

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION**

In re:)	
)	Chapter 11
GenCanna Global USA, Inc., ¹)	
)	Case No. 20-50133-grs
Debtors.)	
)	(Jointly Administered)
)	
)	Honorable Gregory R. Schaaf
)	

**NOTICE OF FILING OF SECOND AMENDED AND RESTATED
DEBTOR IN POSSESSION SECURED MULTI-DRAW TERM PROMISSORY NOTE**

GenCanna Global USA, Inc. and its above-captioned affiliated debtors and debtors in possession (collectively, the “Debtors”), by and through counsel, hereby give notice of the filing in the record as **Exhibit A** to this notice of the *Second Amended and Restated Debtor In Possession Secured Multi-Draw Term Promissory Note* (the “DIP Loan Agreement”) pursuant to the *Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* [Docket No. 55] (the “DIP Motion”) and the Interim Order [Docket No. 82] and Supplemental Interim Order [Docket No. 207] granting the DIP Motion. Also attached hereto as **Exhibit B** is a blackline comparing the DIP Loan Agreement to the version attached to the Interim Order. The Debtors submit this revised DIP Loan Agreement in advance of the Final Hearing to consider

¹ The Debtors in these Chapter 11 cases are (with the last four digits of their federal tax identification numbers in parentheses): GenCanna Global USA, Inc. (0251); GenCanna Global, Inc. (N/A); and Kentucky Hemp, LLC (0816).

entry of the Final Order granting the DIP Motion set for Monday, March 23, 2020 at 9:00 a.m. (Eastern Time) before the Honorable Gregory R. Schaaf, at the U.S. Bankruptcy Court for the Eastern District of Kentucky, located at 100 East Vine Street, 2nd Floor Courtroom, Lexington, Kentucky 40507.

Dated: March 22, 2020

/s/ James R. Irving

James R. Irving
April A. Wimberg
Christopher B. Madden
DENTONS BINGHAM GREENEBAUM LLP
3500 PNC Tower
101 South Fifth Street
Louisville, Kentucky 40202
Telephone: (502) 587-3606
Facsimile: (502) 540-2215
E-mail: james.irving@dentons.com
april.wimberg@dentons.com
chris.madden@dentons.com

Counsel for the Debtors

Respectfully submitted,

Michael J. Barrie
Jennifer R. Hoover
BENESCH, FRIEDLANDER, COPLAN, &
ARONOFF LLP
222 Delaware Avenue, Suite 801
Wilmington, DE 19801
Telephone: (302) 442-7010 Phone
E-mail: mbarrie@beneschlaw.com
jhoover@beneschlaw.com

-and-

Elliot M. Smith
BENESCH, FRIEDLANDER, COPLAN, &
ARONOFF LLP
200 Public Square, Suite 2300
Cleveland, OH 44114
Telephone: (216) 363-4500
E-mail: esmith@beneschlaw.com

Proposed Counsel for the Debtors

**UNITED STATES BANKRUPTCY COURT
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DENTONS BINGHAM GREENEBAUM LLP
3500 PNC Tower
101 South Fifth Street
Louisville, Kentucky 40202
Telephone: (502) 587-3606
Facsimile: (502) 540-2215
E-mail: james.irving@dentons.com
april.wimberg@dentons.com
chris.madden@dentons.com

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Michael J. Barrie
Jennifer R. Hoover
BENESCH, FRIEDLANDER, COPLAN, &
ARONOFF LLP
222 Delaware Avenue, Suite 801
Wilmington, DE 19801
Telephone: (302) 442-7010 Phone
E-mail: mbarrie@beneschlaw.com
jhoover@beneschlaw.com

-and-

Elliot M. Smith
BENESCH, FRIEDLANDER, COPLAN, &
ARONOFF LLP
200 Public Square, Suite 2300
Cleveland, OH 44114
Telephone: (216) 363-4500
E-mail: esmith@beneschlaw.com

Proposed Counsel for the Debtors

EXHIBIT A

(Amended DIP Loan Agreement)

FOR PURPOSES OF SECTIONS 1272, 1273 AND 1275 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "INTERNAL REVENUE CODE"), THIS NOTE IS BEING ISSUED WITH ORIGINAL ISSUE DISCOUNT. REQUESTS FOR INFORMATION REGARDING THE ORIGINAL ISSUE DISCOUNT ON THIS NOTE MAY BE DIRECTED TO GENCANNA GLOBAL USA, INC., 321 VENABLE ROAD, WINCHESTER, KY 40391.

**SECOND AMENDED AND RESTATED DEBTOR IN POSSESSION SECURED
MULTI-DRAW TERM PROMISSORY NOTE**

\$12,500,000

New York, New York
March [], 2020

On February 6, 2020 (the "Order for Relief Date"), the United States Bankruptcy Court for the Eastern District of Kentucky (the "Bankruptcy Court") entered an order for relief with respect to GENCANNA GLOBAL USA, INC., a Delaware corporation (the "Borrower") and, on February 5, 2020, GENCANNA GLOBAL, INC., a Delaware corporation (the "Parent") and certain of the Borrower's subsidiaries commenced chapter 11 cases by filing their own voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), which cases (including the Borrower's case) are being jointly administered under Chapter 11 Case No. 20-50133-grs (each a "Chapter 11 Case" and collectively, the "Chapter 11 Cases"). The Loan Parties (as defined herein) continue to operate their respective businesses and manage their respective properties as debtors and debtors in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. The Borrower has requested that MGG Investment Group LP, a Delaware limited partnership, as agent (in such capacity, the "Agent") for the lenders (the "DIP Lenders") from time to time party to this Second Amended and Restated Debtor in Possession Secured Multi-Draw Term Promissory Note (as amended, modified, or supplemented from time to time, this "Note"), make Term Loans (as defined below) from time to time evidenced by this Note. The Parent and certain subsidiaries of the Borrower who comprise the other debtors in the Chapter 11 Cases wish to guaranty the Borrower's Obligations under this Note (collectively, the "Guarantors"), and are simultaneously executing Guarantees in favor of the Agent. The Borrower intends to utilize such Term Loans to (i) fund general corporate needs, including without limitation working capital and other needs, and (ii) pay administrative expenses of the Chapter 11 Cases, including fees and expenses of professionals, in each case in accordance with the Budget. Capitalized terms used herein and not otherwise defined herein shall have the meanings provided in Section 18 of this Note.

1. Term Loans.

(a) Subject to the terms and conditions hereof including the Agent's receipt of a Borrowing Request (as defined below), the DIP Lenders agree to provide the Borrower with term loans on the Closing Date in the principal amount of \$4,750,000 (the "Initial Loan"). Subject to the terms and conditions hereof, at any time on or after the date of entry of the Final Order and upon the Agent's receipt of a Borrowing Request, the DIP Lenders agree to provide the Borrower with one or more additional loans, each in a principal amount of not less than \$500,000 and not more than \$2,000,000 (or, solely with respect to the initial Additional Loan (as defined below),

not more than \$3,750,000), and together in an aggregate principal amount not to exceed \$7,750,000 (each, an "Additional Loan" and collectively, the "Additional Loans" and, together with the Initial Loan, each, a "Term Loan" and collectively, the "Term Loans"). For the avoidance of doubt, each Borrowing Request shall be made by the Borrower in accordance with the Budget. The Borrower may request the Initial Loan and the Additional Loans pursuant to written notice (which may be by email) delivered to the Agent three (3) Business Days prior to the proposed borrowing date (or such shorter period as the Agent may agree) (a "Borrowing Request"). The Borrowing Request shall be in a form reasonably satisfactory to the Agent. Each DIP Lender shall provide the Term Loans in an aggregate amount equal to its Commitment set forth on Schedule 1(a) and the obligation of each DIP Lender to make the Term Loans under this Note shall be several and not joint and several. Upon receipt of a Borrowing Request, subject to the satisfaction of the conditions set forth in this Note, the DIP Lenders shall simultaneously and proportionately to their Pro Rata Share of the Maximum Amount, make the proceeds of such Term Loans available to the Borrower on the applicable date of funding of such Term Loan by transferring immediately available funds equal to such proceeds to an account designated in writing by the Borrower consistent with its existing cash management system. The Commitment of each DIP Lender shall be permanently reduced upon the making of a Term Loan in an amount equal to such Term Loan. Any principal amount of the Term Loan which is repaid or prepaid may not be reborrowed.

(b) The aggregate principal amount of Terms Loans outstanding shall not exceed \$12,500,000, subject to any limitation of credit extensions under this Note and the Financing Orders (the "Maximum Amount").

(c) The Agent shall be entitled to rely upon, and shall be fully protected in relying upon, any Borrowing Request or similar notice believed by the Agent to be genuine. The Agent may assume that each Person executing and delivering any such notice was duly authorized, unless the responsible individual acting thereon for the Agent has actual knowledge to the contrary.

(d) The Borrower shall utilize the proceeds of Term Loans to (i) fund general corporate needs, including without limitation working capital and other needs, and (ii) pay administrative expenses of the Chapter 11 Cases, including fees and expenses of professionals, in each case in accordance with the Budget, this Note, the Bankruptcy Code, and the Financing Orders; provided, that, unless otherwise provided in the Budget or approved by the Agent in its sole discretion, no portion of any Term Loan shall be used, directly or indirectly: (a) except as permitted by Section 15(e), to make any payment on Prepetition Obligations or to finance or make any Restricted Payment, (b) to pay any fees or similar amounts payable to any Person who has proposed or may propose to purchase interests in any of the Borrower or any of its respective Subsidiaries or affiliates or who otherwise has proposed or may propose to invest in the Borrower or any of its respective Subsidiaries or affiliates (including so-called "topping fees," "exit fees," and similar amounts), or (c) to make any distribution under a plan of reorganization in the Chapter 11 Cases or any similar proceeding of any of the Subsidiaries or affiliates of the Borrower.

2. Certain Conditions to Each Term Loan. No DIP Lender shall be obligated to fund any Term Loan, if, as of the date thereof:

(a) The Borrower shall not have paid any amount then payable hereunder (including the fees and expenses of counsel to the Agent) or under any other DIP Document;

(b) the Loan Parties shall not have delivered corporate resolutions, incumbency certificates and similar documents, in form and substance satisfactory to Agent with respect to this Note and the other DIP Documents and the transactions contemplated hereby and thereby;

(c) the Loan Parties shall not have delivered guarantees of each of the Guarantors, each in form and substance satisfactory to Agent with respect to this Note and the other DIP Documents and the transactions contemplated hereby and thereby;

(d) any representation or warranty by any Loan Party contained herein or in any other DIP Document shall be untrue or incorrect in any material respect (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date;

(e) with respect to the Initial Loan (i) the Bankruptcy Court shall not have entered the Interim Order; or (ii) the Interim Order shall have been stayed, vacated, reversed, modified or amended without Agent's consent in its sole discretion;

(f) with respect to any Additional Loan (i) the Bankruptcy Court shall not have entered the Final Order; or (ii) the Final Order shall have been stayed, vacated, reversed, modified or amended without Agent's consent in its sole discretion;

(g) on the date of the entry of the Final Order, the Agent and the DIP Lenders shall not have received an updated Budget, satisfactory to the Agent in its sole discretion, for the remaining period through the term of this Note;

(h) except as occasioned by the commencement of the Chapter 11 Cases and the actions, proceedings, investigations and other matters related thereto or arising therefrom (including any actions taken in accordance with the Budget, this Note or the Financing Orders), any event or circumstance having a Material Adverse Effect shall have occurred since the date hereof;

(i) any Default or Event of Default shall have occurred and be continuing or would result after giving effect to any Term Loan;

(j) after giving effect to any Term Loan, the outstanding principal amount of all Term Loans would exceed the lesser of (i) the Maximum Amount, or (ii) the amount permitted to be borrowed on a cumulative basis from the date hereof through the date of such requested Term Loan as set forth in the Budget and the Financing Orders;

(k) the Agent shall not have received and approved the Budget in accordance with this Note and the Financing Orders;

(l) the Loan Parties shall have filed one or more pleadings with the Bankruptcy Court and such pleadings shall not be in form and substance acceptable to the Agent in its sole discretion; or

(m) the Bankruptcy Court shall have entered orders and such orders shall not be

in form and substance acceptable to the Agent in its sole discretion.

The request and acceptance by the Borrower of the proceeds of any Term Loan shall be deemed to constitute, as of the date of such request, acceptance or incurrence, (i) a representation and warranty by the Borrower that the conditions in this Section 2 have been satisfied and (ii) a reaffirmation by the Borrower of the granting and continuance of the Liens granted in favor of the Agent on behalf of the DIP Lenders, pursuant to the Financing Orders.

3. Payment of Principal. FOR VALUE RECEIVED, the Borrower promises to pay to the Agent, the unpaid principal amount of all Term Loans made by the Agent on behalf of the DIP Lenders to the Borrower, on the Maturity Date, together with all accrued and unpaid interest, fees and expenses to the extent provided, without duplication, in this Note and the Financing Orders.

4. Payment of Interest.

(a) Subject to the terms of this Note, the Term Loan or any portion thereof shall be a LIBOR Rate Loan and shall bear interest on the principal amount thereof from time to time outstanding, from the date of the Term Loan until repaid, at a rate per annum equal to the LIBOR Rate for an interest period of one month (or such portion thereof) plus 10.00%.

(b) Interest on the Term Loan shall be payable monthly, in arrears, on the first day of each month, commencing on the first day of the month following the month in which the applicable Term Loan is made. If any payment of any of the Obligations becomes due and payable on a day other than a Business Day, the maturity thereof will be extended to the next succeeding Business Day and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension.

(c) All computations of fees and interest shall be made by the Agent on the basis of a 360-day year, in each case for the actual number of days occurring in the period for which such fees or interest are payable. Each determination by the Agent of an interest rate hereunder shall be final, binding and conclusive on the Borrower (absent manifest error).

(d) So long as an Event of Default shall have occurred and be continuing, and at the election of the Agent, the interest rate applicable to the Obligations shall be increased by three percentage points (3.00%) per annum above the rate of interest otherwise applicable hereunder (the "Default Rate"), and all outstanding Obligations shall bear interest at the Default Rate applicable to such Obligations. Interest at the Default Rate shall accrue from the date of such Event of Default until such Event of Default is cured or waived and shall be payable upon demand.

(e) It is the intention of the parties hereto that the Agent and each DIP Lender shall conform strictly to usury laws applicable to it. Accordingly, if the transactions contemplated hereby or by any other DIP Document would be usurious as to the Agent or any DIP Lender under laws applicable to it (including the laws of the United States of America and the State of New York or any other jurisdiction whose laws may be mandatorily applicable to the Agent or such DIP Lender notwithstanding the other provisions of this Note), then, in that event, notwithstanding anything to the contrary in this Note or any other DIP Document or any agreement

entered into in connection with or as security for the Obligations, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under law applicable to the Agent or any DIP Lender that is contracted for, taken, reserved, charged or received by the Agent or such DIP Lender under this Note or any other DIP Document or agreements or otherwise in connection with the Obligations shall under no circumstances exceed the maximum amount allowed by such applicable law, any excess shall be canceled automatically and if theretofore paid shall be credited by the Agent or such DIP Lender on the principal amount of the Obligations (or, to the extent that the principal amount of the Obligations shall have been or would thereby be paid in full, refunded by the Agent or such DIP Lender, as applicable, to the Borrower). If at any time and from time to time (x) the amount of interest payable to the Agent or any DIP Lender on any date shall be computed at the highest lawful rate applicable to the Agent or such DIP Lender pursuant to this Section 4(e) and (y) in respect of any subsequent interest computation period the amount of interest otherwise payable to the Agent or such DIP Lender would be less than the amount of interest payable to the Agent or such DIP Lender computed at the highest lawful rate applicable to the Agent or such DIP Lender, then the amount of interest payable to the Agent or such DIP Lender in respect of such subsequent interest computation period shall continue to be computed at the highest lawful rate applicable to the Agent or such DIP Lender until the total amount of interest payable to the Agent or such DIP Lender shall equal the total amount of interest which would have been payable to the Agent or such DIP Lender if the total amount of interest had been computed without giving effect to this Section 4(e).

(f) The LIBOR Rate may be adjusted by the DIP Lenders on a prospective basis to take into account any additional or increased costs to the DIP Lenders of maintaining or obtaining any eurodollar deposits or increased costs, in each case, due to changes in applicable law (other than change with respect to tax law, which are addressed in Section 10 hereof) occurring subsequent to the commencement of the then applicable interest period, including changes in the reserve requirements imposed by the Board of Governors of the Federal Reserve System (or any successor), which additional or increased costs would increase the cost of funding loans bearing interest at the LIBOR Rate. In any such event, the DIP Lenders shall give the Borrower notice of such a determination and adjustment and, upon its receipt of the notice from such DIP Lender, the Borrower may, by notice to such DIP Lender (1) request the DIP Lender to furnish to the Borrower a statement setting forth the basis for adjusting such LIBOR Rate and the method for determining the amount of such adjustment or (2) repay the LIBOR Rate Loans with respect to which such adjustment is made.

(g) Anything to the contrary contained herein notwithstanding, the DIP Lenders are not required actually to acquire eurodollar deposits to fund or otherwise match fund any Obligation as to which interest accrues at the LIBOR Rate. The provisions of Sections 4(f) through (h) shall apply as if the DIP Lenders had match funded any Obligation as to which interest is accruing at the LIBOR Rate by acquiring eurodollar deposits for each interest period in the amount of the LIBOR Rate Loans.

(h) If, after the date hereof, the DIP Lenders determine that (1) the adoption of or change in any law, rule, regulation or guideline regarding capital requirements for banks or bank holding companies, or any change in the interpretation or application thereof by any governmental authority charged with the administration thereof, or (2) compliance by the DIP Lenders or its parent bank holding company with any guideline, request, or directive of any such

entity regarding capital adequacy (whether or not having the force of law), has the effect of reducing the return on the DIP Lender's or such holding company's capital as a consequence of the DIP Lender's Term Loan hereunder to a level below that which the DIP Lender or such holding company could have achieved but for such adoption, change, or compliance (taking into consideration the DIP Lender's or such holding company's then existing policies with respect to capital adequacy and assuming the full utilization of such entity's capital) by any amount reasonably deemed by the DIP Lender to be material, then the DIP Lender may notify the Borrower thereof. Following receipt of such notice, the Borrower agrees to pay the DIP Lender on demand the amount of such reduction of return of capital as and when such reduction is determined, payable promptly after presentation by the DIP Lender to the Borrower of a statement in the amount and setting forth in reasonable detail the DIP Lender's calculation thereof and the assumptions upon which such calculation was based (which statement shall be deemed true and correct absent manifest error). In determining such amount, the DIP Lender may use any reasonable averaging and attribution methods.

(i) In no event will the Borrower have more than 4 interest periods outstanding at any time. If the Agent reasonably determines that the LIBOR Rate is unavailable, then the Term Loan shall bear interest, at a rate per annum equal to the Reference Rate plus 9.00% on the principal amount thereof from the date that the LIBOR Rate became unavailable until such time the Agent determines that the LIBOR Rate is available.

5. Payments. All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds to the Agent at the account as shall be designated in a written notice delivered by the Agent to the Borrower. Each payment made hereunder shall be credited first to interest then due and payable and the remainder of such payment shall be credited to principal, and interest shall thereupon cease to accrue upon the principal so repaid.

6. Optional Prepayments. Subject to the terms and conditions of the Financing Orders and Section 7(f) of this Note, the Borrower shall have the right at any time and from time to time to prepay any Term Loans under this Note in whole or in part (without premium or penalty) upon two (2) Business Days' notice to the Agent; provided that each such prepayment shall be in a minimum amount of \$100,000. Notice of prepayment having been given as aforesaid, the principal amount specified in such notice shall become due and payable on the prepayment date specified therein in the aggregate principal amount specified therein unless such repayment is conditioned on the receipt of any third party funds which are not received. Any prepayment or repayment hereunder shall be accompanied by interest on the principal amount of this Note being prepaid or repaid to the date of prepayment or repayment.

7. Mandatory Prepayments. In each case, subject to the terms and conditions of the Financing Orders and the Budget:

(a) [Reserved].

(b) Immediately upon receipt by any Loan Party of cash proceeds of any asset disposition, unless the Agent agrees otherwise, the Borrower shall prepay the Term Loans in an amount equal to all such proceeds, net of (1) commissions and other reasonable and customary

transaction costs, fees and expenses properly attributable to such transaction and payable by the Borrower or any Loan Party in connection therewith (in each case, paid to non-affiliates), (2) transfer, sales, or similar taxes, and (3) amounts required to be applied to the repayment of debt secured by such assets sold and secured by a Lien that is senior to the Liens securing the Obligations under this Note (such net proceeds, the "Net Cash Proceeds").

(c) If any Loan Party issues any debt or equity securities not permitted under this Note, no later than the Business Day following the date of receipt of the cash proceeds thereof, unless the Agent agrees otherwise, the Borrower shall prepay the Term Loans in an amount equal to all such proceeds, net of underwriting discounts and commissions and other reasonable costs or fees paid to non-affiliates in connection therewith.

(d) Upon the receipt by any Loan Party or any of their Subsidiaries of any Extraordinary Receipts, unless the Agent agrees otherwise, the Borrower shall prepay the outstanding principal of the Term Loans in an amount equal to all such Extraordinary Receipts, net of any expenses incurred in collecting such Extraordinary Receipts.

(e) No Implied Consent. Nothing in this Section 7 shall be construed to constitute the Agent's or any DIP Lender's consent to any transaction that is not permitted by other provisions of this Note or the other DIP Documents.

(f) Application of Payments. The Agent and the DIP Lenders may elect that the proceeds of any optional or mandatory prepayment made pursuant to this Note be applied, in whole or in part, to the Prepetition Obligations.

8. Fees. Borrower shall pay to the Agent for the account of the DIP Lenders the following fees:

(a) Initial Loan Facility Fee. On the date of funding the Initial Loan, the Borrower shall pay to the Agent a facility fee (the "Initial Loan Facility Fee") equal to \$95,000, which shall be fully earned upon the entry of the Interim Order and non-refundable when paid.

(b) Additional Loan Facility Fee. On the date of funding the first Additional Loan after the entry of the Final Order, the Borrower shall pay to the Agent a facility fee (the "Additional Loan Facility Fee") equal to \$155,000, which shall be fully earned upon the entry of the Final Order and non-refundable when paid.

(c) Administration Fee. On or prior to the date of funding of the Initial Loan, the Borrower shall pay to the Agent an administration fee (the "Administration Fee") equal to \$50,000, which shall be fully earned upon the entry of the Interim Order and non-refundable when paid.

9. Indemnity.

(a) The Loan Parties shall indemnify and hold harmless the Agent and each DIP Lender and each of their respective affiliates, and each such Person's respective officers, directors, employees, attorneys, agents and representatives (each, an "Indemnified Person"), from and against any and all suits, actions, proceedings, claims, damages, losses, liabilities and expenses

(including reasonable attorneys' fees and disbursements and other costs of investigation or defense, including those incurred upon any appeal) that may be instituted or asserted against or incurred by any such Indemnified Person as the result of credit having been extended, suspended or terminated under this Note and the other DIP Documents and the administration of such credit, and in connection with or arising out of the transactions contemplated hereunder and thereunder and any actions or failures to act in connection therewith, and legal costs and expenses arising out of or incurred in connection with disputes between the Agent and the DIP Lenders on the one hand and the Loan Parties on the other hand; provided, that (i) the Loan Parties shall not be liable for any indemnification to an Indemnified Person to the extent that any such suit, action, proceeding, claim, damage, loss, liability or expense results solely from such Indemnified Person's breach of a material obligation under this Note or such Indemnified Person's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction and (ii) this Section 9 shall not apply with respect to taxes other than any taxes that represent losses, claims, damages, etc. arising from any non-tax claim. **NO INDEMNIFIED PERSON SHALL BE RESPONSIBLE OR LIABLE TO ANY OTHER PARTY, ANY SUCCESSOR, ASSIGNEE OR THIRD PARTY BENEFICIARY OF SUCH PERSON OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES THAT MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED OR TERMINATED UNDER ANY DIP DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR THEREUNDER.**

10. Adjustments for Withholding, Capital Adequacy Etc. All payments to the Agent by the Borrower under this Note shall be made free and clear of and without deduction or withholding for any and all taxes, duties, levies, imposts, deductions, charges or withholdings and all related liabilities (all such taxes, duties, levies, imposts, deductions, charges, withholdings and liabilities being referred to as "Taxes") imposed by the United States of America or any other nation or jurisdiction (or any political subdivision or taxing authority of either thereof), unless such Taxes are required by applicable law to be deducted or withheld. If the Borrower shall be required by applicable law to deduct or withhold any such Taxes from or in respect of any amount payable under this Note other than taxes imposed on the Agent or any DIP Lender's overall net income, then (A) if such Tax is an Indemnified Tax, the amount payable shall be increased as may be necessary so that after making all required deductions or withholdings, (including deductions or withholdings applicable to any additional amounts paid under this Note) the Agent receives an amount equal to the amount it would have received if no such deduction or withholding had been made, (B) the Borrower shall make such deductions or withholdings, and (C) the Borrower shall timely pay the full amount deducted or withheld to the relevant governmental entity in accordance with applicable law.

If the effect of the adoption, effectiveness, phase-in or applicability after the date hereof of any law, rule or regulation (including without limitation any tax, duty, charge or withholding on or from payments due from the Borrower (but excluding Indemnified Taxes, Excluded Taxes, and taxation on the overall net income of the DIP Lenders)), or any change therein or in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, is to reduce the rate of return on the capital of the Agent with respect to this Note or to increase the cost to the Agent of making or maintaining amounts available under this Note, the Borrower agrees to pay to the

Agent such additional amount or amounts as will compensate the Agent on an after-tax basis for such reduction or increase.

The Borrower agrees to timely pay any present or future stamp or documentary taxes or any other excise or property taxes, charges, financial institutions duties, debits taxes or similar levies (all such taxes, charges, duties and levies being referred to as "Other Taxes") which arise from any payment made by the Borrower under this Note or from the execution, delivery or registration of, or otherwise with respect to, this Note.

The Borrower shall indemnify the Agent and each of the DIP Lenders for the full amount of Indemnified Taxes (including, without limitation, any Indemnified Taxes imposed by any jurisdiction on amounts payable by the Borrower hereunder) paid by the Agent or any DIP Lender and any liability (including penalties, interest and expenses) arising from or with respect to such Indemnified Taxes paid by the Agent or any DIP Lender, whether or not they were correctly or legally asserted, excluding taxes imposed on the Agent or any DIP Lender's overall net income. Payment under this indemnification shall be made upon demand. A certificate as to the amount of such Indemnified Taxes submitted to the Borrower by the Agent shall be conclusive evidence, absent manifest error, of the amount due from the Borrower to the DIP Lenders.

The Borrower shall furnish to the DIP Lenders the original or a certified copy of a receipt evidencing any payment of Taxes made by the Borrower pursuant to this Section 10 within thirty (30) days after the date of any such payment. If any Recipient becomes aware that it has received a refund of any Taxes with respect to which the Borrower has paid any amount pursuant to this Section 10, such Recipient shall pay the amount of such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such Recipient and without interest (other than any interest received from the relevant governmental authority with respect thereto), to the Borrower promptly after receipt thereof.

Any Recipient of a payment hereunder shall, to the extent it is legally entitled to do so, deliver to the Borrower on or prior to the date hereof (and from time to time thereafter upon the reasonable request of the Borrower), two properly completed and executed copies of IRS Forms W-8 or W-9 and properly completed and executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding tax, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction (if any) required to be made. In addition, any such Recipient, if reasonably requested by the Borrower, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower as will enable the Borrower to determine whether or not such Recipient is subject to backup withholding or information reporting requirements. Each Recipient agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall timely update such form or certification or promptly notify the Borrower in writing of its legal inability to do so.

11. Priority of Obligations and DIP Lenders' Liens.

(a) To secure all of the Borrower's Obligations now existing or hereafter

arising, the Agent, for the benefit of itself and the DIP Lenders, is granted, effective as of the Order for Relief Date: (i) subject to the Carve-Out, an allowed super-priority administrative expense claim against each of the Borrower and Guarantors (jointly and severally) pursuant to Section 364(c)(1) of the Bankruptcy Code, and except as set forth in the Financing Orders, having a priority over any and all other claims and costs and expenses of administration of any kind whatsoever, whether now existing or hereafter arising, including, without limitation, those specified in, ordered pursuant to or arising under, *inter alia*, sections 105, 326, 328, 330, 331, 363, 364, 503, 506, 507, 546, 726, 1113 or 1114 or any other provision of the Bankruptcy Code or otherwise (whether incurred in these Chapter 11 Cases and any Successor Case), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy, or attachment, which allowed superpriority administrative claim (x) shall at all times be senior to the rights of the Debtors, any successor trustee or estate representative, or any other creditor or party in interest in the Chapter 11 Cases or any Successor Case, (y) shall be, for purposes of section 1129(a)(9)(A) of the Bankruptcy Code, considered an administrative expense allowed under section 503(b) of the Bankruptcy Code, and (z) shall be payable from and have recourse to all prepetition and postpetition property, whether existing as of the Order for Relief Date or thereafter acquired, of the Debtors and all proceeds thereof; and (ii) (x) pursuant to Sections 364(c)(2) of the Bankruptcy Code, Liens on, and security interests in, the Collateral, that are first and senior in priority to all other Liens on, and security interests in, the Collateral that was not encumbered by a valid, enforceable, properly perfected and non-avoidable Lien as of the Order for Relief Date, subject only to the Carve-Out, and (y) pursuant to sections 364(c)(3) and 364(d) of the Bankruptcy Code, priming Liens on, and security interests in, all other Collateral, subject only to the Carve-Out and Permitted Prior Liens. Except as set forth in the Financing Orders, the security interests and Liens granted to the Agent hereunder shall not be (i) subject to any Lien or security interest which is avoided and preserved for the benefit of the Loan Parties' estate under Section 551 of the Bankruptcy Code, or (ii), subordinated to or made pari passu with any other Lien or security interest under Section 364(d) of the Bankruptcy Code or otherwise.

(b) The priority of the Agent's Liens on the Collateral shall be as set forth in the Financing Orders.

(c) Notwithstanding anything herein to the contrary (i) all proceeds received by the Agent and the DIP Lenders from the Collateral subject to the Liens granted in this Section 11 and in each other DIP Document, including the Financing Orders shall be subject to the Carve-Out, and (ii) no Person entitled to the Carve-Out shall be entitled to sell, or otherwise dispose, or seek or object to the sale or other disposition of, any Collateral.

(d) Each of the Loan Parties agrees for itself that the Obligations of such Person shall constitute allowed administrative expenses in the Chapter 11 Cases, having priority over all administrative expenses of and unsecured claims against such Person now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, all administrative expenses of the kind specified in, or arising or ordered under, Sections 105, 326, 328, 330, 331, 363, 364, 365, 503, 506, 507, 546, 726, 1113 and/or 1114 of the Bankruptcy Code, except as set forth in the Financing Orders.

(e) The Agent's Liens on the Collateral and the super-priority administrative claim under Section 364(c) of the Bankruptcy Code afforded the Obligations and the Guaranteed

Obligations shall, following the occurrence and during the continuation of an Event of Default, be subject to the Carve-Out, in accordance with the Financing Orders.

12. Further Assurances. Each Loan Party agrees that it shall, at its expense and upon the reasonable request of the Agent, duly execute and deliver or cause to be duly executed and delivered, to the Agent or such DIP Lender, as the Agent shall direct such Loan Party such further instruments and do and cause to be done such further acts as may be necessary or proper in the reasonable opinion of the Agent to carry out more effectively the provisions and purposes of this Note or any other DIP Document, including, upon the written request of the Agent and in form and substance reasonably satisfactory to the Agent, security agreements, UCC-1 financing statements and other Collateral Documents confirming and perfecting the granting to the Agent, on behalf of the DIP Lenders, of the Liens (subject to the Financing Orders) in the Collateral to secure the Obligations.

13. Reports and Notices. The Loan Parties agree that they shall deliver (which delivery may be made by electronic communication (including email)) to the Agent each of the reports and other items (without duplication) set forth on Schedule 13 and in the Financing Orders no later than the times specified therein. The Parent agrees not to, and agrees to cause each of its Subsidiaries not to, change its fiscal year. In addition, the Parent agrees to, and agrees to cause each of its Subsidiaries to, maintain a system of accounting that enables the Parent and such Subsidiaries to produce financial statements in accordance with GAAP in all material respects.

14. Affirmative Covenants.

The Parent and its Subsidiaries agree that:

(a) Upon request of the Agent, the Parent and its Subsidiaries will permit any officer, employee, attorney or accountant or agent of the Agent to audit, review, make extracts from or copy, at the Parent's and its Subsidiaries' expense, any and all corporate and financial and other books and records of the Parent and its Subsidiaries at all times during ordinary business hours and, in the absence of an Event of Default, upon reasonable advance notice and to discuss the Parent's and its Subsidiaries' affairs with any of their directors, officers, employees, attorneys, or accountants. The Parent and its Subsidiaries will permit the Agent, or any of its officers, employees, accountants, attorneys or agent, to examine and inspect any Collateral or any other property of the Parent and its Subsidiaries at any time during ordinary business hours and, in the absence of an Event of Default, upon reasonable prior notice. Notwithstanding the foregoing, none of the Parent or any of its Subsidiaries will be required to disclose information to the Agent (or any agent or representative thereof) that is prohibited by applicable law or is subject to attorney-client or similar privilege or constitutes attorney work product.

(b) (A) The Parent and its Subsidiaries will comply with all requirements of applicable law, the non-compliance with which could reasonably be expected to have a Material Adverse Effect and (B) the Parent and its Subsidiaries will obtain, maintain in effect and comply with all contracts and all permits, licenses and similar approvals necessary for the operation of their respective businesses as now or hereafter conducted other than to the extent contemplated by the Budget, the Sale Motion or the Financing Orders.

(c) The Parent and its Subsidiaries will pay or discharge, when due, (i) all taxes, assessments and governmental charges levied or imposed upon them or upon their respective income or profits, upon any respective properties of the Parent and its Subsidiaries (including, without limitation, the Collateral) or upon or against the creation, perfection or continuance of the security interest, prior to the date on which penalties attach thereto, except in each case (1) where the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Parent and its Subsidiaries (as applicable) and (2) taxes the nonpayment of which is permitted or required by the Bankruptcy Code or this Note, (ii) all federal, state and local taxes required to be withheld by them, and (iii) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien or charge upon any respective properties of the Parent and its Subsidiaries.

(d) (i) The Parent and each of its Subsidiaries will keep and maintain the Collateral and all of their respective other properties necessary or useful in their respective businesses in good condition, repair and working order (normal wear and tear excepted) other than to the extent contemplated by the Budget, any Sale Order or the Financing Orders, (ii) the Parent and each of its Subsidiaries will defend the Collateral against all claims or demands of all Persons (other than Permitted Encumbrances) claiming the Collateral or any interest therein, and (iii) the Parent and each of its Subsidiaries will keep all Collateral free and clear of all security interests, liens and encumbrances, except Permitted Encumbrances and other than to the extent contemplated by any Sale Order or the Financing Orders.

(e) The Parent and its Subsidiaries will obtain and at all times maintain insurance with responsible and reputable insurers, in such amounts and against such risks as may be required by the Prepetition Facility whether or not such facility remains in effect. Without limiting the generality of the foregoing, the Parent and its Subsidiaries will at all times keep all tangible Collateral insured against such risks as may be required by the Prepetition Facility whether or not such facility remains in effect, with any loss payable to the Agent to the extent of its interest and subject to the Financing Orders, and shall provide within 10 days of the Closing Date (as may be extended by the Agent in its sole discretion) that all policies of such insurance shall contain a loss payable endorsement in favor of the Agent and subject to the Financing Orders, in form and substance acceptable to the Agent in its sole discretion. The Parent and its Subsidiaries shall use commercially reasonable efforts to provide within 10 days of the Closing Date (as may be extended by the Agent in its sole discretion) that all policies of liability insurance required hereunder shall name the Agent as an additional insured.

(f) The Parent and its Subsidiaries will preserve and maintain their existence and all of their rights, privileges and franchises necessary or desirable in the normal conduct of their business, except to the extent contemplated by the Budget, the Sale Motion or the Financing Orders.

(g) The Parent and its Subsidiaries shall at all times operate their businesses in a manner consistent with the Budget except to the extent of any Permitted Variance.

(h) The Parent and its Subsidiaries each agree that they shall take all actions necessary to cause each of the following to occur (each a "Milestone" and collectively, the "Milestones"):

(1) no later than 2 Business Days after the Order for Relief Date, the Interim Order approving this Note shall be entered by the Bankruptcy Court;

(2) no later than 30 days after the entry of the Interim Order, the Final Order approving this Note and the financing contemplated hereby shall be entered by the Bankruptcy Court;

(3) no later than February 18, 2020, the Loan Parties shall file one or more motions (together with all exhibits, annexes and related documents, the "Sale Motion"), in form and substance reasonably acceptable to the Agent, which Sale Motion shall be in form and substance acceptable to the Agent in its sole discretion, seeking entry of orders (x) establishing bidding procedures (the "Bid Procedures") for the sale(s) of all or substantially all of the Loan Parties' assets (such order, together with all exhibits, annexes and related documents, the "Bid Procedures Order"), which Bid Procedures Order shall be in form and substance acceptable to the Agent in its sole discretion, and (y) approving the sale(s) of all or substantially all the assets of the Loan Parties (any such order, together with all exhibits, annexes and related documents, the "Sale Order"), which Sale Order shall be in form and substance acceptable to the Agent in its sole discretion;

(4) no later than February 24, 2020, the Loan Parties shall have received one or more letters of intent from potential bidders, each in form and substance acceptable to the Agent in its sole discretion;

(5) no later than March 11, 2020, the hearing on the Sale Motion as it relates to the approval of the Bid Procedures and entry of the Bid Procedures Order shall be held;

(6) no later than March 13, 2020, the Loan Parties shall obtain entry of the Bid Procedures Order in form and substance acceptable to the Agent in its sole discretion;

(7) no later than April 17, 2020, the Loan Parties shall have received one or more Qualified Bid(s) (as defined in the Bid Procedures), each in form and substance acceptable to the Agent in its sole discretion;

(8) to the extent required under the Bid Procedures Order and more than one Qualified Bid is received by the Bid Deadline (as defined in the Bid Procedures), not later than April 20, 2020, the Loan Parties shall commence an auction in accordance with the Bid Procedures Order, and after consultation with and approval by the Agent, select the successful bid(s);

(9) no later than April 23, 2020, the hearing on the Sale Motion as it relates to the approval of the sale(s) of all or substantially all of the Loan Parties' assets and entry of the Sale Order shall be held;

(10) no later than April 29, 2020, the Bankruptcy Court shall have entered Sale Order, in form and substance acceptable to the Agent in its sole discretion, which Sale Order, among other things, (x) authorizes the sale(s) of the Loan Parties' assets

free and clear of all liens, claims and interests (other than those expressly preserved in the Sale Order) and (y) contains the "good faith" protections pursuant to Bankruptcy Code section 363(m) (the "Approved Sale(s)"); and

(11) no later than May 8, 2020, the Approved Sale(s) shall have been consummated and all proceeds of such sales applied in accordance with the Financing Orders; provided, that the dates set forth in clauses (7), (8) and (9) of this Section 14(h) may be extended by the Debtors in the exercise of their business judgment after consultation with the Committee and the Agent.

15. Negative Covenants.

The Parent and its Subsidiaries each agree that, without the prior written consent of the Agent:

(a) Neither the Parent nor any of its Subsidiaries shall directly or indirectly, by operation of law or otherwise, (i) form or acquire any Subsidiary, or (ii) merge with, consolidate with, acquire all or substantially all of the assets or Equity Interests of, or otherwise combine with or acquire, any Person, except in the case of this clause (ii), with respect to existing Subsidiaries to the extent consented to by the Agent.

(b) Neither the Parent nor any of its Subsidiaries shall create, incur, assume or permit to exist any Indebtedness, except (without duplication), to the extent not prohibited by the Financing Orders, Permitted Indebtedness.

(c) Neither the Parent nor any of its Subsidiaries shall enter into, renew, extend or be a party to, or permit any of its Subsidiaries to enter into, renew, extend or be a party to, any transaction with any affiliate, except transactions otherwise expressly permitted by this Note.

(d) Neither the Parent nor any of its Subsidiaries shall create, incur, assume or permit to exist any Lien on or with respect to any of its properties or assets (whether now owned or hereafter acquired) except for Permitted Encumbrances or as expressly permitted by the Financing Orders.

(e) Neither the Parent nor any of its Subsidiaries shall (a) make any Restricted Payment, except dividends and distributions by Subsidiaries of the Parent paid to the Parent or other wholly-owned Subsidiaries of the Parent and (b) make any payment in respect of, or repurchase, redeem, retire or defease any, prepetition Indebtedness, except pursuant to the terms of the Financing Orders and as permitted under this Note.

(f) Neither the Parent nor any of its Subsidiaries will assume, guarantee, endorse or otherwise become directly or contingently liable in connection with any obligations of any other Person (other than the Parent or any of its Subsidiaries), except the endorsement of negotiable instruments by Parent and its Subsidiaries for the deposit or collection or similar transactions in the ordinary course of business.

(g) Neither the Parent nor any of its Subsidiaries will convey, sell, lease, assign, transfer or otherwise dispose of any of its property, business or assets, whether now owned or

hereinafter acquired other than (a) the sale of Inventory in the ordinary course of business, (b) the sale or disposition of obsolete equipment, (c) the sale of other property on terms acceptable to the Agent in its sole discretion, and (d) the transfer, sale or disposition of assets approved by an order of the Bankruptcy Court, which order shall be in form and substance acceptable to the Agent in its sole discretion.

(h) Neither the Parent nor any of its Subsidiaries shall consent to any amendment, supplement or other modification of any of the terms or provisions contained in, or applicable to, (a) any of the Financing Orders, (b) the Prepetition Obligations or (c) Material Contracts. Except for (i) claims of employees for unpaid wages, bonuses, accrued vacation and sick leave time, business expenses and contributions to employee benefit plans for the period immediately preceding the Order for Relief Date and prepetition severance obligations, in each case to the extent permitted to be paid by an order of the Bankruptcy Court (which order shall be in form and substance acceptable to the Agent in its sole discretion) and pursuant to the Budget, and (ii) payments permitted by the Financing Orders and the Budget, neither the Parent nor any of its Subsidiaries shall make any payment in respect of, or repurchase, redeem, retire or defease any, prepetition Indebtedness, except for other payments consented to by the Agent in writing in its sole discretion or applied by the Agent to any Prepetition Obligations as provided for under this Note.

(i) Neither the Parent nor any of its Subsidiaries shall make any investment in, or make loans or advances of money to, any Person, through the direct or indirect lending of money, holding of securities or otherwise.

16. Events of Default; Rights and Remedies. Notwithstanding the provisions of Section 362 of the Bankruptcy Code and without application or motion to the Bankruptcy Court, the occurrence of any one or more of the following events (regardless of the reason therefor) shall constitute an "Event of Default" hereunder:

A. Any Loan Party (i) shall fail to make any payment of principal of, or interest on, or fees owing in respect of, the Term Loans or any of the other Obligations when due and payable, or (ii) shall fail to pay or reimburse the Agent on behalf of the DIP Lenders for any expense reimbursable hereunder or under any other DIP Document within three (3) Business Days following the Agent's demands for such reimbursement or payment.

B. Any Loan Party shall fail to comply with any of the provisions of (i) Sections 13, 14(b), 14(c), 14(d), 14(e) or 14(f) of this Note and such failure shall remain uncured for a period of one (1) Business Day, or (ii) Section 14(a) of this Note and such failure shall remain uncured for a period of three (3) Business Days, or (iii) Section 15 of this Note or any material provision of the Guaranty.

C. Any Loan Party shall fail to comply with any of other provision of this Note or any of the other DIP Documents (other than any provision embodied in or covered by any other clause of this Section 16) and the same (other than the provisions covered by Section 14(h)), if capable of being remedied, shall remain unremedied for ten (10) days after the earlier of the date a senior officer or any Loan Party becomes aware of such failure and the date written notice of such default shall have been given by the Agent to such Loan Party.

