantor shall immediately notify the Collateral Agent thereof and at the Collateral Agent's request and option, pursuant to an agreement in form and substance reasonably satisfactory to the Collateral Agent shall either (i) cause such Securities Intermediary to agree to comply with Entitlement Orders or other instructions from the Collateral Agent to such Securities Intermediary as to such Security Entitlements without further consent of any Grantor or such nominee, or (ii) in the case of Financial Assets or other Investment Property held through a

[6] To be confirmed.

Securities Intermediary, arrange for the Collateral Agent to become the Entitlement Holder with respect to such Investment Property, with the Grantor being permitted, only with the consent of the Collateral Agent, to exercise rights to withdraw or otherwise deal with such Investment Property. Notwithstanding the foregoing, unless and until an Event of Default has occurred and is continuing (or, with respect to Securities Account or Securities Entitlements or financial assets in any Securities Account, unless a Cash Dominion Period has occurred and is continuing, the Collateral Agent agrees with each of the Grantors that the Collateral Agent shall not give any such Entitlement Orders or instructions or directions to any such issuer, or Securities Intermediary, and shall not withhold its consent to the exercise of any withdrawal or dealing rights by any Grantor.

(c) Commercial Tort Claims. If any Grantor shall at any time after the date of this Agreement acquire a Commercial Tort Claim in an amount (taking the greater of the aggregate claimed damages thereunder or the reasonably estimated value thereof) of $[5,000,000][7] or more, such Grantor shall promptly notify the Collateral Agent thereof in a writing signed by such Grantor and provide supplements to Schedule III describing the details thereof and shall grant to the Collateral Agent a security interest therein and in the proceeds thereof, all upon the terms of this Agreement.

ARTICLE IV

Special Provisions Concerning IP Collateral

Section 4.01. Grant of License to Use Intellectual Property.

Without limiting the provisions of Section 3.01 hereof or any other rights of the Collateral Agent as the holder of a Security Interest in any IP Collateral, for the purpose of enabling the Collateral Agent to exercise rights and remedies under this Agreement at such time as the Collateral Agent shall be lawfully entitled to exercise such rights and remedies, each Grantor hereby grants to the Collateral Agent, for the benefit of the Secured Parties, an irrevocable, nonexclusive license (exercisable without payment of royalty, license fee, or other compensation to the Grantors) to use, reproduce, create derivative works of, modify, display, perform, and distribute, and to license or sublicense any of the IP Collateral now owned or hereafter acquired by such Grantor, and wherever the same may be located (whether or not any license agreement by and between any Grantor and any other Person relating to the use of such IP Collateral may be terminated hereafter), and including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof, provided, however, that any such license granted by the Collateral Agent to a third party shall include reasonable and customary terms necessary to preserve the existence, validity and value of the affected IP Collateral, including without limitation, provisions requiring the continuing confidential handling of trade secrets, requiring the use of appropriate notices and prohibiting the use of false notices, protecting and maintaining the quality standards of the Trademarks in the manner set forth below (it being understood and agreed that, without limiting any other rights and remedies of the Collateral Agent under this Agreement, any other Loan Document or applicable Law, nothing in

[7] To be confirmed.

the foregoing license grant shall be construed as granting the Collateral Agent rights in and to such IP Collateral above and beyond (x) the rights to such IP Collateral that each Grantor has reserved for itself and (y) in the case of IP Collateral that is licensed to any such Grantor by a third party, the extent to which such Grantor has the right to grant a sublicense to such IP Collateral hereunder).

The use of such license by the Collateral Agent may only be exercised, at the option of the Collateral Agent, during the continuation of an Event of Default; provided that any license, sublicense or other transaction entered into by the Collateral Agent in accordance herewith shall immediately terminate at such time as the Collateral Agent is no longer lawfully entitled to exercise its rights and remedies under this Agreement. Nothing in this Section 4.01 shall require a Grantor to grant any license that is prohibited by any rule of law, statute or regulation, or is prohibited by, or constitutes a breach or default under or results in the termination of any contract, license, agreement, instrument or other document evidencing, giving rise to or theretofore granted, with respect to such property or otherwise unreasonably prejudices the value thereof to the relevant Grantor. In the event the license set forth in this Section 4.01 is exercised with regard to any Trademarks, then the following shall apply: (i) all goodwill arising from any licensed or sublicensed use of any Trademark shall inure to the benefit of the Grantor; (ii) the licensed or sublicensed Trademarks shall only be used in association with goods or services of a quality and nature consistent with the quality and reputation with which such Trademarks were associated when used by Grantor prior to the exercise of the license rights set forth herein; and (iii) at the Grantor's request and expense, licensees and sublicensees shall provide reasonable cooperation in any effort by the Grantor to maintain the registration or otherwise secure the ongoing validity and effectiveness of such licensed Trademarks, including, without limitation the actions and conduct described in Section 4.02 below.

Section 4.02. Protection of Collateral Agent's Security.

(a) Except to the extent permitted by subsection 4.02(h) below, or to the extent that failure to act could not reasonably be expected to have a Material Adverse Effect, with respect to registration or pending application of each item of its IP Collateral for which such Grantor has standing to do so, each Grantor agrees to take, at its expense, all reasonable steps, including, without limitation, in the U.S. Patent and Trademark Office, the U.S. Copyright Office and any other governmental authority located in the United States to (i) maintain the validity and enforceability of any registered IP Collateral and maintain such IP Collateral in full force and effect, and (ii) pursue the registration and maintenance of each Patent, Trademark, or Copyright registration or application, now or hereafter included in such IP Collateral of such Grantor, including, without limitation, the payment of required fees and taxes, the filing of responses to office actions issued by the U.S. Patent and Trademark Office, the U.S. Copyright Office or other governmental authorities, the filing of applications for renewal or extension, the filing of affidavits under Sections 8 and 15 of the U.S. Trademark Act, the filing of divisional, continuation, continuation-in-part, reissue and renewal applications or extensions, the payment of maintenance fees and the participation in interference, reexamination, opposition, cancellation, infringement and misappropriation proceedings.

(b) Except to the extent permitted by subsection 4.02(h) below, or to the extent that failure to act could not reasonably be expected to have a Material Adverse Effect, no

Grantor shall do or permit any act or knowingly omit to do any act whereby any of its IP Collateral may lapse, be terminated, or become invalid or unenforceable or placed in the public domain (or in case of a trade secret, lose its competitive value).

(c) In the event that any Grantor becomes aware that any material item of the IP Collateral is being infringed or misappropriated by a third party, such Grantor shall promptly notify the Collateral Agent and shall take such actions, at its expense, as such Grantor reasonably deems appropriate under the circumstances to protect or enforce such IP Collateral, including, without limitation, suing for infringement or misappropriation and for an injunction against such infringement or misappropriation.

(d) Each Grantor shall use proper statutory notice as commercially practical in connection with its use of each item of its IP Collateral. Except to the extent permitted by subsection 4.02(h) below, or to the extent that failure to act could not reasonably be expected to have a Material Adverse Effect, no Grantor shall do or permit any act or knowingly omit to do any act whereby any of its IP Collateral may lapse or become invalid or unenforceable or placed in the public domain.

(e) Except to the extent permitted by subsection 4.02(h) below, or to the extent that failure to act could not reasonably be expected to have a Material Adverse Effect, each Grantor shall take all reasonable steps to preserve and protect each item of its IP Collateral, including, without limitation, maintaining the quality of any and all products or services used or provided in connection with any of the Trademarks, consistent with the quality of the products and services as of the date hereof, and taking all reasonable steps necessary to ensure that all licensed users of any of the Trademarks abide by the applicable license's terms with respect to the standards of quality.

(f) Each Grantor agrees that, should it obtain an ownership or other interest in any IP Collateral after the Closing Date (the "*After-Acquired Intellectual Property*") (i) the provisions of this Agreement shall automatically apply thereto, and (ii) any such After-Acquired Intellectual Property and, in the case of Trademarks, the goodwill symbolized thereby, shall automatically become part of the IP Collateral subject to the terms and conditions of this Agreement with respect thereto.

(g) Within the same delivery period as required for the delivery of the quarterly Compliance Certificate required to be delivered under Section 7.2(a) of the Credit Agreement, each Grantor shall sign and deliver to the Collateral Agent an appropriate Security Agreement Supplement and related Grant of Security Interest with respect to applications for registration or registrations of IP Collateral owned or exclusively licensed by it as of the date of delivery of such Security Agreement Supplement and related Grant of Security Interest, to the extent that such IP Collateral is not covered by any previous Security Agreement Supplement (and Grant of Security Interests) so signed and delivered by it. In each case, it will promptly cooperate as reasonably necessary to enable the Collateral Agent to make any necessary or reasonably desirable recordations with the U.S. Copyright Office or the U.S. Patent and Trademark Office, as appropriate.

(h) Notwithstanding the foregoing provisions of this Section 4.02 or elsewhere in this Agreement, nothing in this Agreement shall prevent any Grantor from abandoning or discontinuing the use or maintenance of any or its IP Collateral, or from failing to take action to enforce license agreements or pursue actions against infringers, if such Grantor determines in its reasonable business judgment that such abandonment, discontinuance, or failure to take action is desirable in the conduct of its business and permitted under the Credit Agreement.

ARTICLE V

Collections

(a) Each Grantor hereby agrees to comply with the provisions of Section 8.12 of the Credit Agreement to the extent applicable to such Grantor.

(b) Subject to Section 8.12 of the Credit Agreement, without the prior written consent of the Collateral Agent, no Grantor shall modify or amend (i) the instructions pursuant to any of the Credit Card Notifications, (ii) the Credit Card Agreements, (iii) in the case of Cash Receipts or Deposit Accounts, the Deposit Account Control Agreements or (iv) in the case of Approved Securities Accounts, the Securities Account Control Agreements. Each Grantor shall, and the Collateral Agent hereby authorizes each Grantor to, enforce and collect all amounts owing on the Inventory, Accounts and related contracts, for the benefit and on behalf of the Collateral Agent and the other Secured Parties; provided, however, that such authorization may, at the direction of the Collateral Agent, be terminated in accordance with the terms of the Credit Agreement and the other Loan Documents after the occurrence and during the continuance of any Cash Dominion Period.

ARTICLE VI

Remedies

Section 6.01. Remedies Upon Default.

Upon the occurrence and during the continuance of an Event of Default, subject to the ABL/Term Intercreditor Agreement, it is agreed that the Collateral Agent shall have the right to exercise any and all rights afforded to a secured party under this Agreement, the UCC or other applicable Law, and subject to the ABL/Term Intercreditor Agreement, also may (i) require each Grantor to, and each Grantor agrees that it will at its expense and upon request of the Collateral Agent forthwith, assemble all or part of the Collateral as directed by the Collateral Agent and make it available to the Collateral Agent at a place and time to be designated by the Collateral Agent that is reasonably convenient to both parties; (ii) occupy any premises owned or, to the extent lawful and permitted, leased by any of the Grantors where the Collateral or any part thereof is assembled or located for a reasonable period in order to effectuate its rights and remedies hereunder or under law, without obligation to such Grantor in respect of such occupation; provided that the Collateral Agent shall provide the applicable Grantor with notice thereof prior to or promptly after such occupancy; (iii) exercise any and all rights and remedies of any of the Grantors under or in connection with the Collateral, or otherwise in respect of the

Collateral; provided that the Collateral Agent shall provide the applicable Grantor with notice thereof prior to or promptly after such exercise; (iv) withdraw any and all cash or other Collateral from any Collateral Account, Approved Deposit Account or Approved Securities Account and apply such cash and other Collateral to the payment of any and all Secured Obligations in the manner provided in Section 6.02 of this Agreement; (v) subject to the mandatory requirements of applicable Law and the notice requirements described below, sell or otherwise dispose of all or any part of the Collateral securing the Secured Obligations at a public or private sale or at any broker's board or on any securities exchange, for cash, upon credit or for future delivery as the Collateral Agent shall deem appropriate and (vi) with respect to any IP Collateral, on demand, cause the Security Interest to become an assignment, transfer and conveyance of any of or all such IP Collateral by the applicable Grantors to the Collateral Agent, or license or sublicense, whether general, special or otherwise, and whether on an exclusive or nonexclusive basis, any such IP Collateral throughout the world on such terms and conditions and in such manner as the Collateral Agent shall determine, provided, however, that such terms shall include all terms and restrictions that are customarily required to ensure the continuing validity and effectiveness of the IP Collateral at issue, such as, without limitation, notice, quality control and inurement provisions with regard to Trademarks, patent designation provisions with regard to patents, and copyright notices and restrictions or decompilation and reverse engineering of copyrighted software, and confidentiality protections for trade secrets. Each Grantor acknowledges and recognizes that (a) the Collateral Agent may be unable to effect a public sale of all or a part of the Collateral consisting of securities by reason of certain prohibitions contained in the Securities Act of 1933, 15 U.S.C. §77, (as amended and in effect, the "*Securities Act*") or the securities laws of various states (the "*Blue Sky Laws*"), but may be compelled to resort to one or more private sales to a restricted group of purchasers who will be obliged to agree, among other things, to acquire such securities for their own account, for investment and not with a view to the distribution or resale thereof, (b) private sales so made may be at prices and upon other terms less favorable to the seller than if such securities were sold at public sales, (c) neither the Collateral Agent nor any other Secured Party has any obligation to delay sale of any of the Collateral for the period of time necessary to permit such securities to be registered for public sale under the Securities Act or the Blue Sky Laws, and (d) private sales made under the foregoing circumstances shall be deemed to have been made in a commercially reasonable manner. To the maximum extent permitted by Law, each Grantor hereby waives any claim against any Secured Party arising because the price at which any Collateral may have been sold at a private sale was less than the price that might have been obtained at a public sale, even if the Collateral Agent accepts the first offer received and does not offer such Collateral to more than one offeree. Upon consummation of any such sale the Collateral Agent shall have the right to assign, transfer and deliver to the purchaser or purchasers thereof the Collateral so sold. Each such purchaser at any sale of Collateral shall hold the property sold absolutely, free from any claim or right on the part of any Grantor, and each Grantor hereby waives (to the extent permitted by applicable Law) all rights of redemption, stay and appraisal which such Grantor now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted.

The Collateral Agent shall give the applicable Grantors ten (10) days' written notice (which each Grantor agrees is reasonable notice within the meaning of Section 9-611 of the UCC or its equivalent in other jurisdictions) of the Collateral Agent's intention to make any sale of Collateral. Such notice, in the case of a public sale, shall state the time and place for such sale

and, in the case of a sale at a broker's board or on a securities exchange, shall state the board or exchange at which such sale is to be made and the day on which the Collateral, or portion thereof, will first be offered for sale at such board or exchange. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Collateral Agent may fix and state in the notice (if any) of such sale. The Collateral Agent may conduct one or more going out of business sales, in the Collateral Agent's own right or by one or more agents and contractors. Such sale(s) may be conducted upon any premises owned, leased, or occupied by any Grantor. The Collateral Agent and any such agent or contractor, in conjunction with any such sale, may augment the Inventory with other goods (all of which other goods shall remain the sole property of the Collateral Agent or such agent or contractor). Any amounts realized from the sale of such goods which constitute augmentations to the Inventory (net of an allocable share of the costs and expenses incurred in their disposition) shall be the sole property of the Collateral Agent or such agent or contractor and neither any Grantor nor any Person claiming under or in right of any Grantor shall have any interest therein. At any such sale, the Collateral, or portion thereof, to be sold may be sold in one lot as an entirety or in separate parcels, as the Collateral Agent may (in its sole and absolute discretion) determine. The Collateral Agent shall not be obligated to make any sale of any Collateral if it shall determine not to do so, regardless of the fact that notice of sale of such Collateral shall have been given. The Collateral Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. In case any sale of all or any part of the Collateral is made on credit or for future delivery, the Collateral so sold may be retained by the Collateral Agent until the sale price is paid by the purchaser or purchasers thereof, but the Collateral Agent shall not incur any liability in case any such purchaser or purchasers shall fail to take up and pay for the Collateral so sold and, in case of any such failure, such Collateral may be sold again upon like notice. At any public (or, to the extent permitted by applicable Law, private) sale made pursuant to this Agreement, any Secured Party may bid for or purchase, free (to the extent permitted by applicable Law) from any right of redemption, stay, valuation or appraisal on the part of any Grantor (all said rights being also hereby waived and released to the extent permitted by applicable Law), the Collateral or any part thereof offered for sale and may make payment on account thereof by using any claim then due and payable to such Secured Party from any Grantor as a credit against the purchase price, and such Secured Party may, upon compliance with the terms of sale, hold, retain and dispose of such property without further accountability to any Grantor therefor. For purposes of determining the Grantors' rights in the Collateral, a written agreement to purchase the Collateral or any portion thereof shall be treated as a sale thereof; the Collateral Agent shall be free to carry out such sale pursuant to such agreement and no Grantor shall be entitled to the return of the Collateral or any portion thereof subject thereto, notwithstanding the fact that after the Collateral Agent shall have entered into such an agreement all Events of Default shall have been remedied and the Secured Obligations paid in full. As an alternative to exercising the power of sale herein conferred upon it, the Collateral Agent may proceed by a suit or suits at law or in equity to foreclose this Agreement and to sell the Collateral or any portion thereof pursuant to a judgment or decree of a court or courts having competent jurisdiction or pursuant to a proceeding by a court appointed receiver. Any sale pursuant to the provisions of this Section 6.01 shall be deemed to conform to the commercially reasonable standards as provided in Section 9-610(b) of the UCC or its equivalent in other jurisdictions.

Each Grantor irrevocably makes, constitutes and appoints the Collateral Agent (and all officers, employees or agents designated by the Collateral Agent) as such Grantor's true and lawful agent (and attorney-in-fact) during the continuance of an Event of Default and after notice to the Borrower of its intent to exercise such rights (except in the case of a Bankruptcy Event of Default, in which case no such notice shall be required), for the purpose of, subject to the ABL/Term Intercreditor Agreement, (i) making, settling and adjusting claims in respect of Article 9 Collateral under policies of insurance, endorsing the name of such Grantor on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance, (ii) making all determinations and decisions with respect thereto and (iii) obtaining or maintaining the policies of insurance required by Section 8.5 of the Credit Agreement or to pay any premium in whole or in part relating thereto. All sums disbursed by the Collateral Agent in connection with this paragraph, including reasonable out-of-pocket attorneys' fees, court costs, expenses and other charges relating thereto, shall be payable, within ten (10) days of demand, by the Grantors to the Collateral Agent and shall be additional Secured Obligations secured hereby.

By accepting the benefits of this Agreement and each other Collateral Document, the Secured Parties expressly acknowledge and agree that this Agreement and each other Collateral Document may be enforced only by the action of the Collateral Agent and that no other Secured Party shall have any right individually to seek to enforce or to enforce this Agreement or to realize upon the security to be granted hereby, it being understood and agreed that such rights and remedies may be exercised by the Collateral Agent for the benefit of the Secured Parties upon the terms of this Agreement and the other Collateral Documents.

Section 6.02. Application of Proceeds.

Subject to the ABL/Term Intercreditor Agreement, the Collateral Agent shall apply the proceeds of any collection or sale of Collateral, including any Collateral consisting of cash, in accordance with the provisions of Section 10.3 of the Credit Agreement. The Collateral Agent shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Agreement. Upon any sale of Collateral by the Collateral Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of the Collateral Agent or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Collateral Agent or such officer or be answerable in any way for the misapplication thereof. It is understood and agreed that the Grantors shall remain jointly and severally liable to the extent of any deficiency between the amount of the proceeds of the Collateral and the aggregate amount of the Secured Obligations.

ARTICLE VII

Indemnity, Subrogation and Subordination

Upon payment by any Grantor of any Secured Obligations, all rights of such Grantor against the Borrower or any other Grantor arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior payment in full in cash of all the Secured

Obligations (other than (i) contingent indemnity obligations for then unasserted claims; (ii) Obligations under Secured Hedge Agreements as to which arrangements satisfactory to the applicable Hedge Bank shall have been made; or (iii) Obligations under Secured Cash Management Agreements as to which arrangements satisfactory to the applicable Cash Management Bank shall have been made) and the termination of all Commitments to any Loan Party under any Loan Document. If any amount shall erroneously be paid to the Borrower or any other Grantor on account of (i) such subrogation, contribution, reimbursement, indemnity or similar right or (ii) any such indebtedness of the Borrower or any other Grantor, such amount shall be held in trust for the benefit of the Secured Parties and shall forthwith be paid to the Collateral Agent to be credited against the payment of the Secured Obligations, whether matured or unmatured, in accordance with the terms of the Credit Agreement and the other Loan Documents. Subject to the foregoing, to the extent that any Grantor (other than the Borrower) shall, under this Agreement or the Credit Agreement as a joint and several obligor, repay any of the Secured Obligations (an "*Accommodation Payment*"), then the Grantor making such Accommodation Payment shall be entitled to contribution and indemnification from, and be reimbursed by, each of the other Grantors in an amount equal to a fraction of such Accommodation Payment, the numerator of which fraction is such other Grantor's Allocable Amount and the denominator of which is the sum of the Allocable Amounts of all of the Grantors. As of any date of determination, the "*Allocable Amount*" of each Grantor shall be equal to the maximum amount of liability for Accommodation Payments which could be asserted against such Grantor hereunder and under the Credit Agreement without (a) rendering such Grantor "insolvent" within the meaning of Section 101 (31) of the Bankruptcy Code, Section 2 of the Uniform Fraudulent Transfer Act ("*UFTA*") or Section 2 of the Uniform Fraudulent Conveyance Act ("*UFCA*"), (b) leaving such Grantor with unreasonably small capital or assets, within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA, or Section 5 of the UFCA, or (c) leaving such Grantor unable to pay its debts as they become due within the meaning of Section 548 of the Bankruptcy Code or Section 4 of the UFTA, or Section 5 of the UFCA.