D. Except for defaults occasioned by the filing of the Chapter 11 Cases and defaults resulting from obligations with respect to which the Bankruptcy Code prohibits any Loan Party from complying or permits any Loan Party not to comply, a default or breach shall occur under any other agreement, document or instrument to which any Loan Party is a party that is not cured within any applicable grace period therefor, and such default or breach (i) involves the failure to make any payment when due in respect of any Indebtedness (other than the Obligations) of any Loan Party in excess of \$50,000 in the aggregate, or (ii) causes, or permits any holder of such Indebtedness or a trustee to cause, Indebtedness or a portion thereof in excess of \$50,000 in the aggregate to become due prior to its stated maturity or prior to its regularly scheduled dates of payment, regardless of whether such default is waived, or such right is exercised, by such holder or trustee.

E. Any representation or warranty herein or in any other DIP Document or in any written statement, report, financial statement or certificate made or delivered to DIP Lenders by any Loan Party is untrue or incorrect in any material respect (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of the date when made or deemed made.

F. Any Loan Party shall bring a motion in any Chapter 11 Case: (i) to obtain financing from any Person other than DIP Lenders under Section 364(c) or 364(d) of the Bankruptcy Code, except to the extent the proceeds of such financing would be used to indefeasibly repay in full in cash all of the Obligations under this Note; (ii) to grant any Lien other than Permitted Encumbrances upon or affecting any Collateral, except to the extent the proceeds of any such financing secured by such Lien would be used to indefeasibly repay in full in cash all of the Obligations under this Note; (iii) [reserved]; or (iv) to authorize any other action or actions adverse to the Agent or the DIP Lenders, or the Agent's and/or the DIP Lenders' rights and remedies hereunder or their interests in the Collateral.

G. The entry of an order in any of the Chapter 11 Cases confirming a plan or plans of reorganization that does not contain a provision for the termination of the DIP Lenders' commitment to make Term Loans and the indefeasible repayment in full in cash of all the Obligations under this Note and the obligations under the Prepetition Facility on or before the effective date of such plan or plans and that is not otherwise acceptable to the Agent in its sole discretion.

H. The filing of any motion by the Borrower or any other Loan Party seeking, or the entry of any order in the Chapter 11 Cases in respect of, any claim or claims under Section 506(c) of the Bankruptcy Code against or with respect to any Collateral.

I. The sale without the Agent's consent in its sole discretion, of all or substantially all of Borrower's assets either through a sale under Section 363 of the Bankruptcy Code, through a confirmed plan of reorganization in the Chapter 11 Cases, or otherwise, that does not provide for the indefeasible payment in full in cash of the Obligations and the obligations under the Prepetition Facility and termination of the DIP Lenders' commitment to make Term Loans, and is not otherwise acceptable to the Agent in its sole discretion.

J. The occurrence of any postpetition judgments, liabilities or events that,

individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

K. The entry by the Bankruptcy Court of an order authorizing the appointment of an interim or permanent trustee in the Chapter 11 Cases or the appointment of an examiner in the Chapter 11 Cases with expanded powers to operate or manage the financial affairs, business, or reorganization of any Loan Party.

L. The Chapter 11 Cases, or any of them, shall be dismissed or converted from cases under Chapter 11 to cases under Chapter 7 of the Bankruptcy Code.

M. The entry of an order in any Chapter 11 Case avoiding or requiring repayment of any portion of the payments made on account of the Obligations owing under this Note or the other DIP Documents.

N. The entry of an order in any Chapter 11 Case granting any other super-priority administrative claim or Lien equal to or superior to that granted to the Agent (other than any such claim or Lien permitted by the Financing Orders), unless (i) consented to by the Agent in its sole discretion or (ii) the Obligations and the obligations under the Prepetition Facility are indefeasibly paid in full in cash and the DIP Lenders' commitment to make Term Loans is terminated.

O. The entry of an order by the Bankruptcy Court granting relief from or modifying the automatic stay of Section 362 of the Bankruptcy Code to allow any creditor (other than the Agent) to execute upon or enforce a Lien on any Collateral except with respect to Permitted Encumbrances arising prior to the Order for Relief Date in an aggregate amount not to exceed \$50,000.

P. The Financing Orders (or either of them) shall be stayed, amended, modified, reversed or revoked in any respect without the Agent's prior written consent (which consent shall be in its sole discretion).

Q. There shall commence any suit or action against the Agent or any DIP Lender by or on behalf of (i) any Loan Party or (ii) any official committee in the Chapter 11 Cases, in each case, that asserts a claim or seeks a legal or equitable remedy that would have the effect of subordinating the claim or Lien of DIP Lenders and, if such suit or action is commenced by any Person other than any Loan Party, officer, or employee of any Loan Party, such suit or action shall not have been dismissed or stayed within 10 days after service thereof on the Agent or any DIP Lender, as applicable, and, if stayed, such stay shall have been lifted.

R. Failure of the Loan Parties to comply with any Milestone set forth in Section 14(h), except to the extent any such Milestone has been extended by order of the Bankruptcy Court.

S. Any provision of any DIP Document shall for any reason cease to be valid, binding and enforceable in accordance with its terms (or any Loan Party shall challenge the enforceability of any DIP Document or shall assert in writing, or engage in any action or inaction based on any such assertion, that any provision of any DIP Document has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms), or any Lien created under any DIP Document shall cease to be a valid and perfected first priority Lien (except as otherwise

permitted herein or in the Financing Orders) in any of the Collateral purported to be covered thereby.

T. Termination of the use of Cash Collateral pursuant to the terms of the Financing Orders.

U. Assets of any Loan Party with a fair market value of \$100,000 or more are attached, seized, levied upon or subjected to a writ or distress warrant, or come within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors of any Loan Party and such condition continues for ten (10) days or more.

V. A breach by any Loan Party of any of the terms of any of the Financing Orders.

W. A Material Adverse Deviation shall have occurred.

X. Entry of an order authorizing and/or directing the reclamation of goods pursuant to section 546(c) of the Bankruptcy Code.

Y. The Final Order shall not have been entered by the Bankruptcy Court on or before March 25, 2020.

Z. The Loan Parties terminate or fail to continue to retain on terms and conditions (including scope of authority) reasonably acceptable to the Agent (1) Huron Consulting Group, as chief transformation officer of the Loan Parties or (2) Jefferies LLC, as investment banker and financial advisor to the Loan Parties.

If any Event of Default shall have occurred and be continuing, then the Agent may, upon written notice to the Borrower and subject to the terms of the Financing Orders: (i) terminate the Commitment of each DIP Lender with respect to further Term Loans; (ii) declare all or any portion of the Obligations, including all or any portion of any Term Loan, to be forthwith due and payable; (iii) revoke the Borrower's and the other Loan Parties' rights to use Cash Collateral in which the Agent and the DIP Lenders have an interest; and (iv) exercise any rights and remedies under the DIP Documents or at law or in equity, all in accordance with the Financing Orders. Upon the occurrence of an Event of Default and the exercise by the Agent or the DIP Lenders of their rights and remedies under this Note and the other DIP Documents pursuant to clause (iv) above and subject to the Financing Orders, each Loan Party shall assist the Agent in effecting a sale or other disposition of the Collateral upon such terms as are designed to maximize the proceeds obtainable from such sale or other disposition.

Except as otherwise provided for in this Note or by applicable law, each Loan Party waives: (a) presentment, demand and protest and notice of presentment, dishonor, notice of intent to accelerate, notice of acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper, accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by the Agent on which any such Loan Party may in any way be liable, and hereby ratifies and confirms whatever the Agent may do in this regard; (b) all rights to notice and a hearing prior to the Agent taking possession or control of, or Agent's replevy, attachment or levy upon, the Collateral or any bond or security that

might be required by any court prior to allowing Agent to exercise any of its remedies; and (c) the benefit of all valuation, appraisal, marshaling and exemption laws.

To the extent permitted by law and subject in all respects to the terms of the Financing Orders, the Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under section 9-207 of the Uniform Commercial Code or otherwise, shall be to deal with it in the same manner as Agent deals with similar securities and property for its own account, the Agent's duty of care with respect to Collateral in the custody or possession of a bailee or other third person shall be deemed fulfilled if the Agent exercises reasonable care in the selection of the bailee or other third person, and the Agent need not otherwise preserve, protect, insure or care for any Collateral, and the Agent shall not be obligated to preserve any rights any Loan Party may have against prior parties.

17. Reference Agreements. This Note evidences the Term Loans that may be made to Borrower from time to time in the aggregate principal amount outstanding of up to \$10,000,000 and is issued pursuant to and entitled to the benefits of the Financing Orders, to which reference is hereby made for a more complete statement of the terms and conditions under which the Term Loans evidenced by this Note are made and are to be repaid.

18. Definitions. The following terms used in this Note shall have the following meanings (and any of such terms may, unless the context otherwise requires, be used in the singular or the plural depending on the reference):

"Additional Loan Facility Fee" shall have the meaning given such term in Section 8 of this Note.

"Bankruptcy Code" shall have the meaning given such term in the recital to this Note.

"Bankruptcy Court" shall have the meaning given such term in the recital to this Note.

"Borrower" shall have the meaning given such term in the recital to this Note.

"Budget" means a rolling thirteen (13) week forecast of projected receipts, disbursements, net cash flow, liquidity, loans and availability for the immediately following consecutive 13 weeks after the date of delivery, which shall be in substantially the form of the Initial Budget or otherwise in form and substance acceptable to the Agent in its sole discretion and shall be approved by the Agent in its sole discretion. The initial Budget, which shall be in form and substance acceptable to, and approved by, the Agent in its sole discretion (the "Initial Budget") is attached hereto as Exhibit A.

"Business Day" means any day other than a Saturday, Sunday or legal holiday under the laws of the State of New York or any other day on which banking institutions located in the State of New York are authorized or required by law or other governmental action to close.

"Carve-Out" shall have the meaning given such term in the Financing Orders.

"Cash Collateral" shall have the meaning given such term in the Financing Orders, and shall include "cash collateral" as that phrase is defined in Section 363(a) of the Bankruptcy Code.

"Chapter 11 Case" and "Chapter 11 Cases" shall have the respective meanings given such terms in the recital to this Note.

"Closing Date" means the Business Day when each of the conditions applicable to the making of the Initial Loan and listed in Section 2 of this Note shall have been satisfied or waived in a manner satisfactory to the Agent.

"Collateral" shall mean the assets and property covered by the Financing Orders and the other Collateral Documents and any other assets and property, real or personal, tangible or intangible, now existing or hereafter acquired, that may at any time be or become subject to a security interest or Lien in favor of the Agent on behalf of the DIP Lenders, to secure the Obligations and the Guaranteed Obligations, and shall include DIP Collateral (as defined in the Financing Orders). Without limiting the foregoing, the Collateral shall include all present and future property of each Loan Party under Section 541(a) of the Bankruptcy Code and all proceeds thereof.

"Collateral Documents" shall mean any agreement entered into pursuant to Section 12 hereof and all similar agreements entered into guaranteeing payment of, or granting a Lien upon property as security for payment of, the Obligations and the Guaranteed Obligations, each in form and substance acceptable to the Agent in its sole discretion, including the Financing Orders and the Guaranty.

"Committee" shall have the meaning given to such term in the Financing Orders.

"Commitment" means, with respect to each DIP Lender, the commitment of such DIP Lender to make its portion of the Term Loans to the Borrower in the principal amount set forth on the signature page to this Note for each DIP Lender, as the same may be terminated or reduced from time to time in accordance with the terms of this Note.

"Debtors" shall have the meaning given to such term in the Financing Orders.

"Default" means an event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Default Rate" shall have the meaning given such term in Section 4(d) of this Note.

"DIP Documents" shall mean this Note, the Collateral Documents, the Guaranty, the Financing Orders, and all other agreements, instruments, documents and certificates executed and delivered to, or in favor of the Agent and including all other pledges, powers of attorney, consents, assignments, contracts, notices, and all other written matter whether heretofore, now or hereafter executed by or on behalf of any Loan Party, or any employee of any Loan Party, and delivered to the Agent in connection with this Note or the transactions contemplated thereby, in each case in form and substance acceptable to the Agent in its sole discretion. Any reference in this Note or any other DIP Document to a DIP Document shall include all appendices, exhibits or

schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to such DIP Document as the same may be in effect at any and all times such reference becomes operative.

"DIP Lenders" shall have the meaning given such term in the recital to this Note.

"Dollars" or "\$" shall mean lawful currency of the United States of America.

"Equity Interests" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Event of Default" shall have the meaning given such term in Section 16 of this Note.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any DIP Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof), (b) in the case of a DIP Lender, federal withholding Taxes imposed on amounts payable to or for the account of such DIP Lender with respect to an applicable interest in a Term Loan or Commitment pursuant to a law in effect on the date on which (i) such DIP Lender acquires such interest in the Term Loan or Commitment or (ii) such DIP Lender changes its lending office, except in each case to the extent that, pursuant to Section 10, amounts with respect to such Taxes were payable either to such DIP Lender's assignor immediately before such DIP Lender became a party hereto or to such DIP Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to provide the Borrower with the tax documentation described in Section 10 hereof and (d) any withholding Taxes imposed under FATCA.

"Extraordinary Receipts" means any cash received by the Parent or any of its Subsidiaries not in the ordinary course of business (and not consisting of proceeds described Sections 7(b) and (c) hereof), including, without limitation, (i) foreign, United States, state or local tax refunds, (ii) pension plan reversions, (iii) proceeds of insurance, (iv) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action, (v) condemnation awards (and payments in lieu thereof), (vi) indemnity payments and (vii) any purchase price adjustment received in connection with any purchase agreement.

"FATCA" means Sections 1471 through 1474 of the Internal Revenue 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 Internal Revenue 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 Internal Revenue Code.

"Final Order" shall mean the order of the Bankruptcy Court entered in the Chapter 11 Cases after a final hearing pursuant to Section 364 of the Bankruptcy Code and Bankruptcy

Rule 4001, satisfactory in form and substance to the Agent in its sole discretion, together with all extensions, modifications and amendments thereto (which extensions, modifications and/or amendments are satisfactory in form and substance to the Agent in its sole discretion), authorizing Borrower to obtain credit, incur Indebtedness, and grant Liens under this Note and/or certain financing documentation, all as set forth in such order.

"Financing Orders" shall mean, collectively, the Interim Order and the Final Order.

"GAAP" shall mean generally accepted accounting principles in the United States of America.

"Guaranteed Obligations" shall mean the obligations to be guaranteed by each Guarantor pursuant to the terms of the Guaranty.

"Guarantor" shall have the meaning given such term in the recital to this Note.

"Guaranty" shall mean a guaranty of the Guarantors, in form and substance satisfactory to the Agent in its sole discretion, with respect to the Obligations.

"Indebtedness" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Indemnified Person" shall have the meaning given such term in Section 9 of this Note.

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

"Initial Loan Facility Fee" shall have the meaning given such term in Section 8 of this Note.

"Interim Order" shall mean the interim order of the Bankruptcy Court entered in the Chapter 11 Cases after an interim hearing (assuming satisfaction of the standards prescribed in Section 364 of the Bankruptcy Code and Bankruptcy Rule 4001 and other applicable law), together with all extensions, modifications and amendments thereto, satisfactory in form and substance to the Agent in its sole discretion, authorizing, on an interim basis, Borrower to execute and perform under the terms of this Note and the other DIP Documents.

"Inventory" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"LIBOR Rate" means "LIBOR Rate" as such term is (i) applicable to the Term Loan (as defined in the Prepetition Credit Agreement) and (ii) defined in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"LIBOR Rate Loan" means each portion of a Term Loan that bears interest at a rate determined by reference to the LIBOR Rate.

"Lien" shall mean any mortgage or deed of trust, pledge, hypothecation, assignment, deposit arrangement, lien, charge, claim, security interest, easement or encumbrance, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any lease or any financing lease having substantially the same economic effect as any of the foregoing, and the filing of, or agreement to give, any financing statement perfecting a security interest under the Uniform Commercial Code or comparable law of any jurisdiction).

"Loan Party" means the Borrower and any Guarantor.

"Material Adverse Deviation" means, as of any date of determination, an adverse deviation of more than the Permitted Variance from the aggregate amount set forth in the following line items of the Budget: (i) "Total disbursements" for the following periods: the 2 weeks ending on March 13, 2020, the 3 weeks ending on March 20, 2020, the 4 weeks ending on March 27, 2020 and each rolling 4 week period thereafter and (ii) "Cash Receipts" for the following periods: the 2 weeks ending on March 13, 2020, the 3 weeks ending on March 20, 2020, the 4 weeks ending on March 27, 2020 and each rolling 4 week period thereafter.

"Material Adverse Effect" means a material adverse effect on (i) the operations, business, assets, properties or condition (financial or otherwise) of the Loan Parties taken as a whole, (ii) the ability of any Loan Party to perform any of its payment or other material obligations under any DIP Document to which it is a party, (iii) the legality, validity or enforceability of this Note or any other DIP Document, (iv) the rights and remedies of the Agent and the DIP Lenders under any DIP Document, or (v) the validity, perfection or priority of a Lien in favor of DIP Lenders on any of the Collateral.

"Material Contract" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Maturity Date" means the earliest to occur of (i) the date that is 120 days following February 6, 2020, (ii) March 25, 2020, if the Final Order has not been entered by the Bankruptcy Court on or prior to such date, (iii) the consummation of a sale of all or substantially all of the Loan Parties' assets, (iv) the substantial consummation of a plan of reorganization filed in the Chapter 11 Cases that is confirmed pursuant to an order of the Bankruptcy Court, (v) the filing of a motion by any of the Loan Parties seeking dismissal of any of the Chapter 11 Cases, (vi) the dismissal of any of the Chapter 11 Cases, (vii) the filing of a motion by any of the Loan Parties seeking to convert of any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code, (viii) the conversion of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code, (ix) the date on which the Term Loans are accelerated pursuant to Section 16 or (x) any other event set forth in the Financing Orders and/or the other DIP Documents as triggering a Maturity Date.

"Maximum Amount" shall have the meaning given such term in Section 1 of this Note.

"Milestones" shall have the meaning given such term in Section 14 of this Note.

"Note" shall have the meaning given such term in the recital to this Note.

"Obligations" shall mean all loans, advances, debts, liabilities and obligations for the performance of covenants, tasks or duties or for payment of monetary amounts (whether or not such performance is then required or contingent, or such amounts are liquidated or determinable) owing by Borrower to DIP Lenders, and all covenants and duties regarding such amounts, of any kind or nature, present or future, whether or not evidenced by any note, agreement or other instrument, in all cases, arising under this Note or any of the other DIP Documents. This term includes all principal, interest, fees, charges, expenses, attorneys' fees and any other sum chargeable to Borrower under this Note or any of the other DIP Documents.

"Other Taxes" shall have the meaning given such term in Section 10 of this Note.

"Participant Register" shall have the meaning given such term in Section 21 of this Note.

"Payment Office" means such office or offices of the Agent as may be designated in writing from time to time by the Agent to the Borrower.

"Permitted Encumbrances" shall mean the following encumbrances: (a) Liens for taxes or assessments or other governmental charges (i) not yet due and payable, (ii) that are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP, or (iii) the nonpayment of which is permitted or required by the Bankruptcy Code; (b) pledges or deposits of money securing statutory obligations under workmen's compensation, unemployment insurance, social security or public liability laws or similar legislation (excluding Liens under ERISA); (c) pledges or deposits of money securing bids, tenders, contracts (other than contracts for the payment of money) or leases to which any Loan Party is a party as lessee made in the ordinary course of business; (d) carriers', warehousemen's, suppliers' or other similar possessory liens arising in the ordinary course of business; (e) deposits securing, or in lieu of, surety, appeal or customs bonds in proceedings to which any Loan Party is a party; (f) zoning restrictions, easements, licenses, or other restrictions on the use of any real estate or other minor irregularities in title (including leasehold title) thereto so long as the same do not materially impair the use, value, or marketability of such real estate; (g) the Agent's and DIP Lenders' Liens; (h) Liens existing on the Order for Relief Date (to the extent valid, enforceable, properly perfected, senior to the Liens of Prepetition Secured Parties, and not subject to avoidance, in each case, as of the Order for Relief Date or perfected after the Order for Relief Date pursuant to section 546(b) of the Bankruptcy Code); provided that, notwithstanding the foregoing, all Liens in favor of farmers, growers or other suppliers of raw materials to the Loan Parties shall not constitute Permitted Encumbrances under this clause (h) to the extent such Liens were not perfected by the filing of a financing statement perfecting a security interest under the Uniform Commercial Code prior to the Order for Relief Date; (i) Liens in favor of the Prepetition Secured Parties and other Liens granted pursuant to the Financing Order (including, to the extent constituting a Lien, the Carve-Out), subject to the priorities set forth in the Financing Orders; (j) to the extent constituting Liens, Liens on goods delivered to any Loan Party after the Order for Relief Date under any consignment or similar title retention agreements; and (k) unperfected Liens existing on the Order for Relief Date that are junior to the Liens securing the Obligations and the Prepetition Obligations.

"Permitted Indebtedness" shall mean: (a) current Indebtedness incurred in the

ordinary course of business for inventory, supplies, equipment, services, taxes or labor, in each case, in accordance with the Budget; (b) Indebtedness arising under this Note and the other DIP Documents; (c) Prepetition Obligations; (d) deferred taxes and other expenses incurred in the ordinary course of business, in accordance with the Budget; (e) any Indebtedness existing on the Order for Relief Date, subject to the terms of the Financing Order and the Budget; and (f) administrative expenses of Borrower for which the Bankruptcy Court has not directed payment, subject to the terms of the Financing Order and the Budget.

"Permitted Prior Liens" shall mean certain permitted senior liens as expressly set forth, and defined, in the Financing Orders.

"Permitted Variance" means (a) a variance of up to 10% between the actual disbursements for the applicable 2, 3 or 4 week period and the "Total disbursements" line item as set forth in the Budget for the applicable 2, 3 or 4 week period (other than professional fees) and/or (b) a negative variance of up to 10% between the actual receipts for the applicable 2, 3 or 4 week period and the "Cash Receipts" line item as set forth in the Budget for the applicable 2, 3 or 4 week period.

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

"Prepetition Secured Parties" shall have the meaning given such term in the Financing Orders.

"Prepetition Credit Agreement" shall have the meaning given such term in the Financing Orders.

"Prepetition Facility" shall have the meaning given such term in the Financing Orders.

"Prepetition Obligations" shall have the meaning given such term in the Financing Orders.

"Pro Rata Share" means with respect to a DIP Lender's obligation to make Term Loans and receive payments of interest, fees and principal with respect thereto, the percentage obtained by dividing (i) such DIP Lender's Commitment by (ii) the Maximum Amount.

"Recipient" means the Agent or any DIP Lender, as applicable.

"Reference Rate" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Reference Rate Loan" means each portion of a Term Loan that bears interest at a rate determined by reference to the Reference Rate.

"Register" shall have the meaning given such term in Section 21 of this Note.

"Registered Loan" shall have the meaning given such term in Section 21 of this Note.

"Related Fund" shall mean, with respect to any Person, an affiliate of such Person, or a fund or account managed by such Person or an affiliate of such Person.

"Required Lenders" shall mean, at any time, DIP Lenders whose aggregate Pro Rata Shares exceed 50%.

"Restricted Payment" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Sale Motion" shall have the meaning given such term in Section 14 of this Note.

"Stockholder" shall mean with respect to any Person, each holder of Equity Interests of such Person.

"Subsidiary" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Successor Case" shall have the meaning given such term in the Financing Orders.

"Taxes" shall have the meaning given such term in Section 10 of this Note.

"Term Loans" shall have the meaning given such term in Section 1 of this Note.

19. Representations and Warranties. The Parent and each of its Subsidiaries represent as follows:

(a) the Parent and each of its Subsidiaries are duly formed and/or organized, validly existing and in good standing under the laws of their jurisdictions of incorporation or formation;

(b) upon entry of the Financing Orders, the execution and delivery of this Note and the other DIP Documents and the performance by the Loan Parties of the Loan Parties' obligations hereunder and under the other DIP Documents are within its corporate powers, have been duly authorized by all necessary corporate action of the Loan Parties, have received all necessary bankruptcy, insolvency or governmental approvals, and do not and will not contravene or conflict with any provisions of applicable law or of the Loan Parties' corporate charter or by-laws or of any agreements binding upon or applicable to the Loan Parties or any of their Subsidiaries or any of their properties;

(c) the Chapter 11 Cases have been duly authorized by all necessary legal and corporate action by or on behalf of each Loan Party and have been duly and properly commenced;

(d) upon entry of the Financing Orders, this Note and each other DIP Document

is the legal, valid and binding obligation, enforceable against the Loan Parties in accordance with its terms except as limited by equitable principles relating to enforceability;

(e) the Parent and its Subsidiaries have good and marketable title to, or valid leasehold interests in, all of its property and assets; none of the properties and assets of the Parent and its Subsidiaries are subject to any Liens other than Permitted Encumbrances;

(f) no information contained in this Note, any of the other DIP Document, any projections, financial statements or collateral reports or other reports from time to time delivered hereunder or any written statement furnished by or on behalf of the Parent and its Subsidiaries to the DIP Lenders pursuant to the terms of this Note or otherwise contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading in light of all of the circumstances under which they were made;

(g) the Liens granted to the DIP Lenders pursuant to the Collateral Documents and the Financing Orders are fully perfected Liens in and to the Collateral described therein, subject, as to priority, only to Permitted Prior Liens or other Liens permitted to have such priority under the Financing Orders;

(h) except for proceedings in the Chapter 11 Cases in connection with the entry of the Financing Orders, no action, claim, lawsuit, demand, investigation or proceeding is now pending or, to the knowledge of the Parent, threatened against the Parent or its Subsidiaries before any governmental authority or before any arbitrator or panel of arbitrators that challenges the rights or powers of the Parent or its Subsidiaries to enter into or perform any of its obligations under the DIP Documents to which it is a party, or the validity or enforceability of any DIP Document or any action taken thereunder;

(i) the Parent and its Subsidiaries are and will be at all times the owners of the Collateral free and clear of any lien, security interest or other charge or encumbrance except for the security interest created by this Note or any other DIP Documents and the other Permitted Encumbrances;

(j) the execution, delivery and performance of this Note and the other DIP Documents will not (immediately or with the giving of notice or passage of time, or both) violate the articles of incorporation or bylaws of any Loan Party, or violate any law or regulation;

(k) except for the Chapter 11 Cases, there is no order, notice, claim, litigation, proceeding or investigation pending or threatened against or in any way affecting (i) any Loan Party, whether or not covered by insurance, that would reasonably be expected to have a Material Adverse Effect or (ii) this Note or any other DIP Document; and

(l) the Parent and its Subsidiaries have filed all federal, state and other tax returns and reports required to be filed, and have paid all federal, state and other taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable.

20. Agent.

(a) Appointment. Each DIP Lender hereby irrevocably appoints and authorizes the Agent to perform the duties of the Agent as set forth in this Note including: (i) to receive on behalf of each DIP Lender any payment of principal of or interest on the Term Loans outstanding hereunder and all other amounts accrued hereunder for the account of the DIP Lenders and paid to the Agent, and to distribute promptly to each DIP Lender its Pro Rata Share of all payments so received; (ii) to distribute to each DIP Lender copies of all material notices and agreements received by the Agent; (iii) to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Obligations, the Term Loans, and related matters and to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Collateral and related matters; (iv) to execute or file any and all notices, amendments, renewals, supplements, documents, instruments, proofs of claim, notices and other written agreements with respect to this Note or any other DIP Document; (v) to perform, exercise, and enforce any and all other rights and remedies of the DIP Lenders with respect to the Borrower, the Obligations, or otherwise related to any of same to the extent reasonably incidental to the exercise by the Agent of the rights and remedies specifically authorized to be exercised by the Agent by the terms of this Note or any other DIP Document; (vi) to incur and pay such fees necessary or appropriate for the performance and fulfillment of its functions and powers pursuant to this Note or any other DIP Document; and (vii) to take such action as the Agent deems appropriate on its behalf to administer the Term Loans and the DIP Documents and to exercise such other powers delegated to the Agent by the terms hereof or the other DIP Documents together with such powers as are reasonably incidental thereto to carry out the purposes hereof and thereof.

(b) Nature of Duties. The Agent shall have no duties or responsibilities except those expressly set forth in this Note or in the other DIP Documents.

(c) Rights, Exculpation, Etc. The Agent and its directors, officers, agents or employees shall not be liable for any action taken or omitted to be taken by them under or in connection with this Note or the other DIP Documents, except for their own gross negligence or willful misconduct as determined by a final judgment of a court of competent jurisdiction.

(d) Reliance. The Agent shall be entitled to rely upon any written notices, statements, certificates, orders or other documents or any telephone message believed by it in good faith to be genuine and correct and to have been signed, sent or made by the proper Person, and with respect to all matters pertaining to this Note or any of the other DIP Documents and its duties hereunder or thereunder, upon advice of counsel selected by it.

(e) Indemnification. To the extent that the Agent is not reimbursed and indemnified by the Borrower, the DIP Lenders will reimburse and indemnify the Agent from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, advances or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Agent in any way relating to or arising out of this Note or any of the other DIP Documents or any action taken or omitted by the Agent under this Note or any of the other DIP Documents, in proportion to each DIP Lender's Pro Rata Share.

(f) Collateral Matters.

(1) The DIP Lenders hereby irrevocably authorize the Agent, at

its option and in its discretion, to release any Lien granted to or held by the Agent upon any Collateral upon cancellation of this Note and payment and satisfaction of the Term Loans and all other Obligations which have matured and which the Agent has been notified in writing are then due and payable; or constituting property being sold or disposed of in the ordinary course of the Borrower's business or otherwise in compliance with the terms of this Note and the other DIP Documents; or if approved, authorized or ratified in writing by the DIP Lenders.

(2) Without in any manner limiting the Agent's authority to act without any specific or further authorization or consent by the DIP Lenders, each DIP Lender agrees to confirm in writing, upon request by the Agent, the authority to release Collateral conferred upon the Agent under paragraph (f)(1) above.

The Agent shall have no obligation whatsoever to any DIP Lender to assure that the Collateral exists or is owned by the Loan Parties, or is cared for, protected or insured or has been encumbered or that the Lien granted to the Agent pursuant to this Note or any other DIP Document has been properly or sufficiently or lawfully created, perfected, protected or enforced or is entitled to any particular priority, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to the Agent in this section or in any other DIP Document, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, the Agent may act in any manner it may deem appropriate, in its sole discretion, given the Agent's own interest in the Collateral as one of the DIP Lenders and that the Agent shall have no duty or liability whatsoever to any other DIP Lender, except as otherwise provided herein.

21. Miscellaneous.

(a) All notices and other communications provided for hereunder shall be in writing (including facsimile communication) and mailed, emailed or delivered as follows:

If to Borrower: GenCanna Global USA, Inc.
321 Venable Road, Winchester, KY 40391
Attention: Steve Bevan
Telephone: 859-489-3954
email: steve.bevan@gencanna.com

with copies to: Benesch, Friedlander, Coplan & Aronoff LLP
222 Delaware Avenue, Suite 801
Wilmington, Delaware 19801-1611
Attn: Michael J. Barrie
Email: mbarrie@beneschlaw.com

If to Agent or any DIP Lender: MGG Investment Group LP
One Penn Plaza, 53rd Floor
New York, New York 10119
Attention: Mustafa Tayeb and Mier Wang
Telephone: 212-356-6100

Email: creditagreementnotices@mgginv.com

with copies to: Schulte Roth & Zabel LLP
919 Third Avenue
New York, New York 10022
Attn: Adam Harris and Frederic L. Ragucci
Email: adam.harris@srz.com
frederic.ragucci@srz.com

All such notices and communications shall, when mailed or sent by overnight courier, be effective when deposited in the mails or delivered to the overnight courier, as the case may be, or when sent by email be effective when confirmation is received.

(b) The Loan Parties shall reimburse the Agent for all reasonable out-of-pocket expenses incurred in connection with the negotiation and preparation of the DIP Documents and the obtaining of approval of the DIP Documents by the Bankruptcy Court (including the reasonable fees and expenses of outside counsel for Agent, all of its special local counsel, fees for one (in the absence of any conflicts of interest) financial advisor for the Agent and the DIP Lenders, and auditors retained in connection with the DIP Documents and advice in connection therewith). Subject to the foregoing, the Loan Parties shall reimburse the Agent for all reasonable fees, costs and expenses, including the reasonable fees, costs and expenses of counsel or other advisors for advice, assistance, or other representation in connection with:

(1) any amendment, modification or waiver of, consent with respect to, or termination or enforcement of, any of the DIP Documents or advice in connection with the administration of the Term Loans made pursuant hereto or its rights hereunder or thereunder;

(2) the review of pleadings and documents related to the Chapter 11 Cases and any subsequent Chapter 7 case, attendance at meetings related to the Chapter 11 Cases and any subsequent Chapter 7 case, and general monitoring of the Chapter 11 Cases and any subsequent Chapter 7 case;

(3) any litigation, contest, dispute, suit, proceeding or action (whether instituted by the Agent, the Borrower or any other Person, and whether as a party, witness or otherwise) in any way relating to the Collateral, any of the DIP Documents or any other agreement to be executed or delivered in connection herewith or therewith, including any litigation, contest, dispute, suit, case, proceeding or action, and any appeal or review thereof, in connection with a case commenced by or against Borrower or any other Person that may be obligated to the Agent by virtue of the DIP Documents, including any such litigation, contest, dispute, suit, proceeding or action arising in connection with any work-out or restructuring of the Term Loans during the pendency of one or more Events of Default;

(4) any attempt to enforce any remedies of the Agent against any

or all of the Borrower or any other Person that may be obligated to the Agent by virtue of any of the DIP Documents, including any such attempt to enforce any such remedies in the course of any work-out or restructuring of the Term Loans during the pendency of one or more Events of Default;

(5) any work-out or restructuring of the Term Loans during the pendency of one or more Events of Default; and

(6) any efforts to (A) monitor the Term Loans or any of the other Obligations, (B) evaluate, observe or assess any of the Loan Parties or their respective affairs, (C) verify, protect, evaluate, assess, appraise, collect, sell, liquidate or otherwise dispose of any of the Collateral and (D) monitor any sales;

including, as to each of clauses (1) through (6) above, all attorneys' and other professional and service providers' fees arising from such services, including those in connection with any appellate proceedings, and all expenses, costs, charges and other fees incurred by such counsel and others in connection with or relating to any of the events or actions described in this Section 20(b), all of which shall be payable, on demand, by the Loan Parties to the Agent on behalf of the DIP Lenders. Without limiting the generality of the foregoing, such expenses, costs, charges and fees may include: fees, costs and expenses of accountants, appraisers, investment bankers, management and other consultants and paralegals; court costs and expenses; photocopying and duplication expenses; court reporter fees, costs and expenses; long distance telephone charges; air express charges; and expenses for travel, lodging and food paid or incurred in connection with the performance of such legal or other advisory services. All expenses incurred by the Agent shall receive super-priority administrative expense status per Section 364 of the Bankruptcy Code (subject to the Financing Orders).

(c) No failure or delay on the part of the Agent or any other holder of this Note to exercise any right, power or privilege under this Note and no course of dealing between Borrower and the Agent shall impair such right, power or privilege or operate as a waiver of any default or an acquiescence therein, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies expressly provided in this Note are cumulative to, and not exclusive of, any rights or remedies that the Agent would otherwise have. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Agent to any other or further action in any circumstances without notice or demand.

(d) Borrower and any endorser of this Note hereby consent to renewals and extensions of time at or after the maturity hereof without notice, and hereby waive diligence, presentment, protest, demand and notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

(e) If any provision in or obligation under this Note shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

(f) **THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE BORROWER AND THE AGENT HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK INCLUDING WITHOUT LIMITATION SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.**

(g) Each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Bankruptcy Court and, if the Bankruptcy Court does not have (or abstains from) jurisdiction, the Supreme Court 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 Note or any DIP Document, and each of the parties hereto hereby 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 or, to the extent permitted by law, in such Federal court.

(h) **THE BORROWER AND, BY THEIR ACCEPTANCE OF THIS NOTE, THE AGENT, ANY DIP LENDER AND ANY SUBSEQUENT HOLDER OF THIS NOTE, HEREBY IRREVOCABLY AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS NOTE OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS NOTE AND THE AGENT'S/BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED.** The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including without limitation contract claims, tort claims, breach of duty claims and all other common law and statutory claims. The Borrower and, by their acceptance of this Note, the Agent, any DIP Lender and any subsequent holder of this Note, each (i) acknowledges that this waiver is a material inducement to enter into a business relationship, that each has already relied on this waiver in entering into this relationship, and that each will continue to rely on this waiver in their related future dealings and (ii) further warrants and represents that each has reviewed this waiver with its legal counsel and that each knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. **THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING) THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS OF THIS NOTE.** In the event of litigation, this provision may be filed as a written consent a trial by the court.

(i) The Borrower hereby waives the benefit of any statute or rule of law or judicial decision which would otherwise require that the provisions of this Note be construed or interpreted most strongly against the party responsible for the drafting thereof.

(j) The Borrower shall not have the right to assign their obligations or liabilities under this Note without the prior written consent of the Agent in its sole discretion. The DIP Lenders may assign to one or more entities all or any part of, or may grant participations to one or more entities in or to all or any part of, the amounts outstanding hereunder, and to the extent of

any such assignment or participation (unless otherwise stated therein) the assignee or participant shall have the same rights and benefits hereunder as it would have if it were a DIP Lender hereunder. An assigning DIP Lender shall notify the Borrower of any such assignment (other than an assignment to an affiliate of such DIP Lender or a Related Fund) which notice shall include a description of the assignment and include customary instructions from the DIP Lender and such assignee with respect to the making of payments and other communications with the DIP Lender and such assignee.

(k) The Agent shall, acting solely for this purpose as a non-fiduciary agent of Borrower, maintain, or cause to be maintained at the Payment Office, a copy of each assignment notice delivered to and accepted by it and a register (the "Register") for the recordation of the names and addresses of the Persons, if any, that take an assignment from it and the principal amount of the Term Loans and stated interest thereon (the "Registered Loans") owing to each DIP Lender from time to time. The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Borrower and the Agent may treat each Person whose name is recorded in the Register as a DIP Lender hereunder for all purposes of this Note. The Register shall be available for inspection by Borrower and the DIP Lenders at any reasonable time and from time to time upon reasonable prior notice.

(l) Upon receipt by the Agent of an assignment notice, the Agent shall accept such assignment and record the information contained therein in the Register.

(m) A Registered Loan may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register. Any assignment or sale of all or part of such Registered Loan may be effected only by registration of such assignment or sale on the Register. Prior to the registration of assignment or sale of any Registered Loan, the Agent shall treat the Person in whose name such Registered Loan is registered as the owner thereof for the purpose of receiving all payments thereon and for all other purposes, notwithstanding notice to the contrary.

(n) In the event that a DIP Lender sells participations in a Registered Loan, such DIP Lender shall maintain a register for this purpose as a non-fiduciary agent of Borrower on which it enters the name of all participants in the Registered Loans held by it and the principal amount (and stated interest thereon) of the portion of the Registered Loan that is the subject of the participation (the "Participant Register"). A Registered Loan may be participated in whole or in part only by registration of such participation on the Participant Register. Any participation of such Registered Loan may be effected only by the registration of such participation on the Participant Register. The Participant Register shall be available for inspection by the Borrower and the DIP Lenders at any reasonable time and from time to time upon reasonable prior notice.

(o) No provision of this Note may be amended or waived unless such amendment or waiver is in writing and is signed by the Borrower and the Agent.

(p) Any provision of this Note which is prohibited or unenforceable shall be ineffective to the extent such prohibition or unenforceability without invalidating the remaining provisions hereof.

(q) This Note, the other DIP Documents, and all Liens created hereby or pursuant to the Collateral Documents or any other DIP Document shall be binding upon the Borrower and each other Loan Party, the estates of the Borrower, and any trustee or successor in interest of the Borrower and each other Loan Party in the Chapter 11 Case or any subsequent case commenced under Chapter 7 of the Bankruptcy Code, and shall not be subject to Section 365 of the Bankruptcy Code. This Note and the other DIP Documents and the Financing Orders shall be binding upon, and inure to the benefit of, the successors of the Agent and the DIP Lenders and each of their respective assigns, transferees and endorsees. The Liens created by this Note, and the other DIP Documents shall be and remain valid and perfected in the event of the substantive consolidation or conversion of the Chapter 11 Case or any other bankruptcy case of any Loan Party to a case under chapter 7 of the Bankruptcy Code or in the event of dismissal of the Chapter 11 Case or the release of any Collateral from the jurisdiction of the Bankruptcy Court for any reason, without the necessity that the Agent file financing statements or otherwise perfect its security interests or Liens under applicable law.

(r) In the event of any inconsistency between the terms and conditions of this Note and the Financing Orders, the provisions of the Financing Orders shall govern and control.

(s) THIS WRITTEN PROMISSORY NOTE REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES, AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

22. Amendment and Restatement. This Note is being issued in full substitution for and replacement of that certain Amended and Restated Debtor in Possession Secured Multi-Draw Term Promissory Note, dated February 28, 2020 (the "Existing Note"), issued by the Borrower in favor of the DIP Lenders in the original principal amount of \$10,000,000. This Note shall replace and supersede the Existing Note in its entirety.

* * * * *

IN WITNESS WHEREOF, the Borrower have caused this Note to be executed and delivered by its duly authorized officer as of the day and year and at the place first above written.

GENCANNA GLOBAL USA, INC., as Debtor and
Debtor in Possession

By: _____
Name:
Title:

Acknowledged and Agreed

MGG INVESTMENT GROUP LP, as Agent

By: MGG GP LLC, its general partner

By: _____
Name: Kevin Griffin
Title: Chief Executive Officer

MGG (BVI) Limited
MGG Canada Fund LP
MGG Insurance Fund Series Interests of the SALI Multi-Series Fund, L.P.
MGG Onshore Funding II LLC
MGG SF Drawdown Master Fund (Cayman) LP
MGG SF Drawdown Unlevered Fund II LP
MGG SF Drawdown Unlevered Master Fund II (Cayman)
MGG SF Evergreen Fund LP
MGG SF Evergreen Master Fund (Cayman) LP
MGG SF Evergreen Unlevered Fund LP
MGG SF Evergreen Unlevered Master Fund II (Cayman)
MGG Specialty Finance Fund II LP,

each as a DIP Lender

By: MGG Investment Group LP, on behalf of each of the above,
as Authorized Signatory

By: _____
Name: Kevin Griffin
Title: Chief Executive Officer

Schedule 1(a)¹

DIP LENDERS AND DIP LENDER COMMITMENTS

DIP Lender	Commitment
MGG (BVI) Limited	\$[_____]
MGG Canada Fund LP	\$[_____]
MGG Insurance Fund Series Interests of the SALI Mu	\$[_____]
MGG Onshore Funding II LLC	\$[_____]
MGG SF Drawdown Master Fund (Cayman) LP	\$[_____]
MGG SF Drawdown Unlevered Fund II LP	\$[_____]
MGG SF Drawdown Unlevered Master Fund II (Cayman) LP	\$[_____]
MGG SF Evergreen Fund LP	\$[_____]
MGG SF Evergreen Master Fund (Cayman) LP	\$[_____]
MGG SF Evergreen Unlevered Fund LP	\$[_____]
MGG SF Evergreen Unlevered Master Fund II (Cayman) LP	\$[_____]
MGG Specialty Finance Fund II LP	\$[_____]
Total	\$12,500,000.00

¹ MGG to provide.