ARTICLE VIII

Miscellaneous

Section 8.01. Notices.

All communications and notices hereunder shall (except as otherwise expressly permitted herein) be in writing and given as provided in Section 12.8 of the Credit Agreement. All communications and notices hereunder to a Grantor other than the Borrower shall be given in care of the Borrower.

Section 8.02. Waivers; Amendment.

(a) No failure or delay by the Collateral Agent in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Collateral Agent hereunder

and under the other Loan Documents are cumulative and are not exclusive of any other rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 8.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Revolving Credit Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Collateral Agent or any other Secured Party may have had notice or knowledge of such Default or Event of Default at the time.

(b) Subject to the ABL/Term Intercreditor Agreement, neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Collateral Agent and the Grantor or Grantors with respect to which such waiver, amendment or modification is to apply, subject to any consent required in accordance with Section 12.1 of the Credit Agreement.

Section 8.03. Collateral Agent's Fees and Expenses; Indemnification.

(a) Sections 12.3 and 12.4 of the Credit Agreement are hereby incorporated herein by reference as if each reference therein to the Borrower were instead a reference to each Grantor or the Grantors, mutatis mutandis.

(b) Any such amounts payable as provided hereunder shall be additional Secured Obligations secured hereby and by the other Collateral Documents. The provisions of this Section 8.03 shall remain operative and in full force and effect regardless of the termination of this Agreement or any other Loan Document, the repayment of any of the Secured Obligations, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, any resignation of the Administrative Agent, Collateral Agent, Swing Loan Lender or Issuer or any investigation made by or on behalf of the Collateral Agent or any other Secured Party. All amounts due under this Section 8.03 shall be payable within twenty (20) Business Days after written demand therefor.

Section 8.04. Successors and Assigns.

Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party; and all covenants, promises and agreements by or on behalf of any Grantor or the Collateral Agent that are contained in this Agreement shall bind and inure to the benefit of their respective permitted successors and assigns. Except as provided in Section 12.2 of the Credit Agreement, no Grantor may assign any of its rights or obligations hereunder without the written consent of the Collateral Agent.

Section 8.05. Survival of Agreement.

Without limitation of any provision of the Credit Agreement or Section 8.03 hereof, all covenants, agreements, indemnities, representations and warranties made by the Grantors in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied

upon by the Lenders and shall survive the execution and delivery of the Loan Documents and the making of any Revolving Credit Loans and issuance of any Letters of Credit, regardless of any investigation made by any such Lender or on its behalf and notwithstanding that the Collateral Agent or any Lender may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended under the Credit Agreement, and shall continue in full force and effect until this Agreement is terminated as provided in Section 8.13 hereof, or with respect to any individual Grantor until such Grantor is otherwise released from its obligations under this Agreement in accordance with the terms hereof.

Section 8.06. Counterparts; Effectiveness; Several Agreement.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which when taken together shall constitute one and the same instrument. Delivery by telecopier or by electronic .pdf copy of an executed counterpart of a signature page to this Agreement shall be effective as delivery of an original executed counterpart of this Agreement. This Agreement shall become effective when it shall have been executed by each Closing Date Grantor (and, with respect to each Person that becomes a Grantor hereunder following the Closing Date, on the date of delivery of a Security Agreement Supplement by such Grantor) and the Collateral Agent and thereafter shall be binding upon and inure to the benefit of each Grantor and the Collateral Agent and the other Secured Parties and their respective permitted successors and assigns, subject to Section 8.04 hereof. This Agreement shall be construed as a separate agreement with respect to each Grantor and may be amended, restated, modified, supplemented, waived or released with respect to any Grantor without the approval of any other Grantor and without affecting the obligations of any other Grantor hereunder.

Section 8.07. Severability.

If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 8.08. GOVERNING LAW, ETC.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) THE GRANTORS AND THE COLLATERAL AGENT EACH IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE

PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE COLLATERAL AGENT RETAINS THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY GRANTOR IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER THIS AGREEMENT OR THE ENFORCEMENT OF ANY JUDGMENT; PROVIDED, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT COLLATERAL AGENT'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE AGENT ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND.

(c) THE GRANTORS AND THE COLLATERAL AGENT EACH IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

Section 8.09. WAIVER OF RIGHT TO TRIAL BY JURY.

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 8.10. Headings.

Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

Section 8.11. Security Interest Absolute.

All rights of the Collateral Agent hereunder, the Security Interest, the grant of a security interest in the Pledged Collateral and all obligations of each Grantor hereunder shall be absolute and unconditional irrespective of (a) any lack of validity or enforceability of the Credit Agreement, any other Loan Document, any Secured Hedge Agreement, any Secured Cash Management Agreement, any agreement with respect to any of the Secured Obligations or any other agreement or instrument relating to any of the foregoing, (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from the Credit Agreement, any other Loan Document, any Secured Hedge Agreement, any Secured Cash Management Agreement, or any other agreement or instrument, (c) any exchange, release or non-perfection of any Lien on other collateral, or any release or amendment or waiver of or consent under or departure from any guarantee, securing or guaranteeing all or any of the Secured Obligations or (d) subject only to termination of a Grantor's obligations hereunder in accordance with the terms of Section 8.12, but without prejudice to reinstatement rights under Section 2.04 of the Guaranty, any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Grantor in respect of the Secured Obligations or this Agreement.

Section 8.12. Termination or Release.

(a) This Agreement, the Security Interest and all other security interests granted hereby shall terminate with respect to all Secured Obligations when (i) all Revolving Credit Commitments have expired or been terminated and the Lenders have no further commitment to lend under the Credit Agreement, (ii) all outstanding Secured Obligations (other than (A) contingent indemnification obligations not yet accrued and payable and (B) Secured Obligations in respect of Secured Hedge Agreements and Cash Management Obligations), (iii) all Letters of Credit shall have expired or terminated (or been Cash Collateralized or backstopped in a manner reasonably satisfactory to the applicable Issuer) and (iv) all Letter of Credit Obligations have been reduced to zero (or Cash Collateralized in a manner reasonably satisfactory to the applicable Issuer).

(b) The Security Interest in any Collateral shall be automatically released in the circumstances set forth in Section 11.11(a) of the Credit Agreement or upon any release of the Lien on such Collateral in accordance with Section 11.11(b) of the Credit Agreement or Section [5.01(a)] of the ABL/Term Intercreditor Agreement.

(c) In connection with any termination or release pursuant to paragraph (a) or (b), the Collateral Agent shall promptly execute and deliver to any Grantor, at such Grantor's expense, all documents that such Grantor shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section 8.12 shall be without recourse to or warranty by the Collateral Agent.

(d) At any time that the respective Grantor desires that the Collateral Agent take any of the actions described in immediately preceding paragraph (c), it shall, upon request of the Collateral Agent, deliver to the Collateral Agent an officer's certificate certifying that the release of the respective Collateral is permitted pursuant to paragraph (a) or (b). The Collateral Agent shall have no liability whatsoever to any Secured Party as the result of any release of Collateral by it as permitted (or which the Collateral Agent in good faith believes to be permitted) by this Section 8.12.

Section 8.13. Additional Grantors.

Pursuant to Section 8.11 of the Credit Agreement, certain Restricted Subsidiaries of the Loan Parties that were not in existence or not Restricted Subsidiaries on the date of the Credit Agreement or new Parent Guarantors are required to enter in this Agreement as Grantors upon becoming Restricted Subsidiaries. Upon execution and delivery by the Collateral Agent and such a Restricted Subsidiary or Parent Guarantor of a Security Agreement Supplement, such Restricted Subsidiary or Parent Guarantor shall become a Grantor hereunder with the same force and effect as if originally named as a Grantor herein. The execution and delivery of any such instrument shall not require the consent of any other Grantor hereunder. The rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Agreement.

Section 8.14. Collateral Agent Appointed Attorney-in-Fact.

(a) Each Grantor hereby appoints the Collateral Agent the true and lawful attorney-in-fact of such Grantor for the purpose of carrying out the provisions of this Agreement and taking any action and executing any instrument that the Collateral Agent may deem necessary or advisable to accomplish the purposes hereof at any time after and during the continuance of a Cash Dominion Period, subject to Section 3.04(b) or an Event of Default, as applicable, which appointment is irrevocable and coupled with an interest. Subject to the terms of the ABL/Term Intercreditor Agreement, without limiting the generality of the foregoing, the Collateral Agent shall have the right, (i) upon the occurrence and during the continuance of a Cash Dominion Period, subject to Section 3.04(b), and upon and after delivery of notice by the Collateral Agent to the Borrower of its intent to exercise such rights, with full power of substitution either in the Collateral Agent's name or in the name of such Grantor (a) to take actions required to be taken by the Grantors under Article V of this Agreement and (b) to receive, endorse, assign and/or deliver any and all notes, acceptances, checks, drafts, money orders or other evidences of payment relating to the Collateral or any part thereof; and (ii) upon the occurrence and during the continuance of an Event of Default and (unless a Bankruptcy Event of Default has occurred and is continuing, in which case no such notice shall be required) delivery of notice by the Collateral Agent to the Borrower of its intent to exercise such rights, with full power of substitution either in the Collateral Agent's name or in the name of such Grantor (a) to demand, collect, receive payment of, give receipt for and give discharges and releases of all or any of the Collateral; (b) to sign the name of any Grantor on any invoice or bill of lading relating to any of the Collateral; (c) to send verifications of Accounts to any Account Debtor; (d) to commence and prosecute any and all suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect or otherwise realize on all or any of the Collateral or to enforce any rights in respect of any Collateral; (e) to settle, compromise,

compound, adjust or defend any actions, suits or proceedings relating to all or any of the Collateral; (f) to notify, or to require any Grantor to notify, Account Debtors to make payment directly to the Collateral Agent or to a Collateral Account and adjust, settle or compromise the amount of payment of any Account or related contracts; (g) to make, settle and adjust claims in respect of Collateral under policies of insurance and to endorse the name of such Grantor on any check, draft, instrument or any other item of payment with respect to the proceeds of such policies of insurance and for making all determinations and decisions with respect thereto; and (h) to use, sell, assign, transfer, pledge, make any agreement with respect to or otherwise deal with all or any of the Collateral, and to do all other acts and things necessary to carry out the purposes of this Agreement, as fully and completely as though the Collateral Agent were the absolute owner of the Collateral for all purposes; provided that nothing herein contained shall be construed as requiring or obligating the Collateral Agent to make any commitment or to make any inquiry as to the nature or sufficiency of any payment received by the Collateral Agent, or to present or file any claim or notice, or to take any action with respect to the Collateral or any part thereof or the moneys due or to become due in respect thereof or any property covered thereby. The Collateral Agent and the other Secured Parties shall be accountable only for amounts actually received as a result of the exercise of the powers granted to them herein, and neither they nor their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct or that of any of their Affiliates, directors, officers, employees, counsel, agents or attorneys-in-fact.

(b) All acts in accordance with the terms of this Section 8.14 of said attorney or designee are hereby ratified and approved by the Grantors. The powers conferred on the Collateral Agent, for the benefit of the Secured Parties, under this Section 8.14 are solely to protect the Collateral Agent's interests in the Collateral and shall not impose any duty upon the Collateral Agent or any Secured Party to exercise any such powers.

Section 8.15. General Authority of the Collateral Agent.

By acceptance of the benefits of this Agreement and any other Collateral Documents, each Secured Party (whether or not a signatory hereto) shall be deemed irrevocably (a) to consent to the appointment of the Collateral Agent as its agent hereunder and under such other Collateral Documents, (b) to confirm that the Collateral Agent shall have the authority to act as the exclusive agent of such Secured Party for the enforcement of any provisions of this Agreement and such other Collateral Documents against any Grantor, the exercise of remedies hereunder or thereunder and the giving or withholding of any consent or approval hereunder or thereunder relating to any Collateral or any Grantor's obligations with respect thereto, (c) to agree that it shall not take any action to enforce any provisions of this Agreement or any other Collateral Document against any Grantor, to exercise any remedy hereunder or thereunder or to give any consents or approvals hereunder or thereunder except as expressly provided in this Agreement or any other Collateral Document and (d) to agree to be bound by the terms of this Agreement and any other Collateral Documents.

Section 8.16. Collateral Agent's Duties.

Except for the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, the Collateral Agent shall have no duty as to any

Collateral, as to ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Collateral, whether or not any Secured Party has or is deemed to have knowledge of such matters, or as to the taking of any necessary steps to preserve rights against any parties or any other rights pertaining to any Collateral. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its possession if such Collateral is accorded treatment substantially equal to that which it accords its own property.

Section 8.17. Recourse; Limited Obligations.

This Agreement is made with full recourse to each Grantor and pursuant to and upon all the warranties, representations, covenants and agreements on the part of such Grantor contained herein, in the Credit Agreement and the other Loan Documents and otherwise in writing in connection herewith or therewith, with respect to the Secured Obligations of each applicable Secured Party. It is the desire and intent of each Grantor and each applicable Secured Party that this Agreement shall be enforced against each Grantor to the fullest extent permissible under applicable Law applied in each jurisdiction in which enforcement is sought.

Section 8.18. Mortgages.

In the event that any of the Collateral hereunder is also subject to a valid and enforceable Lien under the terms of a Mortgage and the terms thereof are inconsistent with the terms of this Agreement, then with respect to such Collateral, the terms of such Mortgage shall control in the case of fixtures and real property leases, letting and licenses of, and contracts, and agreements relating to the lease of, real property, and the terms of this Agreement shall control in the case of all other Collateral.

Section 8.19. ABL/Term Intercreditor Agreement.

Notwithstanding anything herein to the contrary, (i) the priority of the liens and security interests granted to the Administrative Agent on any Collateral pursuant to this Agreement are expressly subject to the terms of the ABL/Term Intercreditor Agreement and (ii) the exercise of any right or remedy by the Administrative Agent hereunder with respect to the Collateral is subject to the limitations and provisions contained in the ABL/Term Intercreditor Agreement. In the event of any conflict between the terms of the ABL/Term Intercreditor Agreement and the terms of this Agreement, the terms of the ABL/Term Intercreditor Agreement shall govern. Notwithstanding the foregoing, so long as Term Agent is acting as bailee for perfection for Collateral Agent under the ABL/Term Intercreditor Agreement, the granting of control or possession to the Term Agent in respect of Term Priority Collateral (other than Deposit Account Control Agreements and Securities Account Control Agreements) shall satisfy any requirement hereunder for Collateral Agent to have possession or control of such Collateral under the terms of this Agreement.

[Signature Pages Follow]

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

MATTRESS FIRM, INC.,
as the Borrower,

By: _____
Name:
Title:

MATTRESS HOLDING CORP.,
as Holdings,

By: _____
Name:
Title:

STRIPES US HOLDING, INC.,
as Parent,

By: _____
Name:
Title:

MATTRESS FIRM HOLDING CORP.,

By: _____
Name:
Title:

MATTRESS HOLDCO, INC.,

By: _____
Name:
Title:

SUBSIDIARY GUARANTOR:

Custom Fundraising Solutions, LLC
The Mattress Venture, LLC
American Internet Sales LLC
ST San Diego, LLC
Sleep Country USA, LLC
CCP IV Holdings, LLC
CXV Holdings, LLC
CCP IV SBS Holdings, LLC
HMK Mattress Holdings LLC
HMK Intermediate Holdings LLC
Acker Realty Holdings LLC
Dial Operations, LLC
SINT, LLC
MD Acquisition LLC
1800mattress.com IP, LLC
Mattress Discounters Operations LLC
Mattress Discounters IP LLC
South Oyster Bay Realty, LLC,
each of the above as a Subsidiary Guarantor

By: _____
Name:
Title:

The Sleep Train, Inc.
Sleepy's, LLC,
each of the above as a Subsidiary Guarantor

By: _____
Name:
Title:

COLLATERAL AGENT:

BARCLAYS BANK PLC,
as Collateral Agent

By: _____
Name:
Title:

SCHEDULE I TO SECURITY AGREEMENT

SUBSIDIARY GUARANTORS

Custom Fundraising Solutions, LLC	Ohio limited liability company
The Mattress Venture, LLC	Texas limited liability company
American Internet Sales LLC	Delaware limited liability company
The Sleep Train, Inc.	California corporation
ST San Diego, LLC	California limited liability company
Sleep Country USA, LLC	Delaware limited liability company
CCP IV Holdings, LLC	Delaware limited liability company
CXV Holdings, LLC	Delaware limited liability company
CCP IV SBS Holdings, LLC	Delaware limited liability company
HMK Mattress Holdings LLC	Delaware limited liability company
HMK Intermediate Holdings LLC	Delaware limited liability company
Acker Realty Holdings LLC	New York limited liability company
South Oyster Bay Realty, LLC	New York limited liability company
Sleepy's, LLC	Delaware limited liability company
Dial Operations, LLC	New York limited liability company
1800mattress.com IP, LLC	New York limited liability company
SINT, LLC	Delaware limited liability company
MD Acquisition LLC	Delaware limited liability company
Mattress Discounters IP LLC	Delaware limited liability company
Mattress Discounters Operations LLC	Delaware limited liability company

SCHEDULE II TO SECURITY AGREEMENT

EQUITY INTERESTS

Current Legal Entities Owned	Record Owner	Certificate No.	No. Shares/Interest	Percent Pledged
Mattress Firm, Inc.	Mattress Holding Corp.	4	1,010.7135	100%
Mattress Firm -- Arizona, LLC	Mattress Firm, Inc.	N/A	100%	100%
The Mattress Venture, LLC	Mattress Firm, Inc.	N/A	100%	100%
Maggie's Enterprises, LLC	Mattress Firm, Inc.	N/A	998	100%
The Sleep Train, Inc.	Mattress Firm, Inc.	A 64	128,096.37	100%
ST San Diego, LLC	The Sleep Train, Inc.	N/A	100%	100%
Sleep Country USA, LLC	ST San Diego, LLC	N/A	100%	100%
Mattress Giant Corporation	Mattress Firm, Inc.	20	2,000	100%
American Internet Sales LLC	Mattress Firm, Inc.	N/A	100%	100%
CCP IV Holdings, LLC	Mattress Firm, Inc.	N/A	100%	100%
CXV Holdings, LLC	Mattress Firm, Inc.	N/A	100%	100%
CCP IV SBS Holdings, LLC	Mattress Firm, Inc.	N/A	100%	100%
HMK Mattress Holdings LLC	Mattress Firm, Inc.	N/A	72%	100%
HMK Mattress Holdings LLC	CCP IV Holdings, LLC	N/A	13.91%	100%

Current Legal Entities Owned	Record Owner	Certificate No.	No. Shares/Interest	Percent Pledged
HMK Mattress Holdings LLC	CXV Holdings, LLC	N/A	13.70%	100%
HMK Mattress Holdings LLC	CCP IV SBS Holdings, LLC	N/A	0.49%	100%
HMK Intermediate Holdings LLC	HMK Mattress Holdings LLC	01	100	100%
Dial Operations, LLC	HMK Intermediate Holdings LLC	01	100	100%
Sleepy's, LLC	HMK Intermediate Holdings LLC	01	100	100%
SINT, LLC	HMK Intermediate Holdings LLC	01	100	100%
Acker Realty Holdings LLC	HMK Intermediate Holdings LLC	01	100	100%
MD Acquisition LLC	HMK Intermediate Holdings LLC	01	100	100%
1800mattress.com, LLC	Dial Operations, LLC	01	100	100%
1800mattress.com IP, LLC	Dial Operations, LLC	01	100	100%
Mattress Discounters Group, LLC	MD Acquisition LLC	01	100	100%

Current Legal Entities Owned	Record Owner	Certificate No.	No. Shares/Interest	Percent Pledged
Mattress Discounters Operations LLC	MD Acquisition LLC	01	100	100%
Mattress Discounters IP LLC	MD Acquisition LLC	01	100	100%
South Oyster Bay Realty, LLC	Acker Realty Holdings LLC	N/A	100%	100%
45 South York Associates, LLC	Acker Realty Holdings LLC	N/A	100%	100%
669 Sunrise Realty, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Aramingo Avenue Associates, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Bethlehem Pike Realty, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Craftsmen Realty, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Robbinsville 7A Warehouse Group, LLC	Acker Realty Holdings LLC	01	100	100%
Viewmont Drive Realty, LLC	Acker Realty Holdings LLC	N/A	100%	100%

Current Legal Entities Owned	Record Owner	Certificate No.	No. Shares/Interest	Percent Pledged
Whitehall Management Partners, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Maple Shade Partners, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Hazlet Partners, LLC	Acker Realty Holdings LLC	01	100	100%
Scranton Avenue Associates, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Route 352 Management Partners, LLC	Acker Realty Holdings LLC	N/A	100%	100%
1520 Sunrise Highway, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Custom Fundraising Solutions, LLC	Mattress Firm, Inc.	004 – 40% 005 – 30% 006 – 30%	100%	40% (certificate 004) and 30% (certificate 005)

PROMISSORY NOTES

None.

SCHEDULE III TO SECURITY AGREEMENT[8]

COMMERCIAL TORT CLAIMS

1. *Mattress Firm, Inc. v. Tempur-Pedic North America, LLC and Sealy Mattress Company*, Cause No. 2017-22062, In the 165th Judicial District of Harris County, Texas. Mattress Firm, Inc. claims damages arising out of breach of contract and tortious interference by Tempur-Pedic and Sealy in the course of the parties' winding up of their supplier relationship.

2. *Mattress Firm, Inc. v. Fosbrooke, Inc., d/b/a Tuft & Needle,* Cause No. 4:17-cv-03107, In the United States District Court, Southern District of Texas. Mattress Firm, Inc. claims damages arising out of false advertising and trademark infringement.

3. *Mattress Firm, Inc. v. Levy, et al.,* Cause No. 2017-73196, In the 151st Judicial District of Harris County, Texas. Mattress Firm, Inc. claims damages for fraud, conspiracy, breach of fiduciary duty and unjust enrichment arising from a kickback and bribery scheme effected by certain former employees in the real estate department, developers and brokers.

[8] Subject to update

SCHEDULE IV TO SECURITY AGREEMENT

UCC FILINGS

Legal Name	Secretary of State Filing Office
Mattress Holding Corp.	Delaware
Mattress Firm, Inc.	Delaware
Custom Fundraising Solutions, LLC	Ohio
The Mattress Venture, LLC	Texas
American Internet Sales LLC	Delaware
The Sleep Train, Inc.	California
ST San Diego, LLC	California
Sleep Country USA, LLC	Delaware
CCP IV Holdings, LLC	Delaware
CXV Holdings, LLC	Delaware
CCP IV SBS Holdings, LLC	Delaware
HMK Mattress Holdings LLC	Delaware
HMK Intermediate Holdings LLC	Delaware
Acker Realty Holdings LLC	New York
South Oyster Bay Realty, LLC	New York
Sleepy's, LLC	Delaware
Dial Operations, LLC	New York
1800mattress.com IP, LLC	New York
SINT, LLC	Delaware
MD Acquisition LLC	Delaware
Mattress Discounters IP LLC	Delaware
Mattress Discounters Operations LLC	Delaware
Mattress Firm, Inc.	Delaware
Mattress Holdco, Inc.	Delaware
Mattress Firm Holding Corp.	Delaware
Stripes US Holding, Inc.	Delaware
Mattress Holding Corp.	Delaware

EXHIBIT I TO SECURITY AGREEMENT

[FORM OF] SECURITY AGREEMENT SUPPLEMENT

SUPPLEMENT NO. __ dated as of _____ ___, 20___ (this "*Supplement*"), to the Security Agreement dated as of November [•], 2018 (the "*Security Agreement*"), among MATTRESS FIRM, INC., a Delaware corporation (the "*Borrower*"), MATTRESS HOLDING, CORP., a Delaware corporation ("*Holdings*"), the Subsidiary Guarantors thereto and BARCLAYS BANK PLC, as Collateral Agent for the Secured Parties.

A. Reference is made to (i) the ABL Credit Agreement, dated as of November [•], 2018 (as amended, restated, supplemented and/or otherwise modified from time to time, the "*Credit Agreement*"), by the Borrower, Holdings, Parent Guarantors, the Lenders party thereto, and Barclays Bank PLC, as Administrative Agent for the Lenders and Collateral Agent for the Secured Parties and (ii) the Guaranty (as defined in the Credit Agreement).

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement and the Security Agreement, as applicable.

C. The Grantors have entered into the Security Agreement in order to induce (x) the Lenders to make Loans on the terms set forth in the Credit Agreement and (y) the Issuers to issue Letters of Credit of the account of the Borrower or a Restricted Subsidiary on the terms set forth in the Credit Agreement. Section 8.13 of the Security Agreement provides that additional Parent Guarantors and Restricted Subsidiaries of the Grantors may become Grantors under the Security Agreement by execution and delivery of an instrument substantially in the form of this Supplement. The undersigned Person (the "*New Subsidiary*") is executing this Supplement in accordance with the requirements of the Credit Agreement to become a Grantor under the Security Agreement in order to induce the Lenders to make additional Loans and as consideration for Loans previously made.

Accordingly, the Collateral Agent and the New Subsidiary agree as follows:

Section 1. In accordance with Section 8.13 of the Security Agreement, the New Subsidiary by its signature below becomes a Grantor under the Security Agreement with the same force and effect as if originally named therein as a Grantor and the New Subsidiary hereby (a) agrees to all the terms and provisions of the Security Agreement applicable to it as a Grantor thereunder and (b) represents and warrants that the representations and warranties made by it as a Grantor thereunder are true and correct on and as of the date hereof; provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all respects as of such earlier date. In furtherance of the foregoing, the New Subsidiary, as security for the payment and performance in full of the Secured Obligations does hereby create and grant to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, their successors and assigns, a security interest in and lien on all of the New Subsidiary's right, title and interest, whether now owned or hereafter acquired or arising, in and to the Collateral (as defined in the Security Agreement) of the New Subsidiary. Each reference to a "Grantor" in the Security Agreement shall be deemed to include the New Subsidiary as if

originally named therein as a Grantor. The Security Agreement is hereby incorporated herein by reference.

Section 2. The New Subsidiary represents and warrants to the Collateral Agent and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity.

Section 3. This Supplement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective when the Collateral Agent shall have received a counterpart of this Supplement that bears the signature of the New Subsidiary and the Collateral Agent has executed a counterpart hereof. Delivery of an executed signature page to this Supplement by facsimile or electronic (including .pdf file) transmission shall be as effective as delivery of a manually signed counterpart of this Supplement.

Section 4. The New Subsidiary hereby represents and warrants that the Perfection Certificate and updated schedules to the Security Agreement attached hereto as Schedule I have been duly executed and delivered to the Collateral Agent and the information set forth therein, including the exact legal name of the New Subsidiary and its jurisdiction of organization, is correct and complete in all material respects as of the date hereof.

Section 5. Except as expressly supplemented hereby, the Security Agreement shall remain in full force and effect.

Section 6. **THIS SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

Section 7. In case any one or more of the provisions contained in this Supplement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and in the Security Agreement shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 8. All communications and notices hereunder shall be in writing and given as provided in Section 8.01 of the Security Agreement.

Section 9. The New Subsidiary agrees to reimburse the Collateral Agent for its reasonable out-of-pocket expenses in connection with this Supplement, including all Attorney Costs of counsel for the Collateral Agent as provided in Section 8.03(a) of the Security Agreement.

IN WITNESS WHEREOF, the New Subsidiary and the Collateral Agent have duly executed this Supplement to the Security Agreement as of the day and year first above written.

[NAME OF NEW SUBSIDIARY]

By: _____
Name:
Title:
Legal Name:
Jurisdiction of Formation:
Location of Chief Executive Office:

BARCLAYS BANK PLC, as Collateral Agent

By: _____
Name:
Title:

SCHEDULE I TO SECURITY AGREEMENT SUPPLEMENT

[ATTACH COMPLETED PERFECTION CERTIFICATE FOR NEW SUBSIDIARY AND ALL SCHEDULES TO SECURITY AGREEMENT, UPDATED FOR NEW SUBSIDIARY]

EXHIBIT II TO SECURITY AGREEMENT

Form of Perfection Certificate

[Separately provided]

EXHIBIT III TO SECURITY AGREEMENT

[FORM OF] TRADEMARK SECURITY AGREEMENT

This TRADEMARK SECURITY AGREEMENT (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*Trademark Security Agreement*") dated _____, 20__, is made by the Persons listed on the signature pages hereof (collectively, the "*Grantors*") in favor of Barclays Bank PLC, as collateral agent (the "*Collateral Agent*") for the Secured Parties (as defined in the Credit Agreement referred to below).

Reference is made to (i) the ABL Credit Agreement, dated as of November [•], 2018 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*Credit Agreement*"), among Mattress Firm, Inc., Mattress Holding Corp., Parent Guarantors, the Lenders party thereto from time to time and Barclays Bank PLC, as Administrative Agent and Collateral Agent, (ii) each Secured Hedge Agreement and (iii) each agreement relating to Cash Management Services. The Lenders have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Credit Agreement, the Issuers have agreed to issue Letters of Credit of the account of the Borrower or a Restricted Subsidiary on the terms set forth in the Credit Agreement, the Hedge Banks have agreed to enter into and/or maintain one or more Secured Hedge Agreements and the Cash Management Banks have agreed to enter into and/or maintain Cash Management Services, on the terms and conditions set forth in the Credit Agreement, in such Secured Hedge Agreements or agreements relating to Cash Management Services, as applicable.

Whereas, as a condition precedent to the Lenders extension of such credit, the obligation of the Hedge Banks to enter into and/or maintain such Secured Hedge Agreements and the obligation of the Cash Management Banks to enter into and/or maintain such Cash Management Services, each Grantor has executed and delivered that certain Security Agreement dated November [•], 2018, made by the Grantors to the Collateral Agent (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*Security Agreement*").

Whereas, under the terms of the Security Agreement, the Grantors have granted to the Collateral Agent, for the benefit of the Secured Parties, a security interest in, among other property, certain intellectual property of the Grantors, and have agreed as a condition thereof to execute this Trademark Security Agreement for recording with the U.S. Patent and Trademark Office and other governmental authorities.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor agrees as follows:

SECTION 1. Terms. Terms defined in the Credit Agreement and Security Agreement and not otherwise defined herein are used herein as defined in the Credit Agreement and Security Agreement.

SECTION 2. Grant of Security. Each Grantor hereby grants to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties a continuing security interest in all of the Grantor's right, title and interest, whether now owned or hereafter acquired or arising in, to and under the Trademarks, including the Trademarks set forth on Schedule A attached hereto.

SECTION 3. Security for Obligations. The grant of a security interest in the Trademarks by each Grantor under this Trademark Security Agreement is made to secure the payment or performance, as the case may be, in full of the Secured Obligations.

SECTION 4. Recordation. Each Grantor authorizes and requests that the Commissioner for Trademarks and any other applicable government officer record this Trademark Security Agreement.

SECTION 5. Execution in Counterparts. This Trademark Security Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

SECTION 6. Security Agreement. This Trademark Security Agreement has been entered into in conjunction with the provisions of the Security Agreement. Each Grantor does hereby acknowledge and confirm that the grant of the security interest hereunder to, and the rights and remedies of, the Collateral Agent with respect to the Collateral are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated herein by reference as if fully set forth herein.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have executed this Trademark Security Agreement as of the date first above written.

[NAME OF GRANTOR], Grantor

By: _____
Name:
Title:

BARCLAYS BANK PLC, as Collateral Agent and Grantee

By: _____
Name:
Title:

SCHEDULE A

MARK	SERIAL/REG. NO.	APP./REG. DATE

EXHIBIT IV TO SECURITY AGREEMENT

[FORM OF] PATENT SECURITY AGREEMENT

This PATENT SECURITY AGREEMENT (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*Patent Security Agreement*") dated _____, 20__, is made by the Persons listed on the signature pages hereof (collectively, the "*Grantors*") in favor of Barclays Bank PLC, as collateral agent (the "*Collateral Agent*") for the Secured Parties (as defined in the Credit Agreement referred to below).

Reference is made to (i) the ABL Credit Agreement, dated as of November [•], 2018 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*Credit Agreement*"), among Mattress Firm, Inc., Mattress Holding Corp., the Parent Guarantors, the Lenders party thereto from time to time and Barclays Bank PLC, as Administrative Agent and Collateral Agent, (ii) each Secured Hedge Agreement and (iii) each agreement relating to Cash Management Services. The Lenders have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Credit Agreement, the Issuers have agreed to issue Letters of Credit of the account of the Borrower or a Restricted Subsidiary on the terms set forth in the Credit Agreement, the Hedge Banks have agreed to enter into and/or maintain one or more Secured Hedge Agreements and the Cash Management Banks have agreed to enter into and/or maintain Cash Management Services, on the terms and conditions set forth in the Credit Agreement, in such Secured Hedge Agreements or agreements relating to Cash Management Services, as applicable.

Whereas, as a condition precedent to the Lenders extension of such credit, the obligation of the Hedge Banks to enter into and/or maintain such Secured Hedge Agreements and the obligation of the Cash Management Banks to enter into and/or maintain such Cash Management Services, each Grantor has executed and delivered that certain Security Agreement dated November [•], 2018, made by the Grantors to the Collateral Agent (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*Security Agreement*").

Whereas, under the terms of the Security Agreement, the Grantors have granted to the Collateral Agent, for the benefit of the Secured Parties, a security interest in, among other property, certain intellectual property of the Grantors, and have agreed as a condition thereof to execute this Patent Security Agreement for recording with the U.S. Patent and Trademark Office and other governmental authorities.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor agrees as follows:

SECTION 1. Terms. Terms defined in the Credit Agreement and Security Agreement and not otherwise defined herein are used herein as defined in the Credit Agreement and Security Agreement.

SECTION 2. Grant of Security. Each Grantor hereby grants to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties a continuing security interest in all of the Grantor's right, title and interest, whether now owned or hereafter acquired

or arising, in, to and under the Patents, including the Patents set forth on Schedule A attached hereto.

SECTION 3. Security for Obligations. The grant of a security interest in the Patent by each Grantor under this Patent Security Agreement is made to secure the payment or performance, as the case may be, in full of the Secured Obligations.

SECTION 4. Recordation. Each Grantor authorizes and requests that the Commissioner for Patents and any other applicable government officer record this Patent Security Agreement.

SECTION 5. Execution in Counterparts. This Patent Security Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

SECTION 6. Security Agreement. This Patent Security Agreement has been entered into in conjunction with the provisions of the Security Agreement. Each Grantor does hereby acknowledge and confirm that the grant of the security interest hereunder to, and the rights and remedies of, the Collateral Agent with respect to the Collateral are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated herein by reference as if fully set forth herein.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have executed this Patent Security Agreement as of the date first above written.

[NAME OF GRANTOR], Grantor

By: _____
Name:
Title:

BARCLAYS BANK PLC, as Collateral Agent and Grantee

By: _____
Name:
Title:

SCHEDULE A

PATENT	PATENT NO.	FILING/ISSUE DATE

EXHIBIT V TO SECURITY AGREEMENT

[FORM OF] COPYRIGHT SECURITY AGREEMENT

This COPYRIGHT SECURITY AGREEMENT (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*Copyright Security Agreement*") dated _____, 20__, is made by the Persons listed on the signature pages hereof (collectively, the "*Grantors*") in favor of Barclays Bank PLC, as collateral agent (the "*Collateral Agent*") for the Secured Parties (as defined in the Credit Agreement referred to below).

Reference is made to (i) the ABL Credit Agreement, dated as of November [•], 2018 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*Credit Agreement*"), among Mattress Firm, Inc., Mattress Holding Corp., Parent Guarantors, the Lenders party thereto from time to time and Barclays Bank PLC, as Administrative Agent and Collateral Agent, (ii) each Secured Hedge Agreement and (iii) each agreement relating to Cash Management Services. The Lenders have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Credit Agreement, the Issuers have agreed to issue Letters of Credit of the account of the Borrower or a Restricted Subsidiary on the terms set forth in the Credit Agreement, the Hedge Banks have agreed to enter into and/or maintain one or more Secured Hedge Agreements and the Cash Management Banks have agreed to enter into and/or maintain Cash Management Services, on the terms and conditions set forth in the Credit Agreement, in such Secured Hedge Agreements or agreements relating to Cash Management Services, as applicable.

Whereas, as a condition precedent to the Lenders extension of such credit, the obligation of the Hedge Banks to enter into and/or maintain such Secured Hedge Agreements and the obligation of the Cash Management Banks to enter into and/or maintain such Cash Management Services, each Grantor has executed and delivered that certain Security Agreement dated November [•], 2018, made by the Grantors to the Collateral Agent (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*Security Agreement*").

Whereas, under the terms of the Security Agreement, the Grantors have granted to the Collateral Agent, for the benefit of the Secured Parties, a security interest in, among other property, certain intellectual property of the Grantors, and have agreed as a condition thereof to execute this Copyright Security Agreement for recording with the U.S. Copyright Office and other governmental authorities.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor agrees as follows:

SECTION 1. Terms. Terms defined in the Credit Agreement and Security Agreement and not otherwise defined herein are used herein as defined in the Credit Agreement and Security Agreement.

SECTION 2. Grant of Security. Each Grantor hereby grants to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties a continuing security interest in all of the Grantor's right, title and interest, whether now owned or hereafter acquired

or arising in, to and under the Copyrights and exclusive Copyright Licenses, including the Copyrights and exclusive Copyright Licenses set forth on Schedule A attached hereto.

SECTION 3. Security for Obligations. The grant of a security interest in the Copyrights and exclusive Copyright Licenses by each Grantor under this Copyright Security Agreement is made to secure the payment or performance, as the case may be, in full of the Secured Obligations.

SECTION 4. Recordation. Each Grantor authorizes and requests that the Commissioner for Copyrights and any other applicable government officer record this Copyright Security Agreement.

SECTION 5. Execution in Counterparts. This Copyright Security Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

SECTION 6. Security Agreement. This Copyright Security Agreement has been entered into in conjunction with the provisions of the Security Agreement. Each Grantor does hereby acknowledge and confirm that the grant of the security interest hereunder to, and the rights and remedies of, the Collateral Agent with respect to the Collateral are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated herein by reference as if fully set forth herein.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have executed this Copyright Security Agreement as of the date first above written.

[NAME OF GRANTOR], Grantor

By: _____
Name:
Title:

BARCLAYS BANK PLC, as Collateral Agent and Grantee

By: _____
Name:
Title:

SCHEDULE A

COPYRIGHTS

COPYRIGHT	COPYRIGHT NO.	APP./REG. DATE

COPYRIGHT LICENSES

AGREEMENT	PARTIES	DATE	SUBJECT MATTER

DRAFT

SECURITY AGREEMENT

dated as of November [•], 2018

among

MATTRESS FIRM, INC.,
as the Borrower,

MATTRESS HOLDING CORP.,
as Holdings,

THE PARENT GUARANTORS PARTY HERETO,

THE SUBSIDIARY GUARANTORS PARTY HERETO FROM TIME TO TIME,

and

BARCLAYS BANK PLC,

as Collateral Agent

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

Page

SCHEDULES

Schedule I	-	Subsidiary Guarantors
Schedule II	-	Pledged Equity; Pledged Debt
Schedule III	-	Commercial Tort Claims
Schedule IV	-	UCC Filing Offices

EXHIBITS

Exhibit I	-	Form of Security Agreement Supplement
Exhibit II	-	Form of Perfection Certificate
Exhibit III	-	Form of Trademark Security Agreement
Exhibit IV	-	Form of Patent Security Agreement
Exhibit V	-	Form of Copyright Security Agreement

This SECURITY AGREEMENT, dated as of November [•], 2018 (this "*Agreement*"), among MATTRESS FIRM, INC., a Delaware corporation (the "*Borrower*"), MATTRESS HOLDING CORP., a Delaware corporation ("*Holdings*"), the Subsidiary Guarantors set forth on Schedule I hereto, the Parent Guarantors party hereto and BARCLAYS BANK PLC, as Collateral Agent for the Secured Parties (as defined below).

Reference is made to the Term Loan Credit Agreement, dated as of November [•], 2018 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*Credit Agreement*"), among the Borrower, Holdings, the Parent Guarantors, the Lenders party thereto from time to time and Barclays Bank PLC, as Administrative Agent for the Lenders and Collateral Agent for the Secured Parties.

The Lenders have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Credit Agreement, the Hedge Banks have agreed to enter into and/or maintain one or more Secured Hedge Agreements, on the terms and conditions set forth in the Credit Agreement. The obligations of the Lenders to extend such credit and the obligation of the Hedge Banks to enter into and/or maintain such Secured Hedge Agreements are, in each case, conditioned upon, among other things, the execution and delivery of this Agreement by each Grantor (as defined below). The Grantors are affiliates of one another, will derive substantial direct and indirect benefits from (i) the extensions of credit to the Borrower pursuant to the Credit Agreement and (ii) the entering into and/or maintaining by the Hedge Banks of Secured Hedge Agreements with the Borrower and/or one or more of its Restricted Subsidiaries, and are willing to execute and deliver this Agreement in order to induce the Lenders to extend such credit and the Hedge Banks to enter into and/or maintain such Secured Hedge Agreements.

Therefore, in consideration of the mutual conditions and agreements set forth in this Agreement, and for good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

Definitions

Section 1.01. Credit Agreement.

(a) Capitalized terms used in this Agreement, including the preamble and introductory paragraphs hereto, and not otherwise defined herein have the meanings specified in the Credit Agreement.

(b) Unless otherwise defined in this Agreement or in the Credit Agreement, terms defined in Article 8 or 9 of the UCC (as defined below) are used in this Agreement as such terms are defined in such Article 8 or 9.

(c) The rules of construction specified in Article I of the Credit Agreement also apply to this Agreement.

Section 1.02. Other Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"*ABL Administrative Agent*" means Barclays, in its capacity as administrative agent (as defined in the ABL Credit Agreement).

"*ABL Collateral Documents*" has the meaning assigned to such term in the ABL/Term Intercreditor Agreement.

"*ABL Priority Collateral*" has the meaning assigned to such term in the ABL/Term Intercreditor Agreement.