EXHIBIT A

(attach Budget)

Schedule 13

Deliver (which delivery may be made by electronic communication (including email)) to the Agent, the monthly reports, quarterly reports, annual reports and compliance certificates required by Section 7.01(a) of the Prepetition Credit Agreement and each of the financial statements, reports, or other items set forth below at the following times in form and substance satisfactory to the Agent in its sole discretion:

on Tuesday of each week for the period ending the preceding Friday beginning with the first Friday ending a full calendar week after the Order for Relief Date,	(a) a weekly DIP variance report/reconciliation for the prior week and for the period from the commencement of the Initial Budget to the end of the prior week in each case (i) showing actual results for the following items: (A) receipts, (B) disbursements, (C) net operating cash flow, (D) [reserved] and (E) professional fees and expenses, noting therein variances from values set forth for such periods in both the Initial Budget and the most recent Budget and (ii) an explanation for all material variances, certified by the chief financial officer of the Borrower, (b) a weekly report of sales results,
on Monday of each week beginning with the first full calendar week after the Order for Relief Date,	(c) a report of the balance of all of the deposit accounts of the Loan Parties, including a breakdown of the balances of deposit accounts held at each depository institution, as of the close of business on the preceding Friday,
upon the request of Agent,	(d) a revised proposed budget (it being understood that upon written approval of such proposed budget by the Agent, in its sole discretion, such proposed budget shall become the "Budget") and timing changes with respect to any periods that were included in a previously delivered report and which shall be in form and substance acceptable to the Agent,
promptly, but in any event at least two (2) business days prior to filing (except for emergency motions, which shall be delivered as promptly as possible prior to filing),	(e) drafts of all pleadings, motions, applications or financial information (including any proposed order) filed or to be filed by any Loan Party with the Bankruptcy Court; <u>provided</u> that any such documents that are publicly available shall be deemed to have been delivered,
promptly, but in any event within 3 Business Days after Borrower has knowledge of any event or condition that constitutes a Default,	(f) notice of such event or condition and a statement of the curative action that Borrower proposes to take with respect thereto,

weekly,	(g) participate in status update conference calls with the Agent, the chief transformation officer and Jefferies LLC,
upon the request of Agent,	(h) any other information requested relating to the financial condition of the Parent or its Subsidiaries, and
upon notice of Agent,	(i) access to the chief transformation officer and Jefferies LLC at all times during the Chapter 11 Cases, including, in the case of Jefferies LLC, access to any data room established and bids and letters of intent received; <u>provided</u> , that if the Agent and the DIP Lenders have submitted a Qualified Bid, not including any bids or other confidential information of competing bidders.

EXHIBIT A

(Amended DIP Loan Agreement)

FOR PURPOSES OF SECTIONS 1272, 1273 AND 1275 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "INTERNAL REVENUE CODE"), THIS NOTE IS BEING ISSUED WITH ORIGINAL ISSUE DISCOUNT. REQUESTS FOR INFORMATION REGARDING THE ORIGINAL ISSUE DISCOUNT ON THIS NOTE MAY BE DIRECTED TO GENCANNA GLOBAL USA, INC., 321 VENABLE ROAD, WINCHESTER, KY 40391.

**SECOND AMENDED AND RESTATED DEBTOR IN POSSESSION SECURED
MULTI-DRAW TERM PROMISSORY NOTE**

\$12,500,000

New York, New York
March [], 2020

On February 6, 2020 (the "Order for Relief Date"), the United States Bankruptcy Court for the Eastern District of Kentucky (the "Bankruptcy Court") entered an order for relief with respect to GENCANNA GLOBAL USA, INC., a Delaware corporation (the "Borrower") and, on February 5, 2020, GENCANNA GLOBAL, INC., a Delaware corporation (the "Parent") and certain of the Borrower's subsidiaries commenced chapter 11 cases by filing their own voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), which cases (including the Borrower's case) are being jointly administered under Chapter 11 Case No. 20-50133-grs (each a "Chapter 11 Case" and collectively, the "Chapter 11 Cases"). The Loan Parties (as defined herein) continue to operate their respective businesses and manage their respective properties as debtors and debtors in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. The Borrower has requested that MGG Investment Group LP, a Delaware limited partnership, as agent (in such capacity, the "Agent") for the lenders (the "DIP Lenders") from time to time party to this Second Amended and Restated Debtor in Possession Secured Multi-Draw Term Promissory Note (as amended, modified, or supplemented from time to time, this "Note"), make Term Loans (as defined below) from time to time evidenced by this Note. The Parent and certain subsidiaries of the Borrower who comprise the other debtors in the Chapter 11 Cases wish to guaranty the Borrower's Obligations under this Note (collectively, the "Guarantors"), and are simultaneously executing Guarantees in favor of the Agent. The Borrower intends to utilize such Term Loans to (i) fund general corporate needs, including without limitation working capital and other needs, and (ii) pay administrative expenses of the Chapter 11 Cases, including fees and expenses of professionals, in each case in accordance with the Budget. Capitalized terms used herein and not otherwise defined herein shall have the meanings provided in Section 18 of this Note.

1. Term Loans.

(a) Subject to the terms and conditions hereof including the Agent's receipt of a Borrowing Request (as defined below), the DIP Lenders agree to provide the Borrower with term loans on the Closing Date in the principal amount of \$4,750,000 (the "Initial Loan"). Subject to the terms and conditions hereof, at any time on or after the date of entry of the Final Order and upon the Agent's receipt of a Borrowing Request, the DIP Lenders agree to provide the Borrower with one or more additional loans, each in a principal amount of not less than \$500,000 and not more than \$2,000,000 (or, solely with respect to the initial Additional Loan (as defined below),

not more than \$3,750,000), and together in an aggregate principal amount not to exceed \$7,750,000 (each, an "Additional Loan" and collectively, the "Additional Loans" and, together with the Initial Loan, each, a "Term Loan" and collectively, the "Term Loans"). For the avoidance of doubt, each Borrowing Request shall be made by the Borrower in accordance with the Budget. The Borrower may request the Initial Loan and the Additional Loans pursuant to written notice (which may be by email) delivered to the Agent three (3) Business Days prior to the proposed borrowing date (or such shorter period as the Agent may agree) (a "Borrowing Request"). The Borrowing Request shall be in a form reasonably satisfactory to the Agent. Each DIP Lender shall provide the Term Loans in an aggregate amount equal to its Commitment set forth on Schedule 1(a) and the obligation of each DIP Lender to make the Term Loans under this Note shall be several and not joint and several. Upon receipt of a Borrowing Request, subject to the satisfaction of the conditions set forth in this Note, the DIP Lenders shall simultaneously and proportionately to their Pro Rata Share of the Maximum Amount, make the proceeds of such Term Loans available to the Borrower on the applicable date of funding of such Term Loan by transferring immediately available funds equal to such proceeds to an account designated in writing by the Borrower consistent with its existing cash management system. The Commitment of each DIP Lender shall be permanently reduced upon the making of a Term Loan in an amount equal to such Term Loan. Any principal amount of the Term Loan which is repaid or prepaid may not be reborrowed.

(b) The aggregate principal amount of Terms Loans outstanding shall not exceed \$12,500,000, subject to any limitation of credit extensions under this Note and the Financing Orders (the "Maximum Amount").

(c) The Agent shall be entitled to rely upon, and shall be fully protected in relying upon, any Borrowing Request or similar notice believed by the Agent to be genuine. The Agent may assume that each Person executing and delivering any such notice was duly authorized, unless the responsible individual acting thereon for the Agent has actual knowledge to the contrary.

(d) The Borrower shall utilize the proceeds of Term Loans to (i) fund general corporate needs, including without limitation working capital and other needs, and (ii) pay administrative expenses of the Chapter 11 Cases, including fees and expenses of professionals, in each case in accordance with the Budget, this Note, the Bankruptcy Code, and the Financing Orders; provided, that, unless otherwise provided in the Budget or approved by the Agent in its sole discretion, no portion of any Term Loan shall be used, directly or indirectly: (a) except as permitted by Section 15(e), to make any payment on Prepetition Obligations or to finance or make any Restricted Payment, (b) to pay any fees or similar amounts payable to any Person who has proposed or may propose to purchase interests in any of the Borrower or any of its respective Subsidiaries or affiliates or who otherwise has proposed or may propose to invest in the Borrower or any of its respective Subsidiaries or affiliates (including so-called "topping fees," "exit fees," and similar amounts), or (c) to make any distribution under a plan of reorganization in the Chapter 11 Cases or any similar proceeding of any of the Subsidiaries or affiliates of the Borrower.

2. Certain Conditions to Each Term Loan. No DIP Lender shall be obligated to fund any Term Loan, if, as of the date thereof:

(a) The Borrower shall not have paid any amount then payable hereunder (including the fees and expenses of counsel to the Agent) or under any other DIP Document;

(b) the Loan Parties shall not have delivered corporate resolutions, incumbency certificates and similar documents, in form and substance satisfactory to Agent with respect to this Note and the other DIP Documents and the transactions contemplated hereby and thereby;

(c) the Loan Parties shall not have delivered guarantees of each of the Guarantors, each in form and substance satisfactory to Agent with respect to this Note and the other DIP Documents and the transactions contemplated hereby and thereby;

(d) any representation or warranty by any Loan Party contained herein or in any other DIP Document shall be untrue or incorrect in any material respect (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date;

(e) with respect to the Initial Loan (i) the Bankruptcy Court shall not have entered the Interim Order; or (ii) the Interim Order shall have been stayed, vacated, reversed, modified or amended without Agent's consent in its sole discretion;

(f) with respect to any Additional Loan (i) the Bankruptcy Court shall not have entered the Final Order; or (ii) the Final Order shall have been stayed, vacated, reversed, modified or amended without Agent's consent in its sole discretion;

(g) on the date of the entry of the Final Order, the Agent and the DIP Lenders shall not have received an updated Budget, satisfactory to the Agent in its sole discretion, for the remaining period through the term of this Note;

(h) except as occasioned by the commencement of the Chapter 11 Cases and the actions, proceedings, investigations and other matters related thereto or arising therefrom (including any actions taken in accordance with the Budget, this Note or the Financing Orders), any event or circumstance having a Material Adverse Effect shall have occurred since the date hereof;

(i) any Default or Event of Default shall have occurred and be continuing or would result after giving effect to any Term Loan;

(j) after giving effect to any Term Loan, the outstanding principal amount of all Term Loans would exceed the lesser of (i) the Maximum Amount, or (ii) the amount permitted to be borrowed on a cumulative basis from the date hereof through the date of such requested Term Loan as set forth in the Budget and the Financing Orders;

(k) the Agent shall not have received and approved the Budget in accordance with this Note and the Financing Orders;

(l) the Loan Parties shall have filed one or more pleadings with the Bankruptcy Court and such pleadings shall not be in form and substance acceptable to the Agent in its sole discretion; or

(m) the Bankruptcy Court shall have entered orders and such orders shall not be

in form and substance acceptable to the Agent in its sole discretion.

The request and acceptance by the Borrower of the proceeds of any Term Loan shall be deemed to constitute, as of the date of such request, acceptance or incurrence, (i) a representation and warranty by the Borrower that the conditions in this Section 2 have been satisfied and (ii) a reaffirmation by the Borrower of the granting and continuance of the Liens granted in favor of the Agent on behalf of the DIP Lenders, pursuant to the Financing Orders.

3. Payment of Principal. FOR VALUE RECEIVED, the Borrower promises to pay to the Agent, the unpaid principal amount of all Term Loans made by the Agent on behalf of the DIP Lenders to the Borrower, on the Maturity Date, together with all accrued and unpaid interest, fees and expenses to the extent provided, without duplication, in this Note and the Financing Orders.

4. Payment of Interest.

(a) Subject to the terms of this Note, the Term Loan or any portion thereof shall be a LIBOR Rate Loan and shall bear interest on the principal amount thereof from time to time outstanding, from the date of the Term Loan until repaid, at a rate per annum equal to the LIBOR Rate for an interest period of one month (or such portion thereof) plus 10.00%.

(b) Interest on the Term Loan shall be payable monthly, in arrears, on the first day of each month, commencing on the first day of the month following the month in which the applicable Term Loan is made. If any payment of any of the Obligations becomes due and payable on a day other than a Business Day, the maturity thereof will be extended to the next succeeding Business Day and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension.

(c) All computations of fees and interest shall be made by the Agent on the basis of a 360-day year, in each case for the actual number of days occurring in the period for which such fees or interest are payable. Each determination by the Agent of an interest rate hereunder shall be final, binding and conclusive on the Borrower (absent manifest error).

(d) So long as an Event of Default shall have occurred and be continuing, and at the election of the Agent, the interest rate applicable to the Obligations shall be increased by three percentage points (3.00%) per annum above the rate of interest otherwise applicable hereunder (the "Default Rate"), and all outstanding Obligations shall bear interest at the Default Rate applicable to such Obligations. Interest at the Default Rate shall accrue from the date of such Event of Default until such Event of Default is cured or waived and shall be payable upon demand.

(e) It is the intention of the parties hereto that the Agent and each DIP Lender shall conform strictly to usury laws applicable to it. Accordingly, if the transactions contemplated hereby or by any other DIP Document would be usurious as to the Agent or any DIP Lender under laws applicable to it (including the laws of the United States of America and the State of New York or any other jurisdiction whose laws may be mandatorily applicable to the Agent or such DIP Lender notwithstanding the other provisions of this Note), then, in that event, notwithstanding anything to the contrary in this Note or any other DIP Document or any agreement

entered into in connection with or as security for the Obligations, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under law applicable to the Agent or any DIP Lender that is contracted for, taken, reserved, charged or received by the Agent or such DIP Lender under this Note or any other DIP Document or agreements or otherwise in connection with the Obligations shall under no circumstances exceed the maximum amount allowed by such applicable law, any excess shall be canceled automatically and if theretofore paid shall be credited by the Agent or such DIP Lender on the principal amount of the Obligations (or, to the extent that the principal amount of the Obligations shall have been or would thereby be paid in full, refunded by the Agent or such DIP Lender, as applicable, to the Borrower). If at any time and from time to time (x) the amount of interest payable to the Agent or any DIP Lender on any date shall be computed at the highest lawful rate applicable to the Agent or such DIP Lender pursuant to this Section 4(e) and (y) in respect of any subsequent interest computation period the amount of interest otherwise payable to the Agent or such DIP Lender would be less than the amount of interest payable to the Agent or such DIP Lender computed at the highest lawful rate applicable to the Agent or such DIP Lender, then the amount of interest payable to the Agent or such DIP Lender in respect of such subsequent interest computation period shall continue to be computed at the highest lawful rate applicable to the Agent or such DIP Lender until the total amount of interest payable to the Agent or such DIP Lender shall equal the total amount of interest which would have been payable to the Agent or such DIP Lender if the total amount of interest had been computed without giving effect to this Section 4(e).

(f) The LIBOR Rate may be adjusted by the DIP Lenders on a prospective basis to take into account any additional or increased costs to the DIP Lenders of maintaining or obtaining any eurodollar deposits or increased costs, in each case, due to changes in applicable law (other than change with respect to tax law, which are addressed in Section 10 hereof) occurring subsequent to the commencement of the then applicable interest period, including changes in the reserve requirements imposed by the Board of Governors of the Federal Reserve System (or any successor), which additional or increased costs would increase the cost of funding loans bearing interest at the LIBOR Rate. In any such event, the DIP Lenders shall give the Borrower notice of such a determination and adjustment and, upon its receipt of the notice from such DIP Lender, the Borrower may, by notice to such DIP Lender (1) request the DIP Lender to furnish to the Borrower a statement setting forth the basis for adjusting such LIBOR Rate and the method for determining the amount of such adjustment or (2) repay the LIBOR Rate Loans with respect to which such adjustment is made.

(g) Anything to the contrary contained herein notwithstanding, the DIP Lenders are not required actually to acquire eurodollar deposits to fund or otherwise match fund any Obligation as to which interest accrues at the LIBOR Rate. The provisions of Sections 4(f) through (h) shall apply as if the DIP Lenders had match funded any Obligation as to which interest is accruing at the LIBOR Rate by acquiring eurodollar deposits for each interest period in the amount of the LIBOR Rate Loans.

(h) If, after the date hereof, the DIP Lenders determine that (1) the adoption of or change in any law, rule, regulation or guideline regarding capital requirements for banks or bank holding companies, or any change in the interpretation or application thereof by any governmental authority charged with the administration thereof, or (2) compliance by the DIP Lenders or its parent bank holding company with any guideline, request, or directive of any such

entity regarding capital adequacy (whether or not having the force of law), has the effect of reducing the return on the DIP Lender's or such holding company's capital as a consequence of the DIP Lender's Term Loan hereunder to a level below that which the DIP Lender or such holding company could have achieved but for such adoption, change, or compliance (taking into consideration the DIP Lender's or such holding company's then existing policies with respect to capital adequacy and assuming the full utilization of such entity's capital) by any amount reasonably deemed by the DIP Lender to be material, then the DIP Lender may notify the Borrower thereof. Following receipt of such notice, the Borrower agrees to pay the DIP Lender on demand the amount of such reduction of return of capital as and when such reduction is determined, payable promptly after presentation by the DIP Lender to the Borrower of a statement in the amount and setting forth in reasonable detail the DIP Lender's calculation thereof and the assumptions upon which such calculation was based (which statement shall be deemed true and correct absent manifest error). In determining such amount, the DIP Lender may use any reasonable averaging and attribution methods.

(i) In no event will the Borrower have more than 4 interest periods outstanding at any time. If the Agent reasonably determines that the LIBOR Rate is unavailable, then the Term Loan shall bear interest, at a rate per annum equal to the Reference Rate plus 9.00% on the principal amount thereof from the date that the LIBOR Rate became unavailable until such time the Agent determines that the LIBOR Rate is available.

5. Payments. All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds to the Agent at the account as shall be designated in a written notice delivered by the Agent to the Borrower. Each payment made hereunder shall be credited first to interest then due and payable and the remainder of such payment shall be credited to principal, and interest shall thereupon cease to accrue upon the principal so repaid.

6. Optional Prepayments. Subject to the terms and conditions of the Financing Orders and Section 7(f) of this Note, the Borrower shall have the right at any time and from time to time to prepay any Term Loans under this Note in whole or in part (without premium or penalty) upon two (2) Business Days' notice to the Agent; provided that each such prepayment shall be in a minimum amount of \$100,000. Notice of prepayment having been given as aforesaid, the principal amount specified in such notice shall become due and payable on the prepayment date specified therein in the aggregate principal amount specified therein unless such repayment is conditioned on the receipt of any third party funds which are not received. Any prepayment or repayment hereunder shall be accompanied by interest on the principal amount of this Note being prepaid or repaid to the date of prepayment or repayment.

7. Mandatory Prepayments. In each case, subject to the terms and conditions of the Financing Orders and the Budget:

(a) [Reserved].

(b) Immediately upon receipt by any Loan Party of cash proceeds of any asset disposition, unless the Agent agrees otherwise, the Borrower shall prepay the Term Loans in an amount equal to all such proceeds, net of (1) commissions and other reasonable and customary

transaction costs, fees and expenses properly attributable to such transaction and payable by the Borrower or any Loan Party in connection therewith (in each case, paid to non-affiliates), (2) transfer, sales, or similar taxes, and (3) amounts required to be applied to the repayment of debt secured by such assets sold and secured by a Lien that is senior to the Liens securing the Obligations under this Note (such net proceeds, the "Net Cash Proceeds").

(c) If any Loan Party issues any debt or equity securities not permitted under this Note, no later than the Business Day following the date of receipt of the cash proceeds thereof, unless the Agent agrees otherwise, the Borrower shall prepay the Term Loans in an amount equal to all such proceeds, net of underwriting discounts and commissions and other reasonable costs or fees paid to non-affiliates in connection therewith.

(d) Upon the receipt by any Loan Party or any of their Subsidiaries of any Extraordinary Receipts, unless the Agent agrees otherwise, the Borrower shall prepay the outstanding principal of the Term Loans in an amount equal to all such Extraordinary Receipts, net of any expenses incurred in collecting such Extraordinary Receipts.

(e) No Implied Consent. Nothing in this Section 7 shall be construed to constitute the Agent's or any DIP Lender's consent to any transaction that is not permitted by other provisions of this Note or the other DIP Documents.

(f) Application of Payments. The Agent and the DIP Lenders may elect that the proceeds of any optional or mandatory prepayment made pursuant to this Note be applied, in whole or in part, to the Prepetition Obligations.

8. Fees. Borrower shall pay to the Agent for the account of the DIP Lenders the following fees:

(a) Initial Loan Facility Fee. On the date of funding the Initial Loan, the Borrower shall pay to the Agent a facility fee (the "Initial Loan Facility Fee") equal to \$95,000, which shall be fully earned upon the entry of the Interim Order and non-refundable when paid.

(b) Additional Loan Facility Fee. On the date of funding the first Additional Loan after the entry of the Final Order, the Borrower shall pay to the Agent a facility fee (the "Additional Loan Facility Fee") equal to \$155,000, which shall be fully earned upon the entry of the Final Order and non-refundable when paid.

(c) Administration Fee. On or prior to the date of funding of the Initial Loan, the Borrower shall pay to the Agent an administration fee (the "Administration Fee") equal to \$50,000, which shall be fully earned upon the entry of the Interim Order and non-refundable when paid.

9. Indemnity.

(a) The Loan Parties shall indemnify and hold harmless the Agent and each DIP Lender and each of their respective affiliates, and each such Person's respective officers, directors, employees, attorneys, agents and representatives (each, an "Indemnified Person"), from and against any and all suits, actions, proceedings, claims, damages, losses, liabilities and expenses

(including reasonable attorneys' fees and disbursements and other costs of investigation or defense, including those incurred upon any appeal) that may be instituted or asserted against or incurred by any such Indemnified Person as the result of credit having been extended, suspended or terminated under this Note and the other DIP Documents and the administration of such credit, and in connection with or arising out of the transactions contemplated hereunder and thereunder and any actions or failures to act in connection therewith, and legal costs and expenses arising out of or incurred in connection with disputes between the Agent and the DIP Lenders on the one hand and the Loan Parties on the other hand; provided, that (i) the Loan Parties shall not be liable for any indemnification to an Indemnified Person to the extent that any such suit, action, proceeding, claim, damage, loss, liability or expense results solely from such Indemnified Person's breach of a material obligation under this Note or such Indemnified Person's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction and (ii) this Section 9 shall not apply with respect to taxes other than any taxes that represent losses, claims, damages, etc. arising from any non-tax claim. **NO INDEMNIFIED PERSON SHALL BE RESPONSIBLE OR LIABLE TO ANY OTHER PARTY, ANY SUCCESSOR, ASSIGNEE OR THIRD PARTY BENEFICIARY OF SUCH PERSON OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES THAT MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED OR TERMINATED UNDER ANY DIP DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR THEREUNDER.**

10. Adjustments for Withholding, Capital Adequacy Etc. All payments to the Agent by the Borrower under this Note shall be made free and clear of and without deduction or withholding for any and all taxes, duties, levies, imposts, deductions, charges or withholdings and all related liabilities (all such taxes, duties, levies, imposts, deductions, charges, withholdings and liabilities being referred to as "Taxes") imposed by the United States of America or any other nation or jurisdiction (or any political subdivision or taxing authority of either thereof), unless such Taxes are required by applicable law to be deducted or withheld. If the Borrower shall be required by applicable law to deduct or withhold any such Taxes from or in respect of any amount payable under this Note other than taxes imposed on the Agent or any DIP Lender's overall net income, then (A) if such Tax is an Indemnified Tax, the amount payable shall be increased as may be necessary so that after making all required deductions or withholdings, (including deductions or withholdings applicable to any additional amounts paid under this Note) the Agent receives an amount equal to the amount it would have received if no such deduction or withholding had been made, (B) the Borrower shall make such deductions or withholdings, and (C) the Borrower shall timely pay the full amount deducted or withheld to the relevant governmental entity in accordance with applicable law.

If the effect of the adoption, effectiveness, phase-in or applicability after the date hereof of any law, rule or regulation (including without limitation any tax, duty, charge or withholding on or from payments due from the Borrower (but excluding Indemnified Taxes, Excluded Taxes, and taxation on the overall net income of the DIP Lenders)), or any change therein or in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, is to reduce the rate of return on the capital of the Agent with respect to this Note or to increase the cost to the Agent of making or maintaining amounts available under this Note, the Borrower agrees to pay to the

Agent such additional amount or amounts as will compensate the Agent on an after-tax basis for such reduction or increase.

The Borrower agrees to timely pay any present or future stamp or documentary taxes or any other excise or property taxes, charges, financial institutions duties, debits taxes or similar levies (all such taxes, charges, duties and levies being referred to as "Other Taxes") which arise from any payment made by the Borrower under this Note or from the execution, delivery or registration of, or otherwise with respect to, this Note.

The Borrower shall indemnify the Agent and each of the DIP Lenders for the full amount of Indemnified Taxes (including, without limitation, any Indemnified Taxes imposed by any jurisdiction on amounts payable by the Borrower hereunder) paid by the Agent or any DIP Lender and any liability (including penalties, interest and expenses) arising from or with respect to such Indemnified Taxes paid by the Agent or any DIP Lender, whether or not they were correctly or legally asserted, excluding taxes imposed on the Agent or any DIP Lender's overall net income. Payment under this indemnification shall be made upon demand. A certificate as to the amount of such Indemnified Taxes submitted to the Borrower by the Agent shall be conclusive evidence, absent manifest error, of the amount due from the Borrower to the DIP Lenders.

The Borrower shall furnish to the DIP Lenders the original or a certified copy of a receipt evidencing any payment of Taxes made by the Borrower pursuant to this Section 10 within thirty (30) days after the date of any such payment. If any Recipient becomes aware that it has received a refund of any Taxes with respect to which the Borrower has paid any amount pursuant to this Section 10, such Recipient shall pay the amount of such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such Recipient and without interest (other than any interest received from the relevant governmental authority with respect thereto), to the Borrower promptly after receipt thereof.

Any Recipient of a payment hereunder shall, to the extent it is legally entitled to do so, deliver to the Borrower on or prior to the date hereof (and from time to time thereafter upon the reasonable request of the Borrower), two properly completed and executed copies of IRS Forms W-8 or W-9 and properly completed and executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding tax, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction (if any) required to be made. In addition, any such Recipient, if reasonably requested by the Borrower, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower as will enable the Borrower to determine whether or not such Recipient is subject to backup withholding or information reporting requirements. Each Recipient agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall timely update such form or certification or promptly notify the Borrower in writing of its legal inability to do so.

11. Priority of Obligations and DIP Lenders' Liens.

(a) To secure all of the Borrower's Obligations now existing or hereafter

arising, the Agent, for the benefit of itself and the DIP Lenders, is granted, effective as of the Order for Relief Date: (i) subject to the Carve-Out, an allowed super-priority administrative expense claim against each of the Borrower and Guarantors (jointly and severally) pursuant to Section 364(c)(1) of the Bankruptcy Code, and except as set forth in the Financing Orders, having a priority over any and all other claims and costs and expenses of administration of any kind whatsoever, whether now existing or hereafter arising, including, without limitation, those specified in, ordered pursuant to or arising under, *inter alia*, sections 105, 326, 328, 330, 331, 363, 364, 503, 506, 507, 546, 726, 1113 or 1114 or any other provision of the Bankruptcy Code or otherwise (whether incurred in these Chapter 11 Cases and any Successor Case), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy, or attachment, which allowed superpriority administrative claim (x) shall at all times be senior to the rights of the Debtors, any successor trustee or estate representative, or any other creditor or party in interest in the Chapter 11 Cases or any Successor Case, (y) shall be, for purposes of section 1129(a)(9)(A) of the Bankruptcy Code, considered an administrative expense allowed under section 503(b) of the Bankruptcy Code, and (z) shall be payable from and have recourse to all prepetition and postpetition property, whether existing as of the Order for Relief Date or thereafter acquired, of the Debtors and all proceeds thereof; and (ii) (x) pursuant to Sections 364(c)(2) of the Bankruptcy Code, Liens on, and security interests in, the Collateral, that are first and senior in priority to all other Liens on, and security interests in, the Collateral that was not encumbered by a valid, enforceable, properly perfected and non-avoidable Lien as of the Order for Relief Date, subject only to the Carve-Out, and (y) pursuant to sections 364(c)(3) and 364(d) of the Bankruptcy Code, priming Liens on, and security interests in, all other Collateral, subject only to the Carve-Out and Permitted Prior Liens. Except as set forth in the Financing Orders, the security interests and Liens granted to the Agent hereunder shall not be (i) subject to any Lien or security interest which is avoided and preserved for the benefit of the Loan Parties' estate under Section 551 of the Bankruptcy Code, or (ii), subordinated to or made pari passu with any other Lien or security interest under Section 364(d) of the Bankruptcy Code or otherwise.

(b) The priority of the Agent's Liens on the Collateral shall be as set forth in the Financing Orders.

(c) Notwithstanding anything herein to the contrary (i) all proceeds received by the Agent and the DIP Lenders from the Collateral subject to the Liens granted in this Section 11 and in each other DIP Document, including the Financing Orders shall be subject to the Carve-Out, and (ii) no Person entitled to the Carve-Out shall be entitled to sell, or otherwise dispose, or seek or object to the sale or other disposition of, any Collateral.

(d) Each of the Loan Parties agrees for itself that the Obligations of such Person shall constitute allowed administrative expenses in the Chapter 11 Cases, having priority over all administrative expenses of and unsecured claims against such Person now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, all administrative expenses of the kind specified in, or arising or ordered under, Sections 105, 326, 328, 330, 331, 363, 364, 365, 503, 506, 507, 546, 726, 1113 and/or 1114 of the Bankruptcy Code, except as set forth in the Financing Orders.

(e) The Agent's Liens on the Collateral and the super-priority administrative claim under Section 364(c) of the Bankruptcy Code afforded the Obligations and the Guaranteed

Obligations shall, following the occurrence and during the continuation of an Event of Default, be subject to the Carve-Out, in accordance with the Financing Orders.

12. Further Assurances. Each Loan Party agrees that it shall, at its expense and upon the reasonable request of the Agent, duly execute and deliver or cause to be duly executed and delivered, to the Agent or such DIP Lender, as the Agent shall direct such Loan Party such further instruments and do and cause to be done such further acts as may be necessary or proper in the reasonable opinion of the Agent to carry out more effectively the provisions and purposes of this Note or any other DIP Document, including, upon the written request of the Agent and in form and substance reasonably satisfactory to the Agent, security agreements, UCC-1 financing statements and other Collateral Documents confirming and perfecting the granting to the Agent, on behalf of the DIP Lenders, of the Liens (subject to the Financing Orders) in the Collateral to secure the Obligations.

13. Reports and Notices. The Loan Parties agree that they shall deliver (which delivery may be made by electronic communication (including email)) to the Agent each of the reports and other items (without duplication) set forth on Schedule 13 and in the Financing Orders no later than the times specified therein. The Parent agrees not to, and agrees to cause each of its Subsidiaries not to, change its fiscal year. In addition, the Parent agrees to, and agrees to cause each of its Subsidiaries to, maintain a system of accounting that enables the Parent and such Subsidiaries to produce financial statements in accordance with GAAP in all material respects.

14. Affirmative Covenants.

The Parent and its Subsidiaries agree that:

(a) Upon request of the Agent, the Parent and its Subsidiaries will permit any officer, employee, attorney or accountant or agent of the Agent to audit, review, make extracts from or copy, at the Parent's and its Subsidiaries' expense, any and all corporate and financial and other books and records of the Parent and its Subsidiaries at all times during ordinary business hours and, in the absence of an Event of Default, upon reasonable advance notice and to discuss the Parent's and its Subsidiaries' affairs with any of their directors, officers, employees, attorneys, or accountants. The Parent and its Subsidiaries will permit the Agent, or any of its officers, employees, accountants, attorneys or agent, to examine and inspect any Collateral or any other property of the Parent and its Subsidiaries at any time during ordinary business hours and, in the absence of an Event of Default, upon reasonable prior notice. Notwithstanding the foregoing, none of the Parent or any of its Subsidiaries will be required to disclose information to the Agent (or any agent or representative thereof) that is prohibited by applicable law or is subject to attorney-client or similar privilege or constitutes attorney work product.

(b) (A) The Parent and its Subsidiaries will comply with all requirements of applicable law, the non-compliance with which could reasonably be expected to have a Material Adverse Effect and (B) the Parent and its Subsidiaries will obtain, maintain in effect and comply with all contracts and all permits, licenses and similar approvals necessary for the operation of their respective businesses as now or hereafter conducted other than to the extent contemplated by the Budget, the Sale Motion or the Financing Orders.

(c) The Parent and its Subsidiaries will pay or discharge, when due, (i) all taxes, assessments and governmental charges levied or imposed upon them or upon their respective income or profits, upon any respective properties of the Parent and its Subsidiaries (including, without limitation, the Collateral) or upon or against the creation, perfection or continuance of the security interest, prior to the date on which penalties attach thereto, except in each case (1) where the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Parent and its Subsidiaries (as applicable) and (2) taxes the nonpayment of which is permitted or required by the Bankruptcy Code or this Note, (ii) all federal, state and local taxes required to be withheld by them, and (iii) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien or charge upon any respective properties of the Parent and its Subsidiaries.

(d) (i) The Parent and each of its Subsidiaries will keep and maintain the Collateral and all of their respective other properties necessary or useful in their respective businesses in good condition, repair and working order (normal wear and tear excepted) other than to the extent contemplated by the Budget, any Sale Order or the Financing Orders, (ii) the Parent and each of its Subsidiaries will defend the Collateral against all claims or demands of all Persons (other than Permitted Encumbrances) claiming the Collateral or any interest therein, and (iii) the Parent and each of its Subsidiaries will keep all Collateral free and clear of all security interests, liens and encumbrances, except Permitted Encumbrances and other than to the extent contemplated by any Sale Order or the Financing Orders.

(e) The Parent and its Subsidiaries will obtain and at all times maintain insurance with responsible and reputable insurers, in such amounts and against such risks as may be required by the Prepetition Facility whether or not such facility remains in effect. Without limiting the generality of the foregoing, the Parent and its Subsidiaries will at all times keep all tangible Collateral insured against such risks as may be required by the Prepetition Facility whether or not such facility remains in effect, with any loss payable to the Agent to the extent of its interest and subject to the Financing Orders, and shall provide within 10 days of the Closing Date (as may be extended by the Agent in its sole discretion) that all policies of such insurance shall contain a loss payable endorsement in favor of the Agent and subject to the Financing Orders, in form and substance acceptable to the Agent in its sole discretion. The Parent and its Subsidiaries shall use commercially reasonable efforts to provide within 10 days of the Closing Date (as may be extended by the Agent in its sole discretion) that all policies of liability insurance required hereunder shall name the Agent as an additional insured.

(f) The Parent and its Subsidiaries will preserve and maintain their existence and all of their rights, privileges and franchises necessary or desirable in the normal conduct of their business, except to the extent contemplated by the Budget, the Sale Motion or the Financing Orders.

(g) The Parent and its Subsidiaries shall at all times operate their businesses in a manner consistent with the Budget except to the extent of any Permitted Variance.

(h) The Parent and its Subsidiaries each agree that they shall take all actions necessary to cause each of the following to occur (each a "Milestone" and collectively, the "Milestones"):

(1) no later than 2 Business Days after the Order for Relief Date, the Interim Order approving this Note shall be entered by the Bankruptcy Court;

(2) no later than 30 days after the entry of the Interim Order, the Final Order approving this Note and the financing contemplated hereby shall be entered by the Bankruptcy Court;

(3) no later than February 18, 2020, the Loan Parties shall file one or more motions (together with all exhibits, annexes and related documents, the "Sale Motion"), in form and substance reasonably acceptable to the Agent, which Sale Motion shall be in form and substance acceptable to the Agent in its sole discretion, seeking entry of orders (x) establishing bidding procedures (the "Bid Procedures") for the sale(s) of all or substantially all of the Loan Parties' assets (such order, together with all exhibits, annexes and related documents, the "Bid Procedures Order"), which Bid Procedures Order shall be in form and substance acceptable to the Agent in its sole discretion, and (y) approving the sale(s) of all or substantially all the assets of the Loan Parties (any such order, together with all exhibits, annexes and related documents, the "Sale Order"), which Sale Order shall be in form and substance acceptable to the Agent in its sole discretion;

(4) no later than February 24, 2020, the Loan Parties shall have received one or more letters of intent from potential bidders, each in form and substance acceptable to the Agent in its sole discretion;

(5) no later than March 11, 2020, the hearing on the Sale Motion as it relates to the approval of the Bid Procedures and entry of the Bid Procedures Order shall be held;

(6) no later than March 13, 2020, the Loan Parties shall obtain entry of the Bid Procedures Order in form and substance acceptable to the Agent in its sole discretion;

(7) no later than April 17, 2020, the Loan Parties shall have received one or more Qualified Bid(s) (as defined in the Bid Procedures), each in form and substance acceptable to the Agent in its sole discretion;

(8) to the extent required under the Bid Procedures Order and more than one Qualified Bid is received by the Bid Deadline (as defined in the Bid Procedures), not later than April 20, 2020, the Loan Parties shall commence an auction in accordance with the Bid Procedures Order, and after consultation with and approval by the Agent, select the successful bid(s);

(9) no later than April 23, 2020, the hearing on the Sale Motion as it relates to the approval of the sale(s) of all or substantially all of the Loan Parties' assets and entry of the Sale Order shall be held;

(10) no later than April 29, 2020, the Bankruptcy Court shall have entered Sale Order, in form and substance acceptable to the Agent in its sole discretion, which Sale Order, among other things, (x) authorizes the sale(s) of the Loan Parties' assets

free and clear of all liens, claims and interests (other than those expressly preserved in the Sale Order) and (y) contains the "good faith" protections pursuant to Bankruptcy Code section 363(m) (the "Approved Sale(s)"); and

(11) no later than May 8, 2020, the Approved Sale(s) shall have been consummated and all proceeds of such sales applied in accordance with the Financing Orders; provided, that the dates set forth in clauses (7), (8) and (9) of this Section 14(h) may be extended by the Debtors in the exercise of their business judgment after consultation with the Committee and the Agent.

15. Negative Covenants.

The Parent and its Subsidiaries each agree that, without the prior written consent of the Agent:

(a) Neither the Parent nor any of its Subsidiaries shall directly or indirectly, by operation of law or otherwise, (i) form or acquire any Subsidiary, or (ii) merge with, consolidate with, acquire all or substantially all of the assets or Equity Interests of, or otherwise combine with or acquire, any Person, except in the case of this clause (ii), with respect to existing Subsidiaries to the extent consented to by the Agent.

(b) Neither the Parent nor any of its Subsidiaries shall create, incur, assume or permit to exist any Indebtedness, except (without duplication), to the extent not prohibited by the Financing Orders, Permitted Indebtedness.

(c) Neither the Parent nor any of its Subsidiaries shall enter into, renew, extend or be a party to, or permit any of its Subsidiaries to enter into, renew, extend or be a party to, any transaction with any affiliate, except transactions otherwise expressly permitted by this Note.

(d) Neither the Parent nor any of its Subsidiaries shall create, incur, assume or permit to exist any Lien on or with respect to any of its properties or assets (whether now owned or hereafter acquired) except for Permitted Encumbrances or as expressly permitted by the Financing Orders.

(e) Neither the Parent nor any of its Subsidiaries shall (a) make any Restricted Payment, except dividends and distributions by Subsidiaries of the Parent paid to the Parent or other wholly-owned Subsidiaries of the Parent and (b) make any payment in respect of, or repurchase, redeem, retire or defease any, prepetition Indebtedness, except pursuant to the terms of the Financing Orders and as permitted under this Note.

(f) Neither the Parent nor any of its Subsidiaries will assume, guarantee, endorse or otherwise become directly or contingently liable in connection with any obligations of any other Person (other than the Parent or any of its Subsidiaries), except the endorsement of negotiable instruments by Parent and its Subsidiaries for the deposit or collection or similar transactions in the ordinary course of business.

(g) Neither the Parent nor any of its Subsidiaries will convey, sell, lease, assign, transfer or otherwise dispose of any of its property, business or assets, whether now owned or

hereinafter acquired other than (a) the sale of Inventory in the ordinary course of business, (b) the sale or disposition of obsolete equipment, (c) the sale of other property on terms acceptable to the Agent in its sole discretion, and (d) the transfer, sale or disposition of assets approved by an order of the Bankruptcy Court, which order shall be in form and substance acceptable to the Agent in its sole discretion.

(h) Neither the Parent nor any of its Subsidiaries shall consent to any amendment, supplement or other modification of any of the terms or provisions contained in, or applicable to, (a) any of the Financing Orders, (b) the Prepetition Obligations or (c) Material Contracts. Except for (i) claims of employees for unpaid wages, bonuses, accrued vacation and sick leave time, business expenses and contributions to employee benefit plans for the period immediately preceding the Order for Relief Date and prepetition severance obligations, in each case to the extent permitted to be paid by an order of the Bankruptcy Court (which order shall be in form and substance acceptable to the Agent in its sole discretion) and pursuant to the Budget, and (ii) payments permitted by the Financing Orders and the Budget, neither the Parent nor any of its Subsidiaries shall make any payment in respect of, or repurchase, redeem, retire or defease any, prepetition Indebtedness, except for other payments consented to by the Agent in writing in its sole discretion or applied by the Agent to any Prepetition Obligations as provided for under this Note.

(i) Neither the Parent nor any of its Subsidiaries shall make any investment in, or make loans or advances of money to, any Person, through the direct or indirect lending of money, holding of securities or otherwise.

16. Events of Default; Rights and Remedies. Notwithstanding the provisions of Section 362 of the Bankruptcy Code and without application or motion to the Bankruptcy Court, the occurrence of any one or more of the following events (regardless of the reason therefor) shall constitute an "Event of Default" hereunder:

A. Any Loan Party (i) shall fail to make any payment of principal of, or interest on, or fees owing in respect of, the Term Loans or any of the other Obligations when due and payable, or (ii) shall fail to pay or reimburse the Agent on behalf of the DIP Lenders for any expense reimbursable hereunder or under any other DIP Document within three (3) Business Days following the Agent's demands for such reimbursement or payment.

B. Any Loan Party shall fail to comply with any of the provisions of (i) Sections 13, 14(b), 14(c), 14(d), 14(e) or 14(f) of this Note and such failure shall remain uncured for a period of one (1) Business Day, or (ii) Section 14(a) of this Note and such failure shall remain uncured for a period of three (3) Business Days, or (iii) Section 15 of this Note or any material provision of the Guaranty.

C. Any Loan Party shall fail to comply with any of other provision of this Note or any of the other DIP Documents (other than any provision embodied in or covered by any other clause of this Section 16) and the same (other than the provisions covered by Section 14(h)), if capable of being remedied, shall remain unremedied for ten (10) days after the earlier of the date a senior officer or any Loan Party becomes aware of such failure and the date written notice of such default shall have been given by the Agent to such Loan Party.

D. Except for defaults occasioned by the filing of the Chapter 11 Cases and defaults resulting from obligations with respect to which the Bankruptcy Code prohibits any Loan Party from complying or permits any Loan Party not to comply, a default or breach shall occur under any other agreement, document or instrument to which any Loan Party is a party that is not cured within any applicable grace period therefor, and such default or breach (i) involves the failure to make any payment when due in respect of any Indebtedness (other than the Obligations) of any Loan Party in excess of \$50,000 in the aggregate, or (ii) causes, or permits any holder of such Indebtedness or a trustee to cause, Indebtedness or a portion thereof in excess of \$50,000 in the aggregate to become due prior to its stated maturity or prior to its regularly scheduled dates of payment, regardless of whether such default is waived, or such right is exercised, by such holder or trustee.

E. Any representation or warranty herein or in any other DIP Document or in any written statement, report, financial statement or certificate made or delivered to DIP Lenders by any Loan Party is untrue or incorrect in any material respect (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of the date when made or deemed made.

F. Any Loan Party shall bring a motion in any Chapter 11 Case: (i) to obtain financing from any Person other than DIP Lenders under Section 364(c) or 364(d) of the Bankruptcy Code, except to the extent the proceeds of such financing would be used to indefeasibly repay in full in cash all of the Obligations under this Note; (ii) to grant any Lien other than Permitted Encumbrances upon or affecting any Collateral, except to the extent the proceeds of any such financing secured by such Lien would be used to indefeasibly repay in full in cash all of the Obligations under this Note; (iii) [reserved]; or (iv) to authorize any other action or actions adverse to the Agent or the DIP Lenders, or the Agent's and/or the DIP Lenders' rights and remedies hereunder or their interests in the Collateral.

G. The entry of an order in any of the Chapter 11 Cases confirming a plan or plans of reorganization that does not contain a provision for the termination of the DIP Lenders' commitment to make Term Loans and the indefeasible repayment in full in cash of all the Obligations under this Note and the obligations under the Prepetition Facility on or before the effective date of such plan or plans and that is not otherwise acceptable to the Agent in its sole discretion.

H. The filing of any motion by the Borrower or any other Loan Party seeking, or the entry of any order in the Chapter 11 Cases in respect of, any claim or claims under Section 506(c) of the Bankruptcy Code against or with respect to any Collateral.

I. The sale without the Agent's consent in its sole discretion, of all or substantially all of Borrower's assets either through a sale under Section 363 of the Bankruptcy Code, through a confirmed plan of reorganization in the Chapter 11 Cases, or otherwise, that does not provide for the indefeasible payment in full in cash of the Obligations and the obligations under the Prepetition Facility and termination of the DIP Lenders' commitment to make Term Loans, and is not otherwise acceptable to the Agent in its sole discretion.

J. The occurrence of any postpetition judgments, liabilities or events that,

individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

K. The entry by the Bankruptcy Court of an order authorizing the appointment of an interim or permanent trustee in the Chapter 11 Cases or the appointment of an examiner in the Chapter 11 Cases with expanded powers to operate or manage the financial affairs, business, or reorganization of any Loan Party.

L. The Chapter 11 Cases, or any of them, shall be dismissed or converted from cases under Chapter 11 to cases under Chapter 7 of the Bankruptcy Code.

M. The entry of an order in any Chapter 11 Case avoiding or requiring repayment of any portion of the payments made on account of the Obligations owing under this Note or the other DIP Documents.

N. The entry of an order in any Chapter 11 Case granting any other super-priority administrative claim or Lien equal to or superior to that granted to the Agent (other than any such claim or Lien permitted by the Financing Orders), unless (i) consented to by the Agent in its sole discretion or (ii) the Obligations and the obligations under the Prepetition Facility are indefeasibly paid in full in cash and the DIP Lenders' commitment to make Term Loans is terminated.

O. The entry of an order by the Bankruptcy Court granting relief from or modifying the automatic stay of Section 362 of the Bankruptcy Code to allow any creditor (other than the Agent) to execute upon or enforce a Lien on any Collateral except with respect to Permitted Encumbrances arising prior to the Order for Relief Date in an aggregate amount not to exceed \$50,000.

P. The Financing Orders (or either of them) shall be stayed, amended, modified, reversed or revoked in any respect without the Agent's prior written consent (which consent shall be in its sole discretion).

Q. There shall commence any suit or action against the Agent or any DIP Lender by or on behalf of (i) any Loan Party or (ii) any official committee in the Chapter 11 Cases, in each case, that asserts a claim or seeks a legal or equitable remedy that would have the effect of subordinating the claim or Lien of DIP Lenders and, if such suit or action is commenced by any Person other than any Loan Party, officer, or employee of any Loan Party, such suit or action shall not have been dismissed or stayed within 10 days after service thereof on the Agent or any DIP Lender, as applicable, and, if stayed, such stay shall have been lifted.

R. Failure of the Loan Parties to comply with any Milestone set forth in Section 14(h), except to the extent any such Milestone has been extended by order of the Bankruptcy Court.

S. Any provision of any DIP Document shall for any reason cease to be valid, binding and enforceable in accordance with its terms (or any Loan Party shall challenge the enforceability of any DIP Document or shall assert in writing, or engage in any action or inaction based on any such assertion, that any provision of any DIP Document has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms), or any Lien created under any DIP Document shall cease to be a valid and perfected first priority Lien (except as otherwise

permitted herein or in the Financing Orders) in any of the Collateral purported to be covered thereby.

T. Termination of the use of Cash Collateral pursuant to the terms of the Financing Orders.

U. Assets of any Loan Party with a fair market value of \$100,000 or more are attached, seized, levied upon or subjected to a writ or distress warrant, or come within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors of any Loan Party and such condition continues for ten (10) days or more.

V. A breach by any Loan Party of any of the terms of any of the Financing Orders.

W. A Material Adverse Deviation shall have occurred.

X. Entry of an order authorizing and/or directing the reclamation of goods pursuant to section 546(c) of the Bankruptcy Code.

Y. The Final Order shall not have been entered by the Bankruptcy Court on or before March 25, 2020.

Z. The Loan Parties terminate or fail to continue to retain on terms and conditions (including scope of authority) reasonably acceptable to the Agent (1) Huron Consulting Group, as chief transformation officer of the Loan Parties or (2) Jefferies LLC, as investment banker and financial advisor to the Loan Parties.

If any Event of Default shall have occurred and be continuing, then the Agent may, upon written notice to the Borrower and subject to the terms of the Financing Orders: (i) terminate the Commitment of each DIP Lender with respect to further Term Loans; (ii) declare all or any portion of the Obligations, including all or any portion of any Term Loan, to be forthwith due and payable; (iii) revoke the Borrower's and the other Loan Parties' rights to use Cash Collateral in which the Agent and the DIP Lenders have an interest; and (iv) exercise any rights and remedies under the DIP Documents or at law or in equity, all in accordance with the Financing Orders. Upon the occurrence of an Event of Default and the exercise by the Agent or the DIP Lenders of their rights and remedies under this Note and the other DIP Documents pursuant to clause (iv) above and subject to the Financing Orders, each Loan Party shall assist the Agent in effecting a sale or other disposition of the Collateral upon such terms as are designed to maximize the proceeds obtainable from such sale or other disposition.

Except as otherwise provided for in this Note or by applicable law, each Loan Party waives: (a) presentment, demand and protest and notice of presentment, dishonor, notice of intent to accelerate, notice of acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper, accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by the Agent on which any such Loan Party may in any way be liable, and hereby ratifies and confirms whatever the Agent may do in this regard; (b) all rights to notice and a hearing prior to the Agent taking possession or control of, or Agent's replevy, attachment or levy upon, the Collateral or any bond or security that

might be required by any court prior to allowing Agent to exercise any of its remedies; and (c) the benefit of all valuation, appraisal, marshaling and exemption laws.

To the extent permitted by law and subject in all respects to the terms of the Financing Orders, the Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under section 9-207 of the Uniform Commercial Code or otherwise, shall be to deal with it in the same manner as Agent deals with similar securities and property for its own account, the Agent's duty of care with respect to Collateral in the custody or possession of a bailee or other third person shall be deemed fulfilled if the Agent exercises reasonable care in the selection of the bailee or other third person, and the Agent need not otherwise preserve, protect, insure or care for any Collateral, and the Agent shall not be obligated to preserve any rights any Loan Party may have against prior parties.

17. Reference Agreements. This Note evidences the Term Loans that may be made to Borrower from time to time in the aggregate principal amount outstanding of up to \$10,000,000 and is issued pursuant to and entitled to the benefits of the Financing Orders, to which reference is hereby made for a more complete statement of the terms and conditions under which the Term Loans evidenced by this Note are made and are to be repaid.

18. Definitions. The following terms used in this Note shall have the following meanings (and any of such terms may, unless the context otherwise requires, be used in the singular or the plural depending on the reference):

"Additional Loan Facility Fee" shall have the meaning given such term in Section 8 of this Note.

"Bankruptcy Code" shall have the meaning given such term in the recital to this Note.

"Bankruptcy Court" shall have the meaning given such term in the recital to this Note.

"Borrower" shall have the meaning given such term in the recital to this Note.

"Budget" means a rolling thirteen (13) week forecast of projected receipts, disbursements, net cash flow, liquidity, loans and availability for the immediately following consecutive 13 weeks after the date of delivery, which shall be in substantially the form of the Initial Budget or otherwise in form and substance acceptable to the Agent in its sole discretion and shall be approved by the Agent in its sole discretion. The initial Budget, which shall be in form and substance acceptable to, and approved by, the Agent in its sole discretion (the "Initial Budget") is attached hereto as Exhibit A.

"Business Day" means any day other than a Saturday, Sunday or legal holiday under the laws of the State of New York or any other day on which banking institutions located in the State of New York are authorized or required by law or other governmental action to close.

"Carve-Out" shall have the meaning given such term in the Financing Orders.

"Cash Collateral" shall have the meaning given such term in the Financing Orders, and shall include "cash collateral" as that phrase is defined in Section 363(a) of the Bankruptcy Code.

"Chapter 11 Case" and "Chapter 11 Cases" shall have the respective meanings given such terms in the recital to this Note.

"Closing Date" means the Business Day when each of the conditions applicable to the making of the Initial Loan and listed in Section 2 of this Note shall have been satisfied or waived in a manner satisfactory to the Agent.

"Collateral" shall mean the assets and property covered by the Financing Orders and the other Collateral Documents and any other assets and property, real or personal, tangible or intangible, now existing or hereafter acquired, that may at any time be or become subject to a security interest or Lien in favor of the Agent on behalf of the DIP Lenders, to secure the Obligations and the Guaranteed Obligations, and shall include DIP Collateral (as defined in the Financing Orders). Without limiting the foregoing, the Collateral shall include all present and future property of each Loan Party under Section 541(a) of the Bankruptcy Code and all proceeds thereof.

"Collateral Documents" shall mean any agreement entered into pursuant to Section 12 hereof and all similar agreements entered into guaranteeing payment of, or granting a Lien upon property as security for payment of, the Obligations and the Guaranteed Obligations, each in form and substance acceptable to the Agent in its sole discretion, including the Financing Orders and the Guaranty.

"Committee" shall have the meaning given to such term in the Financing Orders.

"Commitment" means, with respect to each DIP Lender, the commitment of such DIP Lender to make its portion of the Term Loans to the Borrower in the principal amount set forth on the signature page to this Note for each DIP Lender, as the same may be terminated or reduced from time to time in accordance with the terms of this Note.

"Debtors" shall have the meaning given to such term in the Financing Orders.

"Default" means an event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Default Rate" shall have the meaning given such term in Section 4(d) of this Note.

"DIP Documents" shall mean this Note, the Collateral Documents, the Guaranty, the Financing Orders, and all other agreements, instruments, documents and certificates executed and delivered to, or in favor of the Agent and including all other pledges, powers of attorney, consents, assignments, contracts, notices, and all other written matter whether heretofore, now or hereafter executed by or on behalf of any Loan Party, or any employee of any Loan Party, and delivered to the Agent in connection with this Note or the transactions contemplated thereby, in each case in form and substance acceptable to the Agent in its sole discretion. Any reference in this Note or any other DIP Document to a DIP Document shall include all appendices, exhibits or

schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to such DIP Document as the same may be in effect at any and all times such reference becomes operative.

"DIP Lenders" shall have the meaning given such term in the recital to this Note.

"Dollars" or "\$" shall mean lawful currency of the United States of America.

"Equity Interests" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Event of Default" shall have the meaning given such term in Section 16 of this Note.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any DIP Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof), (b) in the case of a DIP Lender, federal withholding Taxes imposed on amounts payable to or for the account of such DIP Lender with respect to an applicable interest in a Term Loan or Commitment pursuant to a law in effect on the date on which (i) such DIP Lender acquires such interest in the Term Loan or Commitment or (ii) such DIP Lender changes its lending office, except in each case to the extent that, pursuant to Section 10, amounts with respect to such Taxes were payable either to such DIP Lender's assignor immediately before such DIP Lender became a party hereto or to such DIP Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to provide the Borrower with the tax documentation described in Section 10 hereof and (d) any withholding Taxes imposed under FATCA.

"Extraordinary Receipts" means any cash received by the Parent or any of its Subsidiaries not in the ordinary course of business (and not consisting of proceeds described Sections 7(b) and (c) hereof), including, without limitation, (i) foreign, United States, state or local tax refunds, (ii) pension plan reversions, (iii) proceeds of insurance, (iv) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action, (v) condemnation awards (and payments in lieu thereof), (vi) indemnity payments and (vii) any purchase price adjustment received in connection with any purchase agreement.

"FATCA" means Sections 1471 through 1474 of the Internal Revenue 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 Internal Revenue 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 Internal Revenue Code.

"Final Order" shall mean the order of the Bankruptcy Court entered in the Chapter 11 Cases after a final hearing pursuant to Section 364 of the Bankruptcy Code and Bankruptcy

Rule 4001, satisfactory in form and substance to the Agent in its sole discretion, together with all extensions, modifications and amendments thereto (which extensions, modifications and/or amendments are satisfactory in form and substance to the Agent in its sole discretion), authorizing Borrower to obtain credit, incur Indebtedness, and grant Liens under this Note and/or certain financing documentation, all as set forth in such order.

"Financing Orders" shall mean, collectively, the Interim Order and the Final Order.

"GAAP" shall mean generally accepted accounting principles in the United States of America.

"Guaranteed Obligations" shall mean the obligations to be guaranteed by each Guarantor pursuant to the terms of the Guaranty.

"Guarantor" shall have the meaning given such term in the recital to this Note.

"Guaranty" shall mean a guaranty of the Guarantors, in form and substance satisfactory to the Agent in its sole discretion, with respect to the Obligations.

"Indebtedness" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Indemnified Person" shall have the meaning given such term in Section 9 of this Note.

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

"Initial Loan Facility Fee" shall have the meaning given such term in Section 8 of this Note.

"Interim Order" shall mean the interim order of the Bankruptcy Court entered in the Chapter 11 Cases after an interim hearing (assuming satisfaction of the standards prescribed in Section 364 of the Bankruptcy Code and Bankruptcy Rule 4001 and other applicable law), together with all extensions, modifications and amendments thereto, satisfactory in form and substance to the Agent in its sole discretion, authorizing, on an interim basis, Borrower to execute and perform under the terms of this Note and the other DIP Documents.

"Inventory" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"LIBOR Rate" means "LIBOR Rate" as such term is (i) applicable to the Term Loan (as defined in the Prepetition Credit Agreement) and (ii) defined in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"LIBOR Rate Loan" means each portion of a Term Loan that bears interest at a rate determined by reference to the LIBOR Rate.

"Lien" shall mean any mortgage or deed of trust, pledge, hypothecation, assignment, deposit arrangement, lien, charge, claim, security interest, easement or encumbrance, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any lease or any financing lease having substantially the same economic effect as any of the foregoing, and the filing of, or agreement to give, any financing statement perfecting a security interest under the Uniform Commercial Code or comparable law of any jurisdiction).

"Loan Party" means the Borrower and any Guarantor.

"Material Adverse Deviation" means, as of any date of determination, an adverse deviation of more than the Permitted Variance from the aggregate amount set forth in the following line items of the Budget: (i) "Total disbursements" for the following periods: the 2 weeks ending on March 13, 2020, the 3 weeks ending on March 20, 2020, the 4 weeks ending on March 27, 2020 and each rolling 4 week period thereafter and (ii) "Cash Receipts" for the following periods: the 2 weeks ending on March 13, 2020, the 3 weeks ending on March 20, 2020, the 4 weeks ending on March 27, 2020 and each rolling 4 week period thereafter.

"Material Adverse Effect" means a material adverse effect on (i) the operations, business, assets, properties or condition (financial or otherwise) of the Loan Parties taken as a whole, (ii) the ability of any Loan Party to perform any of its payment or other material obligations under any DIP Document to which it is a party, (iii) the legality, validity or enforceability of this Note or any other DIP Document, (iv) the rights and remedies of the Agent and the DIP Lenders under any DIP Document, or (v) the validity, perfection or priority of a Lien in favor of DIP Lenders on any of the Collateral.

"Material Contract" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Maturity Date" means the earliest to occur of (i) the date that is 120 days following February 6, 2020, (ii) March 25, 2020, if the Final Order has not been entered by the Bankruptcy Court on or prior to such date, (iii) the consummation of a sale of all or substantially all of the Loan Parties' assets, (iv) the substantial consummation of a plan of reorganization filed in the Chapter 11 Cases that is confirmed pursuant to an order of the Bankruptcy Court, (v) the filing of a motion by any of the Loan Parties seeking dismissal of any of the Chapter 11 Cases, (vi) the dismissal of any of the Chapter 11 Cases, (vii) the filing of a motion by any of the Loan Parties seeking to convert of any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code, (viii) the conversion of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code, (ix) the date on which the Term Loans are accelerated pursuant to Section 16 or (x) any other event set forth in the Financing Orders and/or the other DIP Documents as triggering a Maturity Date.

"Maximum Amount" shall have the meaning given such term in Section 1 of this Note.

"Milestones" shall have the meaning given such term in Section 14 of this Note.

"Note" shall have the meaning given such term in the recital to this Note.

"Obligations" shall mean all loans, advances, debts, liabilities and obligations for the performance of covenants, tasks or duties or for payment of monetary amounts (whether or not such performance is then required or contingent, or such amounts are liquidated or determinable) owing by Borrower to DIP Lenders, and all covenants and duties regarding such amounts, of any kind or nature, present or future, whether or not evidenced by any note, agreement or other instrument, in all cases, arising under this Note or any of the other DIP Documents. This term includes all principal, interest, fees, charges, expenses, attorneys' fees and any other sum chargeable to Borrower under this Note or any of the other DIP Documents.

"Other Taxes" shall have the meaning given such term in Section 10 of this Note.

"Participant Register" shall have the meaning given such term in Section 21 of this Note.

"Payment Office" means such office or offices of the Agent as may be designated in writing from time to time by the Agent to the Borrower.

"Permitted Encumbrances" shall mean the following encumbrances: (a) Liens for taxes or assessments or other governmental charges (i) not yet due and payable, (ii) that are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP, or (iii) the nonpayment of which is permitted or required by the Bankruptcy Code; (b) pledges or deposits of money securing statutory obligations under workmen's compensation, unemployment insurance, social security or public liability laws or similar legislation (excluding Liens under ERISA); (c) pledges or deposits of money securing bids, tenders, contracts (other than contracts for the payment of money) or leases to which any Loan Party is a party as lessee made in the ordinary course of business; (d) carriers', warehousemen's, suppliers' or other similar possessory liens arising in the ordinary course of business; (e) deposits securing, or in lieu of, surety, appeal or customs bonds in proceedings to which any Loan Party is a party; (f) zoning restrictions, easements, licenses, or other restrictions on the use of any real estate or other minor irregularities in title (including leasehold title) thereto so long as the same do not materially impair the use, value, or marketability of such real estate; (g) the Agent's and DIP Lenders' Liens; (h) Liens existing on the Order for Relief Date (to the extent valid, enforceable, properly perfected, senior to the Liens of Prepetition Secured Parties, and not subject to avoidance, in each case, as of the Order for Relief Date or perfected after the Order for Relief Date pursuant to section 546(b) of the Bankruptcy Code); provided that, notwithstanding the foregoing, all Liens in favor of farmers, growers or other suppliers of raw materials to the Loan Parties shall not constitute Permitted Encumbrances under this clause (h) to the extent such Liens were not perfected by the filing of a financing statement perfecting a security interest under the Uniform Commercial Code prior to the Order for Relief Date; (i) Liens in favor of the Prepetition Secured Parties and other Liens granted pursuant to the Financing Order (including, to the extent constituting a Lien, the Carve-Out), subject to the priorities set forth in the Financing Orders; (j) to the extent constituting Liens, Liens on goods delivered to any Loan Party after the Order for Relief Date under any consignment or similar title retention agreements; and (k) unperfected Liens existing on the Order for Relief Date that are junior to the Liens securing the Obligations and the Prepetition Obligations.

"Permitted Indebtedness" shall mean: (a) current Indebtedness incurred in the

ordinary course of business for inventory, supplies, equipment, services, taxes or labor, in each case, in accordance with the Budget; (b) Indebtedness arising under this Note and the other DIP Documents; (c) Prepetition Obligations; (d) deferred taxes and other expenses incurred in the ordinary course of business, in accordance with the Budget; (e) any Indebtedness existing on the Order for Relief Date, subject to the terms of the Financing Order and the Budget; and (f) administrative expenses of Borrower for which the Bankruptcy Court has not directed payment, subject to the terms of the Financing Order and the Budget.

"Permitted Prior Liens" shall mean certain permitted senior liens as expressly set forth, and defined, in the Financing Orders.

"Permitted Variance" means (a) a variance of up to 10% between the actual disbursements for the applicable 2, 3 or 4 week period and the "Total disbursements" line item as set forth in the Budget for the applicable 2, 3 or 4 week period (other than professional fees) and/or (b) a negative variance of up to 10% between the actual receipts for the applicable 2, 3 or 4 week period and the "Cash Receipts" line item as set forth in the Budget for the applicable 2, 3 or 4 week period.

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

"Prepetition Secured Parties" shall have the meaning given such term in the Financing Orders.

"Prepetition Credit Agreement" shall have the meaning given such term in the Financing Orders.

"Prepetition Facility" shall have the meaning given such term in the Financing Orders.

"Prepetition Obligations" shall have the meaning given such term in the Financing Orders.

"Pro Rata Share" means with respect to a DIP Lender's obligation to make Term Loans and receive payments of interest, fees and principal with respect thereto, the percentage obtained by dividing (i) such DIP Lender's Commitment by (ii) the Maximum Amount.

"Recipient" means the Agent or any DIP Lender, as applicable.

"Reference Rate" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Reference Rate Loan" means each portion of a Term Loan that bears interest at a rate determined by reference to the Reference Rate.

"Register" shall have the meaning given such term in Section 21 of this Note.

"Registered Loan" shall have the meaning given such term in Section 21 of this Note.

"Related Fund" shall mean, with respect to any Person, an affiliate of such Person, or a fund or account managed by such Person or an affiliate of such Person.

"Required Lenders" shall mean, at any time, DIP Lenders whose aggregate Pro Rata Shares exceed 50%.

"Restricted Payment" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Sale Motion" shall have the meaning given such term in Section 14 of this Note.

"Stockholder" shall mean with respect to any Person, each holder of Equity Interests of such Person.

"Subsidiary" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Successor Case" shall have the meaning given such term in the Financing Orders.

"Taxes" shall have the meaning given such term in Section 10 of this Note.

"Term Loans" shall have the meaning given such term in Section 1 of this Note.

19. Representations and Warranties. The Parent and each of its Subsidiaries represent as follows:

(a) the Parent and each of its Subsidiaries are duly formed and/or organized, validly existing and in good standing under the laws of their jurisdictions of incorporation or formation;

(b) upon entry of the Financing Orders, the execution and delivery of this Note and the other DIP Documents and the performance by the Loan Parties of the Loan Parties' obligations hereunder and under the other DIP Documents are within its corporate powers, have been duly authorized by all necessary corporate action of the Loan Parties, have received all necessary bankruptcy, insolvency or governmental approvals, and do not and will not contravene or conflict with any provisions of applicable law or of the Loan Parties' corporate charter or by-laws or of any agreements binding upon or applicable to the Loan Parties or any of their Subsidiaries or any of their properties;

(c) the Chapter 11 Cases have been duly authorized by all necessary legal and corporate action by or on behalf of each Loan Party and have been duly and properly commenced;

(d) upon entry of the Financing Orders, this Note and each other DIP Document

is the legal, valid and binding obligation, enforceable against the Loan Parties in accordance with its terms except as limited by equitable principles relating to enforceability;

(e) the Parent and its Subsidiaries have good and marketable title to, or valid leasehold interests in, all of its property and assets; none of the properties and assets of the Parent and its Subsidiaries are subject to any Liens other than Permitted Encumbrances;

(f) no information contained in this Note, any of the other DIP Document, any projections, financial statements or collateral reports or other reports from time to time delivered hereunder or any written statement furnished by or on behalf of the Parent and its Subsidiaries to the DIP Lenders pursuant to the terms of this Note or otherwise contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading in light of all of the circumstances under which they were made;

(g) the Liens granted to the DIP Lenders pursuant to the Collateral Documents and the Financing Orders are fully perfected Liens in and to the Collateral described therein, subject, as to priority, only to Permitted Prior Liens or other Liens permitted to have such priority under the Financing Orders;

(h) except for proceedings in the Chapter 11 Cases in connection with the entry of the Financing Orders, no action, claim, lawsuit, demand, investigation or proceeding is now pending or, to the knowledge of the Parent, threatened against the Parent or its Subsidiaries before any governmental authority or before any arbitrator or panel of arbitrators that challenges the rights or powers of the Parent or its Subsidiaries to enter into or perform any of its obligations under the DIP Documents to which it is a party, or the validity or enforceability of any DIP Document or any action taken thereunder;

(i) the Parent and its Subsidiaries are and will be at all times the owners of the Collateral free and clear of any lien, security interest or other charge or encumbrance except for the security interest created by this Note or any other DIP Documents and the other Permitted Encumbrances;

(j) the execution, delivery and performance of this Note and the other DIP Documents will not (immediately or with the giving of notice or passage of time, or both) violate the articles of incorporation or bylaws of any Loan Party, or violate any law or regulation;

(k) except for the Chapter 11 Cases, there is no order, notice, claim, litigation, proceeding or investigation pending or threatened against or in any way affecting (i) any Loan Party, whether or not covered by insurance, that would reasonably be expected to have a Material Adverse Effect or (ii) this Note or any other DIP Document; and

(l) the Parent and its Subsidiaries have filed all federal, state and other tax returns and reports required to be filed, and have paid all federal, state and other taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable.

20. Agent.

(a) Appointment. Each DIP Lender hereby irrevocably appoints and authorizes the Agent to perform the duties of the Agent as set forth in this Note including: (i) to receive on behalf of each DIP Lender any payment of principal of or interest on the Term Loans outstanding hereunder and all other amounts accrued hereunder for the account of the DIP Lenders and paid to the Agent, and to distribute promptly to each DIP Lender its Pro Rata Share of all payments so received; (ii) to distribute to each DIP Lender copies of all material notices and agreements received by the Agent; (iii) to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Obligations, the Term Loans, and related matters and to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Collateral and related matters; (iv) to execute or file any and all notices, amendments, renewals, supplements, documents, instruments, proofs of claim, notices and other written agreements with respect to this Note or any other DIP Document; (v) to perform, exercise, and enforce any and all other rights and remedies of the DIP Lenders with respect to the Borrower, the Obligations, or otherwise related to any of same to the extent reasonably incidental to the exercise by the Agent of the rights and remedies specifically authorized to be exercised by the Agent by the terms of this Note or any other DIP Document; (vi) to incur and pay such fees necessary or appropriate for the performance and fulfillment of its functions and powers pursuant to this Note or any other DIP Document; and (vii) to take such action as the Agent deems appropriate on its behalf to administer the Term Loans and the DIP Documents and to exercise such other powers delegated to the Agent by the terms hereof or the other DIP Documents together with such powers as are reasonably incidental thereto to carry out the purposes hereof and thereof.

(b) Nature of Duties. The Agent shall have no duties or responsibilities except those expressly set forth in this Note or in the other DIP Documents.

(c) Rights, Exculpation, Etc. The Agent and its directors, officers, agents or employees shall not be liable for any action taken or omitted to be taken by them under or in connection with this Note or the other DIP Documents, except for their own gross negligence or willful misconduct as determined by a final judgment of a court of competent jurisdiction.

(d) Reliance. The Agent shall be entitled to rely upon any written notices, statements, certificates, orders or other documents or any telephone message believed by it in good faith to be genuine and correct and to have been signed, sent or made by the proper Person, and with respect to all matters pertaining to this Note or any of the other DIP Documents and its duties hereunder or thereunder, upon advice of counsel selected by it.

(e) Indemnification. To the extent that the Agent is not reimbursed and indemnified by the Borrower, the DIP Lenders will reimburse and indemnify the Agent from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, advances or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Agent in any way relating to or arising out of this Note or any of the other DIP Documents or any action taken or omitted by the Agent under this Note or any of the other DIP Documents, in proportion to each DIP Lender's Pro Rata Share.

(f) Collateral Matters.

(1) The DIP Lenders hereby irrevocably authorize the Agent, at

its option and in its discretion, to release any Lien granted to or held by the Agent upon any Collateral upon cancellation of this Note and payment and satisfaction of the Term Loans and all other Obligations which have matured and which the Agent has been notified in writing are then due and payable; or constituting property being sold or disposed of in the ordinary course of the Borrower's business or otherwise in compliance with the terms of this Note and the other DIP Documents; or if approved, authorized or ratified in writing by the DIP Lenders.

(2) Without in any manner limiting the Agent's authority to act without any specific or further authorization or consent by the DIP Lenders, each DIP Lender agrees to confirm in writing, upon request by the Agent, the authority to release Collateral conferred upon the Agent under paragraph (f)(1) above.

The Agent shall have no obligation whatsoever to any DIP Lender to assure that the Collateral exists or is owned by the Loan Parties, or is cared for, protected or insured or has been encumbered or that the Lien granted to the Agent pursuant to this Note or any other DIP Document has been properly or sufficiently or lawfully created, perfected, protected or enforced or is entitled to any particular priority, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to the Agent in this section or in any other DIP Document, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, the Agent may act in any manner it may deem appropriate, in its sole discretion, given the Agent's own interest in the Collateral as one of the DIP Lenders and that the Agent shall have no duty or liability whatsoever to any other DIP Lender, except as otherwise provided herein.

21. Miscellaneous.

(a) All notices and other communications provided for hereunder shall be in writing (including facsimile communication) and mailed, emailed or delivered as follows:

If to Borrower: GenCanna Global USA, Inc.
321 Venable Road, Winchester, KY 40391
Attention: Steve Bevan
Telephone: 859-489-3954
email: steve.bevan@gencanna.com

with copies to: Benesch, Friedlander, Coplan & Aronoff LLP
222 Delaware Avenue, Suite 801
Wilmington, Delaware 19801-1611
Attn: Michael J. Barrie
Email: mbarrie@beneschlaw.com

If to Agent or any DIP Lender: MGG Investment Group LP
One Penn Plaza, 53rd Floor
New York, New York 10119
Attention: Mustafa Tayeb and Mier Wang
Telephone: 212-356-6100

Email: creditagreementnotices@mgginv.com

with copies to: Schulte Roth & Zabel LLP
919 Third Avenue
New York, New York 10022
Attn: Adam Harris and Frederic L. Ragucci
Email: adam.harris@srz.com
frederic.ragucci@srz.com

All such notices and communications shall, when mailed or sent by overnight courier, be effective when deposited in the mails or delivered to the overnight courier, as the case may be, or when sent by email be effective when confirmation is received.

(b) The Loan Parties shall reimburse the Agent for all reasonable out-of-pocket expenses incurred in connection with the negotiation and preparation of the DIP Documents and the obtaining of approval of the DIP Documents by the Bankruptcy Court (including the reasonable fees and expenses of outside counsel for Agent, all of its special local counsel, fees for one (in the absence of any conflicts of interest) financial advisor for the Agent and the DIP Lenders, and auditors retained in connection with the DIP Documents and advice in connection therewith). Subject to the foregoing, the Loan Parties shall reimburse the Agent for all reasonable fees, costs and expenses, including the reasonable fees, costs and expenses of counsel or other advisors for advice, assistance, or other representation in connection with:

(1) any amendment, modification or waiver of, consent with respect to, or termination or enforcement of, any of the DIP Documents or advice in connection with the administration of the Term Loans made pursuant hereto or its rights hereunder or thereunder;

(2) the review of pleadings and documents related to the Chapter 11 Cases and any subsequent Chapter 7 case, attendance at meetings related to the Chapter 11 Cases and any subsequent Chapter 7 case, and general monitoring of the Chapter 11 Cases and any subsequent Chapter 7 case;

(3) any litigation, contest, dispute, suit, proceeding or action (whether instituted by the Agent, the Borrower or any other Person, and whether as a party, witness or otherwise) in any way relating to the Collateral, any of the DIP Documents or any other agreement to be executed or delivered in connection herewith or therewith, including any litigation, contest, dispute, suit, case, proceeding or action, and any appeal or review thereof, in connection with a case commenced by or against Borrower or any other Person that may be obligated to the Agent by virtue of the DIP Documents, including any such litigation, contest, dispute, suit, proceeding or action arising in connection with any work-out or restructuring of the Term Loans during the pendency of one or more Events of Default;

(4) any attempt to enforce any remedies of the Agent against any

or all of the Borrower or any other Person that may be obligated to the Agent by virtue of any of the DIP Documents, including any such attempt to enforce any such remedies in the course of any work-out or restructuring of the Term Loans during the pendency of one or more Events of Default;

(5) any work-out or restructuring of the Term Loans during the pendency of one or more Events of Default; and

(6) any efforts to (A) monitor the Term Loans or any of the other Obligations, (B) evaluate, observe or assess any of the Loan Parties or their respective affairs, (C) verify, protect, evaluate, assess, appraise, collect, sell, liquidate or otherwise dispose of any of the Collateral and (D) monitor any sales;

including, as to each of clauses (1) through (6) above, all attorneys' and other professional and service providers' fees arising from such services, including those in connection with any appellate proceedings, and all expenses, costs, charges and other fees incurred by such counsel and others in connection with or relating to any of the events or actions described in this Section 20(b), all of which shall be payable, on demand, by the Loan Parties to the Agent on behalf of the DIP Lenders. Without limiting the generality of the foregoing, such expenses, costs, charges and fees may include: fees, costs and expenses of accountants, appraisers, investment bankers, management and other consultants and paralegals; court costs and expenses; photocopying and duplication expenses; court reporter fees, costs and expenses; long distance telephone charges; air express charges; and expenses for travel, lodging and food paid or incurred in connection with the performance of such legal or other advisory services. All expenses incurred by the Agent shall receive super-priority administrative expense status per Section 364 of the Bankruptcy Code (subject to the Financing Orders).

(c) No failure or delay on the part of the Agent or any other holder of this Note to exercise any right, power or privilege under this Note and no course of dealing between Borrower and the Agent shall impair such right, power or privilege or operate as a waiver of any default or an acquiescence therein, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies expressly provided in this Note are cumulative to, and not exclusive of, any rights or remedies that the Agent would otherwise have. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Agent to any other or further action in any circumstances without notice or demand.

(d) Borrower and any endorser of this Note hereby consent to renewals and extensions of time at or after the maturity hereof without notice, and hereby waive diligence, presentment, protest, demand and notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

(e) If any provision in or obligation under this Note shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

(f) **THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE BORROWER AND THE AGENT HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK INCLUDING WITHOUT LIMITATION SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.**

(g) Each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Bankruptcy Court and, if the Bankruptcy Court does not have (or abstains from) jurisdiction, the Supreme Court 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 Note or any DIP Document, and each of the parties hereto hereby 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 or, to the extent permitted by law, in such Federal court.

(h) **THE BORROWER AND, BY THEIR ACCEPTANCE OF THIS NOTE, THE AGENT, ANY DIP LENDER AND ANY SUBSEQUENT HOLDER OF THIS NOTE, HEREBY IRREVOCABLY AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS NOTE OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS NOTE AND THE AGENT'S/BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED.** The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including without limitation contract claims, tort claims, breach of duty claims and all other common law and statutory claims. The Borrower and, by their acceptance of this Note, the Agent, any DIP Lender and any subsequent holder of this Note, each (i) acknowledges that this waiver is a material inducement to enter into a business relationship, that each has already relied on this waiver in entering into this relationship, and that each will continue to rely on this waiver in their related future dealings and (ii) further warrants and represents that each has reviewed this waiver with its legal counsel and that each knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. **THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING) THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS OF THIS NOTE.** In the event of litigation, this provision may be filed as a written consent a trial by the court.

(i) The Borrower hereby waives the benefit of any statute or rule of law or judicial decision which would otherwise require that the provisions of this Note be construed or interpreted most strongly against the party responsible for the drafting thereof.

(j) The Borrower shall not have the right to assign their obligations or liabilities under this Note without the prior written consent of the Agent in its sole discretion. The DIP Lenders may assign to one or more entities all or any part of, or may grant participations to one or more entities in or to all or any part of, the amounts outstanding hereunder, and to the extent of

any such assignment or participation (unless otherwise stated therein) the assignee or participant shall have the same rights and benefits hereunder as it would have if it were a DIP Lender hereunder. An assigning DIP Lender shall notify the Borrower of any such assignment (other than an assignment to an affiliate of such DIP Lender or a Related Fund) which notice shall include a description of the assignment and include customary instructions from the DIP Lender and such assignee with respect to the making of payments and other communications with the DIP Lender and such assignee.

(k) The Agent shall, acting solely for this purpose as a non-fiduciary agent of Borrower, maintain, or cause to be maintained at the Payment Office, a copy of each assignment notice delivered to and accepted by it and a register (the "Register") for the recordation of the names and addresses of the Persons, if any, that take an assignment from it and the principal amount of the Term Loans and stated interest thereon (the "Registered Loans") owing to each DIP Lender from time to time. The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Borrower and the Agent may treat each Person whose name is recorded in the Register as a DIP Lender hereunder for all purposes of this Note. The Register shall be available for inspection by Borrower and the DIP Lenders at any reasonable time and from time to time upon reasonable prior notice.

(l) Upon receipt by the Agent of an assignment notice, the Agent shall accept such assignment and record the information contained therein in the Register.

(m) A Registered Loan may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register. Any assignment or sale of all or part of such Registered Loan may be effected only by registration of such assignment or sale on the Register. Prior to the registration of assignment or sale of any Registered Loan, the Agent shall treat the Person in whose name such Registered Loan is registered as the owner thereof for the purpose of receiving all payments thereon and for all other purposes, notwithstanding notice to the contrary.

(n) In the event that a DIP Lender sells participations in a Registered Loan, such DIP Lender shall maintain a register for this purpose as a non-fiduciary agent of Borrower on which it enters the name of all participants in the Registered Loans held by it and the principal amount (and stated interest thereon) of the portion of the Registered Loan that is the subject of the participation (the "Participant Register"). A Registered Loan may be participated in whole or in part only by registration of such participation on the Participant Register. Any participation of such Registered Loan may be effected only by the registration of such participation on the Participant Register. The Participant Register shall be available for inspection by the Borrower and the DIP Lenders at any reasonable time and from time to time upon reasonable prior notice.

(o) No provision of this Note may be amended or waived unless such amendment or waiver is in writing and is signed by the Borrower and the Agent.

(p) Any provision of this Note which is prohibited or unenforceable shall be ineffective to the extent such prohibition or unenforceability without invalidating the remaining provisions hereof.

(q) This Note, the other DIP Documents, and all Liens created hereby or pursuant to the Collateral Documents or any other DIP Document shall be binding upon the Borrower and each other Loan Party, the estates of the Borrower, and any trustee or successor in interest of the Borrower and each other Loan Party in the Chapter 11 Case or any subsequent case commenced under Chapter 7 of the Bankruptcy Code, and shall not be subject to Section 365 of the Bankruptcy Code. This Note and the other DIP Documents and the Financing Orders shall be binding upon, and inure to the benefit of, the successors of the Agent and the DIP Lenders and each of their respective assigns, transferees and endorsees. The Liens created by this Note, and the other DIP Documents shall be and remain valid and perfected in the event of the substantive consolidation or conversion of the Chapter 11 Case or any other bankruptcy case of any Loan Party to a case under chapter 7 of the Bankruptcy Code or in the event of dismissal of the Chapter 11 Case or the release of any Collateral from the jurisdiction of the Bankruptcy Court for any reason, without the necessity that the Agent file financing statements or otherwise perfect its security interests or Liens under applicable law.

(r) In the event of any inconsistency between the terms and conditions of this Note and the Financing Orders, the provisions of the Financing Orders shall govern and control.

(s) THIS WRITTEN PROMISSORY NOTE REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES, AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

22. Amendment and Restatement. This Note is being issued in full substitution for and replacement of that certain Amended and Restated Debtor in Possession Secured Multi-Draw Term Promissory Note, dated February 28, 2020 (the "Existing Note"), issued by the Borrower in favor of the DIP Lenders in the original principal amount of \$10,000,000. This Note shall replace and supersede the Existing Note in its entirety.

* * * * *

IN WITNESS WHEREOF, the Borrower have caused this Note to be executed and delivered by its duly authorized officer as of the day and year and at the place first above written.

GENCANNA GLOBAL USA, INC., as Debtor and
Debtor in Possession

By: _____
Name:
Title:

Acknowledged and Agreed

MGG INVESTMENT GROUP LP, as Agent

By: MGG GP LLC, its general partner

By: _____
Name: Kevin Griffin
Title: Chief Executive Officer

MGG (BVI) Limited
MGG Canada Fund LP
MGG Insurance Fund Series Interests of the SALI Multi-
Series Fund, L.P.
MGG Onshore Funding II LLC
MGG SF Drawdown Master Fund (Cayman) LP
MGG SF Drawdown Unlevered Fund II LP
MGG SF Drawdown Unlevered Master Fund II (Cayman)
MGG SF Evergreen Fund LP
MGG SF Evergreen Master Fund (Cayman) LP
MGG SF Evergreen Unlevered Fund LP
MGG SF Evergreen Unlevered Master Fund II (Cayman)
MGG Specialty Finance Fund II LP,

each as a DIP Lender

By: MGG Investment Group LP, on behalf of each of the above,
as Authorized Signatory

By: _____
Name: Kevin Griffin
Title: Chief Executive Officer

Schedule 1(a)¹

DIP LENDERS AND DIP LENDER COMMITMENTS

DIP Lender	Commitment
MGG (BVI) Limited	\$[_____]
MGG Canada Fund LP	\$[_____]
MGG Insurance Fund Series Interests of the SALI Mu	\$[_____]
MGG Onshore Funding II LLC	\$[_____]
MGG SF Drawdown Master Fund (Cayman) LP	\$[_____]
MGG SF Drawdown Unlevered Fund II LP	\$[_____]
MGG SF Drawdown Unlevered Master Fund II (Cayman) LP	\$[_____]
MGG SF Evergreen Fund LP	\$[_____]
MGG SF Evergreen Master Fund (Cayman) LP	\$[_____]
MGG SF Evergreen Unlevered Fund LP	\$[_____]
MGG SF Evergreen Unlevered Master Fund II (Cayman) LP	\$[_____]
MGG Specialty Finance Fund II LP	\$[_____]
Total	\$12,500,000.00

¹ MGG to provide.

EXHIBIT A

(attach Budget)

Schedule 13

Deliver (which delivery may be made by electronic communication (including email)) to the Agent, the monthly reports, quarterly reports, annual reports and compliance certificates required by Section 7.01(a) of the Prepetition Credit Agreement and each of the financial statements, reports, or other items set forth below at the following times in form and substance satisfactory to the Agent in its sole discretion:

on Tuesday of each week for the period ending the preceding Friday beginning with the first Friday ending a full calendar week after the Order for Relief Date,	(a) a weekly DIP variance report/reconciliation for the prior week and for the period from the commencement of the Initial Budget to the end of the prior week in each case (i) showing actual results for the following items: (A) receipts, (B) disbursements, (C) net operating cash flow, (D) [reserved] and (E) professional fees and expenses, noting therein variances from values set forth for such periods in both the Initial Budget and the most recent Budget and (ii) an explanation for all material variances, certified by the chief financial officer of the Borrower, (b) a weekly report of sales results,
on Monday of each week beginning with the first full calendar week after the Order for Relief Date,	(c) a report of the balance of all of the deposit accounts of the Loan Parties, including a breakdown of the balances of deposit accounts held at each depository institution, as of the close of business on the preceding Friday,
upon the request of Agent,	(d) a revised proposed budget (it being understood that upon written approval of such proposed budget by the Agent, in its sole discretion, such proposed budget shall become the "Budget") and timing changes with respect to any periods that were included in a previously delivered report and which shall be in form and substance acceptable to the Agent,
promptly, but in any event at least two (2) business days prior to filing (except for emergency motions, which shall be delivered as promptly as possible prior to filing),	(e) drafts of all pleadings, motions, applications or financial information (including any proposed order) filed or to be filed by any Loan Party with the Bankruptcy Court; <u>provided</u> that any such documents that are publicly available shall be deemed to have been delivered,
promptly, but in any event within 3 Business Days after Borrower has knowledge of any event or condition that constitutes a Default,	(f) notice of such event or condition and a statement of the curative action that Borrower proposes to take with respect thereto,

weekly,	(g) participate in status update conference calls with the Agent, the chief transformation officer and Jefferies LLC,
upon the request of Agent,	(h) any other information requested relating to the financial condition of the Parent or its Subsidiaries, and
upon notice of Agent,	(i) access to the chief transformation officer and Jefferies LLC at all times during the Chapter 11 Cases, including, in the case of Jefferies LLC, access to any data room established and bids and letters of intent received; <u>provided</u> , that if the Agent and the DIP Lenders have submitted a Qualified Bid, not including any bids or other confidential information of competing bidders.