"*ABL/Term Intercreditor Agreement*" has the meaning assigned to such term in the Credit Agreement.

"*Accommodation Payment*" has the meaning assigned to such term in Article VII.

"*Account(s)*" means "accounts" as defined in Section 9-102 of the UCC, and also means a right to payment of a monetary obligation, whether or not earned by performance, (a) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (b) for services rendered or to be rendered, or (c) arising out of the use of a credit or charge card or information contained on or for use with the card.

"*Account Debtor*" means any Person who is or who may become obligated to any Grantor under, with respect to or on account of an Account.

"*After-Acquired Intellectual Property*" has the meaning assigned to such term in Section 4.02(f).

"*Agreement*" has the meaning assigned to such term in the introductory paragraph hereto.

"*Allocable Amount*" has the meaning assigned to such term in Article VII.

"*Article 9 Collateral*" has the meaning assigned to such term in Section 3.01(a).

"*Bankruptcy Event of Default*" means any Event of Default under Sections 10.1(f) of the Credit Agreement.

"*Blue Sky Laws*" has the meaning assigned to such term in Section 6.01.

"*Borrower*" has the meaning assigned to such term in the introductory paragraph to this Agreement.

"*Collateral*" means the Article 9 Collateral and the Pledged Collateral.

"*Collateral Account*" means the Concentration Account (as defined in the ABL Loan Agreement), which cash collateral account shall be maintained with, and under the sole dominion and control of, the Collateral Agent for the benefit of the relevant Secured Parties.

"*Copyright License*" means any written agreement, now or hereafter in effect, granting any license or similar right to any third party under any Copyright now or hereafter owned by any Grantor or that such Grantor otherwise has the right to license, or granting any license or

similar right to any Grantor under any Copyright now or hereafter owned by any third party, and all rights of such Grantor under any such agreement.

"*Copyrights*" means all of the following now owned or hereafter acquired by or assigned to any Grantor or owned by any third party with any right or license therein granted to any Grantor: (a) all copyright rights in any work subject to the copyright laws of the United States or any other country, whether as author, assignee, transferee or otherwise, whether registered or unregistered and whether published or unpublished, (b) all registrations and applications for registration of any such copyright in the United States or any other country, including registrations, recordings, supplemental registrations and pending applications for registration in the United States Copyright Office, including those listed on Schedule 9(b) to the Perfection Certificate and all: (i) rights and privileges arising under applicable Law with respect to such Grantor's use of such copyrights, (ii) reissues, renewals, and extensions thereof and amendments thereto, (iii) income, fees, royalties, damages, claims and payments now or hereafter due and/or payable with respect thereto, including damages and payments for past, present or future infringements thereof, (iv) rights corresponding thereto throughout the world and (v) rights to sue for past, present or future infringements thereof.

"*Credit Agreement*" has the meaning assigned to such term in the preliminary statement of this Agreement.

"*Closing Date Grantor*" has the meaning assigned to such term in Section 2.02 of this Agreement.

"*Debtor Relief Laws*" shall mean the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"*Discharge of ABL Obligations*" shall have the meaning assigned to such term in the ABL/Term Intercreditor Agreement.

"*Discharge of Term Obligations*" shall have the meaning assigned to such term in the ABL/Term Intercreditor Agreement.

"*Domain Names*" means all Internet domain names and associated URL addresses in or to which any Grantor now or hereafter has any right, title or interest.

"*Equipment*" shall mean (x) any "equipment" as such term is defined in Article 9 of the UCC and in any event, shall include, but shall not be limited to, all machinery, equipment, furnishings, appliances, furniture, fixtures, tools, and vehicles now or hereafter owned by any Grantor in each case, regardless of whether characterized as equipment under the UCC and (y) and any and all additions, substitutions and replacements of any of the foregoing and all accessions thereto, wherever located, whether or not at any time of determination incorporated or installed therein or attached thereto, and all replacements therefore, together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto.

"*General Intangibles*" has the meaning provided in Article 9 of the UCC and shall in any event include all choses in action and causes of action and all other intangible personal property of every kind and nature (other than Accounts) now owned or hereafter acquired by any Grantor, as the case may be, including corporate or other business records, indemnification claims, contract rights (including rights under leases, whether entered into as lessor or lessee, Swap Contracts and other agreements), goodwill, registrations, franchises, tax refund claims and any letter of credit, guarantee, claim, security interest or other security held by or granted to any Grantor.

"*Grant of Security Interest*" means a Grant of Security Interest in certain IP Collateral in the form of Exhibit III, IV or V attached hereto.

"*Grantor*" means the Borrower[, each Parent Guarantor,] and each [Subsidiary] Guarantor.

"*Holdings*" has the meaning assigned to such term in the preliminary statement hereto.

"*Intellectual Property*" means all intellectual and similar property of every kind and nature now owned, licensed or hereafter acquired by any Grantor, including: inventions, designs, Patents, Copyrights, Licenses, Trademarks, Domain Names, trade secrets, confidential or proprietary technical and business information, know how, show how or other data or information, software, databases, all other proprietary information and all embodiments or fixations thereof and related documentation, registrations and all additions, improvements and accessions to, and books and records describing or used in connection with, any of the foregoing.

"*IP Collateral*" means the Collateral consisting of Intellectual Property.

"*License*" means any Patent License, Trademark License, Copyright License or other license or sublicense agreement granting any license or similar rights under Intellectual Property to which any Grantor is a party.

"*Parent Guarantors*" has the meaning specified in the Credit Agreement.

"*Patent License*" means any written agreement, now or hereafter in effect, granting to any third party any license or right to develop, commercialize, import, make, have made, offer for sale, use or sell any invention on which a Patent, now or hereafter owned by any Grantor or that any Grantor otherwise has the right to license, is in existence, or granting to any Grantor any such license or similar right with respect to any invention on which a Patent, now or hereafter owned by any third party, is in existence, and all rights of any Grantor under any such agreement.

"*Patents*" means all of the following now owned or hereafter acquired by any Grantor or owned by a third party with any right or license therein granted to any Grantor: (a) all letters patent of the United States or the equivalent thereof in any other country, all registrations and recordings thereof, and all applications for letters patent of the United States or the equivalent thereof in any other country, including registrations, recordings and pending applications in the United States Patent and Trademark Office or any similar offices in any other country, including those listed on Schedule 9(a) to the Perfection Certificate, and (b) all (i) rights and privileges

arising under applicable Law with respect to such Grantor's use of any patents, (ii) inventions and improvements described and claimed therein, (iii) reissues, reexaminations, divisions, continuations, renewals, extensions and continuations-in-part thereof and amendments thereto, (iv) income, fees, royalties, damages, claims and payments now or hereafter due and/or payable with respect to any of the foregoing including damages and payments for past, present or future infringements thereof, (v) rights corresponding thereto throughout the world and (vi) rights to sue for past, present or future infringements thereof.

"*Perfection Certificate*" means a certificate substantially in the form of Exhibit II, completed and supplemented with the schedules and attachments contemplated thereby, and duly executed by a Responsible Officer of the Borrower.

"*Pledged Collateral*" has the meaning assigned to such term in Section 2.01.

"*Pledged Debt*" has the meaning assigned to such term in Section 2.01.

"*Pledged Equity*" has the meaning assigned to such term in Section 2.01.

"*Pledged Securities*" means any Promissory Notes, stock certificates, unit certificates, limited or unlimited liability membership certificates or other Securities or Instruments now or hereafter included in the Pledged Collateral, including all Pledged Equity, Pledged Debt and all other certificates, instruments or other documents representing or evidencing any Pledged Collateral.

"*Secured Obligations*" means the "Obligations" as defined in the Credit Agreement and the "Guaranteed Obligations" (as defined in the Guaranty); it being acknowledged and agreed that the term "Secured Obligations" as used herein shall include each extension of credit under the Credit Agreement and all obligations of the Loan Parties and their respective Subsidiaries which arise under the Loan Documents (including the Guaranty) or with respect to the Obligations in respect of Secured Hedge Agreements, in each case, whether outstanding on the date of this Agreement or extended or arising from time to time after the date of this Agreement.

"*Secured Parties*" has the meaning provided in the Credit Agreement.

"*Securities Act*" has the meaning assigned to such term in Section 6.01.

"*Securities Accounts*" means all securities accounts of any Loan Party, including "securities accounts" within the meaning given to such term in Article 8 of the UCC.

"*Security*" means a "security" as such term is defined in Article 8 of the UCC and, in any event, shall include any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities" or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

"*Security Agreement Supplement*" means an instrument substantially in the form of Exhibit I hereto.

"*Security Interest*" has the meaning assigned to such term in Section 3.01(a).

"*Term Priority Collateral*" has the meaning assigned to such term in the ABL/Term Intercreditor Agreement.

"*Trademark License*" means any written agreement, now or hereafter in effect, granting to any third party any license or similar right to use any Trademark now or hereafter owned by any Grantor or that any Grantor otherwise has the right to license, or granting to any Grantor any license or similar right to use any Trademark now or hereafter owned by any third party, and all rights of any Grantor under any such agreement (not including vendor or distribution agreements that allow incidental use of intellectual property rights in connection with the sale or distribution of such products or services).

"*Trademarks*" means all of the following now owned or hereafter acquired by any Grantor or owned by any third party with any right or license therein granted to any Grantor: (a) all trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade styles, trade dress, logos, other source or business identifiers, designs and general intangibles of like nature, the goodwill of the business symbolized thereby or associated therewith, all registrations and recordings thereof, and all registration and recording applications filed in connection therewith, including registrations and registration applications in the United States Patent and Trademark Office or any similar offices in any State of the United States or any other country or any political subdivision thereof, and all extensions or renewals thereof, including those listed on Schedule 9(a) to the Perfection Certificate, (b) all rights and privileges arising under applicable Law with respect to such Grantor's use of any trademarks, (c) all extensions and renewals thereof and amendments thereto, (d) all income, fees, royalties, damages and payments now and hereafter due and/or payable with respect to any of the foregoing, including damages, claims and payments for past, present or future infringements thereof, (e) all rights corresponding thereto throughout the world and (f) all rights to sue for past, present and future infringements or dilutions thereof or other injuries thereto.

"*UCC*" means the Uniform Commercial Code as in effect from time to time in the State of New York; provided that, if by reason of mandatory provisions of law, perfection, or the effect of perfection or non-perfection or the priority of a security interest in any Collateral or the availability of any remedy hereunder is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, "UCC" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection or priority or availability of such remedy, as the case may be.

"*UFCA*" has the meaning assigned to such term in Article VII.

"*UFTA*" has the meaning assigned to such term in Article VII.

ARTICLE II

Pledge of Securities

Section 2.01. Pledge. As security for the payment or performance, as the case may be, in full of the Secured Obligations, each Grantor hereby assigns and pledges to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, and hereby grants to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, a continuing security interest in, all of such Grantor's right, title and interest, whether now owned or hereafter acquired or arising in, to and under (a) (i) all Equity Interests held by it (including those Equity Interests listed on Schedule II) and (ii) any other Equity Interests obtained in the future by such Grantor and the certificates representing all such Equity Interests (the foregoing clauses (i) and (ii) collectively, the "*Pledged Equity*"), in each case including all dividends, distributions, return of capital, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Equity and all warrants, rights or options issued thereon or with respect thereto; provided that the Pledged Equity shall not include (A) more than 65% of the issued and outstanding Equity Interests directly owned by the Borrower or by any Subsidiary Guarantor of (x) each Restricted Subsidiary that is a CFC and (y) each Restricted Subsidiary that is a CFC Holdco or (B) Excluded Assets; (b) (i) the Promissory Notes and any Instruments evidencing indebtedness owned by it (including those listed opposite the name of such Grantor on Schedule II) and (ii) any Promissory Notes and Instruments evidencing indebtedness obtained in the future by such Grantor (the foregoing clauses (i) and (ii) collectively, the "*Pledged Debt*"), in each case including all interest, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all Pledged Debt; provided that the Pledged Debt shall not include Excluded Assets; (c) all other property that may be delivered to and held by the Collateral Agent pursuant to the terms of this Section 2.01; (d) subject to Section 2.06, all payments of principal or interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of, in exchange for or upon the conversion of, and all other Proceeds received in respect of, the securities referred to in clauses (a), (b) and (c) above; (e) subject to Section 2.06, all rights and privileges of such Grantor with respect to the securities and other property referred to in clauses (a), (b), (c) and (d) above; and (f) all Proceeds of, and Security Entitlements in respect of, any of the foregoing (the items referred to in clauses (a) through (f) above being collectively referred to as the "*Pledged Collateral*").

TO HAVE AND TO HOLD the Pledged Collateral, together with all right, title, interest, powers, privileges and preferences pertaining or incidental thereto, unto the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, forever; subject, however, to the terms, covenants and conditions hereinafter set forth.

Section 2.02. Delivery of the Pledged Collateral.

(a) Subject to the ABL/Term Intercreditor Agreement, on the Closing Date (in the case of any Grantor that grants a Lien on any of its assets hereunder on the Closing Date (each, an "*Closing Date Grantor*")) or on the date on which it signs and delivers its first Security Agreement Supplement (in the case of any other Grantor), each Grantor shall deliver or cause to

be delivered to the Collateral Agent, for the benefit of the Secured Parties, any and all Pledged Securities (other than any Uncertificated Securities, but only for so long as such Securities remain uncertificated); provided that Promissory Notes and Instruments evidencing Indebtedness shall only be so required to be delivered to the extent required pursuant to paragraph (b) of this Section 2.02. Thereafter, whenever such Grantor acquires any other Pledged Security (other than any Uncertificated Securities, but only for so long as such Securities remain uncertificated), such Grantor shall promptly deliver or cause to be delivered to the Collateral Agent, such Pledged Security as Collateral; provided that Promissory Notes and Instruments evidencing Indebtedness shall only be so required to be delivered to the extent required pursuant to paragraph (b) of this Section 2.02.

(b) As promptly as practicable (and in any event within thirty (30) days after receipt by Grantor (or such longer period as the Administrative Agent may agree in its reasonable discretion)), each Grantor will cause any Indebtedness for borrowed money having an aggregate principal amount equal to or in excess of $[5,000,000][1] owed to such Grantor by any Person (other than a Loan Party) to be evidenced by a duly executed Promissory Note that is pledged and, subject to the terms of the ABL/Term Intercreditor Agreement, delivered to the Collateral Agent, for the benefit of the Secured Parties, pursuant to the terms hereof and the terms of the Collateral Documents, as applicable.

(c) Upon delivery to the Collateral Agent (i) any certificate or promissory note representing Pledged Collateral shall be accompanied by undated stock or note powers, as applicable, duly executed in blank or other undated instruments of transfer duly-executed in blank reasonably satisfactory to the Collateral Agent and by such other instruments and documents as the Collateral Agent may reasonably request and (ii) all other property comprising part of the Pledged Collateral shall be accompanied by such instruments and documents as the Collateral Agent may reasonably request. Each delivery of Pledged Securities shall be accompanied by a schedule describing such Pledged Securities, which schedule shall be deemed to supplement Schedule II and be made a part hereof; provided that failure to provide any such schedule hereto shall not affect the validity of such pledge of such Pledged Securities. Each schedule so delivered shall supplement any prior schedules so delivered.

(d) The assignment, pledge and security interest granted in Section 2.01 are granted as security only and shall not subject the Collateral Agent or any other Secured Party to, or in any way alter or modify, any obligation or liability of any Grantor with respect to or arising out of the Pledged Collateral.

Section 2.03. Representations, Warranties and Covenants. Each Grantor, jointly and severally, represents, warrants and covenants, as to itself and the other Grantors, to and with the Collateral Agent, for the benefit of the Secured Parties, that:

(a) Schedule II sets forth, as of the Closing Date and as of each date on which a supplement to Schedule II is delivered pursuant to Section 2.02(c), a true and correct list of (i) all the issued and outstanding units of each class of the Equity Interests of the issuer thereof

[1] To be confirmed.

represented by the Pledged Equity directly owned beneficially, or of record, by such Grantor specifying the issuer and certificate number (if any) of, and the number and percentage of ownership represented by, such Pledged Equity and (ii) all the Pledged Debt owned by such Grantor (other than checks to be deposited in the ordinary course of business), including all Promissory Notes and Instruments required to be pledged hereunder;

(b) the Pledged Equity issued by the Borrower, each other Grantor or their respective Subsidiaries and the Pledged Debt (solely with respect to Pledged Debt issued by a Person other than any Grantor or any of their respective Subsidiaries, to the best of each Grantor's knowledge) have been duly and validly authorized and issued by the issuers thereof and (i) in the case of Pledged Equity (other than Pledged Equity consisting of limited liability company interests or partnership interests which, pursuant to the relevant organizational or formation documents, cannot be fully paid and non-assessable), are fully paid and nonassessable and (ii) in the case of Pledged Debt (solely with respect to Pledged Debt issued by a Person other than any Grantor or any of their respective Subsidiaries to the best of each Grantor's knowledge), are legal, valid and binding obligations of the issuers thereof, subject to applicable Debtor Relief Laws and general principles of equity;

(c) Each of the Grantors (i) holds the Pledged Securities indicated on Schedule II as owned by such Grantor free and clear of all Liens, other than (A) Liens created by the Collateral Documents and, subject to the ABL/Term Intercreditor Agreement, the ABL Collateral Documents, and (B) other Liens expressly permitted pursuant to Section 9.1 of the Credit Agreement, (ii) will make no assignment, pledge, hypothecation or transfer of, or create or permit to exist any security interest in or other Lien on, the Pledged Collateral, other than (A) Liens created by the Collateral Documents and, subject to the ABL/Term Intercreditor Agreement, the ABL Collateral Documents, and (B) other Liens expressly permitted pursuant to Section 9.1 of the Credit Agreement, and (iii) will defend its title or interest thereto or therein against any and all Liens (other than the Liens permitted pursuant to this Section 2.03(c)), however arising, of all Persons whomsoever;

(d) except for (i) restrictions and limitations imposed by the Loan Documents or securities laws generally or by Liens expressly permitted pursuant to Section 9.1 of the Credit Agreement and (ii) in the case of Pledged Equity of Persons that are not Subsidiaries, transfer restrictions that exist at the time of acquisition of Equity Interests in such Persons, the Pledged Equity is and will continue to be freely transferable and assignable, and none of the Pledged Equity is or will be subject to any option, right of first refusal, shareholders agreement, charter or by-law or other organizational document provisions or contractual restriction of any nature that might prohibit, impair, delay or otherwise affect in any manner material and adverse to the Secured Parties the pledge of such Pledged Equity hereunder, the sale or disposition thereof pursuant hereto or the exercise by the Collateral Agent of rights and remedies hereunder; *provided* that, to the extent any organizational document of a Grantor contains any contractual restriction requiring consent of a member thereof for the pledge of Pledged Equity hereunder, such consent is hereby given;

(e) each of the Grantors has the power and authority to pledge the Pledged Collateral pledged by it hereunder in the manner hereby done or contemplated;

(f) no consent or approval of any Governmental Authority, any securities exchange or any other Person was or is necessary to the validity and perfection of the pledge effected hereby (other than such as have been obtained and are in full force and effect);

(g) by virtue of the execution and delivery by the Grantors of this Agreement, when any Pledged Securities are delivered to the Collateral Agent, in accordance with this Agreement, the Collateral Agent will (i) obtain a legal, valid and first-priority (subject only to any nonconsensual Liens permitted pursuant to Section 9.1 of the Credit Agreement) perfected lien upon and security interest in such Pledged Securities as security for the payment and performance of the Secured Obligations, (ii) have Control of such Pledged Securities and (iii) assuming that neither the Collateral Agent nor any of the Secured Parties have "notice of an adverse claim" (as defined in Section 8-105 of the UCC) with respect to such Pledged Securities at the time such Pledged Securities are delivered to the Collateral Agent, be a protected purchaser (within the meaning of Section 8-303 of the UCC) thereof;

(h) the pledge effected hereby is effective to vest in the Collateral Agent, for the benefit of the Secured Parties, the rights of the Collateral Agent in the Pledged Collateral as set forth herein; and

(i) subject to the terms of this Agreement, the ABL/Term Intercreditor Agreement, and to the extent permitted by applicable Law, each Grantor hereby agrees that upon the occurrence and during the continuation of an Event of Default, (i) it will comply with instructions of the Collateral Agent with respect to the Equity Interests in such Grantor that constitute Pledged Equity hereunder that are not certificated without further consent by the applicable owner or holder of such Pledged Equity and (ii) will take all actions necessary and provide all necessary consents under such Grantor's Organization Documents to effectuate the transfers of Pledged Equity.

Section 2.04. Certification of Limited Liability Company and Limited Partnership Interests. Each Grantor acknowledges and agrees that, to the extent any interest in any limited liability company or limited partnership controlled by any Grantor and pledged under Section 2.01 is a "security" within the meaning of Article 8 of the UCC, such interest shall be represented by a certificate. Each Grantor further acknowledges and agrees that with respect to any interest in any limited liability company or limited partnership controlled on or after the date hereof by such Grantor and pledged hereunder that is not a "security" within the meaning of Article 8 of the UCC, such Grantor shall at no time elect to treat any such interest as a "security" within the meaning of Article 8 of the UCC, nor shall such interest be represented by a certificate, unless such election and such interest is represented by a certificate that is, subject to the terms of the ABL/Term Intercreditor Agreement, delivered to the Collateral Agent prior to or substantially contemporaneously with such election (or on such later date as the Administrative Agent may permit), pursuant to the terms hereof.