EXHIBIT B

(Blackline)

FOR PURPOSES OF SECTIONS 1272, 1273 AND 1275 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "INTERNAL REVENUE CODE"), THIS NOTE IS BEING ISSUED WITH ORIGINAL ISSUE DISCOUNT. REQUESTS FOR INFORMATION REGARDING THE ORIGINAL ISSUE DISCOUNT ON THIS NOTE MAY BE DIRECTED TO GENCANNA GLOBAL USA, INC., 321 VENABLE ROAD, WINCHESTER, KY 40391.

**SECOND AMENDED AND RESTATED DEBTOR IN POSSESSION SECURED
MULTI-DRAW TERM PROMISSORY NOTE**

~~\$10,000,000~~ 12,500,000

~~February 6~~ March
1, 2020

New York

On February 6, 2020 (the "Order for Relief Date"), the United States Bankruptcy Court for the Eastern District of Kentucky (the "Bankruptcy Court") entered an order for relief with respect to GENCANNA GLOBAL USA, INC., a Delaware corporation (the "Borrower") and, on February 5, 2020, GENCANNA GLOBAL, INC., a Delaware corporation (the "Parent") and certain of the Borrower's subsidiaries commenced chapter 11 cases by filing their own voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), which cases (including the Borrower's case) are being jointly administered under Chapter 11 Case No. 20-50133-grs (each a "Chapter 11 Case" and collectively, the "Chapter 11 Cases"). The Loan Parties (as defined herein) continue to operate their respective businesses and manage their respective properties as debtors and debtors in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. The Borrower has requested that MGG Investment Group LP, a Delaware limited partnership, as agent (in such capacity, the "Agent") for the lenders (the "DIP Lenders") from time to time party to this **Second Amended and Restated** Debtor in Possession Secured Multi-Draw Term Promissory Note (as amended, modified, or supplemented from time to time, this "Note"), make Term Loans (as defined below) from time to time evidenced by this Note. The Parent and certain subsidiaries of the Borrower who comprise the other debtors in the Chapter 11 Cases wish to guaranty the Borrower's Obligations under this Note (collectively, the "Guarantors"), and are simultaneously executing Guarantees in favor of the Agent. The Borrower intends to utilize such Term Loans to (i) fund general corporate needs, including without limitation working capital and other needs, and (ii) pay administrative expenses of the Chapter 11 Cases, including fees and expenses of professionals, in each case in accordance with the Budget. Capitalized terms used herein and not otherwise defined herein shall have the meanings provided in Section 18 of this Note.

1. Term Loans.

(a) Subject to the terms and conditions hereof including the Agent's receipt of a Borrowing Request (as defined below), the DIP Lenders agree to provide the Borrower with ~~a~~ term ~~loan~~ loans on the Closing Date in the principal amount of ~~\$2,750,000~~ 4,750,000 (the "Initial Loan"). Subject to the terms and conditions hereof, at any time on or after the date of entry of the Final Order and upon the Agent's receipt of a Borrowing Request, the DIP Lenders agree to provide the Borrower with one or more additional loans, each in a principal amount of not less

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than \$500,000 and not more than \$2,000,000 (or, solely with respect to the initial Additional Loan (as defined below), not more than \$3,750,000), and together in an aggregate principal amount not to exceed ~~\$7,250,000~~ 7,750,000 (each, an "Additional Loan" and collectively, the "Additional Loans" and, together with the Initial Loan, each, a "Term Loan" and collectively, the "Term Loans"). For the avoidance of doubt, each Borrowing Request shall be made by the Borrower in accordance with the Budget. The Borrower may request the Initial Loan and the Additional Loans pursuant to written notice (which may be by email) delivered to the Agent three (3) Business Days prior to the proposed borrowing date (or such shorter period as the Agent may agree) (a "Borrowing Request"). The Borrowing Request shall be in a form reasonably satisfactory to the Agent. Each DIP Lender shall provide the Term Loans in an aggregate amount equal to its Commitment set forth on Schedule 1(a) and the obligation of each DIP Lender to make the Term Loans under this Note shall be several and not joint and several. Upon receipt of a Borrowing Request, subject to the satisfaction of the conditions set forth in this Note, the DIP Lenders shall simultaneously and proportionately to their Pro Rata Share of the Maximum Amount, make the proceeds of such Term Loans available to the Borrower on the applicable date of funding of such Term Loan by transferring immediately available funds equal to such proceeds to an account designated in writing by the Borrower consistent with its existing cash management system. The Commitment of each DIP Lender shall be permanently reduced upon the making of a Term Loan in an amount equal to such Term Loan. Any principal amount of the Term Loan which is repaid or prepaid may not be reborrowed.

(b) The aggregate principal amount of Terms Loans outstanding shall not exceed ~~\$10,000,000~~ 12,500,000, subject to any limitation of credit extensions under this Note and the Financing Orders (the "Maximum Amount").

(c) The Agent shall be entitled to rely upon, and shall be fully protected in relying upon, any Borrowing Request or similar notice believed by the Agent to be genuine. The Agent may assume that each Person executing and delivering any such notice was duly authorized, unless the responsible individual acting thereon for the Agent has actual knowledge to the contrary.

(d) The Borrower shall utilize the proceeds of Term Loans to (i) fund general corporate needs, including without limitation working capital and other needs, and (ii) pay administrative expenses of the Chapter 11 Cases, including fees and expenses of professionals, in each case in accordance with the Budget, this Note, the Bankruptcy Code, and the Financing Orders; provided, that, unless otherwise provided in the Budget or approved by the Agent in its sole discretion, no portion of any Term Loan shall be used, directly or indirectly: (a) except as permitted by Section 15(e), to make any payment on Prepetition Obligations or to finance or make any Restricted Payment, (b) to pay any fees or similar amounts payable to any Person who has proposed or may propose to purchase interests in any of the Borrower or any of its respective Subsidiaries or affiliates or who otherwise has proposed or may propose to invest in the Borrower or any of its respective Subsidiaries or affiliates (including so-called "topping fees," "exit fees," and similar amounts), or (c) to make any distribution under a plan of reorganization in the Chapter 11 Cases or any similar proceeding of any of the Subsidiaries or affiliates of the Borrower.

2. Certain Conditions to Each Term Loan. No DIP Lender shall be obligated to fund
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any Term Loan, if, as of the date thereof:

(a) The Borrower shall not have paid any amount then payable hereunder (including the fees and expenses of counsel to the Agent) or under any other DIP Document;

(b) the Loan Parties shall not have delivered corporate resolutions, incumbency certificates and similar documents, in form and substance satisfactory to Agent with respect to this Note and the other DIP Documents and the transactions contemplated hereby and thereby;

(c) the Loan Parties shall not have delivered guarantees of each of the Guarantors, each in form and substance satisfactory to Agent with respect to this Note and the other DIP Documents and the transactions contemplated hereby and thereby;

(d) any representation or warranty by any Loan Party contained herein or in any other DIP Document shall be untrue or incorrect in any material respect (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date;

(e) with respect to the Initial Loan (i) the Bankruptcy Court shall not have entered the Interim Order; or (ii) the Interim Order shall have been stayed, vacated, reversed, modified or amended without Agent's consent in its sole discretion;

(f) with respect to any Additional Loan (i) the Bankruptcy Court shall not have entered the Final Order; or (ii) the Final Order shall have been stayed, vacated, reversed, modified or amended without Agent's consent in its sole discretion;

(g) on the date of the entry of the Final Order, the Agent and the DIP Lenders shall not have received an updated Budget, satisfactory to the Agent in its sole discretion, for the remaining period through the term of this Note;

(h) except as occasioned by the commencement of the Chapter 11 Cases and the actions, proceedings, investigations and other matters related thereto or arising therefrom (including any actions taken in accordance with the Budget, this Note or the Financing Orders), any event or circumstance having a Material Adverse Effect shall have occurred since the date hereof;

(i) any Default or Event of Default shall have occurred and be continuing or would result after giving effect to any Term Loan;

(j) after giving effect to any Term Loan, the outstanding principal amount of all Term Loans would exceed the lesser of (i) the Maximum Amount, or (ii) the amount permitted to be borrowed on a cumulative basis from the date hereof through the date of such requested Term Loan as set forth in the Budget and the Financing Orders;

(k) the Agent shall not have received and approved the Budget in accordance

with this Note and the Financing Orders;

(l) the Loan Parties shall have filed one or more pleadings with the Bankruptcy Court and such pleadings shall not be in form and substance acceptable to the Agent in its sole discretion; or

(m) the Bankruptcy Court shall have entered orders and such orders shall not be in form and substance acceptable to the Agent in its sole discretion.

The request and acceptance by the Borrower of the proceeds of any Term Loan shall be deemed to constitute, as of the date of such request, acceptance or incurrence, (i) a representation and warranty by the Borrower that the conditions in this Section 2 have been satisfied and (ii) a reaffirmation by the Borrower of the granting and continuance of the Liens granted in favor of the Agent on behalf of the DIP Lenders, pursuant to the Financing Orders.

3. Payment of Principal. FOR VALUE RECEIVED, the Borrower promises to pay to the Agent, the unpaid principal amount of all Term Loans made by the Agent on behalf of the DIP Lenders to the Borrower, on the Maturity Date, together with all accrued and unpaid interest, fees and expenses to the extent provided, without duplication, in this Note and the Financing Orders.

4. Payment of Interest.

(a) Subject to the terms of this Note, the Term Loan or any portion thereof shall be a LIBOR Rate Loan and shall bear interest on the principal amount thereof from time to time outstanding, from the date of the Term Loan until repaid, at a rate per annum equal to the LIBOR Rate for an interest period of one month (or such portion thereof) plus 10.00%.

(b) Interest on the Term Loan shall be payable monthly, in arrears, on the first day of each month, commencing on the first day of the month following the month in which the applicable Term Loan is made. If any payment of any of the Obligations becomes due and payable on a day other than a Business Day, the maturity thereof will be extended to the next succeeding Business Day and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension.

(c) All computations of fees and interest shall be made by the Agent on the basis of a 360-day year, in each case for the actual number of days occurring in the period for which such fees or interest are payable. Each determination by the Agent of an interest rate hereunder shall be final, binding and conclusive on the Borrower (absent manifest error).

(d) So long as an Event of Default shall have occurred and be continuing, and at the election of the Agent, the interest rate applicable to the Obligations shall be increased by three percentage points (3.00%) per annum above the rate of interest otherwise applicable hereunder (the "Default Rate"), and all outstanding Obligations shall bear interest at the Default Rate applicable to such Obligations. Interest at the Default Rate shall accrue from the date of such Event of Default until such Event of Default is cured or waived and shall be

payable upon demand.

(e) It is the intention of the parties hereto that the Agent and each DIP Lender shall conform strictly to usury laws applicable to it. Accordingly, if the transactions contemplated hereby or by any other DIP Document would be usurious as to the Agent or any DIP Lender under laws applicable to it (including the laws of the United States of America and the State of New York or any other jurisdiction whose laws may be mandatorily applicable to the Agent or such DIP Lender notwithstanding the other provisions of this Note), then, in that event, notwithstanding anything to the contrary in this Note or any other DIP Document or any agreement entered into in connection with or as security for the Obligations, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under law applicable to the Agent or any DIP Lender that is contracted for, taken, reserved, charged or received by the Agent or such DIP Lender under this Note or any other DIP Document or agreements or otherwise in connection with the Obligations shall under no circumstances exceed the maximum amount allowed by such applicable law, any excess shall be canceled automatically and if theretofore paid shall be credited by the Agent or such DIP Lender on the principal amount of the Obligations (or, to the extent that the principal amount of the Obligations shall have been or would thereby be paid in full, refunded by the Agent or such DIP Lender, as applicable, to the Borrower). If at any time and from time to time (x) the amount of interest payable to the Agent or any DIP Lender on any date shall be computed at the highest lawful rate applicable to the Agent or such DIP Lender pursuant to this Section 4(e) and (y) in respect of any subsequent interest computation period the amount of interest otherwise payable to the Agent or such DIP Lender would be less than the amount of interest payable to the Agent or such DIP Lender computed at the highest lawful rate applicable to the Agent or such DIP Lender, then the amount of interest payable to the Agent or such DIP Lender in respect of such subsequent interest computation period shall continue to be computed at the highest lawful rate applicable to the Agent or such DIP Lender until the total amount of interest payable to the Agent or such DIP Lender shall equal the total amount of interest which would have been payable to the Agent or such DIP Lender if the total amount of interest had been computed without giving effect to this Section 4(e).

(f) The LIBOR Rate may be adjusted by the DIP Lenders on a prospective basis to take into account any additional or increased costs to the DIP Lenders of maintaining or obtaining any eurodollar deposits or increased costs, in each case, due to changes in applicable law (other than change with respect to tax law, which are addressed in Section 10 hereof) occurring subsequent to the commencement of the then applicable interest period, including changes in the reserve requirements imposed by the Board of Governors of the Federal Reserve System (or any successor), which additional or increased costs would increase the cost of funding loans bearing interest at the LIBOR Rate. In any such event, the DIP Lenders shall give the Borrower notice of such a determination and adjustment and, upon its receipt of the notice from such DIP Lender, the Borrower may, by notice to such DIP Lender (1) request the DIP Lender to furnish to the Borrower a statement setting forth the basis for adjusting such LIBOR Rate and the method for determining the amount of such adjustment or (2) repay the LIBOR Rate Loans with respect to which such adjustment is made.

(g) Anything to the contrary contained herein notwithstanding, the DIP

Lenders are not required actually to acquire eurodollar deposits to fund or otherwise match fund any Obligation as to which interest accrues at the LIBOR Rate. The provisions of Sections 4(f) through (h) shall apply as if the DIP Lenders had match funded any Obligation as to which interest is accruing at the LIBOR Rate by acquiring eurodollar deposits for each interest period in the amount of the LIBOR Rate Loans.

(h) If, after the date hereof, the DIP Lenders determine that (1) the adoption of or change in any law, rule, regulation or guideline regarding capital requirements for banks or bank holding companies, or any change in the interpretation or application thereof by any governmental authority charged with the administration thereof, or (2) compliance by the DIP Lenders or its parent bank holding company with any guideline, request, or directive of any such entity regarding capital adequacy (whether or not having the force of law), has the effect of reducing the return on the DIP Lender's or such holding company's capital as a consequence of the DIP Lender's Term Loan hereunder to a level below that which the DIP Lender or such holding company could have achieved but for such adoption, change, or compliance (taking into consideration the DIP Lender's or such holding company's then existing policies with respect to capital adequacy and assuming the full utilization of such entity's capital) by any amount reasonably deemed by the DIP Lender to be material, then the DIP Lender may notify the Borrower thereof. Following receipt of such notice, the Borrower agrees to pay the DIP Lender on demand the amount of such reduction of return of capital as and when such reduction is determined, payable promptly after presentation by the DIP Lender to the Borrower of a statement in the amount and setting forth in reasonable detail the DIP Lender's calculation thereof and the assumptions upon which such calculation was based (which statement shall be deemed true and correct absent manifest error). In determining such amount, the DIP Lender may use any reasonable averaging and attribution methods.

(i) In no event will the Borrower have more than 4 interest periods outstanding at any time. If the Agent reasonably determines that the LIBOR Rate is unavailable, then the Term Loan shall bear interest, at a rate per annum equal to the Reference Rate plus 9.00% on the principal amount thereof from the date that the LIBOR Rate became unavailable until such time the Agent determines that the LIBOR Rate is available.

5. Payments. All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds to the Agent at the account as shall be designated in a written notice delivered by the Agent to the Borrower. Each payment made hereunder shall be credited first to interest then due and payable and the remainder of such payment shall be credited to principal, and interest shall thereupon cease to accrue upon the principal so repaid.

6. Optional Prepayments. Subject to the terms and conditions of the Financing Orders and Section 7(f) of this Note, the Borrower shall have the right at any time and from time to time to prepay any Term Loans under this Note in whole or in part (without premium or penalty) upon two (2) Business Days' notice to the Agent; provided that each such prepayment shall be in a minimum amount of \$100,000. Notice of prepayment having been given as aforesaid, the principal amount specified in such notice shall become due and payable on the prepayment date specified therein in the aggregate principal amount specified therein unless such repayment is conditioned on the receipt of any third party funds which are not received. Any

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prepayment or repayment hereunder shall be accompanied by interest on the principal amount of this Note being prepaid or repaid to the date of prepayment or repayment.

7. Mandatory Prepayments. In each case, subject to the terms and conditions of the Financing Orders and the Budget:

(a) [Reserved].

(b) Immediately upon receipt by any Loan Party of cash proceeds of any asset disposition, unless the Agent agrees otherwise, the Borrower shall prepay the Term Loans in an amount equal to all such proceeds, net of (1) commissions and other reasonable and customary transaction costs, fees and expenses properly attributable to such transaction and payable by the Borrower or any Loan Party in connection therewith (in each case, paid to non-affiliates), (2) transfer, sales, or similar taxes, and (3) amounts required to be applied to the repayment of debt secured by such assets sold and secured by a Lien that is senior to the Liens securing the Obligations under this Note (such net proceeds, the "Net Cash Proceeds").

(c) If any Loan Party issues any debt or equity securities not permitted under this Note, no later than the Business Day following the date of receipt of the cash proceeds thereof, unless the Agent agrees otherwise, the Borrower shall prepay the Term Loans in an amount equal to all such proceeds, net of underwriting discounts and commissions and other reasonable costs or fees paid to non-affiliates in connection therewith.

(d) Upon the receipt by any Loan Party or any of their Subsidiaries of any Extraordinary Receipts, unless the Agent agrees otherwise, the Borrower shall prepay the outstanding principal of the Term Loans in an amount equal to all such Extraordinary Receipts, net of any expenses incurred in collecting such Extraordinary Receipts.

(e) No Implied Consent. Nothing in this Section 7 shall be construed to constitute the Agent's or any DIP Lender's consent to any transaction that is not permitted by other provisions of this Note or the other DIP Documents.

(f) Application of Payments. The Agent and the DIP Lenders may elect that the proceeds of any optional or mandatory prepayment made pursuant to this Note be applied, in whole or in part, to the Prepetition Obligations.

8. Fees. Borrower shall pay to the Agent for the account of the DIP Lenders the following fees:

(a) Initial Loan Facility Fee. On the date of funding the Initial Loan, the Borrower shall pay to the Agent a facility fee (the "Initial Loan Facility Fee") equal to ~~\$55,000~~95,000, which shall be fully earned upon the entry of the Interim Order and non-refundable when paid.

(b) Additional Loan Facility Fee. On the date of funding the first Additional Loan after the entry of the Final Order, the Borrower shall pay to the Agent a facility fee (the "Additional Loan Facility Fee") equal to ~~\$145,000~~155,000, which shall be fully earned upon the

entry of the Final Order and non-refundable when paid.

(c) Administration Fee. On or prior to the date of funding of the Initial Loan, the Borrower shall pay to the Agent an administration fee (the "Administration Fee") equal to \$50,000, which shall be fully earned upon the entry of the Interim Order and non-refundable when paid.

9. Indemnity.

(a) The Loan Parties shall indemnify and hold harmless the Agent and each DIP Lender and each of their respective affiliates, and each such Person's respective officers, directors, employees, attorneys, agents and representatives (each, an "Indemnified Person"), from and against any and all suits, actions, proceedings, claims, damages, losses, liabilities and expenses (including reasonable attorneys' fees and disbursements and other costs of investigation or defense, including those incurred upon any appeal) that may be instituted or asserted against or incurred by any such Indemnified Person as the result of credit having been extended, suspended or terminated under this Note and the other DIP Documents and the administration of such credit, and in connection with or arising out of the transactions contemplated hereunder and thereunder and any actions or failures to act in connection therewith, and legal costs and expenses arising out of or incurred in connection with disputes between the Agent and the DIP Lenders on the one hand and the Loan Parties on the other hand; provided, that (i) the Loan Parties shall not be liable for any indemnification to an Indemnified Person to the extent that any such suit, action, proceeding, claim, damage, loss, liability or expense results solely from such Indemnified Person's breach of a material obligation under this Note or such Indemnified Person's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction and (ii) this Section 9 shall not apply with respect to taxes other than any taxes that represent losses, claims, damages, etc. arising from any non-tax claim. **NO INDEMNIFIED PERSON SHALL BE RESPONSIBLE OR LIABLE TO ANY OTHER PARTY, ANY SUCCESSOR, ASSIGNEE OR THIRD PARTY BENEFICIARY OF SUCH PERSON OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES THAT MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED OR TERMINATED UNDER ANY DIP DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR THEREUNDER.**

10. Adjustments for Withholding, Capital Adequacy Etc. All payments to the Agent by the Borrower under this Note shall be made free and clear of and without deduction or withholding for any and all taxes, duties, levies, imposts, deductions, charges or withholdings and all related liabilities (all such taxes, duties, levies, imposts, deductions, charges, withholdings and liabilities being referred to as "Taxes") imposed by the United States of America or any other nation or jurisdiction (or any political subdivision or taxing authority of either thereof), unless such Taxes are required by applicable law to be deducted or withheld. If the Borrower shall be required by applicable law to deduct or withhold any such Taxes from or in respect of any amount payable under this Note other than taxes imposed on the Agent or any DIP Lender's overall net income, then (A) if such Tax is an Indemnified Tax, the amount payable shall be increased as may be necessary so that after making all required deductions or

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withholdings, (including deductions or withholdings applicable to any additional amounts paid under this Note) the Agent receives an amount equal to the amount it would have received if no such deduction or withholding had been made, (B) the Borrower shall make such deductions or withholdings, and (C) the Borrower shall timely pay the full amount deducted or withheld to the relevant governmental entity in accordance with applicable law.

If the effect of the adoption, effectiveness, phase-in or applicability after the date hereof of any law, rule or regulation (including without limitation any tax, duty, charge or withholding on or from payments due from the Borrower (but excluding Indemnified Taxes, Excluded Taxes, and taxation on the overall net income of the DIP Lenders)), or any change therein or in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, is to reduce the rate of return on the capital of the Agent with respect to this Note or to increase the cost to the Agent of making or maintaining amounts available under this Note, the Borrower agrees to pay to the Agent such additional amount or amounts as will compensate the Agent on an after-tax basis for such reduction or increase.

The Borrower agrees to timely pay any present or future stamp or documentary taxes or any other excise or property taxes, charges, financial institutions duties, debits taxes or similar levies (all such taxes, charges, duties and levies being referred to as "Other Taxes") which arise from any payment made by the Borrower under this Note or from the execution, delivery or registration of, or otherwise with respect to, this Note.

The Borrower shall indemnify the Agent and each of the DIP Lenders for the full amount of Indemnified Taxes (including, without limitation, any Indemnified Taxes imposed by any jurisdiction on amounts payable by the Borrower hereunder) paid by the Agent or any DIP Lender and any liability (including penalties, interest and expenses) arising from or with respect to such Indemnified Taxes paid by the Agent or any DIP Lender, whether or not they were correctly or legally asserted, excluding taxes imposed on the Agent or any DIP Lender's overall net income. Payment under this indemnification shall be made upon demand. A certificate as to the amount of such Indemnified Taxes submitted to the Borrower by the Agent shall be conclusive evidence, absent manifest error, of the amount due from the Borrower to the DIP Lenders.

The Borrower shall furnish to the DIP Lenders the original or a certified copy of a receipt evidencing any payment of Taxes made by the Borrower pursuant to this Section 10 within thirty (30) days after the date of any such payment. If any Recipient becomes aware that it has received a refund of any Taxes with respect to which the Borrower has paid any amount pursuant to this Section 10, such Recipient shall pay the amount of such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such Recipient and without interest (other than any interest received from the relevant governmental authority with respect thereto), to the Borrower promptly after receipt thereof.

Any Recipient of a payment hereunder shall, to the extent it is legally entitled to do so, deliver to the Borrower on or prior to the date hereof (and from time to time thereafter upon the reasonable request of the Borrower), two properly completed and executed copies of

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IRS Forms W-8 or W-9 and properly completed and executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding tax, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction (if any) required to be made. In addition, any such Recipient, if reasonably requested by the Borrower, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower as will enable the Borrower to determine whether or not such Recipient is subject to backup withholding or information reporting requirements. Each Recipient agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall timely update such form or certification or promptly notify the Borrower in writing of its legal inability to do so.

11. Priority of Obligations and DIP Lenders' Liens.

(a) To secure all of the Borrower's Obligations now existing or hereafter arising, the Agent, for the benefit of itself and the DIP Lenders, is granted, effective as of the Order for Relief Date: (i) subject to the Carve-Out, an allowed super-priority administrative expense claim against each of the Borrower and Guarantors (jointly and severally) pursuant to Section 364(c)(1) of the Bankruptcy Code, and except as set forth in the Financing Orders, having a priority over any and all other claims and costs and expenses of administration of any kind whatsoever, whether now existing or hereafter arising, including, without limitation, those specified in, ordered pursuant to or arising under, *inter alia*, sections 105, 326, 328, 330, 331, 363, 364, 503, 506, 507, 546, 726, 1113 or 1114 or any other provision of the Bankruptcy Code or otherwise (whether incurred in these Chapter 11 Cases and any Successor Case), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy, or attachment, which allowed superpriority administrative claim (x) shall at all times be senior to the rights of the Debtors, any successor trustee or estate representative, or any other creditor or party in interest in the Chapter 11 Cases or any Successor Case, (y) shall be, for purposes of section 1129(a)(9)(A) of the Bankruptcy Code, considered an administrative expense allowed under section 503(b) of the Bankruptcy Code, and (z) shall be payable from and have recourse to all prepetition and postpetition property, whether existing as of the Order for Relief Date or thereafter acquired, of the Debtors and all proceeds thereof ~~(including, subject to entry of the Final Order, proceeds of Avoidance Actions (as defined in the Financing Orders))~~; and (ii) (x) pursuant to Sections 364(c)(2) of the Bankruptcy Code, Liens on, and security interests in, the Collateral, that are first and senior in priority to all other Liens on, and security interests in, the Collateral that was not encumbered by a valid, enforceable, properly perfected and non-avoidable Lien as of the Order for Relief Date, subject only to the Carve-Out, and (y) pursuant to sections 364(c)(3) and 364(d) of the Bankruptcy Code, priming Liens on, and security interests in, all other Collateral, subject only to the Carve-Out and Permitted Prior Liens. Except as set forth in the Financing Orders, the security interests and Liens granted to the Agent hereunder shall not be (i) subject to any Lien or security interest which is avoided and preserved for the benefit of the Loan Parties' estate under Section 551 of the Bankruptcy Code, or (ii), subordinated to or made *pari passu* with any other Lien or security interest under Section 364(d) of the Bankruptcy Code or otherwise.

(b) The priority of the Agent's Liens on the Collateral shall be as set forth in

the Financing Orders.

(c) Notwithstanding anything herein to the contrary (i) all proceeds received by the Agent and the DIP Lenders from the Collateral subject to the Liens granted in this Section 11 and in each other DIP Document, including the Financing Orders shall be subject to the Carve-Out, and (ii) no Person entitled to the Carve-Out shall be entitled to sell, or otherwise dispose, or seek or object to the sale or other disposition of, any Collateral.

(d) Each of the Loan Parties agrees for itself that the Obligations of such Person shall constitute allowed administrative expenses in the Chapter 11 Cases, having priority over all administrative expenses of and unsecured claims against such Person now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, all administrative expenses of the kind specified in, or arising or ordered under, Sections 105, 326, 328, 330, 331, 363, 364, 365, 503, 506, 507, 546, 726, 1113 and/or 1114 of the Bankruptcy Code, except as set forth in the Financing Orders.

(e) The Agent's Liens on the Collateral and the super-priority administrative claim under Section 364(c) of the Bankruptcy Code afforded the Obligations and the Guaranteed Obligations shall, following the occurrence and during the continuation of an Event of Default, be subject to the Carve-Out, in accordance with the Financing Orders.

12. Further Assurances. Each Loan Party agrees that it shall, at its expense and upon the reasonable request of the Agent, duly execute and deliver or cause to be duly executed and delivered, to the Agent or such DIP Lender, as the Agent shall direct such Loan Party such further instruments and do and cause to be done such further acts as may be necessary or proper in the reasonable opinion of the Agent to carry out more effectively the provisions and purposes of this Note or any other DIP Document, including, upon the written request of the Agent and in form and substance reasonably satisfactory to the Agent, security agreements, UCC-1 financing statements and other Collateral Documents confirming and perfecting the granting to the Agent, on behalf of the DIP Lenders, of the Liens (subject to the Financing Orders) in the Collateral to secure the Obligations.

13. Reports and Notices. The Loan Parties agree that they shall deliver (which delivery may be made by electronic communication (including email)) to the Agent each of the reports and other items (without duplication) set forth on Schedule 13 and in the Financing Orders no later than the times specified therein. The Parent agrees not to, and agrees to cause each of its Subsidiaries not to, change its fiscal year. In addition, the Parent agrees to, and agrees to cause each of its Subsidiaries to, maintain a system of accounting that enables the Parent and such Subsidiaries to produce financial statements in accordance with GAAP in all material respects.

14. Affirmative Covenants.

The Parent and its Subsidiaries agree that:

(a) Upon request of the Agent, the Parent and its Subsidiaries will permit any officer, employee, attorney or accountant or agent of the Agent to audit, review, make extracts

from or copy, at the Parent's and its Subsidiaries' expense, any and all corporate and financial and other books and records of the Parent and its Subsidiaries at all times during ordinary business hours and, in the absence of an Event of Default, upon reasonable advance notice and to discuss the Parent's and its Subsidiaries' affairs with any of their directors, officers, employees, attorneys, or accountants. The Parent and ~~its~~ Subsidiaries will permit the Agent, or any of its officers, employees, accountants, attorneys or agent, to examine and inspect any Collateral or any other property of the Parent and its Subsidiaries at any time during ordinary business hours and, in the absence of an Event of Default, upon reasonable prior notice. Notwithstanding the foregoing, none of the Parent or any of its Subsidiaries will be required to disclose information to the Agent (or any agent or representative thereof) that is prohibited by applicable law or is subject to attorney-client or similar privilege or constitutes attorney work product.

(b) (A) The Parent and its Subsidiaries will comply with all requirements of applicable law, the non-compliance with which could reasonably be expected to have a Material Adverse Effect and (B) the Parent and its Subsidiaries will obtain, maintain in effect and comply with all contracts and all permits, licenses and similar approvals necessary for the operation of their respective businesses as now or hereafter conducted other than to the extent contemplated by the Budget, the Sale Motion or the Financing Orders.

(c) The Parent and its Subsidiaries will pay or discharge, when due, (i) all taxes, assessments and governmental charges levied or imposed upon them or upon their respective income or profits, upon any respective properties of the Parent and its Subsidiaries (including, without limitation, the Collateral) or upon or against the creation, perfection or continuance of the security interest, prior to the date on which penalties attach thereto, except in each case (1) where the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Parent and its Subsidiaries (as applicable) and (2) taxes the nonpayment of which is permitted or required by the Bankruptcy Code or this Note, (ii) all federal, state and local taxes required to be withheld by them, and (iii) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien or charge upon any respective properties of the Parent and its Subsidiaries.

(d) (i) The Parent and each of its Subsidiaries will keep and maintain the Collateral and all of their respective other properties necessary or useful in their respective businesses in good condition, repair and working order (normal wear and tear excepted) other than to the extent contemplated by the Budget, any Sale Order or the Financing Orders, (ii) the Parent and each of its Subsidiaries will defend the Collateral against all claims or demands of all Persons (other than Permitted Encumbrances) claiming the Collateral or any interest therein, and (iii) the Parent and each of its Subsidiaries will keep all Collateral free and clear of all security interests, liens and encumbrances, except Permitted Encumbrances and other than to the extent contemplated by any Sale Order or the Financing Orders.

(e) The Parent and its Subsidiaries will obtain and at all times maintain insurance with responsible and reputable insurers, in such amounts and against such risks as may be required by the Prepetition Facility whether or not such facility remains in effect. Without limiting the generality of the foregoing, the Parent and its Subsidiaries will at all times keep all tangible Collateral insured against such risks as may be required by the Prepetition Facility

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whether or not such facility remains in effect, with any loss payable to the Agent to the extent of its interest and subject to the Financing Orders, and shall provide within 10 days of the Closing Date (as may be extended by the Agent in its sole discretion) that all policies of such insurance shall contain a loss payable endorsement in favor of the Agent and subject to the Financing Orders, in form and substance acceptable to the Agent in its sole discretion. The Parent and its Subsidiaries shall use commercially reasonable efforts to provide within 10 days of the Closing Date (as may be extended by the Agent in its sole discretion) that all policies of liability insurance required hereunder shall name the Agent as an additional insured.

(f) The Parent and its Subsidiaries will preserve and maintain their existence and all of their rights, privileges and franchises necessary or desirable in the normal conduct of their business, except to the extent contemplated by the Budget, the Sale Motion or the Financing Orders.

(g) The Parent and its Subsidiaries shall at all times operate their businesses in a manner consistent with the Budget except to the extent of any Permitted Variance.

(h) The Parent and its Subsidiaries each agree that they shall take all actions necessary to cause each of the following to occur (each a "Milestone" and collectively, the "Milestones"):

(1) no later than 2 Business Days after the Order for Relief Date, the Interim Order approving this Note shall be entered by the Bankruptcy Court;

(2) no later than 30 days after the entry of the Interim Order, the Final Order approving this Note and the financing contemplated hereby shall be entered by the Bankruptcy Court;

(3) no later than February 18, 2020, the Loan Parties shall file one or more motions (together with all exhibits, annexes and related documents, the "Sale Motion"), in form and substance reasonably acceptable to the Agent, which Sale Motion shall be in form and substance acceptable to the Agent in its sole discretion, seeking entry of orders (x) establishing bidding procedures (the "Bid Procedures") for the sale(s) of all or substantially all of the Loan Parties' assets (such order, together with all exhibits, annexes and related documents, the "Bid Procedures Order"), which Bid Procedures Order shall be in form and substance acceptable to the Agent in its sole discretion, and (y) approving the sale(s) of all or substantially all the assets of the Loan Parties (any such order, together with all exhibits, annexes and related documents, the "Sale Order"), which Sale Order shall be in form and substance acceptable to the Agent in its sole discretion;

(4) no later than February 24, 2020, the Loan Parties shall have received one or more letters of intent from potential bidders, each in form and substance acceptable to the Agent in its sole discretion;

(5) no later than March 11, 2020, the hearing on the Sale Motion as it relates to the approval of the Bid Procedures and entry of the Bid Procedures Order shall be held;

(6) no later than March 13, 2020, the Loan Parties shall obtain entry of the Bid Procedures Order in form and substance acceptable to the Agent in its sole discretion;

(7) no later than April 17, 2020, the Loan Parties shall have received one or more Qualified Bid(s) (as defined in the Bid Procedures), each in form and substance acceptable to the Agent in its sole discretion;

(8) to the extent required under the Bid Procedures Order and more than one Qualified Bid is received by the Bid Deadline (as defined in the Bid Procedures), not later than April 20, 2020, the Loan Parties shall commence an auction in accordance with the Bid Procedures Order, and after consultation with and approval by the Agent, select the successful bid(s);

(9) no later than April 23, 2020, the hearing on the Sale Motion as it relates to the approval of the sale(s) of all or substantially all of the Loan Parties' assets and entry of the Sale Order shall be held;

(10) no later than April ~~24~~²⁹, 2020, the Bankruptcy Court shall have entered Sale Order, in form and substance acceptable to the Agent in its sole discretion, which Sale Order, among other things, (x) authorizes the sale(s) of the Loan Parties' assets free and clear of all liens, claims and interests (other than those expressly preserved in the Sale Order) and (y) contains the "good faith" protections pursuant to Bankruptcy Code section 363(m) (the "Approved Sale(s)"); and

(11) no later than May ~~18~~¹⁸, 2020, the Approved Sale(s) shall have been consummated and all proceeds of such sales applied in accordance with the Financing Orders; provided, that the dates set forth in clauses (7), (8) and (9) of this Section 14(h) may be extended by the Debtors in the exercise of their business judgment after consultation with the Committee and the Agent.

15. Negative Covenants.

The Parent and its Subsidiaries each agree that, without the prior written consent of the Agent:

(a) Neither the Parent nor any of its Subsidiaries shall directly or indirectly, by operation of law or otherwise, (i) form or acquire any Subsidiary, or (ii) merge with, consolidate with, acquire all or substantially all of the assets or Equity Interests of, or otherwise combine with or acquire, any Person, except in the case of this clause (ii), with respect to existing Subsidiaries to the extent consented to by the Agent.

(b) Neither the Parent nor any of its Subsidiaries shall create, incur, assume or

permit to exist any Indebtedness, except (without duplication), to the extent not prohibited by the Financing Orders, Permitted Indebtedness.

(c) Neither the Parent nor any of its Subsidiaries shall enter into, renew, extend or be a party to, or permit any of its Subsidiaries to enter into, renew, extend or be a party to, any transaction with any affiliate, except transactions otherwise expressly permitted by this Note.

(d) Neither the Parent nor any of its Subsidiaries shall create, incur, assume or permit to exist any Lien on or with respect to any of its properties or assets (whether now owned or hereafter acquired) except for Permitted Encumbrances or as expressly permitted by the Financing Orders.

(e) Neither the Parent nor any of its Subsidiaries shall (a) make any Restricted Payment, except dividends and distributions by Subsidiaries of the Parent paid to the Parent or other wholly-owned Subsidiaries of the Parent and (b) make any payment in respect of, or repurchase, redeem, retire or defease any, prepetition Indebtedness, except pursuant to the terms of the Financing Orders and as permitted under this Note.

(f) Neither the Parent nor any of its Subsidiaries will assume, guarantee, endorse or otherwise become directly or contingently liable in connection with any obligations of any other Person (other than the Parent or any of its Subsidiaries), except the endorsement of negotiable instruments by Parent and its Subsidiaries for the deposit or collection or similar transactions in the ordinary course of business.

(g) Neither the Parent nor any of its Subsidiaries will convey, sell, lease, assign, transfer or otherwise dispose of any of its property, business or assets, whether now owned or hereinafter acquired other than (a) the sale of Inventory in the ordinary course of business, (b) the sale or disposition of obsolete equipment, (c) the sale of other property on terms acceptable to the Agent in its sole discretion, and (d) the transfer, sale or disposition of assets approved by an order of the Bankruptcy Court, which order shall be in form and substance acceptable to the Agent in its sole discretion.

(h) Neither the Parent nor any of its Subsidiaries shall consent to any amendment, supplement or other modification of any of the terms or provisions contained in, or applicable to, (a) any of the Financing Orders, (b) the Prepetition Obligations or (c) Material Contracts. Except for (i) claims of employees for unpaid wages, bonuses, accrued vacation and sick leave time, business expenses and contributions to employee benefit plans for the period immediately preceding the Order for Relief Date and prepetition severance obligations, in each case to the extent permitted to be paid by an order of the Bankruptcy Court (which order shall be in form and substance acceptable to the Agent in its sole discretion) and pursuant to the Budget, and (ii) payments permitted by the Financing Orders and the Budget, neither the Parent nor any of its Subsidiaries shall make any payment in respect of, or repurchase, redeem, retire or defease any, prepetition Indebtedness, except for other payments consented to by the Agent in writing in its sole discretion or applied by the Agent to any Prepetition Obligations as provided for under this Note.

(i) Neither the Parent nor any of its Subsidiaries shall make any investment in, or make loans or advances of money to, any Person, through the direct or indirect lending of money, holding of securities or otherwise.

16. Events of Default; Rights and Remedies. Notwithstanding the provisions of Section 362 of the Bankruptcy Code and without application or motion to the Bankruptcy Court, the occurrence of any one or more of the following events (regardless of the reason therefor) shall constitute an "Event of Default" hereunder:

A. Any Loan Party (i) shall fail to make any payment of principal of, or interest on, or fees owing in respect of, the Term Loans or any of the other Obligations when due and payable, or (ii) shall fail to pay or reimburse the Agent on behalf of the DIP Lenders for any expense reimbursable hereunder or under any other DIP Document within three (3) Business Days following the Agent's demands for such reimbursement or payment.

B. Any Loan Party shall fail to comply with any of the provisions of (i) Sections 13, 14(b), 14(c), 14(d), 14(e) or 14(f) of this Note and such failure shall remain uncured for a period of one (1) Business Day, or (ii) Section 14(a) of this Note and such failure shall remain uncured for a period of three (3) Business Days, or (iii) Section 15 of this Note or any material provision of the Guaranty.

C. Any Loan Party shall fail to comply with any of other provision of this Note or any of the other DIP Documents (other than any provision embodied in or covered by any other clause of this Section 16) and the same (other than the provisions covered by Section 14(h)), if capable of being remedied, shall remain unremedied for ten (10) days after the earlier of the date a senior officer or any Loan Party becomes aware of such failure and the date written notice of such default shall have been given by the Agent to such Loan Party.

D. Except for defaults occasioned by the filing of the Chapter 11 Cases and defaults resulting from obligations with respect to which the Bankruptcy Code prohibits any Loan Party from complying or permits any Loan Party not to comply, a default or breach shall occur under any other agreement, document or instrument to which any Loan Party is a party that is not cured within any applicable grace period therefor, and such default or breach (i) involves the failure to make any payment when due in respect of any Indebtedness (other than the Obligations) of any Loan Party in excess of \$50,000 in the aggregate, or (ii) causes, or permits any holder of such Indebtedness or a trustee to cause, Indebtedness or a portion thereof in excess of \$50,000 in the aggregate to become due prior to its stated maturity or prior to its regularly scheduled dates of payment, regardless of whether such default is waived, or such right is exercised, by such holder or trustee.

E. Any representation or warranty herein or in any other DIP Document or in any written statement, report, financial statement or certificate made or delivered to DIP Lenders by any Loan Party is untrue or incorrect in any material respect (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of the date when made or deemed made.

F. Any Loan Party shall bring a motion in any Chapter 11 Case: (i) to obtain

financing from any Person other than DIP Lenders under Section 364(c) or 364(d) of the Bankruptcy Code, except to the extent the proceeds of such financing would be used to indefeasibly repay in full in cash all of the Obligations under this Note; (ii) to grant any Lien other than Permitted Encumbrances upon or affecting any Collateral, except to the extent the proceeds of any such financing secured by such Lien would be used to indefeasibly repay in full in cash all of the Obligations under this Note; (iii) [reserved]; or (iv) to authorize any other action or actions adverse to the Agent or the DIP Lenders, or the Agent's and/or the DIP Lenders' rights and remedies hereunder or their interests in the Collateral.

G. The entry of an order in any of the Chapter 11 Cases confirming a plan or plans of reorganization that does not contain a provision for the termination of the DIP Lenders' commitment to make Term Loans and the indefeasible repayment in full in cash of all the Obligations under this Note and the obligations under the Prepetition Facility on or before the effective date of such plan or plans and that is not otherwise acceptable to the Agent in its sole discretion.

H. The filing of any motion by the Borrower or any other Loan Party seeking, or the entry of any order in the Chapter 11 Cases in respect of, any claim or claims under Section 506(c) of the Bankruptcy Code against or with respect to any Collateral.

I. The sale without the Agent's consent in its sole discretion, of all or substantially all of Borrower's assets either through a sale under Section 363 of the Bankruptcy Code, through a confirmed plan of reorganization in the Chapter 11 Cases, or otherwise, that does not provide for the indefeasible payment in full in cash of the Obligations and the obligations under the Prepetition Facility and termination of the DIP Lenders' commitment to make Term Loans, and is not otherwise acceptable to the Agent in its sole discretion.

J. The occurrence of any postpetition judgments, liabilities or events that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

K. The entry by the Bankruptcy Court of an order authorizing the appointment of an interim or permanent trustee in the Chapter 11 Cases or the appointment of an examiner in the Chapter 11 Cases with expanded powers to operate or manage the financial affairs, business, or reorganization of any Loan Party.

L. The Chapter 11 Cases, or any of them, shall be dismissed or converted from cases under Chapter 11 to cases under Chapter 7 of the Bankruptcy Code.

M. The entry of an order in any Chapter 11 Case avoiding or requiring repayment of any portion of the payments made on account of the Obligations owing under this Note or the other DIP Documents.

N. The entry of an order in any Chapter 11 Case granting any other super-priority administrative claim or Lien equal to or superior to that granted to the Agent (other than any such claim or Lien permitted by the Financing Orders), unless (i) consented to by the Agent in its sole discretion or (ii) the Obligations and the obligations under the Prepetition Facility are indefeasibly paid in full in cash and the DIP Lenders' commitment to make Term Loans is

terminated.

O. The entry of an order by the Bankruptcy Court granting relief from or modifying the automatic stay of Section 362 of the Bankruptcy Code to allow any creditor (other than the Agent) to execute upon or enforce a Lien on any Collateral except with respect to Permitted Encumbrances arising prior to the Order for Relief Date in an aggregate amount not to exceed \$50,000.

P. The Financing Orders (or either of them) shall be stayed, amended, modified, reversed or revoked in any respect without the Agent's prior written consent (which consent shall be in its sole discretion).

Q. There shall commence any suit or action against the Agent or any DIP Lender by or on behalf of (i) any Loan Party or (ii) any official committee in the Chapter 11 Cases, in each case, that asserts a claim or seeks a legal or equitable remedy that would have the effect of subordinating the claim or Lien of DIP Lenders and, if such suit or action is commenced by any Person other than any Loan Party, officer, or employee of any Loan Party, such suit or action shall not have been dismissed or stayed within 10 days after service thereof on the Agent or any DIP Lender, as applicable, and, if stayed, such stay shall have been lifted.

R. Failure of the Loan Parties to comply with any Milestone set forth in Section 14(h), except to the extent any such Milestone has been extended by order of the Bankruptcy Court.

S. Any provision of any DIP Document shall for any reason cease to be valid, binding and enforceable in accordance with its terms (or any Loan Party shall challenge the enforceability of any DIP Document or shall assert in writing, or engage in any action or inaction based on any such assertion, that any provision of any DIP Document has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms), or any Lien created under any DIP Document shall cease to be a valid and perfected first priority Lien (except as otherwise permitted herein or in the Financing Orders) in any of the Collateral purported to be covered thereby.

T. Termination of the use of Cash Collateral pursuant to the terms of the Financing Orders.

U. Assets of any Loan Party with a fair market value of \$100,000 or more are attached, seized, levied upon or subjected to a writ or distress warrant, or come within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors of any Loan Party and such condition continues for ten (10) days or more.

V. A breach by any Loan Party of any of the terms of any of the Financing Orders.

W. A Material Adverse Deviation shall have occurred.

X. Entry of an order authorizing and/or directing the reclamation of goods pursuant to section 546(c) of the Bankruptcy Code.

Y. The Final Order shall not have been entered by the Bankruptcy Court ~~within 30 days from the date of the entry of the Interim Order~~ on or before March 25, 2020.

Z. The Loan Parties terminate or fail to continue to retain on terms and conditions (including scope of authority) reasonably acceptable to the Agent (1) Huron Consulting Group, as chief transformation officer of the Loan Parties or (2) Jefferies LLC, as investment banker and financial advisor to the Loan Parties.

If any Event of Default shall have occurred and be continuing, then the Agent may, upon written notice to the Borrower and subject to the terms of the Financing Orders: (i) terminate the Commitment of each DIP Lender with respect to further Term Loans; (ii) declare all or any portion of the Obligations, including all or any portion of any Term Loan, to be forthwith due and payable; (iii) revoke the Borrower's and the other Loan Parties' rights to use Cash Collateral in which the Agent and the DIP Lenders have an interest; and (iv) exercise any rights and remedies under the DIP Documents or at law or in equity, all in accordance with the Financing Orders. Upon the occurrence of an Event of Default and the exercise by the Agent or the DIP Lenders of their rights and remedies under this Note and the other DIP Documents pursuant to clause (iv) above and subject to the Financing Orders, each Loan Party shall assist the Agent in effecting a sale or other disposition of the Collateral upon such terms as are designed to maximize the proceeds obtainable from such sale or other disposition.

Except as otherwise provided for in this Note or by applicable law, each Loan Party waives: (a) presentment, demand and protest and notice of presentment, dishonor, notice of intent to accelerate, notice of acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper, accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by the Agent on which any such Loan Party may in any way be liable, and hereby ratifies and confirms whatever the Agent may do in this regard; (b) all rights to notice and a hearing prior to the Agent taking possession or control of, or Agent's replevy, attachment or levy upon, the Collateral or any bond or security that might be required by any court prior to allowing Agent to exercise any of its remedies; and (c) the benefit of all valuation, appraisal, marshaling and exemption laws.

To the extent permitted by law and subject in all respects to the terms of the Financing Orders, the Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under section 9-207 of the Uniform Commercial Code or otherwise, shall be to deal with it in the same manner as Agent deals with similar securities and property for its own account, the Agent's duty of care with respect to Collateral in the custody or possession of a bailee or other third person shall be deemed fulfilled if the Agent exercises reasonable care in the selection of the bailee or other third person, and the Agent need not otherwise preserve, protect, insure or care for any Collateral, and the Agent shall not be obligated to preserve any rights any Loan Party may have against prior parties.

17. Reference Agreements. This Note evidences the Term Loans that may be made to Borrower from time to time in the aggregate principal amount outstanding of up to \$10,000,000

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and is issued pursuant to and entitled to the benefits of the Financing Orders, to which reference is hereby made for a more complete statement of the terms and conditions under which the Term Loans evidenced by this Note are made and are to be repaid.

18. Definitions. The following terms used in this Note shall have the following meanings (and any of such terms may, unless the context otherwise requires, be used in the singular or the plural depending on the reference):

"Additional Loan Facility Fee" shall have the meaning given such term in Section 8 of this Note.

"Bankruptcy Code" shall have the meaning given such term in the recital to this Note.

"Bankruptcy Court" shall have the meaning given such term in the recital to this Note.

"Borrower" shall have the meaning given such term in the recital to this Note.

"Budget" means a rolling thirteen (13) week forecast of projected receipts, disbursements, net cash flow, liquidity, loans and availability for the immediately following consecutive 13 weeks after the date of delivery, which shall be in substantially the form of the Initial Budget or otherwise in form and substance acceptable to the Agent in its sole discretion and shall be approved by the Agent in its sole discretion. The initial Budget, which shall be in form and substance acceptable to, and approved by, the Agent in its sole discretion (the "Initial Budget") is attached hereto as Exhibit A.

"Business Day" means any day other than a Saturday, Sunday or legal holiday under the laws of the State of New York or any other day on which banking institutions located in the State of New York are authorized or required by law or other governmental action to close.

"Carve-Out" shall have the meaning given such term in the Financing Orders.

"Cash Collateral" shall have the meaning given such term in the Financing Orders, and shall include "cash collateral" as that phrase is defined in Section 363(a) of the Bankruptcy Code.

"Chapter 11 Case" and "Chapter 11 Cases" shall have the respective meanings given such terms in the recital to this Note.

"Closing Date" means the Business Day when each of the conditions applicable to the making of the Initial Funding Loan and listed in Section 2 of this Note shall have been satisfied or waived in a manner satisfactory to the Agent.

"Collateral" shall mean the assets and property covered by the Financing Orders and the other Collateral Documents and any other assets and property, real or personal, tangible or intangible, now existing or hereafter acquired, that may at any time be or become subject to a security interest or Lien in favor of the Agent on behalf of the DIP Lenders, to secure the

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Obligations and the Guaranteed Obligations, and shall include DIP Collateral (as defined in the Financing Orders). Without limiting the foregoing, the Collateral shall include all present and future property of each Loan Party under Section 541(a) of the Bankruptcy Code ~~(including, without limitation, the proceeds of avoidance actions upon entry of the Final Order)~~ and all proceeds thereof.

"Collateral Documents" shall mean any agreement entered into pursuant to Section 12 hereof and all similar agreements entered into guaranteeing payment of, or granting a Lien upon property as security for payment of, the Obligations and the Guaranteed Obligations, each in form and substance acceptable to the Agent in its sole discretion, including the Financing Orders and the Guaranty.

"Committee" shall have the meaning given to such term in the Financing Orders.

"Commitment" means, with respect to each DIP Lender, the commitment of such DIP Lender to make its portion of the Term Loans to the Borrower in the principal amount set forth on the signature page to this Note for each DIP Lender, as the same may be terminated or reduced from time to time in accordance with the terms of this Note.

"Debtors" shall have the meaning given to such term in the Financing Orders.

"Default" means an event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Default Rate" shall have the meaning given such term in Section 4(d) of this Note.

"DIP Documents" shall mean this Note, the Collateral Documents, the Guaranty, the Financing Orders, and all other agreements, instruments, documents and certificates executed and delivered to, or in favor of the Agent and including all other pledges, powers of attorney, consents, assignments, contracts, notices, and all other written matter whether heretofore, now or hereafter executed by or on behalf of any Loan Party, or any employee of any Loan Party, and delivered to the Agent in connection with this Note or the transactions contemplated thereby, in each case in form and substance acceptable to the Agent in its sole discretion. Any reference in this Note or any other DIP Document to a DIP Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to such DIP Document as the same may be in effect at any and all times such reference becomes operative.

"DIP Lenders" shall have the meaning given such term in the recital to this Note.

"Dollars" or "\$" shall mean lawful currency of the United States of America.

"Equity Interests" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Event of Default" shall have the meaning given such term in Section 16 of this

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"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any DIP Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof), (b) in the case of a DIP Lender, federal withholding Taxes imposed on amounts payable to or for the account of such DIP Lender with respect to an applicable interest in a Term Loan or Commitment pursuant to a law in effect on the date on which (i) such DIP Lender acquires such interest in the Term Loan or Commitment or (ii) such DIP Lender changes its lending office, except in each case to the extent that, pursuant to Section 10, amounts with respect to such Taxes were payable either to such DIP Lender's assignor immediately before such DIP Lender became a party hereto or to such DIP Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to provide the Borrower with the tax documentation described in Section 10 hereof and (d) any withholding Taxes imposed under FATCA.

"Extraordinary Receipts" means any cash received by the Parent or any of its Subsidiaries not in the ordinary course of business (and not consisting of proceeds described Sections 7(b) and (c) hereof), including, without limitation, (i) foreign, United States, state or local tax refunds, (ii) pension plan reversions, (iii) proceeds of insurance, (iv) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action, (v) condemnation awards (and payments in lieu thereof), (vi) indemnity payments and (vii) any purchase price adjustment received in connection with any purchase agreement.

"FATCA" means Sections 1471 through 1474 of the Internal Revenue 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 Internal Revenue 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 Internal Revenue Code.

"Final Order" shall mean the order of the Bankruptcy Court entered in the Chapter 11 Cases after a final hearing pursuant to Section 364 of the Bankruptcy Code and Bankruptcy Rule 4001, satisfactory in form and substance to the Agent in its sole discretion, together with all extensions, modifications and amendments thereto (which extensions, modifications and/or amendments are satisfactory in form and substance to the Agent in its sole discretion), authorizing Borrower to obtain credit, incur Indebtedness, and grant Liens under this Note and/or certain financing documentation, all as set forth in such order.

"Financing Orders" shall mean, collectively, the Interim Order and the Final Order.

"GAAP" shall mean generally accepted accounting principles in the United States

of America.

"Guaranteed Obligations" shall mean the obligations to be guaranteed by each Guarantor pursuant to the terms of the Guaranty.

"Guarantor" shall have the meaning given such term in the recital to this Note.

"Guaranty" shall mean a guaranty of the Guarantors, in form and substance satisfactory to the Agent in its sole discretion, with respect to the Obligations.

"Indebtedness" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Indemnified Person" shall have the meaning given such term in Section 9 of this Note.

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

"Initial Loan Facility Fee" shall have the meaning given such term in Section 8 of this Note.

"Interim Order" shall mean the interim order of the Bankruptcy Court entered in the Chapter 11 Cases after an interim hearing (assuming satisfaction of the standards prescribed in Section 364 of the Bankruptcy Code and Bankruptcy Rule 4001 and other applicable law), together with all extensions, modifications and amendments thereto, satisfactory in form and substance to the Agent in its sole discretion, authorizing, on an interim basis, Borrower to execute and perform under the terms of this Note and the other DIP Documents.

"Inventory" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"LIBOR Rate" means "LIBOR Rate" as such term is (i) applicable to the Term Loan (as defined in the Prepetition Credit Agreement) and (ii) defined in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"LIBOR Rate Loan" means each portion of a Term Loan that bears interest at a rate determined by reference to the LIBOR Rate.

"Lien" shall mean any mortgage or deed of trust, pledge, hypothecation, assignment, deposit arrangement, lien, charge, claim, security interest, easement or encumbrance, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any lease or any financing lease having substantially the same economic effect as any of the foregoing, and the filing of, or agreement to give, any financing statement perfecting a security interest under the Uniform Commercial Code or comparable law of any jurisdiction).

"Loan Party" means the Borrower and any Guarantor.

"Material Adverse Deviation" means, as of any date of determination, an adverse deviation of more than the Permitted Variance from the aggregate amount set forth in the following line items of the Budget: (i) "Total ~~Operating Disbursements~~disbursements" for the following periods: the 2 weeks ending on March 13, 2020, the 3 weeks ending on February 24, March 20, 2020, the 4 weeks ending on February 28, March 27, 2020 and each rolling 4 week period thereafter and (ii) "Cash Receipts" for the following periods: the 2 weeks ending on ~~February 24, March 13, 2020, the 3 weeks ending on February 28, March 20, 2020, the 4 weeks ending on March 6, 27, 2020~~ and each rolling 4 week period thereafter.

"Material Adverse Effect" means a material adverse effect on (i) the operations, business, assets, properties or condition (financial or otherwise) of the Loan Parties taken as a whole, (ii) the ability of any Loan Party to perform any of its payment or other material obligations under any DIP Document to which it is a party, (iii) the legality, validity or enforceability of this Note or any other DIP Document, (iv) the rights and remedies of the Agent and the DIP Lenders under any DIP Document, or (v) the validity, perfection or priority of a Lien in favor of DIP Lenders on any of the Collateral.

"Material Contract" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Maturity Date" means the earliest to occur of (i) ~~120 days from the Closing Date, (ii) the date that is 30~~120 days following the date of entry of the Interim Order February 6, 2020, (ii) March 25, 2020, if the Final Order has not been entered by the Bankruptcy Court on or prior to such date, (iii) the consummation of a sale of all or substantially all of the Loan Parties' assets, (iv) the substantial consummation of a plan of reorganization filed in the Chapter 11 Cases that is confirmed pursuant to an order of the Bankruptcy Court, (v) the filing of a motion by any of the Loan Parties seeking dismissal of any of the Chapter 11 Cases, (vi) the dismissal of any of the Chapter 11 Cases, (vii) the filing of a motion by any of the Loan Parties seeking to convert of any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code, (viii) the conversion of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code, (ix) the date on which the Term Loans are accelerated pursuant to Section 16 or (x) any other event set forth in the Financing Orders and/or the other DIP Documents as triggering a Maturity Date.

"Maximum Amount" shall have the meaning given such term in Section 1 of this Note.

"Milestones" shall have the meaning given such term in Section 14 of this Note.

"Note" shall have the meaning given such term in the recital to this Note.

"Obligations" shall mean all loans, advances, debts, liabilities and obligations for the performance of covenants, tasks or duties or for payment of monetary amounts (whether or not such performance is then required or contingent, or such amounts are liquidated or determinable) owing by Borrower to DIP Lenders, and all covenants and duties regarding such amounts, of any kind or nature, present or future, whether or not evidenced by any note,

agreement or other instrument, in all cases, arising under this Note or any of the other DIP Documents. This term includes all principal, interest, fees, charges, expenses, attorneys' fees and any other sum chargeable to Borrower under this Note or any of the other DIP Documents.

"Other Taxes" shall have the meaning given such term in Section 10 of this Note.

"Participant Register" shall have the meaning given such term in Section 21 of this Note.

"Payment Office" means such office or offices of the Agent as may be designated in writing from time to time by the Agent to the Borrower.

"Permitted Encumbrances" shall mean the following encumbrances: (a) Liens for taxes or assessments or other governmental charges (i) not yet due and payable, (ii) that are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP, or (iii) the nonpayment of which is permitted or required by the Bankruptcy Code; (b) pledges or deposits of money securing statutory obligations under workmen's compensation, unemployment insurance, social security or public liability laws or similar legislation (excluding Liens under ERISA); (c) pledges or deposits of money securing bids, tenders, contracts (other than contracts for the payment of money) or leases to which any Loan Party is a party as lessee made in the ordinary course of business; (d) carriers', warehousemen's, suppliers' or other similar possessory liens arising in the ordinary course of business; (e) deposits securing, or in lieu of, surety, appeal or customs bonds in proceedings to which any Loan Party is a party; (f) zoning restrictions, easements, licenses, or other restrictions on the use of any real estate or other minor irregularities in title (including leasehold title) thereto so long as the same do not materially impair the use, value, or marketability of such real estate; (g) the Agent's and DIP Lenders' Liens; (h) Liens existing on the Order for Relief Date (to the extent valid, enforceable, properly perfected, senior to the Liens of Prepetition Secured Parties, and not subject to avoidance, in each case, as of the Order for Relief Date or perfected after the Order for Relief Date pursuant to section 546(b) of the Bankruptcy Code); **provided that, notwithstanding the foregoing, all Liens in favor of farmers, growers or other suppliers of raw materials to the Loan Parties shall not constitute Permitted Encumbrances under this clause (h) to the extent such Liens were not perfected by the filing of a financing statement perfecting a security interest under the Uniform Commercial Code prior to the Order for Relief Date;** (i) Liens in favor of the Prepetition Secured Parties and other Liens granted pursuant to the Financing Order (including, to the extent constituting a Lien, the Carve-Out), subject to the priorities set forth in the Financing Orders; ~~and~~ (j) to the extent constituting Liens, Liens on goods delivered to any Loan Party after the Order for Relief Date under any consignment or similar title retention agreements; **and (k) unperfected Liens existing on the Order for Relief Date that are junior to the Liens securing the Obligations and the Prepetition Obligations.**

"Permitted Indebtedness" shall mean: (a) current Indebtedness incurred in the ordinary course of business for inventory, supplies, equipment, services, taxes or labor, in each case, in accordance with the Budget; (b) Indebtedness arising under this Note and the other DIP Documents; (c) Prepetition Obligations; (d) deferred taxes and other expenses incurred in the ordinary course of business, in accordance with the Budget; (e) any Indebtedness existing on the

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Order for Relief Date, subject to the terms of the Financing Order and the Budget; and (f) administrative expenses of Borrower for which the Bankruptcy Court has not directed payment, subject to the terms of the Financing Order and the Budget.

"Permitted Prior Liens" shall mean certain permitted senior liens as expressly set forth, and defined, in the Financing Orders.

"Permitted Variance" means (a) a variance of up to 10% between the actual disbursements for the applicable 2, 3 or 4 week period and the "Total ~~Operating Disbursements~~disbursements" line item as set forth in the Budget for the applicable 2, 3 or 4 week period (other than professional fees) and/or (b) a negative variance of up to 10% between the actual receipts for the applicable 2, 3 or 4 week period and the "Cash Receipts" line item as set forth in the Budget for the applicable 2, 3 or 4 week period.

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

"Prepetition Secured Parties" shall have the meaning given such term in the Financing Orders.

"Prepetition Credit Agreement" shall have the meaning given such term in the Financing Orders.

"Prepetition Facility" shall have the meaning given such term in the Financing Orders.

"Prepetition Obligations" shall have the meaning given such term in the Financing Orders.

"Pro Rata Share" means with respect to a DIP Lender's obligation to make Term Loans and receive payments of interest, fees and principal with respect thereto, the percentage obtained by dividing (i) such DIP Lender's Commitment by (ii) the Maximum Amount.

"Recipient" means the Agent or any DIP Lender, as applicable.

"Reference Rate" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Reference Rate Loan" means each portion of a Term Loan that bears interest at a rate determined by reference to the Reference Rate.

"Register" shall have the meaning given such term in Section 21 of this Note.

"Registered Loan" shall have the meaning given such term in Section 21 of this

Note.

"Related Fund" shall mean, with respect to any Person, an affiliate of such Person, or a fund or account managed by such Person or an affiliate of such Person.

"Required Lenders" shall mean, at any time, DIP Lenders whose aggregate Pro Rata Shares exceed 50%.

"Restricted Payment" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Sale Motion" shall have the meaning given such term in Section 14 of this Note.

"Stockholder" shall mean with respect to any Person, each holder of Equity Interests of such Person.

"Subsidiary" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Successor Case" shall have the meaning given such term in the Financing Orders.

"Taxes" shall have the meaning given such term in Section 10 of this Note.

"Term Loans" shall have the meaning given such term in Section 1 of this Note.

19. Representations and Warranties. The Parent and each of its Subsidiaries represent as follows:

(a) the Parent and each of its Subsidiaries are duly formed and/or organized, validly existing and in good standing under the laws of their jurisdictions of incorporation or formation;

(b) upon entry of the Financing Orders, the execution and delivery of this Note and the other DIP Documents and the performance by the Loan Parties of the Loan Parties' obligations hereunder and under the other DIP Documents are within its corporate powers, have been duly authorized by all necessary corporate action of the Loan Parties, have received all necessary bankruptcy, insolvency or governmental approvals, and do not and will not contravene or conflict with any provisions of applicable law or of the Loan Parties' corporate charter or by-laws or of any agreements binding upon or applicable to the Loan Parties or any of their Subsidiaries or any of their properties;

(c) the Chapter 11 Cases have been duly authorized by all necessary legal and corporate action by or on behalf of each Loan Party and have been duly and properly commenced;

(d) upon entry of the Financing Orders, this Note and each other DIP Document is the legal, valid and binding obligation, enforceable against the Loan Parties in

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accordance with its terms except as limited by equitable principles relating to enforceability;

(e) the Parent and its Subsidiaries have good and marketable title to, or valid leasehold interests in, all of its property and assets; none of the properties and assets of the Parent and its Subsidiaries are subject to any Liens other than Permitted Encumbrances;

(f) no information contained in this Note, any of the other DIP Document, any projections, financial statements or collateral reports or other reports from time to time delivered hereunder or any written statement furnished by or on behalf of the Parent and its Subsidiaries to the DIP Lenders pursuant to the terms of this Note or otherwise contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading in light of all of the circumstances under which they were made;

(g) the Liens granted to the DIP Lenders pursuant to the Collateral Documents and the Financing Orders are fully perfected Liens in and to the Collateral described therein, subject, as to priority, only to Permitted Prior Liens or other Liens permitted to have such priority under the Financing Orders;

(h) except for proceedings in the Chapter 11 Cases in connection with the entry of the Financing Orders, no action, claim, lawsuit, demand, investigation or proceeding is now pending or, to the knowledge of the Parent, threatened against the Parent or its Subsidiaries before any governmental authority or before any arbitrator or panel of arbitrators that challenges the rights or powers of the Parent or its Subsidiaries to enter into or perform any of its obligations under the DIP Documents to which it is a party, or the validity or enforceability of any DIP Document or any action taken thereunder;

(i) the Parent and its Subsidiaries are and will be at all times the owners of the Collateral free and clear of any lien, security interest or other charge or encumbrance except for the security interest created by this Note or any other DIP Documents and the other Permitted Encumbrances;

(j) the execution, delivery and performance of this Note and the other DIP Documents will not (immediately or with the giving of notice or passage of time, or both) violate the articles of incorporation or bylaws of any Loan Party, or violate any law or regulation;

(k) except for the Chapter 11 Cases, there is no order, notice, claim, litigation, proceeding or investigation pending or threatened against or in any way affecting (i) any Loan Party, whether or not covered by insurance, that would reasonably be expected to have a Material Adverse Effect or (ii) this Note or any other DIP Document; and

(l) the Parent and its Subsidiaries have filed all federal, state and other tax returns and reports required to be filed, and have paid all federal, state and other taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable.

20. Agent.

(a) Appointment. Each DIP Lender hereby irrevocably appoints and authorizes the Agent to perform the duties of the Agent as set forth in this Note including: (i) to receive on behalf of each DIP Lender any payment of principal of or interest on the Term Loans outstanding hereunder and all other amounts accrued hereunder for the account of the DIP Lenders and paid to the Agent, and to distribute promptly to each DIP Lender its Pro Rata Share of all payments so received; (ii) to distribute to each DIP Lender copies of all material notices and agreements received by the Agent; (iii) to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Obligations, the Term Loans, and related matters and to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Collateral and related matters; (iv) to execute or file any and all notices, amendments, renewals, supplements, documents, instruments, proofs of claim, notices and other written agreements with respect to this Note or any other DIP Document; (v) to perform, exercise, and enforce any and all other rights and remedies of the DIP Lenders with respect to the Borrower, the Obligations, or otherwise related to any of same to the extent reasonably incidental to the exercise by the Agent of the rights and remedies specifically authorized to be exercised by the Agent by the terms of this Note or any other DIP Document; (vi) to incur and pay such fees necessary or appropriate for the performance and fulfillment of its functions and powers pursuant to this Note or any other DIP Document; and (vii) to take such action as the Agent deems appropriate on its behalf to administer the Term Loans and the DIP Documents and to exercise such other powers delegated to the Agent by the terms hereof or the other DIP Documents together with such powers as are reasonably incidental thereto to carry out the purposes hereof and thereof.

(b) Nature of Duties. The Agent shall have no duties or responsibilities except those expressly set forth in this Note or in the other DIP Documents.

(c) Rights, Exculpation, Etc. The Agent and its directors, officers, agents or employees shall not be liable for any action taken or omitted to be taken by them under or in connection with this Note or the other DIP Documents, except for their own gross negligence or willful misconduct as determined by a final judgment of a court of competent jurisdiction.

(d) Reliance. The Agent shall be entitled to rely upon any written notices, statements, certificates, orders or other documents or any telephone message believed by it in good faith to be genuine and correct and to have been signed, sent or made by the proper Person, and with respect to all matters pertaining to this Note or any of the other DIP Documents and its duties hereunder or thereunder, upon advice of counsel selected by it.

(e) Indemnification. To the extent that the Agent is not reimbursed and indemnified by the Borrower, the DIP Lenders will reimburse and indemnify the Agent from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, advances or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Agent in any way relating to or arising out of this Note or any of the other DIP Documents or any action taken or omitted by the Agent under this Note or any of the other DIP Documents, in proportion to each DIP Lender's Pro Rata Share.

(f) Collateral Matters.

(1) The DIP Lenders hereby irrevocably authorize the Agent, at its option and in its discretion, to release any Lien granted to or held by the Agent upon any Collateral upon cancellation of this Note and payment and satisfaction of the Term Loans and all other Obligations which have matured and which the Agent has been notified in writing are then due and payable; or constituting property being sold or disposed of in the ordinary course of the Borrower's business or otherwise in compliance with the terms of this Note and the other DIP Documents; or if approved, authorized or ratified in writing by the DIP Lenders.

(2) Without in any manner limiting the Agent's authority to act without any specific or further authorization or consent by the DIP Lenders, each DIP Lender agrees to confirm in writing, upon request by the Agent, the authority to release Collateral conferred upon the Agent under paragraph (f)(1) above.

The Agent shall have no obligation whatsoever to any DIP Lender to assure that the Collateral exists or is owned by the Loan Parties, or is cared for, protected or insured or has been encumbered or that the Lien granted to the Agent pursuant to this Note or any other DIP Document has been properly or sufficiently or lawfully created, perfected, protected or enforced or is entitled to any particular priority, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to the Agent in this section or in any other DIP Document, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, the Agent may act in any manner it may deem appropriate, in its sole discretion, given the Agent's own interest in the Collateral as one of the DIP Lenders and that the Agent shall have no duty or liability whatsoever to any other DIP Lender, except as otherwise provided herein.

21. Miscellaneous.

(a) All notices and other communications provided for hereunder shall be in writing (including facsimile communication) and mailed, emailed or delivered as follows:

If to Borrower: GenCanna Global USA, Inc.
321 Venable Road, Winchester, KY 40391
Attention: Steve Bevan
Telephone: 859-489-3954
email: steve.bevan@gencanna.com

with copies to: Benesch, Friedlander, Coplan & Aronoff LLP
222 Delaware Avenue, Suite 801
Wilmington, Delaware 19801-1611
Attn: Michael J. Barrie
Email: mbarrie@beneschlaw.com

If to Agent or any
DIP Lender: MGG Investment Group LP
One Penn Plaza, 53rd Floor
New York, New York 10119

Attention: Mustafa Tayeb and Mier Wang
Telephone: 212-356-6100
Email: creditagreementnotices@mginv.com

with copies to: Schulte Roth & Zabel LLP
919 Third Avenue
New York, New York 10022
Attn: Adam Harris and Frederic L. Ragucci
Email: adam.harris@srz.com
frederic.ragucci@srz.com

All such notices and communications shall, when mailed or sent by overnight courier, be effective when deposited in the mails or delivered to the overnight courier, as the case may be, or when sent by email be effective when confirmation is received.

(b) The Loan Parties shall reimburse the Agent for all reasonable out-of-pocket expenses incurred in connection with the negotiation and preparation of the DIP Documents and the obtaining of approval of the DIP Documents by the Bankruptcy Court (including the reasonable fees and expenses of outside counsel for Agent, all of its special local counsel, fees for one (in the absence of any conflicts of interest) financial advisor for the Agent and the DIP Lenders, and auditors retained in connection with the DIP Documents and advice in connection therewith). Subject to the foregoing, the Loan Parties shall reimburse the Agent for all reasonable fees, costs and expenses, including the reasonable fees, costs and expenses of counsel or other advisors for advice, assistance, or other representation in connection with:

(1) any amendment, modification or waiver of, consent with respect to, or termination or enforcement of, any of the DIP Documents or advice in connection with the administration of the Term Loans made pursuant hereto or its rights hereunder or thereunder;

(2) the review of pleadings and documents related to the Chapter 11 Cases and any subsequent Chapter 7 case, attendance at meetings related to the Chapter 11 Cases and any subsequent Chapter 7 case, and general monitoring of the Chapter 11 Cases and any subsequent Chapter 7 case;

(3) any litigation, contest, dispute, suit, proceeding or action (whether instituted by the Agent, the Borrower or any other Person, and whether as a party, witness or otherwise) in any way relating to the Collateral, any of the DIP Documents or any other agreement to be executed or delivered in connection herewith or therewith, including any litigation, contest, dispute, suit, case, proceeding or action, and any appeal or review thereof, in connection with a case commenced by or against Borrower or any other Person that may be obligated to the Agent by virtue of the DIP Documents, including any such litigation, contest, dispute, suit, proceeding or action arising in connection with any work-out or restructuring of the Term Loans during the

pendency of one or more Events of Default;

(4) any attempt to enforce any remedies of the Agent against any or all of the Borrower or any other Person that may be obligated to the Agent by virtue of any of the DIP Documents, including any such attempt to enforce any such remedies in the course of any work-out or restructuring of the Term Loans during the pendency of one or more Events of Default;

(5) any work-out or restructuring of the Term Loans during the pendency of one or more Events of Default; and

(6) any efforts to (A) monitor the Term Loans or any of the other Obligations, (B) evaluate, observe or assess any of the Loan Parties or their respective affairs, (C) verify, protect, evaluate, assess, appraise, collect, sell, liquidate or otherwise dispose of any of the Collateral and (D) monitor any sales;

including, as to each of clauses (1) through (6) above, all attorneys' and other professional and service providers' fees arising from such services, including those in connection with any appellate proceedings, and all expenses, costs, charges and other fees incurred by such counsel and others in connection with or relating to any of the events or actions described in this Section 20(b), all of which shall be payable, on demand, by the Loan Parties to the Agent on behalf of the DIP Lenders. Without limiting the generality of the foregoing, such expenses, costs, charges and fees may include: fees, costs and expenses of accountants, appraisers, investment bankers, management and other consultants and paralegals; court costs and expenses; photocopying and duplication expenses; court reporter fees, costs and expenses; long distance telephone charges; air express charges; and expenses for travel, lodging and food paid or incurred in connection with the performance of such legal or other advisory services. All expenses incurred by the Agent shall receive super-priority administrative expense status per Section 364 of the Bankruptcy Code (subject to the Financing Orders).

(c) No failure or delay on the part of the Agent or any other holder of this Note to exercise any right, power or privilege under this Note and no course of dealing between Borrower and the Agent shall impair such right, power or privilege or operate as a waiver of any default or an acquiescence therein, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies expressly provided in this Note are cumulative to, and not exclusive of, any rights or remedies that the Agent would otherwise have. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Agent to any other or further action in any circumstances without notice or demand.

(d) Borrower and any endorser of this Note hereby consent to renewals and extensions of time at or after the maturity hereof without notice, and hereby waive diligence, presentment, protest, demand and notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

(e) If any provision in or obligation under this Note shall be invalid, illegal or

unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

(f) **THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE BORROWER AND THE AGENT HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK INCLUDING WITHOUT LIMITATION SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.**

(g) Each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Bankruptcy Court and, if the Bankruptcy Court does not have (or abstains from) jurisdiction, the Supreme Court 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 Note or any DIP Document, and each of the parties hereto hereby 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 or, to the extent permitted by law, in such Federal court.

(h) **THE BORROWER AND, BY THEIR ACCEPTANCE OF THIS NOTE, THE AGENT, ANY DIP LENDER AND ANY SUBSEQUENT HOLDER OF THIS NOTE, HEREBY IRREVOCABLY AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS NOTE OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS NOTE AND THE AGENT'S/BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED.** The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including without limitation contract claims, tort claims, breach of duty claims and all other common law and statutory claims. The Borrower and, by their acceptance of this Note, the Agent, any DIP Lender and any subsequent holder of this Note, each (i) acknowledges that this waiver is a material inducement to enter into a business relationship, that each has already relied on this waiver in entering into this relationship, and that each will continue to rely on this waiver in their related future dealings and (ii) further warrants and represents that each has reviewed this waiver with its legal counsel and that each knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. **THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING) THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS OF THIS NOTE.** In the event of litigation, this provision may be filed as a written consent a trial by the court.

(i) The Borrower hereby waives the benefit of any statute or rule of law or judicial decision which would otherwise require that the provisions of this Note be construed or

interpreted most strongly against the party responsible for the drafting thereof.

(j) The Borrower shall not have the right to assign their obligations or liabilities under this Note without the prior written consent of the Agent in its sole discretion. The DIP Lenders may assign to one or more entities all or any part of, or may grant participations to one or more entities in or to all or any part of, the amounts outstanding hereunder, and to the extent of any such assignment or participation (unless otherwise stated therein) the assignee or participant shall have the same rights and benefits hereunder as it would have if it were a DIP Lender hereunder. An assigning DIP Lender shall notify the Borrower of any such assignment (other than an assignment to an affiliate of such DIP Lender or a Related Fund) which notice shall include a description of the assignment and include customary instructions from the DIP Lender and such assignee with respect to the making of payments and other communications with the DIP Lender and such assignee.

(k) The Agent shall, acting solely for this purpose as a non-fiduciary agent of Borrower, maintain, or cause to be maintained at the Payment Office, a copy of each assignment notice delivered to and accepted by it and a register (the "Register") for the recordation of the names and addresses of the Persons, if any, that take an assignment from it and the principal amount of the Term Loans and stated interest thereon (the "Registered Loans") owing to each DIP Lender from time to time. The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Borrower and the Agent may treat each Person whose name is recorded in the Register as a DIP Lender hereunder for all purposes of this Note. The Register shall be available for inspection by Borrower and the DIP Lenders at any reasonable time and from time to time upon reasonable prior notice.

(l) Upon receipt by the Agent of an assignment notice, the Agent shall accept such assignment and record the information contained therein in the Register.

(m) A Registered Loan may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register. Any assignment or sale of all or part of such Registered Loan may be effected only by registration of such assignment or sale on the Register. Prior to the registration of assignment or sale of any Registered Loan, the Agent shall treat the Person in whose name such Registered Loan is registered as the owner thereof for the purpose of receiving all payments thereon and for all other purposes, notwithstanding notice to the contrary.

(n) In the event that a DIP Lender sells participations in a Registered Loan, such DIP Lender shall maintain a register for this purpose as a non-fiduciary agent of Borrower on which it enters the name of all participants in the Registered Loans held by it and the principal amount (and stated interest thereon) of the portion of the Registered Loan that is the subject of the participation (the "Participant Register"). A Registered Loan may be participated in whole or in part only by registration of such participation on the Participant Register. Any participation of such Registered Loan may be effected only by the registration of such participation on the Participant Register. The Participant Register shall be available for inspection by the Borrower and the DIP Lenders at any reasonable time and from time to time upon reasonable prior notice.

(o) No provision of this Note may be amended or waived unless such

amendment or waiver is in writing and is signed by the Borrower and the Agent.

(p) Any provision of this Note which is prohibited or unenforceable shall be ineffective to the extent such prohibition or unenforceability without invalidating the remaining provisions hereof.

(q) This Note, the other DIP Documents, and all Liens created hereby or pursuant to the Collateral Documents or any other DIP Document shall be binding upon the Borrower and each other Loan Party, the estates of the Borrower, and any trustee or successor in interest of the Borrower and each other Loan Party in the Chapter 11 Case or any subsequent case commenced under Chapter 7 of the Bankruptcy Code, and shall not be subject to Section 365 of the Bankruptcy Code. This Note and the other DIP Documents and the Financing Orders shall be binding upon, and inure to the benefit of, the successors of the Agent and the DIP Lenders and each of their respective assigns, transferees and endorsees. The Liens created by this Note, and the other DIP Documents shall be and remain valid and perfected in the event of the substantive consolidation or conversion of the Chapter 11 Case or any other bankruptcy case of any Loan Party to a case under chapter 7 of the Bankruptcy Code or in the event of dismissal of the Chapter 11 Case or the release of any Collateral from the jurisdiction of the Bankruptcy Court for any reason, without the necessity that the Agent file financing statements or otherwise perfect its security interests or Liens under applicable law.

(r) In the event of any inconsistency between the terms and conditions of this Note and the Financing Orders, the provisions of the Financing Orders shall govern and control.

(s) THIS WRITTEN PROMISSORY NOTE REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES, AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

22. Amendment and Restatement. This Note is being issued in full substitution for and replacement of that certain Amended and Restated Debtor in Possession Secured Multi-Draw Term Promissory Note, dated February 28, 2020 (the "Existing Note"), issued by the Borrower in favor of the DIP Lenders in the original principal amount of \$10,000,000. This Note shall replace and supersede the Existing Note in its entirety.

* * * * *

IN WITNESS WHEREOF, the Borrower have caused this Note to be executed and delivered by its duly authorized officer as of the day and year and at the place first above written.

GENCANNA GLOBAL USA, INC., as Debtor and
Debtor in Possession

By: _____

Name:

Title:

Acknowledged and Agreed

MGG INVESTMENT GROUP LP, as Agent

By: MGG GP LLC, its general partner

By: _____
Name: Kevin Griffin
Title: Chief Executive Officer

MGG (BVI) Limited
MGG Canada Fund LP
MGG Insurance Fund Series Interests of the SALI Multi-
Series Fund, L.P.
MGG Onshore Funding II LLC
MGG SF Drawdown Master Fund (Cayman) LP
MGG SF Drawdown Unlevered Fund II LP
MGG SF Drawdown Unlevered Master Fund II (Cayman)
MGG SF Evergreen Fund LP
MGG SF Evergreen Master Fund (Cayman) LP
MGG SF Evergreen Unlevered Fund LP
MGG SF Evergreen Unlevered Master Fund II (Cayman)
MGG Specialty Finance Fund II LP,

each as a DIP Lender

By: MGG Investment Group LP, on behalf of each of the above,
as Authorized Signatory

By: _____
Name: Kevin Griffin
Title: Chief Executive Officer

Schedule 1(a)¹

DIP LENDERS AND DIP LENDER COMMITMENTS

DIP Lender	Commitment
MGG (BVI) Limited	\$7,772.00 <u> </u>
MGG Canada Fund LP	\$404,182.00 <u> </u>
MGG Insurance Fund Series Interests of the SALI Mu	\$16,943.00 <u> </u>
MGG Onshore Funding II LLC	\$2,390,794.00 <u> </u>
MGG SF Drawdown Master Fund (Cayman) LP	\$198,977.00 <u> </u>
MGG SF Drawdown Unlevered Fund II LP	\$648,926.00 <u> </u>
MGG SF Drawdown Unlevered Master Fund II (Cayman) LP	\$679,271.00 <u> </u>
MGG SF Evergreen Fund LP	\$759,446.00 <u> </u>
MGG SF Evergreen Master Fund (Cayman) LP	\$1,918,854.00 <u> </u>
MGG SF Evergreen Unlevered Fund LP	\$1,870,393.00 <u> </u>
MGG SF Evergreen Unlevered Master Fund II (Cayman) LP	\$337,436.00 <u> </u>
MGG Specialty Finance Fund II LP	\$767,006.00 <u> </u>
Total	\$10,000,000.00 <u>12,500,000.00</u>

¹ MGG to provide.

EXHIBIT A

(attach Budget)

Schedule 13

Deliver (which delivery may be made by electronic communication (including email)) to the Agent, the monthly reports, quarterly reports, annual reports and compliance certificates required by Section 7.01(a) of the Prepetition Credit Agreement and each of the financial statements, reports, or other items set forth below at the following times in form and substance satisfactory to the Agent in its sole discretion:

on Tuesday of each week for the period ending the preceding Friday beginning with the first Friday ending a full calendar week after the Order for Relief Date,	(a) a weekly DIP variance report/reconciliation for the prior week and for the period from the commencement of the Initial Budget to the end of the prior week in each case (i) showing actual results for the following items: (A) receipts, (B) disbursements, (C) net operating cash flow, (D) [reserved] and (E) professional fees and expenses, noting therein variances from values set forth for such periods in both the Initial Budget and the most recent Budget and (ii) an explanation for all material variances, certified by the chief financial officer of the Borrower, (b) a weekly report of sales results,
on Monday of each week beginning with the first full calendar week after the Order for Relief Date,	(c) a report of the balance of all of the deposit accounts of the Loan Parties, including a breakdown of the balances of deposit accounts held at each depository institution, as of the close of business on the preceding Friday,
upon the request of Agent,	(d) a revised proposed budget (it being understood that upon written approval of such proposed budget by the Agent, in its sole discretion, such proposed budget shall become the "Budget") and timing changes with respect to any periods that were included in a previously delivered report and which shall be in form and substance acceptable to the Agent,
promptly, but in any event at least two (2) business days prior to filing (except for emergency motions, which shall be delivered as promptly as possible prior to filing),	(e) drafts of all pleadings, motions, applications or financial information (including any proposed order) filed or to be filed by any Loan Party with the Bankruptcy Court; <u>provided</u> that any such documents that are publicly available shall be deemed to have been delivered,
promptly, but in any event within 3 Business Days after Borrower has knowledge of any event or condition that	(f) notice of such event or condition and a statement of the curative action that Borrower proposes to take with respect thereto,

constitutes a Default,	
weekly,	(g) participate in status update conference calls with the Agent, the chief transformation officer and Jefferies LLC,
upon the request of Agent,	(h) any other information requested relating to the financial condition of the Parent or its Subsidiaries, and
upon notice of Agent,	(i) access to the chief transformation officer and Jefferies LLC at all times during the Chapter 11 Cases, including, in the case of Jefferies LLC, access to any data room established and bids and letters of intent received; <u>provided</u> , that if the Agent and the DIP Lenders have submitted a Qualified Bid, not including any bids or other confidential information of competing bidders.