Section 2.05. Registration in Nominee Name; Denominations. Subject to the terms of the ABL/Term Intercreditor Agreement, if an Event of Default shall have occurred and be continuing and the Collateral Agent shall have given the Borrower notice of its intent to exercise such rights, (a) the Collateral Agent, on behalf of the Secured Parties, shall have the right (in its sole and absolute discretion) to cause each of the Pledged Securities to be transferred of record

into the name of the Collateral Agent and (b) the Collateral Agent shall have the right to exchange the certificates representing Pledged Securities for certificates of smaller or larger denominations for any purpose consistent with this Agreement; provided that, notwithstanding the foregoing, if a Bankruptcy Event of Default shall have occurred and be continuing, the Collateral Agent shall not be required to give the notice referred to above in order to exercise the rights described above. Each Grantor will promptly give to the Collateral Agent copies of any material notices received by it with respect to Pledged Securities registered in the name of such Grantor. Each Grantor will take any and all actions reasonably requested by the Collateral Agent to facilitate compliance with this Section 2.05.

Section 2.06. Voting Rights; Dividends and Interest. (a) Unless and until an Event of Default shall have occurred and be continuing and the Collateral Agent shall have notified the Borrower that the rights of the Grantors under this Section 2.06 are being suspended, and subject to the ABL/Term Intercreditor Agreement:

(i) Each Grantor shall be entitled to exercise any and all voting and/or other consensual rights and powers inuring to an owner of Pledged Securities or any part thereof for any purpose consistent with the terms of this Agreement, the Credit Agreement and the other Loan Documents; provided that such rights and powers shall not be exercised in any manner that could materially and adversely affect the rights inuring to a holder of any Pledged Securities or the rights and remedies of any of the Collateral Agent or the other Secured Parties under this Agreement, the Credit Agreement or any other Loan Document or the ability of the Secured Parties to exercise the same.

(ii) The Collateral Agent shall promptly execute and deliver to each Grantor, or cause to be executed and delivered to such Grantor, all such proxies, powers of attorney and other instruments as such Grantor may reasonably request in writing for the purpose of enabling such Grantor to exercise the voting and/or consensual rights and powers it is entitled to exercise pursuant to subparagraph (i) above, in each case as shall be specified in such request and be in form and substance reasonably satisfactory to the Collateral Agent.

(iii) Each Grantor shall be entitled to receive and retain any and all dividends, interest, principal and other distributions paid on or distributed in respect of the Pledged Securities, to the extent (and only to the extent) that such dividends, interest, principal and other distributions are permitted by, and otherwise paid or distributed in accordance with, the terms and conditions of the Credit Agreement, the other Loan Documents and applicable Laws; provided that any noncash dividends, interest, principal or other distributions that would constitute Pledged Equity or Pledged Debt, whether resulting from a subdivision, combination or reclassification of the outstanding Equity Interests of the issuer of any Pledged Securities or received in exchange for Pledged Securities or any part thereof, or in redemption thereof, or as a result of any merger, consolidation, acquisition or other exchange of assets to which such issuer may be a party or otherwise, shall be and become part of the Pledged Collateral, and, if received by any Grantor, shall not be commingled by such Grantor with any of its other funds or property but shall be held separate and apart therefrom, shall be held in trust for the benefit of the Collateral Agent and the other Secured Parties and shall be forthwith delivered to the

Collateral Agent in the same form as so received (with any necessary endorsement reasonably requested by the Collateral Agent). So long as no Event of Default has occurred and is continuing, the Collateral Agent shall promptly deliver to each Grantor (at the expense of such Grantor) any Pledged Securities in its possession if requested to be delivered to the issuer thereof in connection with any exchange or redemption of such Pledged Securities permitted under the Credit Agreement.

(b) Upon the occurrence and during the continuance of any Event of Default, after the Collateral Agent shall have notified the Borrower of the suspension of the rights of the Grantors under Section 2.06(a), then all rights of any Grantor to dividends, interest, principal or other distributions that such Grantor is authorized to receive pursuant to Section 2.06(a)(iii) shall cease, and all such rights shall thereupon become, subject to the terms of the ABL/Term Intercreditor Agreement, vested in the Collateral Agent, which shall have the sole and exclusive right and authority to receive and retain such dividends, interest, principal or other distributions. All dividends, interest, principal or other distributions received by any Grantor contrary to the provisions of this Section 2.06 shall be held in trust for the benefit of the Collateral Agent and the other Secured Parties, shall be segregated from other property or funds of such Grantor and shall be forthwith delivered to the Collateral Agent upon demand in the same form as so received (with any necessary stock or note powers and other instruments of transfer reasonably requested by the Collateral Agent). Subject to the terms of the ABL/Term Intercreditor Agreement, any and all money and other property paid over to or received by the Collateral Agent pursuant to the provisions of this paragraph (b) shall be retained by the Collateral Agent in an account to be established by the Collateral Agent upon receipt of such money or other property and shall be applied in accordance with the provisions of Section 6.02. After all Events of Default have been cured or waived and the Borrower shall have delivered to the Collateral Agent a certificate to such effect, the Collateral Agent shall promptly repay to each Grantor (without interest) all dividends, interest, principal or other distributions that such Grantor would otherwise be permitted to retain pursuant to the terms of Section 2.06(a)(iii) in the absence of any such Event of Default and that remain in such account, and such Grantor's right to receive and retain any and all dividends, interest, principal and other distributions paid on or distributed in respect of the Pledged Securities shall be automatically reinstated.

(c) Upon the occurrence and during the continuance of an Event of Default, after the Collateral Agent shall have notified the Borrower of the suspension of the rights of the Grantors under Section 2.06(a), then all rights of any Grantor to exercise the voting and consensual rights and powers it is entitled to exercise pursuant to Section 2.06(a)(i), and the obligations of the Collateral Agent under Section 2.06(a)(ii), shall cease, and subject to the terms of the ABL/Term Intercreditor Agreement, all such rights shall thereupon become vested in the Collateral Agent, which shall have the sole and exclusive right and authority to exercise such voting and consensual rights and powers; provided that, unless otherwise directed by the Requisite Lenders, the Collateral Agent shall have the right from time to time following and during the continuance of an Event of Default to permit the Grantors to exercise such rights. After all Events of Default have been cured or waived and the Borrower shall have delivered to the Collateral Agent a certificate to such effect, each Grantor shall have the exclusive right to exercise the voting and/or consensual rights and powers that such Grantor would otherwise be entitled to exercise pursuant to the terms of Section 2.06(a)(i), and the obligations of the Collateral Agent under Section 2.06(a)(ii) shall be reinstated.

(d) Any notice given by the Collateral Agent to the Borrower suspending the rights of the Grantors under this Section 2.06, (i) shall be given in writing, (ii) may be given with respect to one or more of the Grantors at the same or different times and (iii) may suspend the rights of the Grantors under Sections 2.06(a)(i) or (iii) in part without suspending all such rights (as specified by the Collateral Agent in its sole and absolute discretion) and without waiving or otherwise affecting the Collateral Agent's rights to give additional notices from time to time suspending other rights so long as an Event of Default has occurred and is continuing. Notwithstanding anything to the contrary contained in Section 2.06(a), (b) or (c), if a Bankruptcy Event of Default shall have occurred and be continuing, the Collateral Agent shall not be required to give any notice referred to in said Sections in order to exercise any of its rights described in such Sections, and the suspension of the rights of each of the Grantors under each such Section shall be automatic upon the occurrence of such Bankruptcy Event of Default.

Section 2.07. Collateral Agent Not a Partner or Limited Liability Company Member. Nothing contained in this Agreement shall be construed to make the Collateral Agent or any other Secured Party liable as a member of any limited liability company or as a partner of any partnership and neither the Collateral Agent nor any other Secured Party by virtue of this Agreement or otherwise (except as referred to in the following sentence) shall have any of the duties, obligations or liabilities of a member of any limited liability company or as a partner in any partnership. The parties hereto expressly agree that, unless the Collateral Agent shall become the absolute owner of Pledged Equity consisting of a limited liability company interest or a partnership interest pursuant hereto, this Agreement shall not be construed as creating a partnership or joint venture among the Collateral Agent, any other Secured Party, any Grantor and/or any other Person.

ARTICLE III

Security Interests in Personal Property

Section 3.01. Security Interest.

(a) As security for the payment or performance, as the case may be, in full of the Secured Obligations, each Grantor hereby grants to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, a security interest (the "*Security Interest*") in, all of such Grantor's right, title and interest in, to or under any and all of the following assets and properties, whether now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "*Article 9 Collateral*"):

(i) all Accounts;

(ii) all Chattel Paper;

(iii) all Documents;

(iv) all Equipment;

(v) all General Intangibles;

(vi) all Instruments;

(vii) all Inventory;

(viii) all Investment Property:

(ix) all books and records;

(x) all Goods and Fixtures;

(xi) all Money, cash, cash equivalents and Deposit Accounts;

(xii) all Letter-of-Credit Rights;

(xiii) all Commercial Tort Claims described on Schedule III from time to time;

(xiv) the Collateral Account, and all cash, Money, Securities and other investments deposited therein;

(xv) all Supporting Obligations;

(xvi) all Security Entitlements in any or all of the foregoing;

(xvii) all Intellectual Property;

(xviii) all Securities Accounts;

(xix) all proceeds of leases of real property; and

(xx) to the extent not otherwise included, all Proceeds and products of any and all of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing;

provided that, notwithstanding anything to the contrary in this Agreement, this Agreement shall not constitute a grant of a security interest in any Excluded Assets (and no component of the Collateral (including any defined terms used therein) shall include any Excluded Assets for any purpose under this Agreement).

(b) Each Grantor hereby irrevocably authorizes the Collateral Agent for the benefit of the Secured Parties at any time and from time to time to file in any relevant jurisdiction any financing statements or continuation statements (including fixture filings) with respect to the Article 9 Collateral or any part thereof and amendments thereto that (i) describe the collateral covered thereby in any manner that the Administrative Agent or the Collateral Agent reasonably determines is necessary or advisable to ensure the perfection of the security interest in the Article 9 Collateral granted under this Agreement including indicating the Collateral as all assets or all personal property of such Grantor or words of similar effect and (ii) contain the information required by Article 9 of the UCC of each applicable jurisdiction for the filing of any financing statement or amendment, including (A) whether such Grantor is an organization, the

type of organization and any organizational identification number issued to such Grantor and (B) in the case of a financing statement filed as a fixture filing, a sufficient description of the real property to which such Article 9 Collateral relates. Each Grantor agrees to provide such information to the Collateral Agent promptly upon any reasonable request.

(c) The Security Interest is granted as security only and shall not subject the Collateral Agent or any other Secured Party to, or in any way alter or modify, any obligation or liability of any Grantor with respect to or arising out of the Article 9 Collateral.

(d) Each Grantor hereby further authorizes the Collateral Agent to file a Grant of Security Interest substantially in the form of Exhibit III, IV or V, as applicable, covering relevant IP Collateral consisting of Patents (and Patents for which applications are pending), registered Trademarks (and Trademarks for which registration applications are pending) and registered Copyrights (and Copyrights for which registration applications are pending) with the United States Patent and Trademark Office or United States Copyright Office (or any successor office), as applicable, and such other documents as may be necessary or advisable for the purpose of perfecting, confirming, continuing, enforcing or protecting the Security Interest granted by such Grantor hereunder, without the signature of such Grantor, and naming such Grantor, as debtor, and the Collateral Agent, as secured party.

Section 3.02. Representations and Warranties. Each Grantor represents and warrants, as to itself and the other Grantors, to the Collateral Agent and the Secured Parties that:

(a) Each Grantor has good and valid rights (not subject to any Liens other than Liens permitted by Section 9.1 of the Credit Agreement) and/or good or marketable title in the Article 9 Collateral with respect to which it has purported to grant a Security Interest hereunder (which rights and/or title, are in any event, sufficient under Section 9-203 of the UCC), and has full power and authority to grant to the Collateral Agent the Security Interest in such Article 9 Collateral pursuant hereto and to execute, deliver and perform its obligations in accordance with the terms of this Agreement, without the consent or approval of any other Person other than any consent or approval that has been obtained.

(b) The Perfection Certificate has been duly executed and delivered to the Collateral Agent and the information set forth therein, including the exact legal name of each Grantor and its jurisdiction of organization, taken as a whole, is correct and complete in all material respects as of the Closing Date. The UCC financing statements (including fixture filings, as applicable) prepared by the Collateral Agent based upon the information provided to the Collateral Agent in the Perfection Certificate for filing in each governmental, municipal or other office specified in Schedule IV of this Agreement (or specified by notice from the applicable Grantor to the Collateral Agent after the Closing Date in the case of filings, recordings or registrations required by Section 8.11 of the Credit Agreement and the Collateral and Guarantee Requirement), are all the filings, recordings and registrations (other than any filings required to be made in the United States Patent and Trademark Office or the United States Copyright Office in order to perfect the Security Interest in Article 9 Collateral consisting of Intellectual Property) necessary to establish a legal, valid and perfected security interest in favor of the Collateral Agent (for the benefit of the Secured Parties) in respect of all Article 9 Collateral in which the Security Interest may be perfected by filing, recording or registration in

the United States (or any political subdivision thereof) and its territories and possessions pursuant to the Uniform Commercial Code or other applicable federal Law, and no further or subsequent filing, refiling, recording, rerecording, registration or reregistration with respect to such Article 9 Collateral is necessary in any such jurisdiction, except as provided under applicable Law with respect to the filing of continuation statements. Each Grantor represents and warrants that, as of the Closing Date, fully executed Grants of Security Interest in the form attached as Exhibit III, IV or V, as applicable, containing a description of all IP Collateral consisting of Patents (and Patents for which applications are pending), registered Trademarks (and Trademarks for which registration applications are pending) or registered Copyrights (and Copyrights for which registration applications are pending), as applicable, have been delivered to the Collateral Agent for recording by the United States Patent and Trademark Office or the United States Copyright Office, as applicable, pursuant to 35 U.S.C. § 261, 15 U.S.C. § 1060 or 17 U.S.C. § 205 and the regulations thereunder.

(c) The Security Interest constitutes (i) a legal and valid security interest in all the Article 9 Collateral securing the payment and performance of the Secured Obligations, (ii) subject to the filings described in Section 3.02(b), a perfected security interest in all Article 9 Collateral in which a security interest may be perfected by filing, recording or registering a financing statement in the United States (or any political subdivision thereof) and its territories and possessions pursuant to the UCC and (iii) a security interest that shall be perfected in all Article 9 Collateral (other than with respect to any Copyright that is not material to the business of the Grantors, taken as a whole) in which a security interest may be perfected upon the receipt and recording of the relevant Grants of Security Interest with the United States Patent and Trademark Office and the United States Copyright Office, as applicable, within the three month period (commencing as of the date hereof) pursuant to 35 U.S.C. § 261 or 15 U.S.C. § 1060 or the one month period (commencing as of the date hereof) pursuant to 17 U.S.C. § 205. The Security Interest is and shall be prior to any other Lien on any of the Article 9 Collateral, other than (i) any nonconsensual Lien that is expressly permitted pursuant to Section 9.1 of the Credit Agreement and has priority as a matter of law, (ii) any other Lien that is expressly permitted pursuant to Section 9.1 of the Credit Agreement, and (iii) subject to the ABL/Term Intercreditor Agreement, Liens under the ABL Collateral Documents.

(d) The Article 9 Collateral is owned by the Grantors free and clear of any Lien, except for Liens expressly permitted pursuant to Section 9.1 of the Credit Agreement, and subject to the ABL/Term Intercreditor Agreement, Liens under the ABL Collateral Documents. None of the Grantors has filed or consented to the filing of (i) any financing statement or analogous document under the UCC or any other applicable Laws covering any Article 9 Collateral, (ii) any assignment in which any Grantor assigns any Article 9 Collateral or any security agreement or similar instrument covering any Article 9 Collateral with the United States Patent and Trademark Office or the United States Copyright Office, or (iii) any assignment in which any Grantor assigns any Article 9 Collateral or any security agreement or similar instrument covering any Article 9 Collateral with any foreign governmental, municipal or other office, which financing statement or analogous document, assignment, security agreement or similar instrument is still in effect, except, in each case, for Liens expressly permitted pursuant to Section 9.1 of the Credit Agreement and assignments expressly permitted by the Credit Agreement.

(e) All Commercial Tort Claims of each Grantor where the amount of the damages claimed by such Grantor is in excess of $[5,000,000][2] in existence on the date of this Agreement (or on the date upon which such Grantor becomes a party to this Agreement) are described on Schedule III hereto.

(f) Except as could not reasonably be expected to have a Material Adverse Effect, with respect to the IP Collateral and any other intellectual property:

(i) such Grantor is the exclusive owner of all right, title and interest in and to the IP Collateral or has the right or license to use the IP Collateral subject only to the terms of the Licenses;

(ii) the operation of such Grantor's business as currently conducted and the use of the IP Collateral in connection therewith do not conflict with, infringe, misappropriate, dilute, misuse or otherwise violate the intellectual property rights of any third party;

(iii) the IP Collateral set forth on the Perfection Certificate includes all of the patents, patent applications, domain names, trademark registrations and applications, copyright registrations and applications owned by such Grantor as of the date hereof;

(iv) the IP Collateral is subsisting and has not been opposed, cancelled or adjudged invalid or unenforceable in whole or in part, and to such Grantor's knowledge, is valid and enforceable. Such Grantor is not aware of any uses of any item of IP Collateral that could be expected to lead to such item becoming opposed, cancelled, invalid or unenforceable;

(v) such Grantor has made or performed all filings, recordings and other acts and has paid all required fees and taxes to maintain and protect its interest in each and every item of IP Collateral in full force and effect, and to protect and maintain its interest therein;

(vi) no claim, action, suit, investigation, litigation or proceeding has been asserted or is pending or threatened against such Grantor (A) based upon or challenging or seeking to deny or restrict the Grantor's rights in or use of any of the IP Collateral, (B) alleging that the Grantor's rights in or use of the IP Collateral or that any services provided by, processes used by, or products manufactured or sold by, such Grantor infringe, misappropriate, dilute, misuse or otherwise violate any patent, trademark, copyright or any other proprietary right of any third party, or (C) alleging that the IP Collateral is being licensed or sublicensed in violation or contravention of the terms of any license or other agreement. To such Grantor's knowledge, no Person is engaging in any activity that infringes, misappropriates, dilutes, misuses or otherwise violates the material IP Collateral or the Grantor's rights in or use thereof. The

[2] To be confirmed.

consummation of the transactions contemplated by the Loan Documents will not result in the termination or impairment of any of the IP Collateral;

(vii) with respect to each License: (A) such License is valid and binding and in full force and effect; (B) such Grantor has not received any notice of termination or cancellation under such License; (C) such Grantor has not received any notice of a breach or default under such License; and (D) neither such Grantor nor, to such Grantor's knowledge, any other party to such License is in breach or default thereof in any material respect, and no event has occurred that, with notice or lapse of time or both, would constitute such a breach or default or permit termination, modification or acceleration under such License; and

(viii) to such Grantor's knowledge, (A) none of the material trade secrets of such Grantor has been used, divulged, disclosed or appropriated to the detriment of such Grantor for the benefit of any other Person other than such Grantor; (B) no employee, independent contractor or agent of such Grantor has misappropriated any material trade secrets of any other Person in the course of the performance of his or her duties as an employee, independent contractor or agent of such Grantor; and (C) no employee, independent contractor or agent of such Grantor is in default or breach of any material term of any employment agreement, non-disclosure agreement, assignment of inventions agreement or similar agreement or contract relating in any way to the protection, ownership, development, use or transfer of such Grantor's material IP Collateral.

Section 3.03. Covenants.

(a) The Borrower agrees to provide the Collateral Agent with ten (10) Business Days (or such shorter number of days as the Collateral Agent may agree in its reasonable discretion) prior written notice of any change (i) in the legal name of any Grantor, (ii) in the identity or type of organization or corporate structure of any Grantor, (iii) in the jurisdiction of organization of any Grantor, (iv) in the location of any Grantor under the UCC or (v) in the organizational identification number of any Grantor, if any, but solely to the extent such organizational identification number is required to be set forth on financing statements under the UCC. The Borrower shall take all actions reasonably satisfactory to the Collateral Agent to the extent necessary to maintain the security interests (and the priority thereof) of the Collateral Agent in the Collateral intended to be granted hereby fully perfected and in full force and effect. The Loan Parties agree not to effect or permit any change referred to in the preceding sentence unless all filings, publications and registrations, have been made (or will be made in a timely fashion) under the UCC or other applicable Law that are required in order for the Collateral Agent to continue at all times following such change to have a valid, legal and perfected first-priority security interest in the Term Priority Collateral and second-priority interest in the ABL Priority Collateral to the extent required under the Loan Documents (subject only to (i) any nonconsensual Lien that is expressly permitted pursuant to Section 9.1 of the Credit Agreement and has priority as a matter of law and (ii) Liens expressly permitted pursuant to Section 9.1 of the Credit Agreement) in all the Collateral for its own benefit and the benefit of the other Secured Parties.

(b) Each Grantor shall, at its own expense, take any and all commercially reasonable actions necessary to defend title to the Article 9 Collateral against all Persons and to defend the Security Interest of the Collateral Agent in the Article 9 Collateral and the priority thereof against any Lien not permitted pursuant to Section 9.1 of the Credit Agreement; *provided* that, nothing in this Agreement shall prevent any Grantor from discontinuing the operation or maintenance of any of its assets or properties if such discontinuance is (x) determined by such Grantor to be desirable in the conduct of its business and (y) permitted by the Credit Agreement.

(c) At the time of delivery of annual financial statements with respect to the preceding Fiscal Year pursuant to Section 7.1(a) of the Credit Agreement and delivery of the related Compliance Certificate, the Borrower shall deliver to the Collateral Agent a certificate executed by a Responsible Officer of the Borrower setting forth the information required pursuant to the Perfection Certificate (other than Section 2(b) of the Perfection Certificate) or confirming that there has been no change in such information since the date of such certificate or the date of the most recent certificate delivered pursuant to this Section 3.03(c).

(d) Each Grantor agrees, at its own expense, to execute, acknowledge, deliver and cause to be duly filed all such further instruments and documents and take all such actions as the Collateral Agent may from time to time reasonably request to better assure, preserve, protect and perfect the Security Interest and the rights and remedies created hereby, including the payment of any fees and Taxes required in connection with the execution and delivery of this Agreement, the granting of the Security Interest and the filing of any financing statements (including fixture filings) or other documents in connection herewith or therewith. If any amount payable under or in connection with any of the Article 9 Collateral (other than by a Loan Party) that equals or exceeds $[2,000,000][3] shall be or become evidenced by any Promissory Note or Instrument, such Promissory Note or Instrument shall be promptly (and in any event within thirty (30) days of its acquisition or such longer period as the Collateral Agent may agree in its reasonable discretion) pledged and, subject to the terms of the ABL/Term Intercreditor Agreement, delivered to the Collateral Agent, for the benefit of the Secured Parties in a manner reasonably satisfactory to the Collateral Agent.

(e) At its option, the Collateral Agent may discharge past due taxes, assessments, charges, fees, Liens, security interests or other encumbrances at any time levied or placed on the Article 9 Collateral and not permitted pursuant to Section 9.1 of the Credit Agreement, and may pay for the maintenance and preservation of the Article 9 Collateral to the extent any Grantor fails to do so as required by the Credit Agreement, this Agreement or any other Loan Document and within a reasonable period of time after the Collateral Agent has requested that it do so, and each Grantor jointly and severally agrees to reimburse the Collateral Agent within ten (10) days after demand for any payment made or any reasonable out-of-pocket expense incurred by the Collateral Agent pursuant to the foregoing authorization; provided that nothing in this paragraph shall be interpreted as excusing any Grantor from the performance of, or imposing any obligation on the Collateral Agent or any Secured Party to cure or perform, any covenants or other promises of any Grantor with respect to taxes, assessments, charges, fees, Liens, security interests or other encumbrances and maintenance as set forth herein or in the other Loan Documents.

[3] To be confirmed.

(f) If at any time any Grantor shall take a security interest in any property of an Account Debtor or any other Person the value of which equals or exceeds $[2,000,000][4] to secure payment and performance of an Account or related contracts, such Grantor shall, subject to the terms of the ABL/Term Intercreditor Agreement, promptly assign such security interest to the Collateral Agent for the benefit of the applicable Secured Parties. Such assignment need not be filed of public record unless necessary to continue the perfected status of the security interest against creditors of and transferees from the Account Debtor or other Person granting the security interest.

(g) Each Grantor (rather than the Collateral Agent or any Secured Party) shall remain liable (as between itself and any relevant counterparty) to observe and perform all the conditions and obligations to be observed and performed by it under each contract, agreement or instrument relating to the Article 9 Collateral, all in accordance with the terms and conditions thereof, and each Grantor jointly and severally agrees to indemnify and hold harmless the Collateral Agent and the Secured Parties from and against any and all liability for such performance.

(h) Notwithstanding anything in this Agreement to the contrary other than the filing of a UCC financing statement, (i) no actions shall be required to perfect the security interest granted hereunder in Letter-of-Credit Rights, (ii) no actions shall be required to perfect the security interest granted hereunder in motor vehicles and other assets subject to certificates of title and (iii) no Grantor shall be required to complete any filings or other action with respect to the perfection of the security interests created hereby in any jurisdiction outside of the United States or any State thereof.

Section 3.04. Other Actions. In order to further insure the attachment, perfection and priority of, and the ability of the Collateral Agent to enforce, the Security Interest, each Grantor agrees, in each case at such Grantor's own expense, to take the following actions with respect to the following Article 9 Collateral:

(a) Instruments. If any Grantor shall at any time hold or acquire any Instruments constituting Collateral and evidencing an amount equal to or in excess of $[2,000,000][5] such Grantor shall, subject to the terms of the ABL/Term Intercreditor Agreement, promptly endorse, assign and deliver the same to the Collateral Agent for the benefit of the applicable Secured Parties, accompanied by such undated instruments of transfer or assignment duly executed in blank as the Collateral Agent may from time to time reasonably request.

(b) Investment Property. Except to the extent otherwise provided in Article II, if any Grantor shall at any time hold or acquire any Certificated Securities, such Grantor shall, subject to the terms of the ABL/Term Intercreditor Agreement, promptly endorse, assign and deliver the same to the Collateral Agent for the benefit of the applicable Secured Parties, accompanied by such undated instruments of transfer or assignment duly executed in blank as the Collateral Agent may from time to time reasonably request. Subject to the terms of the ABL/Term Intercreditor Agreement, if any Securities now or hereafter acquired by any

[4] To be confirmed.

[5] To be confirmed.

Grantor are uncertificated and are issued to such Grantor or its nominee directly by the issuer thereof, upon the Collateral Agent's request and following the occurrence of an Event of Default such Grantor shall promptly notify the Collateral Agent thereof and, at the Collateral Agent's reasonable request, pursuant to an agreement in form and substance reasonably satisfactory to the Collateral Agent, either (but only to the extent such Securities and other Investment Property constitute Collateral) (i) cause the issuer to agree to comply with instructions from the Collateral Agent as to such Securities, without further consent of any Grantor or such nominee, or (ii) arrange for the Collateral Agent to become the registered owner of the Securities. Subject to the terms of the ABL/Term Intercreditor Agreement, if any Securities, whether certificated or uncertificated, or other Investment Property are held by any Grantor or its nominee through a Securities Intermediary, upon the Collateral Agent's request and following the occurrence of an Event of Default, such Grantor shall immediately notify the Collateral Agent thereof and at the Collateral Agent's request and option, pursuant to an agreement in form and substance reasonably satisfactory to the Collateral Agent shall either (i) cause such Securities Intermediary to agree to comply with Entitlement Orders or other instructions from the Collateral Agent to such Securities Intermediary as to such Security Entitlements without further consent of any Grantor or such nominee, or (ii) in the case of Financial Assets or other Investment Property held through a Securities Intermediary, arrange for the Collateral Agent to become the Entitlement Holder with respect to such Investment Property, with the Grantor being permitted, only with the consent of the Collateral Agent, to exercise rights to withdraw or otherwise deal with such Investment Property. Notwithstanding the foregoing, unless and until an Event of Default has occurred and is continuing, the Collateral Agent agrees with each of the Grantors that the Collateral Agent shall not give any such Entitlement Orders or instructions or directions to any such issuer, or Securities Intermediary, and shall not withhold its consent to the exercise of any withdrawal or dealing rights by any Grantor.

(c) Commercial Tort Claims. If any Grantor shall at any time after the date of this Agreement acquire a Commercial Tort Claim in an amount (taking the greater of the aggregate claimed damages thereunder or the reasonably estimated value thereof) of $[5,000,000][6] or more, such Grantor shall promptly notify the Collateral Agent thereof in a writing signed by such Grantor and provide supplements to Schedule III describing the details thereof and shall grant to the Collateral Agent a security interest therein and in the proceeds thereof, all upon the terms of this Agreement.

ARTICLE IV

Special Provisions Concerning IP Collateral

Section 4.01. Grant of License to Use Intellectual Property.

Without limiting the provisions of Section 3.01 hereof or any other rights of the Collateral Agent as the holder of a Security Interest in any IP Collateral, for the purpose of enabling the Collateral Agent to exercise rights and remedies under this Agreement at such time as the Collateral Agent shall be lawfully entitled to exercise such rights and remedies, each Grantor hereby grants to the Collateral Agent, for the benefit of the Secured Parties, an

[6] To be confirmed.

irrevocable, nonexclusive license (exercisable without payment of royalty, license fee, or other compensation to the Grantors) to use, reproduce, create derivative works of, modify, display, perform, and distribute, and to license or sublicense any of the IP Collateral now owned or hereafter acquired by such Grantor, and wherever the same may be located (whether or not any license agreement by and between any Grantor and any other Person relating to the use of such IP Collateral may be terminated hereafter), and including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof, provided, however, that any such license granted by the Collateral Agent to a third party shall include reasonable and customary terms necessary to preserve the existence, validity and value of the affected IP Collateral, including without limitation, provisions requiring the continuing confidential handling of trade secrets, requiring the use of appropriate notices and prohibiting the use of false notices, protecting and maintaining the quality standards of the Trademarks in the manner set forth below (it being understood and agreed that, without limiting any other rights and remedies of the Collateral Agent under this Agreement, any other Loan Document or applicable Law, nothing in the foregoing license grant shall be construed as granting the Collateral Agent rights in and to such IP Collateral above and beyond (x) the rights to such IP Collateral that each Grantor has reserved for itself and (y) in the case of IP Collateral that is licensed to any such Grantor by a third party, the extent to which such Grantor has the right to grant a sublicense to such IP Collateral hereunder).

The use of such license by the Collateral Agent may only be exercised, at the option of the Collateral Agent, during the continuation of an Event of Default; provided that any license, sublicense or other transaction entered into by the Collateral Agent in accordance herewith shall immediately terminate at such time as the Collateral Agent is no longer lawfully entitled to exercise its rights and remedies under this Agreement. Nothing in this Section 4.01 shall require a Grantor to grant any license that is prohibited by any rule of law, statute or regulation, or is prohibited by, or constitutes a breach or default under or results in the termination of any contract, license, agreement, instrument or other document evidencing, giving rise to or theretofore granted, with respect to such property or otherwise unreasonably prejudices the value thereof to the relevant Grantor. In the event the license set forth in this Section 4.01 is exercised with regard to any Trademarks, then the following shall apply: (i) all goodwill arising from any licensed or sublicensed use of any Trademark shall inure to the benefit of the Grantor; (ii) the licensed or sublicensed Trademarks shall only be used in association with goods or services of a quality and nature consistent with the quality and reputation with which such Trademarks were associated when used by Grantor prior to the exercise of the license rights set forth herein; and (iii) at the Grantor's request and expense, licensees and sublicensees shall provide reasonable cooperation in any effort by the Grantor to maintain the registration or otherwise secure the ongoing validity and effectiveness of such licensed Trademarks, including, without limitation the actions and conduct described in Section 4.02 below.

Section 4.02. Protection of Collateral Agent's Security.

(a) Except to the extent permitted by subsection 4.02(h) below, or to the extent that failure to act could not reasonably be expected to have a Material Adverse Effect, with respect to registration or pending application of each item of its IP Collateral for which such Grantor has standing to do so, each Grantor agrees to take, at its expense, all reasonable steps,

including, without limitation, in the U.S. Patent and Trademark Office, the U.S. Copyright Office and any other governmental authority located in the United States to (i) maintain the validity and enforceability of any registered IP Collateral and maintain such IP Collateral in full force and effect, and (ii) pursue the registration and maintenance of each Patent, Trademark, or Copyright registration or application, now or hereafter included in such IP Collateral of such Grantor, including, without limitation, the payment of required fees and taxes, the filing of responses to office actions issued by the U.S. Patent and Trademark Office, the U.S. Copyright Office or other governmental authorities, the filing of applications for renewal or extension, the filing of affidavits under Sections 8 and 15 of the U.S. Trademark Act, the filing of divisional, continuation, continuation-in-part, reissue and renewal applications or extensions, the payment of maintenance fees and the participation in interference, reexamination, opposition, cancellation, infringement and misappropriation proceedings.

(b) Except to the extent permitted by subsection 4.02(h) below, or to the extent that failure to act could not reasonably be expected to have a Material Adverse Effect, no Grantor shall do or permit any act or knowingly omit to do any act whereby any of its IP Collateral may lapse, be terminated, or become invalid or unenforceable or placed in the public domain (or in case of a trade secret, lose its competitive value).

(c) In the event that any Grantor becomes aware that any material item of the IP Collateral is being infringed or misappropriated by a third party, such Grantor shall promptly notify the Collateral Agent and shall take such actions, at its expense, as such Grantor reasonably deems appropriate under the circumstances to protect or enforce such IP Collateral, including, without limitation, suing for infringement or misappropriation and for an injunction against such infringement or misappropriation.

(d) Each Grantor shall use proper statutory notice as commercially practical in connection with its use of each item of its IP Collateral. Except to the extent permitted by subsection 4.02(h) below, or to the extent that failure to act could not reasonably be expected to have a Material Adverse Effect, no Grantor shall do or permit any act or knowingly omit to do any act whereby any of its IP Collateral may lapse or become invalid or unenforceable or placed in the public domain.

(e) Except to the extent permitted by subsection 4.02(h) below, or to the extent that failure to act could not reasonably be expected to have a Material Adverse Effect, each Grantor shall take all reasonable steps to preserve and protect each item of its IP Collateral, including, without limitation, maintaining the quality of any and all products or services used or provided in connection with any of the Trademarks, consistent with the quality of the products and services as of the date hereof, and taking all reasonable steps necessary to ensure that all licensed users of any of the Trademarks abide by the applicable license's terms with respect to the standards of quality.

(f) Each Grantor agrees that, should it obtain an ownership or other interest in any IP Collateral after the Closing Date (the "*After-Acquired Intellectual Property*") (i) the provisions of this Agreement shall automatically apply thereto, and (ii) any such After-Acquired Intellectual Property and, in the case of Trademarks, the goodwill symbolized thereby, shall

automatically become part of the IP Collateral subject to the terms and conditions of this Agreement with respect thereto.

(g) Within the same delivery period as required for the delivery of the quarterly Compliance Certificate required to be delivered under Section 7.2(a) of the Credit Agreement, each Grantor shall sign and deliver to the Collateral Agent an appropriate Security Agreement Supplement and related Grant of Security Interest with respect to applications for registration or registrations of IP Collateral owned or exclusively licensed by it as of the date of delivery of such Security Agreement Supplement and related Grant of Security Interest, to the extent that such IP Collateral is not covered by any previous Security Agreement Supplement (and Grant of Security Interests) so signed and delivered by it. In each case, it will promptly cooperate as reasonably necessary to enable the Collateral Agent to make any necessary or reasonably desirable recordations with the U.S. Copyright Office or the U.S. Patent and Trademark Office, as appropriate.

(h) Notwithstanding the foregoing provisions of this Section 4.02 or elsewhere in this Agreement, nothing in this Agreement shall prevent any Grantor from abandoning or discontinuing the use or maintenance of any or its IP Collateral, or from failing to take action to enforce license agreements or pursue actions against infringers, if such Grantor determines in its reasonable business judgment that such abandonment, discontinuance, or failure to take action is desirable in the conduct of its business and permitted under the Credit Agreement.

ARTICLE V

Collections

Each Grantor hereby agrees to comply with the provisions of Section 8.12 of the Credit Agreement to the extent applicable to such Grantor.

ARTICLE VI

Remedies

Section 6.01. Remedies Upon Default.

Upon the occurrence and during the continuance of an Event of Default, subject to the ABL/Term Intercreditor Agreement, it is agreed that the Collateral Agent shall have the right to exercise any and all rights afforded to a secured party under this Agreement, the UCC or other applicable Law, and subject to the ABL/Term Intercreditor Agreement, also may (i) require each Grantor to, and each Grantor agrees that it will at its expense and upon request of the Collateral Agent forthwith, assemble all or part of the Collateral as directed by the Collateral Agent and make it available to the Collateral Agent at a place and time to be designated by the Collateral Agent that is reasonably convenient to both parties; (ii) occupy any premises owned or, to the extent lawful and permitted, leased by any of the Grantors where the Collateral or any part thereof is assembled or located for a reasonable period in order to effectuate its rights and remedies hereunder or under law, without obligation to such Grantor in respect of such

occupation; provided that the Collateral Agent shall provide the applicable Grantor with notice thereof prior to or promptly after such occupancy; (iii) exercise any and all rights and remedies of any of the Grantors under or in connection with the Collateral, or otherwise in respect of the Collateral; provided that the Collateral Agent shall provide the applicable Grantor with notice thereof prior to or promptly after such exercise; (iv) withdraw any and all cash or other Collateral from any Collateral Account, Approved Deposit Account or Approved Securities Account and apply such cash and other Collateral to the payment of any and all Secured Obligations in the manner provided in Section 6.02 of this Agreement; (v) subject to the mandatory requirements of applicable Law and the notice requirements described below, sell or otherwise dispose of all or any part of the Collateral securing the Secured Obligations at a public or private sale or at any broker's board or on any securities exchange, for cash, upon credit or for future delivery as the Collateral Agent shall deem appropriate and (vi) with respect to any IP Collateral, on demand, cause the Security Interest to become an assignment, transfer and conveyance of any of or all such IP Collateral by the applicable Grantors to the Collateral Agent, or license or sublicense, whether general, special or otherwise, and whether on an exclusive or nonexclusive basis, any such IP Collateral throughout the world on such terms and conditions and in such manner as the Collateral Agent shall determine, provided, however, that such terms shall include all terms and restrictions that are customarily required to ensure the continuing validity and effectiveness of the IP Collateral at issue, such as, without limitation, notice, quality control and inurement provisions with regard to Trademarks, patent designation provisions with regard to patents, and copyright notices and restrictions or decompilation and reverse engineering of copyrighted software, and confidentiality protections for trade secrets. Each Grantor acknowledges and recognizes that (a) the Collateral Agent may be unable to effect a public sale of all or a part of the Collateral consisting of securities by reason of certain prohibitions contained in the Securities Act of 1933, 15 U.S.C. §77, (as amended and in effect, the "*Securities Act*") or the securities laws of various states (the "*Blue Sky Laws*"), but may be compelled to resort to one or more private sales to a restricted group of purchasers who will be obliged to agree, among other things, to acquire such securities for their own account, for investment and not with a view to the distribution or resale thereof, (b) private sales so made may be at prices and upon other terms less favorable to the seller than if such securities were sold at public sales, (c) neither the Collateral Agent nor any other Secured Party has any obligation to delay sale of any of the Collateral for the period of time necessary to permit such securities to be registered for public sale under the Securities Act or the Blue Sky Laws, and (d) private sales made under the foregoing circumstances shall be deemed to have been made in a commercially reasonable manner. To the maximum extent permitted by Law, each Grantor hereby waives any claim against any Secured Party arising because the price at which any Collateral may have been sold at a private sale was less than the price that might have been obtained at a public sale, even if the Collateral Agent accepts the first offer received and does not offer such Collateral to more than one offeree. Upon consummation of any such sale the Collateral Agent shall have the right to assign, transfer and deliver to the purchaser or purchasers thereof the Collateral so sold. Each such purchaser at any sale of Collateral shall hold the property sold absolutely, free from any claim or right on the part of any Grantor, and each Grantor hereby waives (to the extent permitted by applicable Law) all rights of redemption, stay and appraisal which such Grantor now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted.

The Collateral Agent shall give the applicable Grantors ten (10) days' written notice (which each Grantor agrees is reasonable notice within the meaning of Section 9-611 of the UCC or its equivalent in other jurisdictions) of the Collateral Agent's intention to make any sale of Collateral. Such notice, in the case of a public sale, shall state the time and place for such sale and, in the case of a sale at a broker's board or on a securities exchange, shall state the board or exchange at which such sale is to be made and the day on which the Collateral, or portion thereof, will first be offered for sale at such board or exchange. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Collateral Agent may fix and state in the notice (if any) of such sale. The Collateral Agent may conduct one or more going out of business sales, in the Collateral Agent's own right or by one or more agents and contractors. Such sale(s) may be conducted upon any premises owned, leased, or occupied by any Grantor. The Collateral Agent and any such agent or contractor, in conjunction with any such sale, may augment the Inventory with other goods (all of which other goods shall remain the sole property of the Collateral Agent or such agent or contractor). Any amounts realized from the sale of such goods which constitute augmentations to the Inventory (net of an allocable share of the costs and expenses incurred in their disposition) shall be the sole property of the Collateral Agent or such agent or contractor and neither any Grantor nor any Person claiming under or in right of any Grantor shall have any interest therein. At any such sale, the Collateral, or portion thereof, to be sold may be sold in one lot as an entirety or in separate parcels, as the Collateral Agent may (in its sole and absolute discretion) determine. The Collateral Agent shall not be obligated to make any sale of any Collateral if it shall determine not to do so, regardless of the fact that notice of sale of such Collateral shall have been given. The Collateral Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. In case any sale of all or any part of the Collateral is made on credit or for future delivery, the Collateral so sold may be retained by the Collateral Agent until the sale price is paid by the purchaser or purchasers thereof, but the Collateral Agent shall not incur any liability in case any such purchaser or purchasers shall fail to take up and pay for the Collateral so sold and, in case of any such failure, such Collateral may be sold again upon like notice. At any public (or, to the extent permitted by applicable Law, private) sale made pursuant to this Agreement, any Secured Party may bid for or purchase, free (to the extent permitted by applicable Law) from any right of redemption, stay, valuation or appraisal on the part of any Grantor (all said rights being also hereby waived and released to the extent permitted by applicable Law), the Collateral or any part thereof offered for sale and may make payment on account thereof by using any claim then due and payable to such Secured Party from any Grantor as a credit against the purchase price, and such Secured Party may, upon compliance with the terms of sale, hold, retain and dispose of such property without further accountability to any Grantor therefor. For purposes of determining the Grantors' rights in the Collateral, a written agreement to purchase the Collateral or any portion thereof shall be treated as a sale thereof; the Collateral Agent shall be free to carry out such sale pursuant to such agreement and no Grantor shall be entitled to the return of the Collateral or any portion thereof subject thereto, notwithstanding the fact that after the Collateral Agent shall have entered into such an agreement all Events of Default shall have been remedied and the Secured Obligations paid in full. As an alternative to exercising the power of sale herein conferred upon it, the Collateral Agent may proceed by a suit or suits at law or in equity to foreclose this Agreement and to sell the Collateral or any portion thereof pursuant

to a judgment or decree of a court or courts having competent jurisdiction or pursuant to a proceeding by a court appointed receiver. Any sale pursuant to the provisions of this Section 6.01 shall be deemed to conform to the commercially reasonable standards as provided in Section 9-610(b) of the UCC or its equivalent in other jurisdictions.