Summary report: Litera® Change-Pro for Word 10.8.1.6 Document comparison done on 3/22/2020 9:16:19 PM	
Style name: Standard - Color	
Intelligent Table Comparison: Inactive	
Original filename: GCG - DIP Term Loan Note.docx	
Modified DMS: iw://NYDMS/NEWYORK/33546091/4	
Changes:	
Add	54
Delete	43
Move From	3
Move To	3
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	103

EXHIBIT B

(Blackline)

FOR PURPOSES OF SECTIONS 1272, 1273 AND 1275 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "INTERNAL REVENUE CODE"), THIS NOTE IS BEING ISSUED WITH ORIGINAL ISSUE DISCOUNT. REQUESTS FOR INFORMATION REGARDING THE ORIGINAL ISSUE DISCOUNT ON THIS NOTE MAY BE DIRECTED TO GENCANNA GLOBAL USA, INC., 321 VENABLE ROAD, WINCHESTER, KY 40391.

**SECOND AMENDED AND RESTATED DEBTOR IN POSSESSION SECURED
MULTI-DRAW TERM PROMISSORY NOTE**

~~\$10,000,000~~ 12,500,000

~~February 6~~ March
1, 2020

New York

On February 6, 2020 (the "Order for Relief Date"), the United States Bankruptcy Court for the Eastern District of Kentucky (the "Bankruptcy Court") entered an order for relief with respect to GENCANNA GLOBAL USA, INC., a Delaware corporation (the "Borrower") and, on February 5, 2020, GENCANNA GLOBAL, INC., a Delaware corporation (the "Parent") and certain of the Borrower's subsidiaries commenced chapter 11 cases by filing their own voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), which cases (including the Borrower's case) are being jointly administered under Chapter 11 Case No. 20-50133-grs (each a "Chapter 11 Case" and collectively, the "Chapter 11 Cases"). The Loan Parties (as defined herein) continue to operate their respective businesses and manage their respective properties as debtors and debtors in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. The Borrower has requested that MGG Investment Group LP, a Delaware limited partnership, as agent (in such capacity, the "Agent") for the lenders (the "DIP Lenders") from time to time party to this **Second Amended and Restated** Debtor in Possession Secured Multi-Draw Term Promissory Note (as amended, modified, or supplemented from time to time, this "Note"), make Term Loans (as defined below) from time to time evidenced by this Note. The Parent and certain subsidiaries of the Borrower who comprise the other debtors in the Chapter 11 Cases wish to guaranty the Borrower's Obligations under this Note (collectively, the "Guarantors"), and are simultaneously executing Guarantees in favor of the Agent. The Borrower intends to utilize such Term Loans to (i) fund general corporate needs, including without limitation working capital and other needs, and (ii) pay administrative expenses of the Chapter 11 Cases, including fees and expenses of professionals, in each case in accordance with the Budget. Capitalized terms used herein and not otherwise defined herein shall have the meanings provided in Section 18 of this Note.

1. Term Loans.

(a) Subject to the terms and conditions hereof including the Agent's receipt of a Borrowing Request (as defined below), the DIP Lenders agree to provide the Borrower with ~~a term loan~~ loans on the Closing Date in the principal amount of ~~\$2,750,000~~ 4,750,000 (the "Initial Loan"). Subject to the terms and conditions hereof, at any time on or after the date of entry of the Final Order and upon the Agent's receipt of a Borrowing Request, the DIP Lenders agree to provide the Borrower with one or more additional loans, each in a principal amount of not less

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than \$500,000 and not more than \$2,000,000 (or, solely with respect to the initial Additional Loan (as defined below), not more than \$3,750,000), and together in an aggregate principal amount not to exceed ~~\$7,250,000~~ 7,750,000 (each, an "Additional Loan" and collectively, the "Additional Loans" and, together with the Initial Loan, each, a "Term Loan" and collectively, the "Term Loans"). For the avoidance of doubt, each Borrowing Request shall be made by the Borrower in accordance with the Budget. The Borrower may request the Initial Loan and the Additional Loans pursuant to written notice (which may be by email) delivered to the Agent three (3) Business Days prior to the proposed borrowing date (or such shorter period as the Agent may agree) (a "Borrowing Request"). The Borrowing Request shall be in a form reasonably satisfactory to the Agent. Each DIP Lender shall provide the Term Loans in an aggregate amount equal to its Commitment set forth on Schedule 1(a) and the obligation of each DIP Lender to make the Term Loans under this Note shall be several and not joint and several. Upon receipt of a Borrowing Request, subject to the satisfaction of the conditions set forth in this Note, the DIP Lenders shall simultaneously and proportionately to their Pro Rata Share of the Maximum Amount, make the proceeds of such Term Loans available to the Borrower on the applicable date of funding of such Term Loan by transferring immediately available funds equal to such proceeds to an account designated in writing by the Borrower consistent with its existing cash management system. The Commitment of each DIP Lender shall be permanently reduced upon the making of a Term Loan in an amount equal to such Term Loan. Any principal amount of the Term Loan which is repaid or prepaid may not be reborrowed.

(b) The aggregate principal amount of Terms Loans outstanding shall not exceed ~~\$10,000,000~~ 12,500,000, subject to any limitation of credit extensions under this Note and the Financing Orders (the "Maximum Amount").

(c) The Agent shall be entitled to rely upon, and shall be fully protected in relying upon, any Borrowing Request or similar notice believed by the Agent to be genuine. The Agent may assume that each Person executing and delivering any such notice was duly authorized, unless the responsible individual acting thereon for the Agent has actual knowledge to the contrary.

(d) The Borrower shall utilize the proceeds of Term Loans to (i) fund general corporate needs, including without limitation working capital and other needs, and (ii) pay administrative expenses of the Chapter 11 Cases, including fees and expenses of professionals, in each case in accordance with the Budget, this Note, the Bankruptcy Code, and the Financing Orders; provided, that, unless otherwise provided in the Budget or approved by the Agent in its sole discretion, no portion of any Term Loan shall be used, directly or indirectly: (a) except as permitted by Section 15(e), to make any payment on Prepetition Obligations or to finance or make any Restricted Payment, (b) to pay any fees or similar amounts payable to any Person who has proposed or may propose to purchase interests in any of the Borrower or any of its respective Subsidiaries or affiliates or who otherwise has proposed or may propose to invest in the Borrower or any of its respective Subsidiaries or affiliates (including so-called "topping fees," "exit fees," and similar amounts), or (c) to make any distribution under a plan of reorganization in the Chapter 11 Cases or any similar proceeding of any of the Subsidiaries or affiliates of the Borrower.

2. Certain Conditions to Each Term Loan. No DIP Lender shall be obligated to fund
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any Term Loan, if, as of the date thereof:

(a) The Borrower shall not have paid any amount then payable hereunder (including the fees and expenses of counsel to the Agent) or under any other DIP Document;

(b) the Loan Parties shall not have delivered corporate resolutions, incumbency certificates and similar documents, in form and substance satisfactory to Agent with respect to this Note and the other DIP Documents and the transactions contemplated hereby and thereby;

(c) the Loan Parties shall not have delivered guarantees of each of the Guarantors, each in form and substance satisfactory to Agent with respect to this Note and the other DIP Documents and the transactions contemplated hereby and thereby;

(d) any representation or warranty by any Loan Party contained herein or in any other DIP Document shall be untrue or incorrect in any material respect (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date;

(e) with respect to the Initial Loan (i) the Bankruptcy Court shall not have entered the Interim Order; or (ii) the Interim Order shall have been stayed, vacated, reversed, modified or amended without Agent's consent in its sole discretion;

(f) with respect to any Additional Loan (i) the Bankruptcy Court shall not have entered the Final Order; or (ii) the Final Order shall have been stayed, vacated, reversed, modified or amended without Agent's consent in its sole discretion;

(g) on the date of the entry of the Final Order, the Agent and the DIP Lenders shall not have received an updated Budget, satisfactory to the Agent in its sole discretion, for the remaining period through the term of this Note;

(h) except as occasioned by the commencement of the Chapter 11 Cases and the actions, proceedings, investigations and other matters related thereto or arising therefrom (including any actions taken in accordance with the Budget, this Note or the Financing Orders), any event or circumstance having a Material Adverse Effect shall have occurred since the date hereof;

(i) any Default or Event of Default shall have occurred and be continuing or would result after giving effect to any Term Loan;

(j) after giving effect to any Term Loan, the outstanding principal amount of all Term Loans would exceed the lesser of (i) the Maximum Amount, or (ii) the amount permitted to be borrowed on a cumulative basis from the date hereof through the date of such requested Term Loan as set forth in the Budget and the Financing Orders;

(k) the Agent shall not have received and approved the Budget in accordance

with this Note and the Financing Orders;

(l) the Loan Parties shall have filed one or more pleadings with the Bankruptcy Court and such pleadings shall not be in form and substance acceptable to the Agent in its sole discretion; or

(m) the Bankruptcy Court shall have entered orders and such orders shall not be in form and substance acceptable to the Agent in its sole discretion.

The request and acceptance by the Borrower of the proceeds of any Term Loan shall be deemed to constitute, as of the date of such request, acceptance or incurrence, (i) a representation and warranty by the Borrower that the conditions in this Section 2 have been satisfied and (ii) a reaffirmation by the Borrower of the granting and continuance of the Liens granted in favor of the Agent on behalf of the DIP Lenders, pursuant to the Financing Orders.

3. Payment of Principal. FOR VALUE RECEIVED, the Borrower promises to pay to the Agent, the unpaid principal amount of all Term Loans made by the Agent on behalf of the DIP Lenders to the Borrower, on the Maturity Date, together with all accrued and unpaid interest, fees and expenses to the extent provided, without duplication, in this Note and the Financing Orders.

4. Payment of Interest.

(a) Subject to the terms of this Note, the Term Loan or any portion thereof shall be a LIBOR Rate Loan and shall bear interest on the principal amount thereof from time to time outstanding, from the date of the Term Loan until repaid, at a rate per annum equal to the LIBOR Rate for an interest period of one month (or such portion thereof) plus 10.00%.

(b) Interest on the Term Loan shall be payable monthly, in arrears, on the first day of each month, commencing on the first day of the month following the month in which the applicable Term Loan is made. If any payment of any of the Obligations becomes due and payable on a day other than a Business Day, the maturity thereof will be extended to the next succeeding Business Day and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension.

(c) All computations of fees and interest shall be made by the Agent on the basis of a 360-day year, in each case for the actual number of days occurring in the period for which such fees or interest are payable. Each determination by the Agent of an interest rate hereunder shall be final, binding and conclusive on the Borrower (absent manifest error).

(d) So long as an Event of Default shall have occurred and be continuing, and at the election of the Agent, the interest rate applicable to the Obligations shall be increased by three percentage points (3.00%) per annum above the rate of interest otherwise applicable hereunder (the "Default Rate"), and all outstanding Obligations shall bear interest at the Default Rate applicable to such Obligations. Interest at the Default Rate shall accrue from the date of such Event of Default until such Event of Default is cured or waived and shall be

payable upon demand.

(e) It is the intention of the parties hereto that the Agent and each DIP Lender shall conform strictly to usury laws applicable to it. Accordingly, if the transactions contemplated hereby or by any other DIP Document would be usurious as to the Agent or any DIP Lender under laws applicable to it (including the laws of the United States of America and the State of New York or any other jurisdiction whose laws may be mandatorily applicable to the Agent or such DIP Lender notwithstanding the other provisions of this Note), then, in that event, notwithstanding anything to the contrary in this Note or any other DIP Document or any agreement entered into in connection with or as security for the Obligations, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under law applicable to the Agent or any DIP Lender that is contracted for, taken, reserved, charged or received by the Agent or such DIP Lender under this Note or any other DIP Document or agreements or otherwise in connection with the Obligations shall under no circumstances exceed the maximum amount allowed by such applicable law, any excess shall be canceled automatically and if theretofore paid shall be credited by the Agent or such DIP Lender on the principal amount of the Obligations (or, to the extent that the principal amount of the Obligations shall have been or would thereby be paid in full, refunded by the Agent or such DIP Lender, as applicable, to the Borrower). If at any time and from time to time (x) the amount of interest payable to the Agent or any DIP Lender on any date shall be computed at the highest lawful rate applicable to the Agent or such DIP Lender pursuant to this Section 4(e) and (y) in respect of any subsequent interest computation period the amount of interest otherwise payable to the Agent or such DIP Lender would be less than the amount of interest payable to the Agent or such DIP Lender computed at the highest lawful rate applicable to the Agent or such DIP Lender, then the amount of interest payable to the Agent or such DIP Lender in respect of such subsequent interest computation period shall continue to be computed at the highest lawful rate applicable to the Agent or such DIP Lender until the total amount of interest payable to the Agent or such DIP Lender shall equal the total amount of interest which would have been payable to the Agent or such DIP Lender if the total amount of interest had been computed without giving effect to this Section 4(e).

(f) The LIBOR Rate may be adjusted by the DIP Lenders on a prospective basis to take into account any additional or increased costs to the DIP Lenders of maintaining or obtaining any eurodollar deposits or increased costs, in each case, due to changes in applicable law (other than change with respect to tax law, which are addressed in Section 10 hereof) occurring subsequent to the commencement of the then applicable interest period, including changes in the reserve requirements imposed by the Board of Governors of the Federal Reserve System (or any successor), which additional or increased costs would increase the cost of funding loans bearing interest at the LIBOR Rate. In any such event, the DIP Lenders shall give the Borrower notice of such a determination and adjustment and, upon its receipt of the notice from such DIP Lender, the Borrower may, by notice to such DIP Lender (1) request the DIP Lender to furnish to the Borrower a statement setting forth the basis for adjusting such LIBOR Rate and the method for determining the amount of such adjustment or (2) repay the LIBOR Rate Loans with respect to which such adjustment is made.

(g) Anything to the contrary contained herein notwithstanding, the DIP

Lenders are not required actually to acquire eurodollar deposits to fund or otherwise match fund any Obligation as to which interest accrues at the LIBOR Rate. The provisions of Sections 4(f) through (h) shall apply as if the DIP Lenders had match funded any Obligation as to which interest is accruing at the LIBOR Rate by acquiring eurodollar deposits for each interest period in the amount of the LIBOR Rate Loans.

(h) If, after the date hereof, the DIP Lenders determine that (1) the adoption of or change in any law, rule, regulation or guideline regarding capital requirements for banks or bank holding companies, or any change in the interpretation or application thereof by any governmental authority charged with the administration thereof, or (2) compliance by the DIP Lenders or its parent bank holding company with any guideline, request, or directive of any such entity regarding capital adequacy (whether or not having the force of law), has the effect of reducing the return on the DIP Lender's or such holding company's capital as a consequence of the DIP Lender's Term Loan hereunder to a level below that which the DIP Lender or such holding company could have achieved but for such adoption, change, or compliance (taking into consideration the DIP Lender's or such holding company's then existing policies with respect to capital adequacy and assuming the full utilization of such entity's capital) by any amount reasonably deemed by the DIP Lender to be material, then the DIP Lender may notify the Borrower thereof. Following receipt of such notice, the Borrower agrees to pay the DIP Lender on demand the amount of such reduction of return of capital as and when such reduction is determined, payable promptly after presentation by the DIP Lender to the Borrower of a statement in the amount and setting forth in reasonable detail the DIP Lender's calculation thereof and the assumptions upon which such calculation was based (which statement shall be deemed true and correct absent manifest error). In determining such amount, the DIP Lender may use any reasonable averaging and attribution methods.

(i) In no event will the Borrower have more than 4 interest periods outstanding at any time. If the Agent reasonably determines that the LIBOR Rate is unavailable, then the Term Loan shall bear interest, at a rate per annum equal to the Reference Rate plus 9.00% on the principal amount thereof from the date that the LIBOR Rate became unavailable until such time the Agent determines that the LIBOR Rate is available.

5. Payments. All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds to the Agent at the account as shall be designated in a written notice delivered by the Agent to the Borrower. Each payment made hereunder shall be credited first to interest then due and payable and the remainder of such payment shall be credited to principal, and interest shall thereupon cease to accrue upon the principal so repaid.

6. Optional Prepayments. Subject to the terms and conditions of the Financing Orders and Section 7(f) of this Note, the Borrower shall have the right at any time and from time to time to prepay any Term Loans under this Note in whole or in part (without premium or penalty) upon two (2) Business Days' notice to the Agent; provided that each such prepayment shall be in a minimum amount of \$100,000. Notice of prepayment having been given as aforesaid, the principal amount specified in such notice shall become due and payable on the prepayment date specified therein in the aggregate principal amount specified therein unless such repayment is conditioned on the receipt of any third party funds which are not received. Any

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prepayment or repayment hereunder shall be accompanied by interest on the principal amount of this Note being prepaid or repaid to the date of prepayment or repayment.

7. Mandatory Prepayments. In each case, subject to the terms and conditions of the Financing Orders and the Budget:

(a) [Reserved].

(b) Immediately upon receipt by any Loan Party of cash proceeds of any asset disposition, unless the Agent agrees otherwise, the Borrower shall prepay the Term Loans in an amount equal to all such proceeds, net of (1) commissions and other reasonable and customary transaction costs, fees and expenses properly attributable to such transaction and payable by the Borrower or any Loan Party in connection therewith (in each case, paid to non-affiliates), (2) transfer, sales, or similar taxes, and (3) amounts required to be applied to the repayment of debt secured by such assets sold and secured by a Lien that is senior to the Liens securing the Obligations under this Note (such net proceeds, the "Net Cash Proceeds").

(c) If any Loan Party issues any debt or equity securities not permitted under this Note, no later than the Business Day following the date of receipt of the cash proceeds thereof, unless the Agent agrees otherwise, the Borrower shall prepay the Term Loans in an amount equal to all such proceeds, net of underwriting discounts and commissions and other reasonable costs or fees paid to non-affiliates in connection therewith.

(d) Upon the receipt by any Loan Party or any of their Subsidiaries of any Extraordinary Receipts, unless the Agent agrees otherwise, the Borrower shall prepay the outstanding principal of the Term Loans in an amount equal to all such Extraordinary Receipts, net of any expenses incurred in collecting such Extraordinary Receipts.

(e) No Implied Consent. Nothing in this Section 7 shall be construed to constitute the Agent's or any DIP Lender's consent to any transaction that is not permitted by other provisions of this Note or the other DIP Documents.

(f) Application of Payments. The Agent and the DIP Lenders may elect that the proceeds of any optional or mandatory prepayment made pursuant to this Note be applied, in whole or in part, to the Prepetition Obligations.

8. Fees. Borrower shall pay to the Agent for the account of the DIP Lenders the following fees:

(a) Initial Loan Facility Fee. On the date of funding the Initial Loan, the Borrower shall pay to the Agent a facility fee (the "Initial Loan Facility Fee") equal to ~~\$55,000~~95,000, which shall be fully earned upon the entry of the Interim Order and non-refundable when paid.

(b) Additional Loan Facility Fee. On the date of funding the first Additional Loan after the entry of the Final Order, the Borrower shall pay to the Agent a facility fee (the "Additional Loan Facility Fee") equal to ~~\$145,000~~155,000, which shall be fully earned upon the

entry of the Final Order and non-refundable when paid.

(c) Administration Fee. On or prior to the date of funding of the Initial Loan, the Borrower shall pay to the Agent an administration fee (the "Administration Fee") equal to \$50,000, which shall be fully earned upon the entry of the Interim Order and non-refundable when paid.

9. Indemnity.

(a) The Loan Parties shall indemnify and hold harmless the Agent and each DIP Lender and each of their respective affiliates, and each such Person's respective officers, directors, employees, attorneys, agents and representatives (each, an "Indemnified Person"), from and against any and all suits, actions, proceedings, claims, damages, losses, liabilities and expenses (including reasonable attorneys' fees and disbursements and other costs of investigation or defense, including those incurred upon any appeal) that may be instituted or asserted against or incurred by any such Indemnified Person as the result of credit having been extended, suspended or terminated under this Note and the other DIP Documents and the administration of such credit, and in connection with or arising out of the transactions contemplated hereunder and thereunder and any actions or failures to act in connection therewith, and legal costs and expenses arising out of or incurred in connection with disputes between the Agent and the DIP Lenders on the one hand and the Loan Parties on the other hand; provided, that (i) the Loan Parties shall not be liable for any indemnification to an Indemnified Person to the extent that any such suit, action, proceeding, claim, damage, loss, liability or expense results solely from such Indemnified Person's breach of a material obligation under this Note or such Indemnified Person's gross negligence or willful misconduct as finally determined by a court of competent jurisdiction and (ii) this Section 9 shall not apply with respect to taxes other than any taxes that represent losses, claims, damages, etc. arising from any non-tax claim. **NO INDEMNIFIED PERSON SHALL BE RESPONSIBLE OR LIABLE TO ANY OTHER PARTY, ANY SUCCESSOR, ASSIGNEE OR THIRD PARTY BENEFICIARY OF SUCH PERSON OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES THAT MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED OR TERMINATED UNDER ANY DIP DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR THEREUNDER.**

10. Adjustments for Withholding, Capital Adequacy Etc. All payments to the Agent by the Borrower under this Note shall be made free and clear of and without deduction or withholding for any and all taxes, duties, levies, imposts, deductions, charges or withholdings and all related liabilities (all such taxes, duties, levies, imposts, deductions, charges, withholdings and liabilities being referred to as "Taxes") imposed by the United States of America or any other nation or jurisdiction (or any political subdivision or taxing authority of either thereof), unless such Taxes are required by applicable law to be deducted or withheld. If the Borrower shall be required by applicable law to deduct or withhold any such Taxes from or in respect of any amount payable under this Note other than taxes imposed on the Agent or any DIP Lender's overall net income, then (A) if such Tax is an Indemnified Tax, the amount payable shall be increased as may be necessary so that after making all required deductions or

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withholdings, (including deductions or withholdings applicable to any additional amounts paid under this Note) the Agent receives an amount equal to the amount it would have received if no such deduction or withholding had been made, (B) the Borrower shall make such deductions or withholdings, and (C) the Borrower shall timely pay the full amount deducted or withheld to the relevant governmental entity in accordance with applicable law.

If the effect of the adoption, effectiveness, phase-in or applicability after the date hereof of any law, rule or regulation (including without limitation any tax, duty, charge or withholding on or from payments due from the Borrower (but excluding Indemnified Taxes, Excluded Taxes, and taxation on the overall net income of the DIP Lenders)), or any change therein or in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, is to reduce the rate of return on the capital of the Agent with respect to this Note or to increase the cost to the Agent of making or maintaining amounts available under this Note, the Borrower agrees to pay to the Agent such additional amount or amounts as will compensate the Agent on an after-tax basis for such reduction or increase.

The Borrower agrees to timely pay any present or future stamp or documentary taxes or any other excise or property taxes, charges, financial institutions duties, debits taxes or similar levies (all such taxes, charges, duties and levies being referred to as "Other Taxes") which arise from any payment made by the Borrower under this Note or from the execution, delivery or registration of, or otherwise with respect to, this Note.

The Borrower shall indemnify the Agent and each of the DIP Lenders for the full amount of Indemnified Taxes (including, without limitation, any Indemnified Taxes imposed by any jurisdiction on amounts payable by the Borrower hereunder) paid by the Agent or any DIP Lender and any liability (including penalties, interest and expenses) arising from or with respect to such Indemnified Taxes paid by the Agent or any DIP Lender, whether or not they were correctly or legally asserted, excluding taxes imposed on the Agent or any DIP Lender's overall net income. Payment under this indemnification shall be made upon demand. A certificate as to the amount of such Indemnified Taxes submitted to the Borrower by the Agent shall be conclusive evidence, absent manifest error, of the amount due from the Borrower to the DIP Lenders.

The Borrower shall furnish to the DIP Lenders the original or a certified copy of a receipt evidencing any payment of Taxes made by the Borrower pursuant to this Section 10 within thirty (30) days after the date of any such payment. If any Recipient becomes aware that it has received a refund of any Taxes with respect to which the Borrower has paid any amount pursuant to this Section 10, such Recipient shall pay the amount of such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such Recipient and without interest (other than any interest received from the relevant governmental authority with respect thereto), to the Borrower promptly after receipt thereof.

Any Recipient of a payment hereunder shall, to the extent it is legally entitled to do so, deliver to the Borrower on or prior to the date hereof (and from time to time thereafter upon the reasonable request of the Borrower), two properly completed and executed copies of

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IRS Forms W-8 or W-9 and properly completed and executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding tax, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction (if any) required to be made. In addition, any such Recipient, if reasonably requested by the Borrower, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower as will enable the Borrower to determine whether or not such Recipient is subject to backup withholding or information reporting requirements. Each Recipient agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall timely update such form or certification or promptly notify the Borrower in writing of its legal inability to do so.

11. Priority of Obligations and DIP Lenders' Liens.

(a) To secure all of the Borrower's Obligations now existing or hereafter arising, the Agent, for the benefit of itself and the DIP Lenders, is granted, effective as of the Order for Relief Date: (i) subject to the Carve-Out, an allowed super-priority administrative expense claim against each of the Borrower and Guarantors (jointly and severally) pursuant to Section 364(c)(1) of the Bankruptcy Code, and except as set forth in the Financing Orders, having a priority over any and all other claims and costs and expenses of administration of any kind whatsoever, whether now existing or hereafter arising, including, without limitation, those specified in, ordered pursuant to or arising under, *inter alia*, sections 105, 326, 328, 330, 331, 363, 364, 503, 506, 507, 546, 726, 1113 or 1114 or any other provision of the Bankruptcy Code or otherwise (whether incurred in these Chapter 11 Cases and any Successor Case), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy, or attachment, which allowed superpriority administrative claim (x) shall at all times be senior to the rights of the Debtors, any successor trustee or estate representative, or any other creditor or party in interest in the Chapter 11 Cases or any Successor Case, (y) shall be, for purposes of section 1129(a)(9)(A) of the Bankruptcy Code, considered an administrative expense allowed under section 503(b) of the Bankruptcy Code, and (z) shall be payable from and have recourse to all prepetition and postpetition property, whether existing as of the Order for Relief Date or thereafter acquired, of the Debtors and all proceeds thereof ~~(including, subject to entry of the Final Order, proceeds of Avoidance Actions (as defined in the Financing Orders))~~; and (ii) (x) pursuant to Sections 364(c)(2) of the Bankruptcy Code, Liens on, and security interests in, the Collateral, that are first and senior in priority to all other Liens on, and security interests in, the Collateral that was not encumbered by a valid, enforceable, properly perfected and non-avoidable Lien as of the Order for Relief Date, subject only to the Carve-Out, and (y) pursuant to sections 364(c)(3) and 364(d) of the Bankruptcy Code, priming Liens on, and security interests in, all other Collateral, subject only to the Carve-Out and Permitted Prior Liens. Except as set forth in the Financing Orders, the security interests and Liens granted to the Agent hereunder shall not be (i) subject to any Lien or security interest which is avoided and preserved for the benefit of the Loan Parties' estate under Section 551 of the Bankruptcy Code, or (ii), subordinated to or made *pari passu* with any other Lien or security interest under Section 364(d) of the Bankruptcy Code or otherwise.

(b) The priority of the Agent's Liens on the Collateral shall be as set forth in

the Financing Orders.

(c) Notwithstanding anything herein to the contrary (i) all proceeds received by the Agent and the DIP Lenders from the Collateral subject to the Liens granted in this Section 11 and in each other DIP Document, including the Financing Orders shall be subject to the Carve-Out, and (ii) no Person entitled to the Carve-Out shall be entitled to sell, or otherwise dispose, or seek or object to the sale or other disposition of, any Collateral.

(d) Each of the Loan Parties agrees for itself that the Obligations of such Person shall constitute allowed administrative expenses in the Chapter 11 Cases, having priority over all administrative expenses of and unsecured claims against such Person now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, all administrative expenses of the kind specified in, or arising or ordered under, Sections 105, 326, 328, 330, 331, 363, 364, 365, 503, 506, 507, 546, 726, 1113 and/or 1114 of the Bankruptcy Code, except as set forth in the Financing Orders.

(e) The Agent's Liens on the Collateral and the super-priority administrative claim under Section 364(c) of the Bankruptcy Code afforded the Obligations and the Guaranteed Obligations shall, following the occurrence and during the continuation of an Event of Default, be subject to the Carve-Out, in accordance with the Financing Orders.

12. Further Assurances. Each Loan Party agrees that it shall, at its expense and upon the reasonable request of the Agent, duly execute and deliver or cause to be duly executed and delivered, to the Agent or such DIP Lender, as the Agent shall direct such Loan Party such further instruments and do and cause to be done such further acts as may be necessary or proper in the reasonable opinion of the Agent to carry out more effectively the provisions and purposes of this Note or any other DIP Document, including, upon the written request of the Agent and in form and substance reasonably satisfactory to the Agent, security agreements, UCC-1 financing statements and other Collateral Documents confirming and perfecting the granting to the Agent, on behalf of the DIP Lenders, of the Liens (subject to the Financing Orders) in the Collateral to secure the Obligations.

13. Reports and Notices. The Loan Parties agree that they shall deliver (which delivery may be made by electronic communication (including email)) to the Agent each of the reports and other items (without duplication) set forth on Schedule 13 and in the Financing Orders no later than the times specified therein. The Parent agrees not to, and agrees to cause each of its Subsidiaries not to, change its fiscal year. In addition, the Parent agrees to, and agrees to cause each of its Subsidiaries to, maintain a system of accounting that enables the Parent and such Subsidiaries to produce financial statements in accordance with GAAP in all material respects.

14. Affirmative Covenants.

The Parent and its Subsidiaries agree that:

(a) Upon request of the Agent, the Parent and its Subsidiaries will permit any officer, employee, attorney or accountant or agent of the Agent to audit, review, make extracts

from or copy, at the Parent's and its Subsidiaries' expense, any and all corporate and financial and other books and records of the Parent and its Subsidiaries at all times during ordinary business hours and, in the absence of an Event of Default, upon reasonable advance notice and to discuss the Parent's and its Subsidiaries' affairs with any of their directors, officers, employees, attorneys, or accountants. The Parent and ~~its~~ Subsidiaries will permit the Agent, or any of its officers, employees, accountants, attorneys or agent, to examine and inspect any Collateral or any other property of the Parent and its Subsidiaries at any time during ordinary business hours and, in the absence of an Event of Default, upon reasonable prior notice. Notwithstanding the foregoing, none of the Parent or any of its Subsidiaries will be required to disclose information to the Agent (or any agent or representative thereof) that is prohibited by applicable law or is subject to attorney-client or similar privilege or constitutes attorney work product.

(b) (A) The Parent and its Subsidiaries will comply with all requirements of applicable law, the non-compliance with which could reasonably be expected to have a Material Adverse Effect and (B) the Parent and its Subsidiaries will obtain, maintain in effect and comply with all contracts and all permits, licenses and similar approvals necessary for the operation of their respective businesses as now or hereafter conducted other than to the extent contemplated by the Budget, the Sale Motion or the Financing Orders.

(c) The Parent and its Subsidiaries will pay or discharge, when due, (i) all taxes, assessments and governmental charges levied or imposed upon them or upon their respective income or profits, upon any respective properties of the Parent and its Subsidiaries (including, without limitation, the Collateral) or upon or against the creation, perfection or continuance of the security interest, prior to the date on which penalties attach thereto, except in each case (1) where the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Parent and its Subsidiaries (as applicable) and (2) taxes the nonpayment of which is permitted or required by the Bankruptcy Code or this Note, (ii) all federal, state and local taxes required to be withheld by them, and (iii) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien or charge upon any respective properties of the Parent and its Subsidiaries.

(d) (i) The Parent and each of its Subsidiaries will keep and maintain the Collateral and all of their respective other properties necessary or useful in their respective businesses in good condition, repair and working order (normal wear and tear excepted) other than to the extent contemplated by the Budget, any Sale Order or the Financing Orders, (ii) the Parent and each of its Subsidiaries will defend the Collateral against all claims or demands of all Persons (other than Permitted Encumbrances) claiming the Collateral or any interest therein, and (iii) the Parent and each of its Subsidiaries will keep all Collateral free and clear of all security interests, liens and encumbrances, except Permitted Encumbrances and other than to the extent contemplated by any Sale Order or the Financing Orders.

(e) The Parent and its Subsidiaries will obtain and at all times maintain insurance with responsible and reputable insurers, in such amounts and against such risks as may be required by the Prepetition Facility whether or not such facility remains in effect. Without limiting the generality of the foregoing, the Parent and its Subsidiaries will at all times keep all tangible Collateral insured against such risks as may be required by the Prepetition Facility

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whether or not such facility remains in effect, with any loss payable to the Agent to the extent of its interest and subject to the Financing Orders, and shall provide within 10 days of the Closing Date (as may be extended by the Agent in its sole discretion) that all policies of such insurance shall contain a loss payable endorsement in favor of the Agent and subject to the Financing Orders, in form and substance acceptable to the Agent in its sole discretion. The Parent and its Subsidiaries shall use commercially reasonable efforts to provide within 10 days of the Closing Date (as may be extended by the Agent in its sole discretion) that all policies of liability insurance required hereunder shall name the Agent as an additional insured.

(f) The Parent and its Subsidiaries will preserve and maintain their existence and all of their rights, privileges and franchises necessary or desirable in the normal conduct of their business, except to the extent contemplated by the Budget, the Sale Motion or the Financing Orders.

(g) The Parent and its Subsidiaries shall at all times operate their businesses in a manner consistent with the Budget except to the extent of any Permitted Variance.

(h) The Parent and its Subsidiaries each agree that they shall take all actions necessary to cause each of the following to occur (each a "Milestone" and collectively, the "Milestones"):

(1) no later than 2 Business Days after the Order for Relief Date, the Interim Order approving this Note shall be entered by the Bankruptcy Court;

(2) no later than 30 days after the entry of the Interim Order, the Final Order approving this Note and the financing contemplated hereby shall be entered by the Bankruptcy Court;

(3) no later than February 18, 2020, the Loan Parties shall file one or more motions (together with all exhibits, annexes and related documents, the "Sale Motion"), in form and substance reasonably acceptable to the Agent, which Sale Motion shall be in form and substance acceptable to the Agent in its sole discretion, seeking entry of orders (x) establishing bidding procedures (the "Bid Procedures") for the sale(s) of all or substantially all of the Loan Parties' assets (such order, together with all exhibits, annexes and related documents, the "Bid Procedures Order"), which Bid Procedures Order shall be in form and substance acceptable to the Agent in its sole discretion, and (y) approving the sale(s) of all or substantially all the assets of the Loan Parties (any such order, together with all exhibits, annexes and related documents, the "Sale Order"), which Sale Order shall be in form and substance acceptable to the Agent in its sole discretion;

(4) no later than February 24, 2020, the Loan Parties shall have received one or more letters of intent from potential bidders, each in form and substance acceptable to the Agent in its sole discretion;

(5) no later than March 11, 2020, the hearing on the Sale Motion as it relates to the approval of the Bid Procedures and entry of the Bid Procedures Order shall be held;

(6) no later than March 13, 2020, the Loan Parties shall obtain entry of the Bid Procedures Order in form and substance acceptable to the Agent in its sole discretion;

(7) no later than April 17, 2020, the Loan Parties shall have received one or more Qualified Bid(s) (as defined in the Bid Procedures), each in form and substance acceptable to the Agent in its sole discretion;

(8) to the extent required under the Bid Procedures Order and more than one Qualified Bid is received by the Bid Deadline (as defined in the Bid Procedures), not later than April 20, 2020, the Loan Parties shall commence an auction in accordance with the Bid Procedures Order, and after consultation with and approval by the Agent, select the successful bid(s);

(9) no later than April 23, 2020, the hearing on the Sale Motion as it relates to the approval of the sale(s) of all or substantially all of the Loan Parties' assets and entry of the Sale Order shall be held;

(10) no later than April ~~24~~29, 2020, the Bankruptcy Court shall have entered Sale Order, in form and substance acceptable to the Agent in its sole discretion, which Sale Order, among other things, (x) authorizes the sale(s) of the Loan Parties' assets free and clear of all liens, claims and interests (other than those expressly preserved in the Sale Order) and (y) contains the "good faith" protections pursuant to Bankruptcy Code section 363(m) (the "Approved Sale(s)"); and

(11) no later than May ~~18~~18, 2020, the Approved Sale(s) shall have been consummated and all proceeds of such sales applied in accordance with the Financing Orders; provided, that the dates set forth in clauses (7), (8) and (9) of this Section 14(h) may be extended by the Debtors in the exercise of their business judgment after consultation with the Committee and the Agent.

15. Negative Covenants.

The Parent and its Subsidiaries each agree that, without the prior written consent of the Agent:

(a) Neither the Parent nor any of its Subsidiaries shall directly or indirectly, by operation of law or otherwise, (i) form or acquire any Subsidiary, or (ii) merge with, consolidate with, acquire all or substantially all of the assets or Equity Interests of, or otherwise combine with or acquire, any Person, except in the case of this clause (ii), with respect to existing Subsidiaries to the extent consented to by the Agent.

(b) Neither the Parent nor any of its Subsidiaries shall create, incur, assume or

permit to exist any Indebtedness, except (without duplication), to the extent not prohibited by the Financing Orders, Permitted Indebtedness.

(c) Neither the Parent nor any of its Subsidiaries shall enter into, renew, extend or be a party to, or permit any of its Subsidiaries to enter into, renew, extend or be a party to, any transaction with any affiliate, except transactions otherwise expressly permitted by this Note.

(d) Neither the Parent nor any of its Subsidiaries shall create, incur, assume or permit to exist any Lien on or with respect to any of its properties or assets (whether now owned or hereafter acquired) except for Permitted Encumbrances or as expressly permitted by the Financing Orders.

(e) Neither the Parent nor any of its Subsidiaries shall (a) make any Restricted Payment, except dividends and distributions by Subsidiaries of the Parent paid to the Parent or other wholly-owned Subsidiaries of the Parent and (b) make any payment in respect of, or repurchase, redeem, retire or defease any, prepetition Indebtedness, except pursuant to the terms of the Financing Orders and as permitted under this Note.

(f) Neither the Parent nor any of its Subsidiaries will assume, guarantee, endorse or otherwise become directly or contingently liable in connection with any obligations of any other Person (other than the Parent or any of its Subsidiaries), except the endorsement of negotiable instruments by Parent and its Subsidiaries for the deposit or collection or similar transactions in the ordinary course of business.

(g) Neither the Parent nor any of its Subsidiaries will convey, sell, lease, assign, transfer or otherwise dispose of any of its property, business or assets, whether now owned or hereinafter acquired other than (a) the sale of Inventory in the ordinary course of business, (b) the sale or disposition of obsolete equipment, (c) the sale of other property on terms acceptable to the Agent in its sole discretion, and (d) the transfer, sale or disposition of assets approved by an order of the Bankruptcy Court, which order shall be in form and substance acceptable to the Agent in its sole discretion.

(h) Neither the Parent nor any of its Subsidiaries shall consent to any amendment, supplement or other modification of any of the terms or provisions contained in, or applicable to, (a) any of the Financing Orders, (b) the Prepetition Obligations or (c) Material Contracts. Except for (i) claims of employees for unpaid wages, bonuses, accrued vacation and sick leave time, business expenses and contributions to employee benefit plans for the period immediately preceding the Order for Relief Date and prepetition severance obligations, in each case to the extent permitted to be paid by an order of the Bankruptcy Court (which order shall be in form and substance acceptable to the Agent in its sole discretion) and pursuant to the Budget, and (ii) payments permitted by the Financing Orders and the Budget, neither the Parent nor any of its Subsidiaries shall make any payment in respect of, or repurchase, redeem, retire or defease any, prepetition Indebtedness, except for other payments consented to by the Agent in writing in its sole discretion or applied by the Agent to any Prepetition Obligations as provided for under this Note.

(i) Neither the Parent nor any of its Subsidiaries shall make any investment in, or make loans or advances of money to, any Person, through the direct or indirect lending of money, holding of securities or otherwise.

16. Events of Default; Rights and Remedies. Notwithstanding the provisions of Section 362 of the Bankruptcy Code and without application or motion to the Bankruptcy Court, the occurrence of any one or more of the following events (regardless of the reason therefor) shall constitute an "Event of Default" hereunder:

A. Any Loan Party (i) shall fail to make any payment of principal of, or interest on, or fees owing in respect of, the Term Loans or any of the other Obligations when due and payable, or (ii) shall fail to pay or reimburse the Agent on behalf of the DIP Lenders for any expense reimbursable hereunder or under any other DIP Document within three (3) Business Days following the Agent's demands for such reimbursement or payment.

B. Any Loan Party shall fail to comply with any of the provisions of (i) Sections 13, 14(b), 14(c), 14(d), 14(e) or 14(f) of this Note and such failure shall remain uncured for a period of one (1) Business Day, or (ii) Section 14(a) of this Note and such failure shall remain uncured for a period of three (3) Business Days, or (iii) Section 15 of this Note or any material provision of the Guaranty.

C. Any Loan Party shall fail to comply with any of other provision of this Note or any of the other DIP Documents (other than any provision embodied in or covered by any other clause of this Section 16) and the same (other than the provisions covered by Section 14(h)), if capable of being remedied, shall remain unremedied for ten (10) days after the earlier of the date a senior officer or any Loan Party becomes aware of such failure and the date written notice of such default shall have been given by the Agent to such Loan Party.

D. Except for defaults occasioned by the filing of the Chapter 11 Cases and defaults resulting from obligations with respect to which the Bankruptcy Code prohibits any Loan Party from complying or permits any Loan Party not to comply, a default or breach shall occur under any other agreement, document or instrument to which any Loan Party is a party that is not cured within any applicable grace period therefor, and such default or breach (i) involves the failure to make any payment when due in respect of any Indebtedness (other than the Obligations) of any Loan Party in excess of \$50,000 in the aggregate, or (ii) causes, or permits any holder of such Indebtedness or a trustee to cause, Indebtedness or a portion thereof in excess of \$50,000 in the aggregate to become due prior to its stated maturity or prior to its regularly scheduled dates of payment, regardless of whether such default is waived, or such right is exercised, by such holder or trustee.

E. Any representation or warranty herein or in any other DIP Document or in any written statement, report, financial statement or certificate made or delivered to DIP Lenders by any Loan Party is untrue or incorrect in any material respect (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of the date when made or deemed made.

F. Any Loan Party shall bring a motion in any Chapter 11 Case: (i) to obtain

financing from any Person other than DIP Lenders under Section 364(c) or 364(d) of the Bankruptcy Code, except to the extent the proceeds of such financing would be used to indefeasibly repay in full in cash all of the Obligations under this Note; (ii) to grant any Lien other than Permitted Encumbrances upon or affecting any Collateral, except to the extent the proceeds of any such financing secured by such Lien would be used to indefeasibly repay in full in cash all of the Obligations under this Note; (iii) [reserved]; or (iv) to authorize any other action or actions adverse to the Agent or the DIP Lenders, or the Agent's and/or the DIP Lenders' rights and remedies hereunder or their interests in the Collateral.

G. The entry of an order in any of the Chapter 11 Cases confirming a plan or plans of reorganization that does not contain a provision for the termination of the DIP Lenders' commitment to make Term Loans and the indefeasible repayment in full in cash of all the Obligations under this Note and the obligations under the Prepetition Facility on or before the effective date of such plan or plans and that is not otherwise acceptable to the Agent in its sole discretion.

H. The filing of any motion by the Borrower or any other Loan Party seeking, or the entry of any order in the Chapter 11 Cases in respect of, any claim or claims under Section 506(c) of the Bankruptcy Code against or with respect to any Collateral.

I. The sale without the Agent's consent in its sole discretion, of all or substantially all of Borrower's assets either through a sale under Section 363 of the Bankruptcy Code, through a confirmed plan of reorganization in the Chapter 11 Cases, or otherwise, that does not provide for the indefeasible payment in full in cash of the Obligations and the obligations under the Prepetition Facility and termination of the DIP Lenders' commitment to make Term Loans, and is not otherwise acceptable to the Agent in its sole discretion.

J. The occurrence of any postpetition judgments, liabilities or events that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

K. The entry by the Bankruptcy Court of an order authorizing the appointment of an interim or permanent trustee in the Chapter 11 Cases or the appointment of an examiner in the Chapter 11 Cases with expanded powers to operate or manage the financial affairs, business, or reorganization of any Loan Party.

L. The Chapter 11 Cases, or any of them, shall be dismissed or converted from cases under Chapter 11 to cases under Chapter 7 of the Bankruptcy Code.