Each Grantor irrevocably makes, constitutes and appoints the Collateral Agent (and all officers, employees or agents designated by the Collateral Agent) as such Grantor's true and lawful agent (and attorney-in-fact) during the continuance of an Event of Default and after notice to the Borrower of its intent to exercise such rights (except in the case of a Bankruptcy Event of Default, in which case no such notice shall be required), for the purpose of, subject to the ABL/Term Intercreditor Agreement, (i) making, settling and adjusting claims in respect of Article 9 Collateral under policies of insurance, endorsing the name of such Grantor on any check, draft, instrument or other item of payment for the proceeds of such policies of insurance, (ii) making all determinations and decisions with respect thereto and (iii) obtaining or maintaining the policies of insurance required by Section 8.5 of the Credit Agreement or to pay any premium in whole or in part relating thereto. All sums disbursed by the Collateral Agent in connection with this paragraph, including reasonable out-of-pocket attorneys' fees, court costs, expenses and other charges relating thereto, shall be payable, within ten (10) days of demand, by the Grantors to the Collateral Agent and shall be additional Secured Obligations secured hereby.

By accepting the benefits of this Agreement and each other Collateral Document, the Secured Parties expressly acknowledge and agree that this Agreement and each other Collateral Document may be enforced only by the action of the Collateral Agent and that no other Secured Party shall have any right individually to seek to enforce or to enforce this Agreement or to realize upon the security to be granted hereby, it being understood and agreed that such rights and remedies may be exercised by the Collateral Agent for the benefit of the Secured Parties upon the terms of this Agreement and the other Collateral Documents.

Section 6.02. Application of Proceeds.

Subject to the ABL/Term Intercreditor Agreement, the Collateral Agent shall apply the proceeds of any collection or sale of Collateral, including any Collateral consisting of cash, in accordance with the provisions of Section 10.3 of the Credit Agreement. The Collateral Agent shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Agreement. Upon any sale of Collateral by the Collateral Agent (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt of the Collateral Agent or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Collateral Agent or such officer or be answerable in any way for the misapplication thereof. It is understood and agreed that the Grantors shall remain jointly and severally liable to the extent of any deficiency between the amount of the proceeds of the Collateral and the aggregate amount of the Secured Obligations.

ARTICLE VII

Indemnity, Subrogation and Subordination

Upon payment by any Grantor of any Secured Obligations, all rights of such Grantor against the Borrower or any other Grantor arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior payment in full in cash of all the Secured Obligations (other than (i) contingent indemnity obligations for then unasserted claims or (ii) Obligations under Secured Hedge Agreements as to which arrangements satisfactory to the applicable Hedge Bank shall have been made) and the termination of all Commitments to any Loan Party under any Loan Document. If any amount shall erroneously be paid to the Borrower or any other Grantor on account of (i) such subrogation, contribution, reimbursement, indemnity or similar right or (ii) any such indebtedness of the Borrower or any other Grantor, such amount shall be held in trust for the benefit of the Secured Parties and shall forthwith be paid to the Collateral Agent to be credited against the payment of the Secured Obligations, whether matured or unmatured, in accordance with the terms of the Credit Agreement and the other Loan Documents. Subject to the foregoing, to the extent that any Grantor (other than the Borrower) shall, under this Agreement or the Credit Agreement as a joint and several obligor, repay any of the Secured Obligations (an "*Accommodation Payment*"), then the Grantor making such Accommodation Payment shall be entitled to contribution and indemnification from, and be reimbursed by, each of the other Grantors in an amount equal to a fraction of such Accommodation Payment, the numerator of which fraction is such other Grantor's Allocable Amount and the denominator of which is the sum of the Allocable Amounts of all of the Grantors. As of any date of determination, the "*Allocable Amount*" of each Grantor shall be equal to the maximum amount of liability for Accommodation Payments which could be asserted against such Grantor hereunder and under the Credit Agreement without (a) rendering such Grantor "insolvent" within the meaning of Section 101 (31) of the Bankruptcy Code, Section 2 of the Uniform Fraudulent Transfer Act ("*UFTA*") or Section 2 of the Uniform Fraudulent Conveyance Act ("*UFCA*"), (b) leaving such Grantor with unreasonably small capital or assets, within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA, or Section 5 of the UFCA, or (c) leaving such Grantor unable to pay its debts as they become due within the meaning of Section 548 of the Bankruptcy Code or Section 4 of the UFTA, or Section 5 of the UFCA.

ARTICLE VIII

Miscellaneous

Section 8.01. Notices.

All communications and notices hereunder shall (except as otherwise expressly permitted herein) be in writing and given as provided in Section 12.8 of the Credit Agreement. All communications and notices hereunder to a Grantor other than the Borrower shall be given in care of the Borrower.

Section 8.02. Waivers; Amendment.

(a) No failure or delay by the Collateral Agent in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Collateral Agent hereunder and under the other Loan Documents are cumulative and are not exclusive of any other rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 8.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Collateral Agent or any other Secured Party may have had notice or knowledge of such Default or Event of Default at the time.

(b) Subject to the ABL/Term Intercreditor Agreement, neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Collateral Agent and the Grantor or Grantors with respect to which such waiver, amendment or modification is to apply, subject to any consent required in accordance with Section 12.1 of the Credit Agreement.

Section 8.03. Collateral Agent's Fees and Expenses; Indemnification.

(a) Sections 12.3 and 12.4 of the Credit Agreement are hereby incorporated herein by reference as if each reference therein to the Borrower were instead a reference to each Grantor or the Grantors, mutatis mutandis.

(b) Any such amounts payable as provided hereunder shall be additional Secured Obligations secured hereby and by the other Collateral Documents. The provisions of this Section 8.03 shall remain operative and in full force and effect regardless of the termination of this Agreement or any other Loan Document, the repayment of any of the Secured Obligations, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, any resignation of the Administrative Agent and Collateral Agent or any investigation made by or on behalf of the Collateral Agent or any other Secured Party. All amounts due under this Section 8.03 shall be payable within twenty (20) Business Days after written demand therefor.

Section 8.04. Successors and Assigns.

Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party; and all covenants, promises and agreements by or on behalf of any Grantor or the Collateral Agent that are contained in this Agreement shall bind and inure to the benefit of their respective permitted successors and assigns. Except as provided in Section 12.2 of the Credit Agreement, no Grantor may assign any of its rights or obligations hereunder without the written consent of the Collateral Agent.

Section 8.05. Survival of Agreement.

Without limitation of any provision of the Credit Agreement or Section 8.03 hereof, all covenants, agreements, indemnities, representations and warranties made by the Grantors in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the Lenders and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such Lender or on its behalf and notwithstanding that the Collateral Agent or any Lender may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended under the Credit Agreement, and shall continue in full force and effect until this Agreement is terminated as provided in Section 8.13 hereof, or with respect to any individual Grantor until such Grantor is otherwise released from its obligations under this Agreement in accordance with the terms hereof.

Section 8.06. Counterparts; Effectiveness; Several Agreement.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which when taken together shall constitute one and the same instrument. Delivery by telecopier or by electronic.pdf copy of an executed counterpart of a signature page to this Agreement shall be effective as delivery of an original executed counterpart of this Agreement. This Agreement shall become effective when it shall have been executed by each Closing Date Grantor (and, with respect to each Person that becomes a Grantor hereunder following the Closing Date, on the date of delivery of a Security Agreement Supplement by such Grantor) and the Collateral Agent and thereafter shall be binding upon and inure to the benefit of each Grantor and the Collateral Agent and the other Secured Parties and their respective permitted successors and assigns, subject to Section 8.04 hereof. This Agreement shall be construed as a separate agreement with respect to each Grantor and may be amended, restated, modified, supplemented, waived or released with respect to any Grantor without the approval of any other Grantor and without affecting the obligations of any other Grantor hereunder.

Section 8.07. Severability.

If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 8.08. GOVERNING LAW, ETC.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) THE GRANTORS AND THE COLLATERAL AGENT EACH IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW

YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE COLLATERAL AGENT RETAINS THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY GRANTOR IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER THIS AGREEMENT OR THE ENFORCEMENT OF ANY JUDGMENT; PROVIDED, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT COLLATERAL AGENT'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE AGENT ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND.

(c) THE GRANTORS AND THE COLLATERAL AGENT EACH IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

Section 8.09. WAIVER OF RIGHT TO TRIAL BY JURY.

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 8.10. Headings.

Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

Section 8.11. Security Interest Absolute.

All rights of the Collateral Agent hereunder, the Security Interest, the grant of a security interest in the Pledged Collateral and all obligations of each Grantor hereunder shall be absolute and unconditional irrespective of (a) any lack of validity or enforceability of the Credit Agreement, any other Loan Document, any Secured Hedge Agreement, or any other agreement or instrument relating to any of the foregoing, (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from the Credit Agreement, any other Loan Document, any Secured Hedge Agreement, or any other agreement or instrument, (c) any exchange, release or non-perfection of any Lien on other collateral, or any release or amendment or waiver of or consent under or departure from any guarantee, securing or guaranteeing all or any of the Secured Obligations or (d) subject only to termination of a Grantor's obligations hereunder in accordance with the terms of Section 8.12, but without prejudice to reinstatement rights under Section 2.04 of the Guaranty, any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Grantor in respect of the Secured Obligations or this Agreement.

Section 8.12. Termination or Release.

(a) This Agreement, the Security Interest and all other security interests granted hereby shall terminate with respect to all Secured Obligations when (i) all Term Loan Commitments have expired or been terminated and the Lenders have no further commitments to lend under the Credit Agreement and (ii) all outstanding Secured Obligations (other than (i) contingent indemnification obligations as to which no claim has been asserted or (ii) Obligations under the Hedge Agreements as to which arrangements satisfactory to the applicable Hedge Bank shall have been made) have been reduced to zero.

(b) The Security Interest in any Collateral shall be automatically released in the circumstances set forth in Section 11.11(a) of the Credit Agreement or upon any release of the Lien on such Collateral in accordance with Section 11.11(b) of the Credit Agreement or Section [5.01(a)] of the ABL/Term Intercreditor Agreement.

(c) In connection with any termination or release pursuant to paragraph (a) or (b), the Collateral Agent shall promptly execute and deliver to any Grantor, at such Grantor's expense, all documents that such Grantor shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section 8.12 shall be without recourse to or warranty by the Collateral Agent.

(d) At any time that the respective Grantor desires that the Collateral Agent take any of the actions described in immediately preceding paragraph (c), it shall, upon request of the Collateral Agent, deliver to the Collateral Agent an officer's certificate certifying that the release of the respective Collateral is permitted pursuant to paragraph (a) or (b). The Collateral

Agent shall have no liability whatsoever to any Secured Party as the result of any release of Collateral by it as permitted (or which the Collateral Agent in good faith believes to be permitted) by this Section 8.12.

Section 8.13. Additional Grantors.

Pursuant to Section 8.11 of the Credit Agreement, certain Restricted Subsidiaries of the Loan Parties that were not in existence or not Restricted Subsidiaries on the date of the Credit Agreement or new Parent Guarantors are required to enter in this Agreement as Grantors upon becoming Restricted Subsidiaries. Upon execution and delivery by the Collateral Agent and such a Restricted Subsidiary or Parent Guarantor of a Security Agreement Supplement, such Restricted Subsidiary or Parent Guarantor shall become a Grantor hereunder with the same force and effect as if originally named as a Grantor herein. The execution and delivery of any such instrument shall not require the consent of any other Grantor hereunder. The rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Agreement.

Section 8.14. Collateral Agent Appointed Attorney-in-Fact.

(a) Each Grantor hereby appoints the Collateral Agent the true and lawful attorney-in-fact of such Grantor for the purpose of carrying out the provisions of this Agreement and taking any action and executing any instrument that the Collateral Agent may deem necessary or advisable to accomplish the purposes hereof at any time after and during the continuance of an Event of Default, as applicable, which appointment is irrevocable and coupled with an interest. Subject to the terms of the ABL/Term Intercreditor Agreement, without limiting the generality of the foregoing, the Collateral Agent shall have the right, (i) upon the occurrence and during the continuance of an Event of Default, subject to Section 3.04(b), and upon and after delivery of notice by the Collateral Agent to the Borrower of its intent to exercise such rights, with full power of substitution either in the Collateral Agent's name or in the name of such Grantor (a) to take actions required to be taken by the Grantors under Article V of this Agreement and (b) to receive, endorse, assign and/or deliver any and all notes, acceptances, checks, drafts, money orders or other evidences of payment relating to the Collateral or any part thereof; and (ii) upon the occurrence and during the continuance of an Event of Default and (unless a Bankruptcy Event of Default has occurred and is continuing, in which case no such notice shall be required) delivery of notice by the Collateral Agent to the Borrower of its intent to exercise such rights, with full power of substitution either in the Collateral Agent's name or in the name of such Grantor (a) to demand, collect, receive payment of, give receipt for and give discharges and releases of all or any of the Collateral; (b) to sign the name of any Grantor on any invoice or bill of lading relating to any of the Collateral; (c) to send verifications of Accounts to any Account Debtor; (d) to commence and prosecute any and all suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect or otherwise realize on all or any of the Collateral or to enforce any rights in respect of any Collateral; (e) to settle, compromise, compound, adjust or defend any actions, suits or proceedings relating to all or any of the Collateral; (f) to notify, or to require any Grantor to notify, Account Debtors to make payment directly to the Collateral Agent or to a Collateral Account and adjust, settle or compromise the amount of payment of any Account or related contracts; (g) to make, settle and adjust claims in respect of Collateral under policies of insurance and to endorse the name of such Grantor on any

check, draft, instrument or any other item of payment with respect to the proceeds of such policies of insurance and for making all determinations and decisions with respect thereto; and (h) to use, sell, assign, transfer, pledge, make any agreement with respect to or otherwise deal with all or any of the Collateral, and to do all other acts and things necessary to carry out the purposes of this Agreement, as fully and completely as though the Collateral Agent were the absolute owner of the Collateral for all purposes; provided that nothing herein contained shall be construed as requiring or obligating the Collateral Agent to make any commitment or to make any inquiry as to the nature or sufficiency of any payment received by the Collateral Agent, or to present or file any claim or notice, or to take any action with respect to the Collateral or any part thereof or the moneys due or to become due in respect thereof or any property covered thereby. The Collateral Agent and the other Secured Parties shall be accountable only for amounts actually received as a result of the exercise of the powers granted to them herein, and neither they nor their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct or that of any of their Affiliates, directors, officers, employees, counsel, agents or attorneys-in-fact.

(b) All acts in accordance with the terms of this Section 8.14 of said attorney or designee are hereby ratified and approved by the Grantors. The powers conferred on the Collateral Agent, for the benefit of the Secured Parties, under this Section 8.14 are solely to protect the Collateral Agent's interests in the Collateral and shall not impose any duty upon the Collateral Agent or any Secured Party to exercise any such powers.

Section 8.15. General Authority of the Collateral Agent.

By acceptance of the benefits of this Agreement and any other Collateral Documents, each Secured Party (whether or not a signatory hereto) shall be deemed irrevocably (a) to consent to the appointment of the Collateral Agent as its agent hereunder and under such other Collateral Documents, (b) to confirm that the Collateral Agent shall have the authority to act as the exclusive agent of such Secured Party for the enforcement of any provisions of this Agreement and such other Collateral Documents against any Grantor, the exercise of remedies hereunder or thereunder and the giving or withholding of any consent or approval hereunder or thereunder relating to any Collateral or any Grantor's obligations with respect thereto, (c) to agree that it shall not take any action to enforce any provisions of this Agreement or any other Collateral Document against any Grantor, to exercise any remedy hereunder or thereunder or to give any consents or approvals hereunder or thereunder except as expressly provided in this Agreement or any other Collateral Document and (d) to agree to be bound by the terms of this Agreement and any other Collateral Documents.

Section 8.16. Collateral Agent's Duties.

Except for the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, the Collateral Agent shall have no duty as to any Collateral, as to ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Collateral, whether or not any Secured Party has or is deemed to have knowledge of such matters, or as to the taking of any necessary steps to preserve rights against any parties or any other rights pertaining to any Collateral. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of any

Collateral in its possession if such Collateral is accorded treatment substantially equal to that which it accords its own property.

Section 8.17. Recourse; Limited Obligations.

This Agreement is made with full recourse to each Grantor and pursuant to and upon all the warranties, representations, covenants and agreements on the part of such Grantor contained herein, in the Credit Agreement and the other Loan Documents and otherwise in writing in connection herewith or therewith, with respect to the Secured Obligations of each applicable Secured Party. It is the desire and intent of each Grantor and each applicable Secured Party that this Agreement shall be enforced against each Grantor to the fullest extent permissible under applicable Law applied in each jurisdiction in which enforcement is sought.

Section 8.18. Mortgages.

In the event that any of the Collateral hereunder is also subject to a valid and enforceable Lien under the terms of a Mortgage and the terms thereof are inconsistent with the terms of this Agreement, then with respect to such Collateral, the terms of such Mortgage shall control in the case of fixtures and real property leases, letting and licenses of, and contracts, and agreements relating to the lease of, real property, and the terms of this Agreement shall control in the case of all other Collateral.

Section 8.19. ABL/Term Intercreditor Agreement.

Notwithstanding anything herein to the contrary, (i) the priority of the liens and security interests granted to the Administrative Agent on any Collateral pursuant to this Agreement are expressly subject to the terms of the ABL/Term Intercreditor Agreement and (ii) the exercise of any right or remedy by the Administrative Agent hereunder with respect to the Collateral is subject to the limitations and provisions contained in the ABL/Term Intercreditor Agreement. In the event of any conflict between the terms of the ABL/Term Intercreditor Agreement and the terms of this Agreement, the terms of the ABL/Term Intercreditor Agreement shall govern. Notwithstanding the foregoing, so long as [the ABL Administrative] Agent is acting as bailee for perfection for [the] Collateral Agent under the ABL/Term Intercreditor Agreement, the granting of control or possession to the ABL [Administrative] Agent in respect of ABL Priority Collateral (other than Deposit Account Control Agreements and Securities Account Control Agreements) shall satisfy any requirement hereunder for Collateral Agent to have possession or control of such Collateral under the terms of this Agreement.

[Signature Pages Follow]

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

MATTRESS FIRM, INC.,
as the Borrower,

By: _____
Name:
Title:

MATTRESS HOLDING CORP.,
as Holdings,

By: _____
Name:
Title:

STRIPES US HOLDING, INC.,
as Parent,

By: _____
Name:
Title:

MATTRESS FIRM HOLDING CORP.,

By: _____
Name:
Title:

MATTRESS HOLDCO, INC.,

By: _____
Name:
Title:

SUBSIDIARY GUARANTOR:

Custom Fundraising Solutions, LLC
The Mattress Venture, LLC
American Internet Sales LLC
ST San Diego, LLC
Sleep Country USA, LLC
CCP IV Holdings, LLC
CXV Holdings, LLC
CCP IV SBS Holdings, LLC
HMK Mattress Holdings LLC
HMK Intermediate Holdings LLC
Acker Realty Holdings LLC
Dial Operations, LLC
SINT, LLC
MD Acquisition LLC
1800mattress.com IP, LLC
Mattress Discounters Operations LLC
Mattress Discounters IP LLC
South Oyster Bay Realty, LLC,
each of the above as a Subsidiary Guarantor

By: _____
Name:
Title:

The Sleep Train, Inc.
Sleepy's, LLC,
each of the above as a Subsidiary Guarantor

By: _____
Name:
Title:

COLLATERAL AGENT:

BARCLAYS BANK PLC,
as Collateral Agent

By: _____
Name:
Title:

SCHEDULE I TO SECURITY AGREEMENT

SUBSIDIARY GUARANTORS

Custom Fundraising Solutions, LLC	Ohio limited liability company
The Mattress Venture, LLC	Texas limited liability company
American Internet Sales LLC	Delaware limited liability company
The Sleep Train, Inc.	California corporation
ST San Diego, LLC	California limited liability company
Sleep Country USA, LLC	Delaware limited liability company
CCP IV Holdings, LLC	Delaware limited liability company
CXV Holdings, LLC	Delaware limited liability company
CCP IV SBS Holdings, LLC	Delaware limited liability company
HMK Mattress Holdings LLC	Delaware limited liability company
HMK Intermediate Holdings LLC	Delaware limited liability company
Acker Realty Holdings LLC	New York limited liability company
South Oyster Bay Realty, LLC	New York limited liability company
Sleepy's, LLC	Delaware limited liability company
Dial Operations, LLC	New York limited liability company
1800mattress.com IP, LLC	New York limited liability company
SINT, LLC	Delaware limited liability company
MD Acquisition LLC	Delaware limited liability company
Mattress Discounters IP LLC	Delaware limited liability company
Mattress Discounters Operations LLC	Delaware limited liability company

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SCHEDULE II TO SECURITY AGREEMENT

EQUITY INTERESTS

Current Legal Entities Owned	Record Owner	Certificate No.	No. Shares/Interest	Percent Pledged
Mattress Firm, Inc.	Mattress Holding Corp.	4	1,010.7135	100%
Mattress Firm -- Arizona, LLC	Mattress Firm, Inc.	N/A	100%	100%
The Mattress Venture, LLC	Mattress Firm, Inc.	N/A	100%	100%
Maggie's Enterprises, LLC	Mattress Firm, Inc.	N/A	998	100%
The Sleep Train, Inc.	Mattress Firm, Inc.	A 64	128,096.37	100%
ST San Diego, LLC	The Sleep Train, Inc.	N/A	100%	100%
Sleep Country USA, LLC	ST San Diego, LLC	N/A	100%	100%
Mattress Giant Corporation	Mattress Firm, Inc.	20	2,000	100%
American Internet Sales LLC	Mattress Firm, Inc.	N/A	100%	100%
CCP IV Holdings, LLC	Mattress Firm, Inc.	N/A	100%	100%
CXV Holdings, LLC	Mattress Firm, Inc.	N/A	100%	100%
CCP IV SBS Holdings, LLC	Mattress Firm, Inc.	N/A	100%	100%
HMK Mattress Holdings LLC	Mattress Firm, Inc.	N/A	72%	100%
HMK Mattress Holdings LLC	CCP IV Holdings, LLC	N/A	13.91%	100%

Current Legal Entities Owned	Record Owner	Certificate No.	No. Shares/Interest	Percent Pledged
HMK Mattress Holdings LLC	CXV Holdings, LLC	N/A	13.70%	100%
HMK Mattress Holdings LLC	CCP IV SBS Holdings, LLC	N/A	0.49%	100%
HMK Intermediate Holdings LLC	HMK Mattress Holdings LLC	01	100	100%
Dial Operations, LLC	HMK Intermediate Holdings LLC	01	100	100%
Sleepy's, LLC	HMK Intermediate Holdings LLC	01	100	100%
SINT, LLC	HMK Intermediate Holdings LLC	01	100	100%
Acker Realty Holdings LLC	HMK Intermediate Holdings LLC	01	100	100%
MD Acquisition LLC	HMK Intermediate Holdings LLC	01	100	100%
1800mattress.com, LLC	Dial Operations, LLC	01	100	100%
1800mattress.com IP, LLC	Dial Operations, LLC	01	100	100%
Mattress Discounters Group, LLC	MD Acquisition LLC	01	100	100%

Current Legal Entities Owned	Record Owner	Certificate No.	No. Shares/Interest	Percent Pledged
Mattress Discounters Operations LLC	MD Acquisition LLC	01	100	100%
Mattress Discounters IP LLC	MD Acquisition LLC	01	100	100%
South Oyster Bay Realty, LLC	Acker Realty Holdings LLC	N/A	100%	100%
45 South York Associates, LLC	Acker Realty Holdings LLC	N/A	100%	100%
669 Sunrise Realty, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Aramingo Avenue Associates, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Bethlehem Pike Realty, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Craftsmen Realty, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Robbinsville 7A Warehouse Group, LLC	Acker Realty Holdings LLC	01	100	100%
Viewmont Drive Realty, LLC	Acker Realty Holdings LLC	N/A	100%	100%

Current Legal Entities Owned	Record Owner	Certificate No.	No. Shares/Interest	Percent Pledged
Whitehall Management Partners, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Maple Shade Partners, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Hazlet Partners, LLC	Acker Realty Holdings LLC	01	100	100%
Scranton Avenue Associates, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Route 352 Management Partners, LLC	Acker Realty Holdings LLC	N/A	100%	100%
1520 Sunrise Highway, LLC	Acker Realty Holdings LLC	N/A	100%	100%
Custom Fundraising Solutions, LLC	Mattress Firm, Inc.	004 – 40% 005 – 30% 006 – 30%	100%	40% (certificate 004) and 30% (certificate 005)

PROMISSORY NOTES

None.

SCHEDULE III TO SECURITY AGREEMENT[7]

COMMERCIAL TORT CLAIMS

1. *Mattress Firm, Inc. v. Tempur-Pedic North America, LLC and Sealy Mattress Company*, Cause No. 2017-22062, In the 165th Judicial District of Harris County, Texas. Mattress Firm, Inc. claims damages arising out of breach of contract and tortious interference by Tempur-Pedic and Sealy in the course of the parties' winding up of their supplier relationship.

2. *Mattress Firm, Inc. v. Fosbrooke, Inc., d/b/a Tuft & Needle*, Cause No. 4:17-cv-03107, In the United States District Court, Southern District of Texas. Mattress Firm, Inc. claims damages arising out of false advertising and trademark infringement.

3. *Mattress Firm, Inc. v. Levy, et al.,* Cause No. 2017-73196, In the 151st Judicial District of Harris County, Texas. Mattress Firm, Inc. claims damages for fraud, conspiracy, breach of fiduciary duty and unjust enrichment arising from a kickback and bribery scheme effected by certain former employees in the real estate department, developers and brokers.

[7] Subject to update

SCHEDULE IV TO SECURITY AGREEMENT

UCC FILINGS

Legal Name	Secretary of State Filing Office
Mattress Holding Corp.	Delaware
Mattress Firm, Inc.	Delaware
Custom Fundraising Solutions, LLC	Ohio
The Mattress Venture, LLC	Texas
American Internet Sales LLC	Delaware
The Sleep Train, Inc.	California
ST San Diego, LLC	California
Sleep Country USA, LLC	Delaware
CCP IV Holdings, LLC	Delaware
CXV Holdings, LLC	Delaware
CCP IV SBS Holdings, LLC	Delaware
HMK Mattress Holdings LLC	Delaware
HMK Intermediate Holdings LLC	Delaware
Acker Realty Holdings LLC	New York
South Oyster Bay Realty, LLC	New York
Sleepy's, LLC	Delaware
Dial Operations, LLC	New York
1800mattress.com IP, LLC	New York
SINT, LLC	Delaware
MD Acquisition LLC	Delaware
Mattress Discounters IP LLC	Delaware
Mattress Discounters Operations LLC	Delaware
Mattress Firm, Inc.	Delaware
Mattress Holdco, Inc.	Delaware
Mattress Firm Holding Corp.	Delaware
Stripes US Holding, Inc.	Delaware
Mattress Holding Corp.	Delaware

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EXHIBIT I TO SECURITY AGREEMENT

[FORM OF] SECURITY AGREEMENT SUPPLEMENT

SUPPLEMENT NO. __ dated as of _____ ___, 20___ (this "*Supplement*"), to the Security Agreement dated as of November [•], 2018 (the "*Security Agreement*"), among MATTRESS FIRM, INC., a Delaware corporation (the "*Borrower*"), MATTRESS HOLDING CORP., a Delaware corporation ("*Holdings*"), the Subsidiary Guarantors thereto and BARCLAYS BANK PLC, as Collateral Agent for the Secured Parties.

A. Reference is made to (i) the Term Loan Credit Agreement, dated as of November [•], 2018 (as amended, restated, supplemented and/or otherwise modified from time to time, the "*Credit Agreement*"), by the Borrower, Holdings, Parent Guarantors, the Lenders party thereto, and Barclays Bank PLC, as Administrative Agent for the Lenders and Collateral Agent for the Secured Parties and (ii) the Guaranty (as defined in the Credit Agreement).

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement and the Security Agreement, as applicable.

C. The Grantors have entered into the Security Agreement in order to induce the Lenders to make Loans on the terms set forth in the Credit Agreement. Section 8.13 of the Security Agreement provides that additional Parent Guarantors and Restricted Subsidiaries of the Grantors may become Grantors under the Security Agreement by execution and delivery of an instrument substantially in the form of this Supplement. The undersigned Person (the "*New Subsidiary*") is executing this Supplement in accordance with the requirements of the Credit Agreement to become a Grantor under the Security Agreement in order to induce the Lenders to make additional Loans and as consideration for Loans previously made.

Accordingly, the Collateral Agent and the New Subsidiary agree as follows:

Section 1. In accordance with Section 8.13 of the Security Agreement, the New Subsidiary by its signature below becomes a Grantor under the Security Agreement with the same force and effect as if originally named therein as a Grantor and the New Subsidiary hereby (a) agrees to all the terms and provisions of the Security Agreement applicable to it as a Grantor thereunder and (b) represents and warrants that the representations and warranties made by it as a Grantor thereunder are true and correct on and as of the date hereof; provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all respects as of such earlier date. In furtherance of the foregoing, the New Subsidiary, as security for the payment and performance in full of the Secured Obligations does hereby create and grant to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties, their successors and assigns, a security interest in and lien on all of the New Subsidiary's right, title and interest, whether now owned or hereafter acquired or arising, in and to the Collateral (as defined in the Security Agreement) of the New Subsidiary. Each reference to a "Grantor" in the Security Agreement shall be deemed to include the New Subsidiary as if originally named therein as a Grantor. The Security Agreement is hereby incorporated herein by reference.

Section 2. The New Subsidiary represents and warrants to the Collateral Agent and the other Secured Parties that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity.

Section 3. This Supplement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective when the Collateral Agent shall have received a counterpart of this Supplement that bears the signature of the New Subsidiary and the Collateral Agent has executed a counterpart hereof. Delivery of an executed signature page to this Supplement by facsimile or electronic (including.pdf file) transmission shall be as effective as delivery of a manually signed counterpart of this Supplement.

Section 4. The New Subsidiary hereby represents and warrants that the Perfection Certificate and updated schedules to the Security Agreement attached hereto as Schedule I have been duly executed and delivered to the Collateral Agent and the information set forth therein, including the exact legal name of the New Subsidiary and its jurisdiction of organization, is correct and complete in all material respects as of the date hereof.

Section 5. Except as expressly supplemented hereby, the Security Agreement shall remain in full force and effect.

Section 6. **THIS SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

Section 7. In case any one or more of the provisions contained in this Supplement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and in the Security Agreement shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 8. All communications and notices hereunder shall be in writing and given as provided in Section 8.01 of the Security Agreement.

Section 9. The New Subsidiary agrees to reimburse the Collateral Agent for its reasonable out-of-pocket expenses in connection with this Supplement, including all Attorney Costs of counsel for the Collateral Agent as provided in Section 8.03(a) of the Security Agreement.

IN WITNESS WHEREOF, the New Subsidiary and the Collateral Agent have duly executed this Supplement to the Security Agreement as of the day and year first above written.

[NAME OF NEW SUBSIDIARY]

By: _____
Name:
Title:
Legal Name:
Jurisdiction of Formation:
Location of Chief Executive Office:

BARCLAYS BANK PLC, as Collateral Agent

By: _____
Name:
Title:

SCHEDULE I TO SECURITY AGREEMENT SUPPLEMENT

[ATTACH COMPLETED PERFECTION CERTIFICATE FOR NEW SUBSIDIARY AND ALL SCHEDULES TO SECURITY AGREEMENT, UPDATED FOR NEW SUBSIDIARY]

EXHIBIT II TO SECURITY AGREEMENT

Form of Perfection Certificate

[Separately provided]

EXHIBIT III TO SECURITY AGREEMENT

[FORM OF] TRADEMARK SECURITY AGREEMENT

This TRADEMARK SECURITY AGREEMENT (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*Trademark Security Agreement*") dated _____, 20__, is made by the Persons listed on the signature pages hereof (collectively, the "*Grantors*") in favor of Barclays Bank PLC, as collateral agent (the "*Collateral Agent*") for the Secured Parties (as defined in the Credit Agreement referred to below).

Reference is made to (i) the Term Loan Credit Agreement, dated as of November [•], 2018 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*Credit Agreement*"), among Mattress Firm, Inc., Mattress Holding Corp., Parent Guarantors, the Lenders party thereto from time to time and Barclays Bank PLC, as Administrative Agent and Collateral Agent and (ii) each Secured Hedge Agreement. The Lenders have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Credit Agreement, the Hedge Banks have agreed to enter into and/or maintain one or more Secured Hedge Agreements, on the terms and conditions set forth in the Credit Agreement.

Whereas, as a condition precedent to the Lenders extension of such credit, the obligation of the Hedge Banks to enter into and/or maintain such Secured Hedge Agreements, each Grantor has executed and delivered that certain Security Agreement dated November [•], 2018, made by the Grantors to the Collateral Agent (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*Security Agreement*").

Whereas, under the terms of the Security Agreement, the Grantors have granted to the Collateral Agent, for the benefit of the Secured Parties, a security interest in, among other property, certain intellectual property of the Grantors, and have agreed as a condition thereof to execute this Trademark Security Agreement for recording with the U.S. Patent and Trademark Office and other governmental authorities.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor agrees as follows:

SECTION 1. Terms. Terms defined in the Credit Agreement and Security Agreement and not otherwise defined herein are used herein as defined in the Credit Agreement and Security Agreement.

SECTION 2. Grant of Security. Each Grantor hereby grants to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties a continuing security interest in all of the Grantor's right, title and interest, whether now owned or hereafter acquired or arising in, to and under the Trademarks, including the Trademarks set forth on Schedule A attached hereto.

SECTION 3. Security for Obligations. The grant of a security interest in the Trademarks by each Grantor under this Trademark Security Agreement is made to secure the payment or performance, as the case may be, in full of the Secured Obligations.

SECTION 4. Recordation. Each Grantor authorizes and requests that the Commissioner for Trademarks and any other applicable government officer record this Trademark Security Agreement.

SECTION 5. Execution in Counterparts. This Trademark Security Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

SECTION 6. Security Agreement. This Trademark Security Agreement has been entered into in conjunction with the provisions of the Security Agreement. Each Grantor does hereby acknowledge and confirm that the grant of the security interest hereunder to, and the rights and remedies of, the Collateral Agent with respect to the Collateral are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated herein by reference as if fully set forth herein.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have executed this Trademark Security Agreement as of the date first above written.

[NAME OF GRANTOR], Grantor

By: _____
Name:
Title:

BARCLAYS BANK PLC, as Collateral Agent and Grantee

By: _____
Name:
Title:

SCHEDULE A

MARK	SERIAL/REG. NO.	APP./REG. DATE

EXHIBIT IV TO SECURITY AGREEMENT

[FORM OF] PATENT SECURITY AGREEMENT

This PATENT SECURITY AGREEMENT (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*Patent Security Agreement*") dated _____, 20__, is made by the Persons listed on the signature pages hereof (collectively, the "*Grantors*") in favor of Barclays Bank PLC, as collateral agent (the "*Collateral Agent*") for the Secured Parties (as defined in the Credit Agreement referred to below).

Reference is made to (i) the Term Loan Credit Agreement, dated as of November [•], 2018 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*Credit Agreement*"), among Mattress Firm, Inc., Mattress Holding Corp., the Parent Guarantors, the Lenders party thereto from time to time and Barclays Bank PLC, as Administrative Agent and Collateral Agent and (ii) each Secured Hedge Agreement. The Lenders have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Credit Agreement, the Hedge Banks have agreed to enter into and/or maintain one or more Secured Hedge Agreements, on the terms and conditions set forth in the Credit Agreement.

Whereas, as a condition precedent to the Lenders extension of such credit, the obligation of the Hedge Banks to enter into and/or maintain such Secured Hedge Agreements, each Grantor has executed and delivered that certain Security Agreement dated November [•], 2018, made by the Grantors to the Collateral Agent (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*Security Agreement*").

Whereas, under the terms of the Security Agreement, the Grantors have granted to the Collateral Agent, for the benefit of the Secured Parties, a security interest in, among other property, certain intellectual property of the Grantors, and have agreed as a condition thereof to execute this Patent Security Agreement for recording with the U.S. Patent and Trademark Office and other governmental authorities.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor agrees as follows:

SECTION 1. Terms. Terms defined in the Credit Agreement and Security Agreement and not otherwise defined herein are used herein as defined in the Credit Agreement and Security Agreement.

SECTION 2. Grant of Security. Each Grantor hereby grants to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties a continuing security interest in all of the Grantor's right, title and interest, whether now owned or hereafter acquired or arising, in, to and under the Patents, including the Patents set forth on Schedule A attached hereto.

SECTION 3. Security for Obligations. The grant of a security interest in the Patent by each Grantor under this Patent Security Agreement is made to secure the payment or performance, as the case may be, in full of the Secured Obligations.

SECTION 4. Recordation. Each Grantor authorizes and requests that the Commissioner for Patents and any other applicable government officer record this Patent Security Agreement.

SECTION 5. Execution in Counterparts. This Patent Security Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

SECTION 6. Security Agreement. This Patent Security Agreement has been entered into in conjunction with the provisions of the Security Agreement. Each Grantor does hereby acknowledge and confirm that the grant of the security interest hereunder to, and the rights and remedies of, the Collateral Agent with respect to the Collateral are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated herein by reference as if fully set forth herein.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have executed this Patent Security Agreement as of the date first above written.

[NAME OF GRANTOR], Grantor

By: _____
Name:
Title:

BARCLAYS BANK PLC, as Collateral Agent and Grantee

By: _____
Name:
Title:

SCHEDULE A

PATENT	PATENT NO.	FILING/ISSUE DATE

EXHIBIT V TO SECURITY AGREEMENT

[FORM OF]COPYRIGHT SECURITY AGREEMENT

This COPYRIGHT SECURITY AGREEMENT (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*Copyright Security Agreement*") dated _____, 20__, is made by the Persons listed on the signature pages hereof (collectively, the "*Grantors*") in favor of Barclays Bank PLC, as collateral agent (the "*Collateral Agent*") for the Secured Parties (as defined in the Credit Agreement referred to below).

Reference is made to (i) the Term Loan Credit Agreement, dated as of November [•], 2018 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "*Credit Agreement*"), among Mattress Firm, Inc., Mattress Holding Corp., Parent Guarantors, the Lenders party thereto from time to time and Barclays Bank PLC, as Administrative Agent and Collateral Agent and (ii) each Secured Hedge Agreement. The Lenders have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Credit Agreement, the Hedge Banks have agreed to enter into and/or maintain one or more Secured Hedge Agreements, on the terms and conditions set forth in the Credit Agreement.

Whereas, as a condition precedent to the Lenders extension of such credit, the obligation of the Hedge Banks to enter into and/or maintain such Secured Hedge Agreements, each Grantor has executed and delivered that certain Security Agreement dated November [•], 2018, made by the Grantors to the Collateral Agent (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*Security Agreement*").

Whereas, under the terms of the Security Agreement, the Grantors have granted to the Collateral Agent, for the benefit of the Secured Parties, a security interest in, among other property, certain intellectual property of the Grantors, and have agreed as a condition thereof to execute this Copyright Security Agreement for recording with the U.S. Copyright Office and other governmental authorities.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor agrees as follows:

SECTION 1. Terms. Terms defined in the Credit Agreement and Security Agreement and not otherwise defined herein are used herein as defined in the Credit Agreement and Security Agreement.

SECTION 2. Grant of Security. Each Grantor hereby grants to the Collateral Agent, its successors and assigns, for the benefit of the Secured Parties a continuing security interest in all of the Grantor's right, title and interest, whether now owned or hereafter acquired or arising in, to and under the Copyrights and exclusive Copyright Licenses, including the Copyrights and exclusive Copyright Licenses set forth on Schedule A attached hereto.

SECTION 3. Security for Obligations. The grant of a security interest in the Copyrights and exclusive Copyright Licenses by each Grantor under this Copyright Security

Agreement is made to secure the payment or performance, as the case may be, in full of the Secured Obligations.

SECTION 4. Recordation. Each Grantor authorizes and requests that the Commissioner for Copyrights and any other applicable government officer record this Copyright Security Agreement.

SECTION 5. Execution in Counterparts. This Copyright Security Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

SECTION 6. Security Agreement. This Copyright Security Agreement has been entered into in conjunction with the provisions of the Security Agreement. Each Grantor does hereby acknowledge and confirm that the grant of the security interest hereunder to, and the rights and remedies of, the Collateral Agent with respect to the Collateral are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated herein by reference as if fully set forth herein.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have executed this Copyright Security Agreement as of the date first above written.

[NAME OF GRANTOR], Grantor

By: _____
Name:
Title:

BARCLAYS BANK PLC, as Collateral Agent and Grantee

By: _____
Name:
Title:

SCHEDULE A

COPYRIGHTS

COPYRIGHT	COPYRIGHT NO.	APP./REG. DATE

COPYRIGHT LICENSES

AGREEMENT	PARTIES	DATE	SUBJECT MATTER