M. The entry of an order in any Chapter 11 Case avoiding or requiring repayment of any portion of the payments made on account of the Obligations owing under this Note or the other DIP Documents.

N. The entry of an order in any Chapter 11 Case granting any other super-priority administrative claim or Lien equal to or superior to that granted to the Agent (other than any such claim or Lien permitted by the Financing Orders), unless (i) consented to by the Agent in its sole discretion or (ii) the Obligations and the obligations under the Prepetition Facility are indefeasibly paid in full in cash and the DIP Lenders' commitment to make Term Loans is

terminated.

O. The entry of an order by the Bankruptcy Court granting relief from or modifying the automatic stay of Section 362 of the Bankruptcy Code to allow any creditor (other than the Agent) to execute upon or enforce a Lien on any Collateral except with respect to Permitted Encumbrances arising prior to the Order for Relief Date in an aggregate amount not to exceed \$50,000.

P. The Financing Orders (or either of them) shall be stayed, amended, modified, reversed or revoked in any respect without the Agent's prior written consent (which consent shall be in its sole discretion).

Q. There shall commence any suit or action against the Agent or any DIP Lender by or on behalf of (i) any Loan Party or (ii) any official committee in the Chapter 11 Cases, in each case, that asserts a claim or seeks a legal or equitable remedy that would have the effect of subordinating the claim or Lien of DIP Lenders and, if such suit or action is commenced by any Person other than any Loan Party, officer, or employee of any Loan Party, such suit or action shall not have been dismissed or stayed within 10 days after service thereof on the Agent or any DIP Lender, as applicable, and, if stayed, such stay shall have been lifted.

R. Failure of the Loan Parties to comply with any Milestone set forth in Section 14(h), except to the extent any such Milestone has been extended by order of the Bankruptcy Court.

S. Any provision of any DIP Document shall for any reason cease to be valid, binding and enforceable in accordance with its terms (or any Loan Party shall challenge the enforceability of any DIP Document or shall assert in writing, or engage in any action or inaction based on any such assertion, that any provision of any DIP Document has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms), or any Lien created under any DIP Document shall cease to be a valid and perfected first priority Lien (except as otherwise permitted herein or in the Financing Orders) in any of the Collateral purported to be covered thereby.

T. Termination of the use of Cash Collateral pursuant to the terms of the Financing Orders.

U. Assets of any Loan Party with a fair market value of \$100,000 or more are attached, seized, levied upon or subjected to a writ or distress warrant, or come within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors of any Loan Party and such condition continues for ten (10) days or more.

V. A breach by any Loan Party of any of the terms of any of the Financing Orders.

W. A Material Adverse Deviation shall have occurred.

X. Entry of an order authorizing and/or directing the reclamation of goods pursuant to section 546(c) of the Bankruptcy Code.

Y. The Final Order shall not have been entered by the Bankruptcy Court ~~within 30 days from the date of the entry of the Interim Order~~ on or before March 25, 2020.

Z. The Loan Parties terminate or fail to continue to retain on terms and conditions (including scope of authority) reasonably acceptable to the Agent (1) Huron Consulting Group, as chief transformation officer of the Loan Parties or (2) Jefferies LLC, as investment banker and financial advisor to the Loan Parties.

If any Event of Default shall have occurred and be continuing, then the Agent may, upon written notice to the Borrower and subject to the terms of the Financing Orders: (i) terminate the Commitment of each DIP Lender with respect to further Term Loans; (ii) declare all or any portion of the Obligations, including all or any portion of any Term Loan, to be forthwith due and payable; (iii) revoke the Borrower's and the other Loan Parties' rights to use Cash Collateral in which the Agent and the DIP Lenders have an interest; and (iv) exercise any rights and remedies under the DIP Documents or at law or in equity, all in accordance with the Financing Orders. Upon the occurrence of an Event of Default and the exercise by the Agent or the DIP Lenders of their rights and remedies under this Note and the other DIP Documents pursuant to clause (iv) above and subject to the Financing Orders, each Loan Party shall assist the Agent in effecting a sale or other disposition of the Collateral upon such terms as are designed to maximize the proceeds obtainable from such sale or other disposition.

Except as otherwise provided for in this Note or by applicable law, each Loan Party waives: (a) presentment, demand and protest and notice of presentment, dishonor, notice of intent to accelerate, notice of acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper, accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by the Agent on which any such Loan Party may in any way be liable, and hereby ratifies and confirms whatever the Agent may do in this regard; (b) all rights to notice and a hearing prior to the Agent taking possession or control of, or Agent's replevy, attachment or levy upon, the Collateral or any bond or security that might be required by any court prior to allowing Agent to exercise any of its remedies; and (c) the benefit of all valuation, appraisal, marshaling and exemption laws.

To the extent permitted by law and subject in all respects to the terms of the Financing Orders, the Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under section 9-207 of the Uniform Commercial Code or otherwise, shall be to deal with it in the same manner as Agent deals with similar securities and property for its own account, the Agent's duty of care with respect to Collateral in the custody or possession of a bailee or other third person shall be deemed fulfilled if the Agent exercises reasonable care in the selection of the bailee or other third person, and the Agent need not otherwise preserve, protect, insure or care for any Collateral, and the Agent shall not be obligated to preserve any rights any Loan Party may have against prior parties.

17. Reference Agreements. This Note evidences the Term Loans that may be made to Borrower from time to time in the aggregate principal amount outstanding of up to \$10,000,000

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and is issued pursuant to and entitled to the benefits of the Financing Orders, to which reference is hereby made for a more complete statement of the terms and conditions under which the Term Loans evidenced by this Note are made and are to be repaid.

18. Definitions. The following terms used in this Note shall have the following meanings (and any of such terms may, unless the context otherwise requires, be used in the singular or the plural depending on the reference):

"Additional Loan Facility Fee" shall have the meaning given such term in Section 8 of this Note.

"Bankruptcy Code" shall have the meaning given such term in the recital to this Note.

"Bankruptcy Court" shall have the meaning given such term in the recital to this Note.

"Borrower" shall have the meaning given such term in the recital to this Note.

"Budget" means a rolling thirteen (13) week forecast of projected receipts, disbursements, net cash flow, liquidity, loans and availability for the immediately following consecutive 13 weeks after the date of delivery, which shall be in substantially the form of the Initial Budget or otherwise in form and substance acceptable to the Agent in its sole discretion and shall be approved by the Agent in its sole discretion. The initial Budget, which shall be in form and substance acceptable to, and approved by, the Agent in its sole discretion (the "Initial Budget") is attached hereto as Exhibit A.

"Business Day" means any day other than a Saturday, Sunday or legal holiday under the laws of the State of New York or any other day on which banking institutions located in the State of New York are authorized or required by law or other governmental action to close.

"Carve-Out" shall have the meaning given such term in the Financing Orders.

"Cash Collateral" shall have the meaning given such term in the Financing Orders, and shall include "cash collateral" as that phrase is defined in Section 363(a) of the Bankruptcy Code.

"Chapter 11 Case" and "Chapter 11 Cases" shall have the respective meanings given such terms in the recital to this Note.

"Closing Date" means the Business Day when each of the conditions applicable to the making of the Initial Funding Loan and listed in Section 2 of this Note shall have been satisfied or waived in a manner satisfactory to the Agent.

"Collateral" shall mean the assets and property covered by the Financing Orders and the other Collateral Documents and any other assets and property, real or personal, tangible or intangible, now existing or hereafter acquired, that may at any time be or become subject to a security interest or Lien in favor of the Agent on behalf of the DIP Lenders, to secure the

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Obligations and the Guaranteed Obligations, and shall include DIP Collateral (as defined in the Financing Orders). Without limiting the foregoing, the Collateral shall include all present and future property of each Loan Party under Section 541(a) of the Bankruptcy Code ~~(including, without limitation, the proceeds of avoidance actions upon entry of the Final Order)~~ and all proceeds thereof.

"Collateral Documents" shall mean any agreement entered into pursuant to Section 12 hereof and all similar agreements entered into guaranteeing payment of, or granting a Lien upon property as security for payment of, the Obligations and the Guaranteed Obligations, each in form and substance acceptable to the Agent in its sole discretion, including the Financing Orders and the Guaranty.

"Committee" shall have the meaning given to such term in the Financing Orders.

"Commitment" means, with respect to each DIP Lender, the commitment of such DIP Lender to make its portion of the Term Loans to the Borrower in the principal amount set forth on the signature page to this Note for each DIP Lender, as the same may be terminated or reduced from time to time in accordance with the terms of this Note.

"Debtors" shall have the meaning given to such term in the Financing Orders.

"Default" means an event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Default Rate" shall have the meaning given such term in Section 4(d) of this Note.

"DIP Documents" shall mean this Note, the Collateral Documents, the Guaranty, the Financing Orders, and all other agreements, instruments, documents and certificates executed and delivered to, or in favor of the Agent and including all other pledges, powers of attorney, consents, assignments, contracts, notices, and all other written matter whether heretofore, now or hereafter executed by or on behalf of any Loan Party, or any employee of any Loan Party, and delivered to the Agent in connection with this Note or the transactions contemplated thereby, in each case in form and substance acceptable to the Agent in its sole discretion. Any reference in this Note or any other DIP Document to a DIP Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to such DIP Document as the same may be in effect at any and all times such reference becomes operative.

"DIP Lenders" shall have the meaning given such term in the recital to this Note.

"Dollars" or "\$" shall mean lawful currency of the United States of America.

"Equity Interests" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Event of Default" shall have the meaning given such term in Section 16 of this

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Note.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any DIP Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof), (b) in the case of a DIP Lender, federal withholding Taxes imposed on amounts payable to or for the account of such DIP Lender with respect to an applicable interest in a Term Loan or Commitment pursuant to a law in effect on the date on which (i) such DIP Lender acquires such interest in the Term Loan or Commitment or (ii) such DIP Lender changes its lending office, except in each case to the extent that, pursuant to Section 10, amounts with respect to such Taxes were payable either to such DIP Lender's assignor immediately before such DIP Lender became a party hereto or to such DIP Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to provide the Borrower with the tax documentation described in Section 10 hereof and (d) any withholding Taxes imposed under FATCA.

"Extraordinary Receipts" means any cash received by the Parent or any of its Subsidiaries not in the ordinary course of business (and not consisting of proceeds described Sections 7(b) and (c) hereof), including, without limitation, (i) foreign, United States, state or local tax refunds, (ii) pension plan reversions, (iii) proceeds of insurance, (iv) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action, (v) condemnation awards (and payments in lieu thereof), (vi) indemnity payments and (vii) any purchase price adjustment received in connection with any purchase agreement.

"FATCA" means Sections 1471 through 1474 of the Internal Revenue 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 Internal Revenue 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 Internal Revenue Code.

"Final Order" shall mean the order of the Bankruptcy Court entered in the Chapter 11 Cases after a final hearing pursuant to Section 364 of the Bankruptcy Code and Bankruptcy Rule 4001, satisfactory in form and substance to the Agent in its sole discretion, together with all extensions, modifications and amendments thereto (which extensions, modifications and/or amendments are satisfactory in form and substance to the Agent in its sole discretion), authorizing Borrower to obtain credit, incur Indebtedness, and grant Liens under this Note and/or certain financing documentation, all as set forth in such order.

"Financing Orders" shall mean, collectively, the Interim Order and the Final Order.

"GAAP" shall mean generally accepted accounting principles in the United States

of America.

"Guaranteed Obligations" shall mean the obligations to be guaranteed by each Guarantor pursuant to the terms of the Guaranty.

"Guarantor" shall have the meaning given such term in the recital to this Note.

"Guaranty" shall mean a guaranty of the Guarantors, in form and substance satisfactory to the Agent in its sole discretion, with respect to the Obligations.

"Indebtedness" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Indemnified Person" shall have the meaning given such term in Section 9 of this Note.

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

"Initial Loan Facility Fee" shall have the meaning given such term in Section 8 of this Note.

"Interim Order" shall mean the interim order of the Bankruptcy Court entered in the Chapter 11 Cases after an interim hearing (assuming satisfaction of the standards prescribed in Section 364 of the Bankruptcy Code and Bankruptcy Rule 4001 and other applicable law), together with all extensions, modifications and amendments thereto, satisfactory in form and substance to the Agent in its sole discretion, authorizing, on an interim basis, Borrower to execute and perform under the terms of this Note and the other DIP Documents.

"Inventory" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"LIBOR Rate" means "LIBOR Rate" as such term is (i) applicable to the Term Loan (as defined in the Prepetition Credit Agreement) and (ii) defined in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"LIBOR Rate Loan" means each portion of a Term Loan that bears interest at a rate determined by reference to the LIBOR Rate.

"Lien" shall mean any mortgage or deed of trust, pledge, hypothecation, assignment, deposit arrangement, lien, charge, claim, security interest, easement or encumbrance, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any lease or any financing lease having substantially the same economic effect as any of the foregoing, and the filing of, or agreement to give, any financing statement perfecting a security interest under the Uniform Commercial Code or comparable law of any jurisdiction).

"Loan Party" means the Borrower and any Guarantor.

"Material Adverse Deviation" means, as of any date of determination, an adverse deviation of more than the Permitted Variance from the aggregate amount set forth in the following line items of the Budget: (i) "Total ~~Operating Disbursements~~disbursements" for the following periods: the 2 weeks ending on March 13, 2020, the 3 weeks ending on ~~February 21~~March 20, 2020, the 4 weeks ending on ~~February 28~~March 27, 2020 and each rolling 4 week period thereafter and (ii) "Cash Receipts" for the following periods: the 2 weeks ending on ~~February 21~~March 13, 2020, the 3 weeks ending on ~~February 28~~March 20, 2020, the 4 weeks ending on March ~~6~~27, 2020 and each rolling 4 week period thereafter.

"Material Adverse Effect" means a material adverse effect on (i) the operations, business, assets, properties or condition (financial or otherwise) of the Loan Parties taken as a whole, (ii) the ability of any Loan Party to perform any of its payment or other material obligations under any DIP Document to which it is a party, (iii) the legality, validity or enforceability of this Note or any other DIP Document, (iv) the rights and remedies of the Agent and the DIP Lenders under any DIP Document, or (v) the validity, perfection or priority of a Lien in favor of DIP Lenders on any of the Collateral.

"Material Contract" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Maturity Date" means the earliest to occur of (i) ~~120 days from the Closing Date,~~ (ii) the date that is ~~30~~120 days following ~~the date of entry of the Interim Order~~February 6, 2020, (ii) March 25, 2020, if the Final Order has not been entered by the Bankruptcy Court on or prior to such date, (iii) the consummation of a sale of all or substantially all of the Loan Parties' assets, (iv) the substantial consummation of a plan of reorganization filed in the Chapter 11 Cases that is confirmed pursuant to an order of the Bankruptcy Court, (v) the filing of a motion by any of the Loan Parties seeking dismissal of any of the Chapter 11 Cases, (vi) the dismissal of any of the Chapter 11 Cases, (vii) the filing of a motion by any of the Loan Parties seeking to convert of any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code, (viii) the conversion of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code, (ix) the date on which the Term Loans are accelerated pursuant to Section 16 or (x) any other event set forth in the Financing Orders and/or the other DIP Documents as triggering a Maturity Date.

"Maximum Amount" shall have the meaning given such term in Section 1 of this Note.

"Milestones" shall have the meaning given such term in Section 14 of this Note.

"Note" shall have the meaning given such term in the recital to this Note.

"Obligations" shall mean all loans, advances, debts, liabilities and obligations for the performance of covenants, tasks or duties or for payment of monetary amounts (whether or not such performance is then required or contingent, or such amounts are liquidated or determinable) owing by Borrower to DIP Lenders, and all covenants and duties regarding such amounts, of any kind or nature, present or future, whether or not evidenced by any note,

agreement or other instrument, in all cases, arising under this Note or any of the other DIP Documents. This term includes all principal, interest, fees, charges, expenses, attorneys' fees and any other sum chargeable to Borrower under this Note or any of the other DIP Documents.

"Other Taxes" shall have the meaning given such term in Section 10 of this Note.

"Participant Register" shall have the meaning given such term in Section 21 of this Note.

"Payment Office" means such office or offices of the Agent as may be designated in writing from time to time by the Agent to the Borrower.

"Permitted Encumbrances" shall mean the following encumbrances: (a) Liens for taxes or assessments or other governmental charges (i) not yet due and payable, (ii) that are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP, or (iii) the nonpayment of which is permitted or required by the Bankruptcy Code; (b) pledges or deposits of money securing statutory obligations under workmen's compensation, unemployment insurance, social security or public liability laws or similar legislation (excluding Liens under ERISA); (c) pledges or deposits of money securing bids, tenders, contracts (other than contracts for the payment of money) or leases to which any Loan Party is a party as lessee made in the ordinary course of business; (d) carriers', warehousemen's, suppliers' or other similar possessory liens arising in the ordinary course of business; (e) deposits securing, or in lieu of, surety, appeal or customs bonds in proceedings to which any Loan Party is a party; (f) zoning restrictions, easements, licenses, or other restrictions on the use of any real estate or other minor irregularities in title (including leasehold title) thereto so long as the same do not materially impair the use, value, or marketability of such real estate; (g) the Agent's and DIP Lenders' Liens; (h) Liens existing on the Order for Relief Date (to the extent valid, enforceable, properly perfected, senior to the Liens of Prepetition Secured Parties, and not subject to avoidance, in each case, as of the Order for Relief Date or perfected after the Order for Relief Date pursuant to section 546(b) of the Bankruptcy Code); **provided that, notwithstanding the foregoing, all Liens in favor of farmers, growers or other suppliers of raw materials to the Loan Parties shall not constitute Permitted Encumbrances under this clause (h) to the extent such Liens were not perfected by the filing of a financing statement perfecting a security interest under the Uniform Commercial Code prior to the Order for Relief Date;** (i) Liens in favor of the Prepetition Secured Parties and other Liens granted pursuant to the Financing Order (including, to the extent constituting a Lien, the Carve-Out), subject to the priorities set forth in the Financing Orders; ~~and~~ (j) to the extent constituting Liens, Liens on goods delivered to any Loan Party after the Order for Relief Date under any consignment or similar title retention agreements; **and (k) unperfected Liens existing on the Order for Relief Date that are junior to the Liens securing the Obligations and the Prepetition Obligations.**

"Permitted Indebtedness" shall mean: (a) current Indebtedness incurred in the ordinary course of business for inventory, supplies, equipment, services, taxes or labor, in each case, in accordance with the Budget; (b) Indebtedness arising under this Note and the other DIP Documents; (c) Prepetition Obligations; (d) deferred taxes and other expenses incurred in the ordinary course of business, in accordance with the Budget; (e) any Indebtedness existing on the

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Order for Relief Date, subject to the terms of the Financing Order and the Budget; and (f) administrative expenses of Borrower for which the Bankruptcy Court has not directed payment, subject to the terms of the Financing Order and the Budget.

"Permitted Prior Liens" shall mean certain permitted senior liens as expressly set forth, and defined, in the Financing Orders.

"Permitted Variance" means (a) a variance of up to 10% between the actual disbursements for the applicable 2, 3 or 4 week period and the "Total ~~Operating Disbursements~~disbursements" line item as set forth in the Budget for the applicable 2, 3 or 4 week period (other than professional fees) and/or (b) a negative variance of up to 10% between the actual receipts for the applicable 2, 3 or 4 week period and the "Cash Receipts" line item as set forth in the Budget for the applicable 2, 3 or 4 week period.

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

"Prepetition Secured Parties" shall have the meaning given such term in the Financing Orders.

"Prepetition Credit Agreement" shall have the meaning given such term in the Financing Orders.

"Prepetition Facility" shall have the meaning given such term in the Financing Orders.

"Prepetition Obligations" shall have the meaning given such term in the Financing Orders.

"Pro Rata Share" means with respect to a DIP Lender's obligation to make Term Loans and receive payments of interest, fees and principal with respect thereto, the percentage obtained by dividing (i) such DIP Lender's Commitment by (ii) the Maximum Amount.

"Recipient" means the Agent or any DIP Lender, as applicable.

"Reference Rate" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Reference Rate Loan" means each portion of a Term Loan that bears interest at a rate determined by reference to the Reference Rate.

"Register" shall have the meaning given such term in Section 21 of this Note.

"Registered Loan" shall have the meaning given such term in Section 21 of this

Note.

"Related Fund" shall mean, with respect to any Person, an affiliate of such Person, or a fund or account managed by such Person or an affiliate of such Person.

"Required Lenders" shall mean, at any time, DIP Lenders whose aggregate Pro Rata Shares exceed 50%.

"Restricted Payment" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Sale Motion" shall have the meaning given such term in Section 14 of this Note.

"Stockholder" shall mean with respect to any Person, each holder of Equity Interests of such Person.

"Subsidiary" shall have the meaning given such term in the Prepetition Credit Agreement whether or not such agreement remains in effect.

"Successor Case" shall have the meaning given such term in the Financing Orders.

"Taxes" shall have the meaning given such term in Section 10 of this Note.

"Term Loans" shall have the meaning given such term in Section 1 of this Note.

19. Representations and Warranties. The Parent and each of its Subsidiaries represent as follows:

(a) the Parent and each of its Subsidiaries are duly formed and/or organized, validly existing and in good standing under the laws of their jurisdictions of incorporation or formation;

(b) upon entry of the Financing Orders, the execution and delivery of this Note and the other DIP Documents and the performance by the Loan Parties of the Loan Parties' obligations hereunder and under the other DIP Documents are within its corporate powers, have been duly authorized by all necessary corporate action of the Loan Parties, have received all necessary bankruptcy, insolvency or governmental approvals, and do not and will not contravene or conflict with any provisions of applicable law or of the Loan Parties' corporate charter or by-laws or of any agreements binding upon or applicable to the Loan Parties or any of their Subsidiaries or any of their properties;

(c) the Chapter 11 Cases have been duly authorized by all necessary legal and corporate action by or on behalf of each Loan Party and have been duly and properly commenced;

(d) upon entry of the Financing Orders, this Note and each other DIP Document is the legal, valid and binding obligation, enforceable against the Loan Parties in

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accordance with its terms except as limited by equitable principles relating to enforceability;

(e) the Parent and its Subsidiaries have good and marketable title to, or valid leasehold interests in, all of its property and assets; none of the properties and assets of the Parent and its Subsidiaries are subject to any Liens other than Permitted Encumbrances;

(f) no information contained in this Note, any of the other DIP Document, any projections, financial statements or collateral reports or other reports from time to time delivered hereunder or any written statement furnished by or on behalf of the Parent and its Subsidiaries to the DIP Lenders pursuant to the terms of this Note or otherwise contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading in light of all of the circumstances under which they were made;

(g) the Liens granted to the DIP Lenders pursuant to the Collateral Documents and the Financing Orders are fully perfected Liens in and to the Collateral described therein, subject, as to priority, only to Permitted Prior Liens or other Liens permitted to have such priority under the Financing Orders;

(h) except for proceedings in the Chapter 11 Cases in connection with the entry of the Financing Orders, no action, claim, lawsuit, demand, investigation or proceeding is now pending or, to the knowledge of the Parent, threatened against the Parent or its Subsidiaries before any governmental authority or before any arbitrator or panel of arbitrators that challenges the rights or powers of the Parent or its Subsidiaries to enter into or perform any of its obligations under the DIP Documents to which it is a party, or the validity or enforceability of any DIP Document or any action taken thereunder;

(i) the Parent and its Subsidiaries are and will be at all times the owners of the Collateral free and clear of any lien, security interest or other charge or encumbrance except for the security interest created by this Note or any other DIP Documents and the other Permitted Encumbrances;

(j) the execution, delivery and performance of this Note and the other DIP Documents will not (immediately or with the giving of notice or passage of time, or both) violate the articles of incorporation or bylaws of any Loan Party, or violate any law or regulation;

(k) except for the Chapter 11 Cases, there is no order, notice, claim, litigation, proceeding or investigation pending or threatened against or in any way affecting (i) any Loan Party, whether or not covered by insurance, that would reasonably be expected to have a Material Adverse Effect or (ii) this Note or any other DIP Document; and

(l) the Parent and its Subsidiaries have filed all federal, state and other tax returns and reports required to be filed, and have paid all federal, state and other taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable.

20. Agent.

(a) Appointment. Each DIP Lender hereby irrevocably appoints and authorizes the Agent to perform the duties of the Agent as set forth in this Note including: (i) to receive on behalf of each DIP Lender any payment of principal of or interest on the Term Loans outstanding hereunder and all other amounts accrued hereunder for the account of the DIP Lenders and paid to the Agent, and to distribute promptly to each DIP Lender its Pro Rata Share of all payments so received; (ii) to distribute to each DIP Lender copies of all material notices and agreements received by the Agent; (iii) to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Obligations, the Term Loans, and related matters and to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Collateral and related matters; (iv) to execute or file any and all notices, amendments, renewals, supplements, documents, instruments, proofs of claim, notices and other written agreements with respect to this Note or any other DIP Document; (v) to perform, exercise, and enforce any and all other rights and remedies of the DIP Lenders with respect to the Borrower, the Obligations, or otherwise related to any of same to the extent reasonably incidental to the exercise by the Agent of the rights and remedies specifically authorized to be exercised by the Agent by the terms of this Note or any other DIP Document; (vi) to incur and pay such fees necessary or appropriate for the performance and fulfillment of its functions and powers pursuant to this Note or any other DIP Document; and (vii) to take such action as the Agent deems appropriate on its behalf to administer the Term Loans and the DIP Documents and to exercise such other powers delegated to the Agent by the terms hereof or the other DIP Documents together with such powers as are reasonably incidental thereto to carry out the purposes hereof and thereof.

(b) Nature of Duties. The Agent shall have no duties or responsibilities except those expressly set forth in this Note or in the other DIP Documents.

(c) Rights, Exculpation, Etc. The Agent and its directors, officers, agents or employees shall not be liable for any action taken or omitted to be taken by them under or in connection with this Note or the other DIP Documents, except for their own gross negligence or willful misconduct as determined by a final judgment of a court of competent jurisdiction.

(d) Reliance. The Agent shall be entitled to rely upon any written notices, statements, certificates, orders or other documents or any telephone message believed by it in good faith to be genuine and correct and to have been signed, sent or made by the proper Person, and with respect to all matters pertaining to this Note or any of the other DIP Documents and its duties hereunder or thereunder, upon advice of counsel selected by it.

(e) Indemnification. To the extent that the Agent is not reimbursed and indemnified by the Borrower, the DIP Lenders will reimburse and indemnify the Agent from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, advances or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Agent in any way relating to or arising out of this Note or any of the other DIP Documents or any action taken or omitted by the Agent under this Note or any of the other DIP Documents, in proportion to each DIP Lender's Pro Rata Share.

(f) Collateral Matters.

(1) The DIP Lenders hereby irrevocably authorize the Agent, at its option and in its discretion, to release any Lien granted to or held by the Agent upon any Collateral upon cancellation of this Note and payment and satisfaction of the Term Loans and all other Obligations which have matured and which the Agent has been notified in writing are then due and payable; or constituting property being sold or disposed of in the ordinary course of the Borrower's business or otherwise in compliance with the terms of this Note and the other DIP Documents; or if approved, authorized or ratified in writing by the DIP Lenders.

(2) Without in any manner limiting the Agent's authority to act without any specific or further authorization or consent by the DIP Lenders, each DIP Lender agrees to confirm in writing, upon request by the Agent, the authority to release Collateral conferred upon the Agent under paragraph (f)(1) above.

The Agent shall have no obligation whatsoever to any DIP Lender to assure that the Collateral exists or is owned by the Loan Parties, or is cared for, protected or insured or has been encumbered or that the Lien granted to the Agent pursuant to this Note or any other DIP Document has been properly or sufficiently or lawfully created, perfected, protected or enforced or is entitled to any particular priority, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to the Agent in this section or in any other DIP Document, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, the Agent may act in any manner it may deem appropriate, in its sole discretion, given the Agent's own interest in the Collateral as one of the DIP Lenders and that the Agent shall have no duty or liability whatsoever to any other DIP Lender, except as otherwise provided herein.

21. Miscellaneous.

(a) All notices and other communications provided for hereunder shall be in writing (including facsimile communication) and mailed, emailed or delivered as follows:

If to Borrower: GenCanna Global USA, Inc.
321 Venable Road, Winchester, KY 40391
Attention: Steve Bevan
Telephone: 859-489-3954
email: steve.bevan@gencanna.com

with copies to: Benesch, Friedlander, Coplan & Aronoff LLP
222 Delaware Avenue, Suite 801
Wilmington, Delaware 19801-1611
Attn: Michael J. Barrie
Email: mbarrie@beneschlaw.com

If to Agent or any
DIP Lender: MGG Investment Group LP
One Penn Plaza, 53rd Floor
New York, New York 10119

Attention: Mustafa Tayeb and Mier Wang
Telephone: 212-356-6100
Email: creditagreementnotices@mgginv.com

with copies to: Schulte Roth & Zabel LLP
919 Third Avenue
New York, New York 10022
Attn: Adam Harris and Frederic L. Ragucci
Email: adam.harris@srz.com
frederic.ragucci@srz.com

All such notices and communications shall, when mailed or sent by overnight courier, be effective when deposited in the mails or delivered to the overnight courier, as the case may be, or when sent by email be effective when confirmation is received.

(b) The Loan Parties shall reimburse the Agent for all reasonable out-of-pocket expenses incurred in connection with the negotiation and preparation of the DIP Documents and the obtaining of approval of the DIP Documents by the Bankruptcy Court (including the reasonable fees and expenses of outside counsel for Agent, all of its special local counsel, fees for one (in the absence of any conflicts of interest) financial advisor for the Agent and the DIP Lenders, and auditors retained in connection with the DIP Documents and advice in connection therewith). Subject to the foregoing, the Loan Parties shall reimburse the Agent for all reasonable fees, costs and expenses, including the reasonable fees, costs and expenses of counsel or other advisors for advice, assistance, or other representation in connection with:

(1) any amendment, modification or waiver of, consent with respect to, or termination or enforcement of, any of the DIP Documents or advice in connection with the administration of the Term Loans made pursuant hereto or its rights hereunder or thereunder;

(2) the review of pleadings and documents related to the Chapter 11 Cases and any subsequent Chapter 7 case, attendance at meetings related to the Chapter 11 Cases and any subsequent Chapter 7 case, and general monitoring of the Chapter 11 Cases and any subsequent Chapter 7 case;

(3) any litigation, contest, dispute, suit, proceeding or action (whether instituted by the Agent, the Borrower or any other Person, and whether as a party, witness or otherwise) in any way relating to the Collateral, any of the DIP Documents or any other agreement to be executed or delivered in connection herewith or therewith, including any litigation, contest, dispute, suit, case, proceeding or action, and any appeal or review thereof, in connection with a case commenced by or against Borrower or any other Person that may be obligated to the Agent by virtue of the DIP Documents, including any such litigation, contest, dispute, suit, proceeding or action arising in connection with any work-out or restructuring of the Term Loans during the

pendency of one or more Events of Default;

(4) any attempt to enforce any remedies of the Agent against any or all of the Borrower or any other Person that may be obligated to the Agent by virtue of any of the DIP Documents, including any such attempt to enforce any such remedies in the course of any work-out or restructuring of the Term Loans during the pendency of one or more Events of Default;

(5) any work-out or restructuring of the Term Loans during the pendency of one or more Events of Default; and

(6) any efforts to (A) monitor the Term Loans or any of the other Obligations, (B) evaluate, observe or assess any of the Loan Parties or their respective affairs, (C) verify, protect, evaluate, assess, appraise, collect, sell, liquidate or otherwise dispose of any of the Collateral and (D) monitor any sales;

including, as to each of clauses (1) through (6) above, all attorneys' and other professional and service providers' fees arising from such services, including those in connection with any appellate proceedings, and all expenses, costs, charges and other fees incurred by such counsel and others in connection with or relating to any of the events or actions described in this Section 20(b), all of which shall be payable, on demand, by the Loan Parties to the Agent on behalf of the DIP Lenders. Without limiting the generality of the foregoing, such expenses, costs, charges and fees may include: fees, costs and expenses of accountants, appraisers, investment bankers, management and other consultants and paralegals; court costs and expenses; photocopying and duplication expenses; court reporter fees, costs and expenses; long distance telephone charges; air express charges; and expenses for travel, lodging and food paid or incurred in connection with the performance of such legal or other advisory services. All expenses incurred by the Agent shall receive super-priority administrative expense status per Section 364 of the Bankruptcy Code (subject to the Financing Orders).

(c) No failure or delay on the part of the Agent or any other holder of this Note to exercise any right, power or privilege under this Note and no course of dealing between Borrower and the Agent shall impair such right, power or privilege or operate as a waiver of any default or an acquiescence therein, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies expressly provided in this Note are cumulative to, and not exclusive of, any rights or remedies that the Agent would otherwise have. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Agent to any other or further action in any circumstances without notice or demand.

(d) Borrower and any endorser of this Note hereby consent to renewals and extensions of time at or after the maturity hereof without notice, and hereby waive diligence, presentment, protest, demand and notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

(e) If any provision in or obligation under this Note shall be invalid, illegal or

unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

(f) **THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE BORROWER AND THE AGENT HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK INCLUDING WITHOUT LIMITATION SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.**

(g) Each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Bankruptcy Court and, if the Bankruptcy Court does not have (or abstains from) jurisdiction, the Supreme Court 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 Note or any DIP Document, and each of the parties hereto hereby 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 or, to the extent permitted by law, in such Federal court.

(h) **THE BORROWER AND, BY THEIR ACCEPTANCE OF THIS NOTE, THE AGENT, ANY DIP LENDER AND ANY SUBSEQUENT HOLDER OF THIS NOTE, HEREBY IRREVOCABLY AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS NOTE OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS NOTE AND THE AGENT'S/BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED.** The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including without limitation contract claims, tort claims, breach of duty claims and all other common law and statutory claims. The Borrower and, by their acceptance of this Note, the Agent, any DIP Lender and any subsequent holder of this Note, each (i) acknowledges that this waiver is a material inducement to enter into a business relationship, that each has already relied on this waiver in entering into this relationship, and that each will continue to rely on this waiver in their related future dealings and (ii) further warrants and represents that each has reviewed this waiver with its legal counsel and that each knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. **THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING) THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS OF THIS NOTE.** In the event of litigation, this provision may be filed as a written consent a trial by the court.

(i) The Borrower hereby waives the benefit of any statute or rule of law or judicial decision which would otherwise require that the provisions of this Note be construed or

interpreted most strongly against the party responsible for the drafting thereof.

(j) The Borrower shall not have the right to assign their obligations or liabilities under this Note without the prior written consent of the Agent in its sole discretion. The DIP Lenders may assign to one or more entities all or any part of, or may grant participations to one or more entities in or to all or any part of, the amounts outstanding hereunder, and to the extent of any such assignment or participation (unless otherwise stated therein) the assignee or participant shall have the same rights and benefits hereunder as it would have if it were a DIP Lender hereunder. An assigning DIP Lender shall notify the Borrower of any such assignment (other than an assignment to an affiliate of such DIP Lender or a Related Fund) which notice shall include a description of the assignment and include customary instructions from the DIP Lender and such assignee with respect to the making of payments and other communications with the DIP Lender and such assignee.

(k) The Agent shall, acting solely for this purpose as a non-fiduciary agent of Borrower, maintain, or cause to be maintained at the Payment Office, a copy of each assignment notice delivered to and accepted by it and a register (the "Register") for the recordation of the names and addresses of the Persons, if any, that take an assignment from it and the principal amount of the Term Loans and stated interest thereon (the "Registered Loans") owing to each DIP Lender from time to time. The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Borrower and the Agent may treat each Person whose name is recorded in the Register as a DIP Lender hereunder for all purposes of this Note. The Register shall be available for inspection by Borrower and the DIP Lenders at any reasonable time and from time to time upon reasonable prior notice.

(l) Upon receipt by the Agent of an assignment notice, the Agent shall accept such assignment and record the information contained therein in the Register.

(m) A Registered Loan may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register. Any assignment or sale of all or part of such Registered Loan may be effected only by registration of such assignment or sale on the Register. Prior to the registration of assignment or sale of any Registered Loan, the Agent shall treat the Person in whose name such Registered Loan is registered as the owner thereof for the purpose of receiving all payments thereon and for all other purposes, notwithstanding notice to the contrary.

(n) In the event that a DIP Lender sells participations in a Registered Loan, such DIP Lender shall maintain a register for this purpose as a non-fiduciary agent of Borrower on which it enters the name of all participants in the Registered Loans held by it and the principal amount (and stated interest thereon) of the portion of the Registered Loan that is the subject of the participation (the "Participant Register"). A Registered Loan may be participated in whole or in part only by registration of such participation on the Participant Register. Any participation of such Registered Loan may be effected only by the registration of such participation on the Participant Register. The Participant Register shall be available for inspection by the Borrower and the DIP Lenders at any reasonable time and from time to time upon reasonable prior notice.

(o) No provision of this Note may be amended or waived unless such

amendment or waiver is in writing and is signed by the Borrower and the Agent.

(p) Any provision of this Note which is prohibited or unenforceable shall be ineffective to the extent such prohibition or unenforceability without invalidating the remaining provisions hereof.

(q) This Note, the other DIP Documents, and all Liens created hereby or pursuant to the Collateral Documents or any other DIP Document shall be binding upon the Borrower and each other Loan Party, the estates of the Borrower, and any trustee or successor in interest of the Borrower and each other Loan Party in the Chapter 11 Case or any subsequent case commenced under Chapter 7 of the Bankruptcy Code, and shall not be subject to Section 365 of the Bankruptcy Code. This Note and the other DIP Documents and the Financing Orders shall be binding upon, and inure to the benefit of, the successors of the Agent and the DIP Lenders and each of their respective assigns, transferees and endorsees. The Liens created by this Note, and the other DIP Documents shall be and remain valid and perfected in the event of the substantive consolidation or conversion of the Chapter 11 Case or any other bankruptcy case of any Loan Party to a case under chapter 7 of the Bankruptcy Code or in the event of dismissal of the Chapter 11 Case or the release of any Collateral from the jurisdiction of the Bankruptcy Court for any reason, without the necessity that the Agent file financing statements or otherwise perfect its security interests or Liens under applicable law.

(r) In the event of any inconsistency between the terms and conditions of this Note and the Financing Orders, the provisions of the Financing Orders shall govern and control.

(s) THIS WRITTEN PROMISSORY NOTE REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES, AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

22. Amendment and Restatement. This Note is being issued in full substitution for and replacement of that certain Amended and Restated Debtor in Possession Secured Multi-Draw Term Promissory Note, dated February 28, 2020 (the "Existing Note"), issued by the Borrower in favor of the DIP Lenders in the original principal amount of \$10,000,000. This Note shall replace and supersede the Existing Note in its entirety.

* * * * *

IN WITNESS WHEREOF, the Borrower have caused this Note to be executed and delivered by its duly authorized officer as of the day and year and at the place first above written.

GENCANNA GLOBAL USA, INC., as Debtor and
Debtor in Possession

By: _____

Name:

Title:

Acknowledged and Agreed

MGG INVESTMENT GROUP LP, as Agent

By: MGG GP LLC, its general partner

By: _____
Name: Kevin Griffin
Title: Chief Executive Officer

MGG (BVI) Limited
MGG Canada Fund LP
MGG Insurance Fund Series Interests of the SALI Multi-
Series Fund, L.P.
MGG Onshore Funding II LLC
MGG SF Drawdown Master Fund (Cayman) LP
MGG SF Drawdown Unlevered Fund II LP
MGG SF Drawdown Unlevered Master Fund II (Cayman)
MGG SF Evergreen Fund LP
MGG SF Evergreen Master Fund (Cayman) LP
MGG SF Evergreen Unlevered Fund LP
MGG SF Evergreen Unlevered Master Fund II (Cayman)
MGG Specialty Finance Fund II LP,

each as a DIP Lender

By: MGG Investment Group LP, on behalf of each of the above,
as Authorized Signatory

By: _____
Name: Kevin Griffin
Title: Chief Executive Officer

Schedule 1(a)¹

DIP LENDERS AND DIP LENDER COMMITMENTS

DIP Lender	Commitment
MGG (BVI) Limited	\$7,772.00 <u> </u>
MGG Canada Fund LP	\$404,182.00 <u> </u>
MGG Insurance Fund Series Interests of the SALI Mu	\$16,943.00 <u> </u>
MGG Onshore Funding II LLC	\$2,390,794.00 <u> </u>
MGG SF Drawdown Master Fund (Cayman) LP	\$198,977.00 <u> </u>
MGG SF Drawdown Unlevered Fund II LP	\$648,926.00 <u> </u>
MGG SF Drawdown Unlevered Master Fund II (Cayman) LP	\$679,271.00 <u> </u>
MGG SF Evergreen Fund LP	\$759,446.00 <u> </u>
MGG SF Evergreen Master Fund (Cayman) LP	\$1,918,854.00 <u> </u>
MGG SF Evergreen Unlevered Fund LP	\$1,870,393.00 <u> </u>
MGG SF Evergreen Unlevered Master Fund II (Cayman) LP	\$337,436.00 <u> </u>
MGG Specialty Finance Fund II LP	\$767,006.00 <u> </u>
Total	\$10,000,000.00 <u>12,500,000.00</u>

¹ MGG to provide.

EXHIBIT A

(attach Budget)

Schedule 13

Deliver (which delivery may be made by electronic communication (including email)) to the Agent, the monthly reports, quarterly reports, annual reports and compliance certificates required by Section 7.01(a) of the Prepetition Credit Agreement and each of the financial statements, reports, or other items set forth below at the following times in form and substance satisfactory to the Agent in its sole discretion:

on Tuesday of each week for the period ending the preceding Friday beginning with the first Friday ending a full calendar week after the Order for Relief Date,	(a) a weekly DIP variance report/reconciliation for the prior week and for the period from the commencement of the Initial Budget to the end of the prior week in each case (i) showing actual results for the following items: (A) receipts, (B) disbursements, (C) net operating cash flow, (D) [reserved] and (E) professional fees and expenses, noting therein variances from values set forth for such periods in both the Initial Budget and the most recent Budget and (ii) an explanation for all material variances, certified by the chief financial officer of the Borrower, (b) a weekly report of sales results,
on Monday of each week beginning with the first full calendar week after the Order for Relief Date,	(c) a report of the balance of all of the deposit accounts of the Loan Parties, including a breakdown of the balances of deposit accounts held at each depository institution, as of the close of business on the preceding Friday,
upon the request of Agent,	(d) a revised proposed budget (it being understood that upon written approval of such proposed budget by the Agent, in its sole discretion, such proposed budget shall become the "Budget") and timing changes with respect to any periods that were included in a previously delivered report and which shall be in form and substance acceptable to the Agent,
promptly, but in any event at least two (2) business days prior to filing (except for emergency motions, which shall be delivered as promptly as possible prior to filing),	(e) drafts of all pleadings, motions, applications or financial information (including any proposed order) filed or to be filed by any Loan Party with the Bankruptcy Court; <u>provided</u> that any such documents that are publicly available shall be deemed to have been delivered,
promptly, but in any event within 3 Business Days after Borrower has knowledge of any event or condition that	(f) notice of such event or condition and a statement of the curative action that Borrower proposes to take with respect thereto,

constitutes a Default,	
weekly,	(g) participate in status update conference calls with the Agent, the chief transformation officer and Jefferies LLC,
upon the request of Agent,	(h) any other information requested relating to the financial condition of the Parent or its Subsidiaries, and
upon notice of Agent,	(i) access to the chief transformation officer and Jefferies LLC at all times during the Chapter 11 Cases, including, in the case of Jefferies LLC, access to any data room established and bids and letters of intent received; <u>provided</u> , that if the Agent and the DIP Lenders have submitted a Qualified Bid, not including any bids or other confidential information of competing bidders.

Summary report: Litera® Change-Pro for Word 10.8.1.6 Document comparison done on 3/22/2020 9:16:19 PM	
Style name: Standard - Color	
Intelligent Table Comparison: Inactive	
Original filename: GCG - DIP Term Loan Note.docx	
Modified DMS: iw://NYDMS/NEWYORK/33546091/4	
Changes:	
Add	54
Delete	43
Move From	3
Move To	3
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	103