

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

THE COLLECTED GROUP, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 21-10663 (LSS)

(Jointly Administered)

Ref. Dkt. Nos. 21 & 59

**FINAL ORDER (I) AUTHORIZING THE DEBTORS TO
OBTAIN POSTPETITION FINANCING, (II) AUTHORIZING THE
DEBTORS TO USE CASH COLLATERAL, (III) GRANTING LIENS
AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (IV)
GRANTING ADEQUATE PROTECTION, (V) MODIFYING THE AUTOMATIC STAY,
AND (VI) GRANTING RELATED RELIEF**

Upon the motion, dated April 5, 2021 (the “Motion”) of the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (collectively, the “Chapter 11 Cases”), seeking entry of the interim order (the “Interim Order”) and a final order (this “Final Order”, and together with the Interim Order, the “DIP Orders”)² pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503, 507 and 552 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 4001, 6003, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 2002-1, 4001-2, 9013-1, and of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Bankruptcy Rules”), *inter alia*:

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, are as follows: The Collected Group, LLC (5234); The Collected Group Company, LLC (2188); The Collected Group Exports, Inc. (3426); The Collected Group Retail, LLC (2878); and RBR, LLC (9479). The Debtors’ headquarters are located at 4775 Eucalyptus Avenue, Chino, California 91710.

² Capitalized terms used in this Final Order but not defined herein shall have the meanings given to them in the Motion or the DIP Credit Agreement (as defined below), as applicable.

(i) authorizing the Debtors to obtain senior secured postpetition financing on a superpriority basis under a delayed-draw term loan facility (the “DIP Facility”) consisting of (1) \$6 million available upon entry of the Interim Order (the “Interim Amount”) and (2) an additional \$3.2 million available upon entry of this Final Order (the “Final Amount”), in each case, pursuant to the terms and conditions of this Final Order and that certain Senior Secured Superpriority Priming Debtor-in-Possession Credit Agreement, dated as of April 6, 2021 (as the same may be amended, restated, supplemented, or otherwise modified from time to time, the “DIP Credit Agreement”), by and among The Collected Group Company, LLC, (“TCG”) as borrower, The Collected Group, LLC (“Holdings”) and certain subsidiaries of TCG as guarantors, KKR Loan Administration Services LLC, as administrative agent and collateral agent (in such capacities, the “DIP Agent”), and the lenders party thereto from time to time, (the “DIP Lenders,” and together with the DIP Agent, the “DIP Secured Parties”), attached hereto as **Exhibit A**;

(ii) approving the terms of and authorizing the Debtors party thereto to execute and deliver the DIP Credit Agreement and any other agreements, instruments and documents related thereto (the “DIP Documents”) and to perform such other acts as may be necessary or desirable in connection with the DIP Documents;

(iii) authorizing the Debtors to enter into the DIP Facility and to incur all obligations owing thereunder and under the DIP Documents to the DIP Secured Parties (collectively, the “DIP Obligations”), and granting the DIP Agent and DIP Lenders allowed superpriority administrative expense claim status in each of the Chapter 11 Cases and any Successor Cases (as defined below), subject to payment of the Carve-Out (as defined below);

(iv) granting to the DIP Agent (on behalf of the DIP Secured Parties) automatically perfected security interests in, and superpriority liens on, all of the DIP Collateral (as defined below) which liens shall be subject to the priorities set forth herein;

(v) authorizing and directing the Debtors to use proceeds of the DIP Facility and Cash Collateral (as defined below) (a) to pay the principal, interest, fees, expenses and other amounts payable and reimbursable under the DIP Documents or this Final Order as such become due, including, without limitation, commitment fees and the fees and disbursements of the Lender Professionals (as defined below); (b) to make permitted adequate protection payments as specified below; and (c) for working capital and other general corporate purposes, including for bankruptcy-related costs and expenses, all to the extent provided in, and in accordance with, the Approved Budget (as defined herein, and subject to Permitted Variances), this Final Order, and the DIP Documents;

(vi) authorizing the Debtors to use the Prepetition Collateral (as defined below), including all property constituting “cash collateral” as such term is defined in section 363(a) of the Bankruptcy Code (including, without limitation, all cash and cash equivalents and other amounts on deposit or maintained by the Debtors in any deposit or securities accounts as of the Petition Date and any cash or cash equivalents received by the Debtors after the Petition Date as proceeds of the Prepetition Collateral) (the “Cash Collateral”) in accordance with both the Approved Budget (subject to Permitted Variances) and the DIP Documents, and providing, among other things, adequate protection to the Prepetition Secured Parties (as defined below) for any Diminution (as defined below) of their interests in the Prepetition Collateral, including the Cash Collateral;

(vii) modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the DIP Documents and this Final Order;

(viii) authorizing the DIP Agent, at the direction of the DIP Lenders (or as otherwise provided in the DIP Documents), to (1) terminate the funding obligations under the DIP Documents in accordance with their terms; (2) declare the DIP Obligations to be immediately due and payable in full, to the extent permitted by the terms thereof; and (3) subject to this Final Order, be granted relief from the automatic stay to foreclose on the DIP Liens; and

(ix) authorizing payment of the DIP Fees (as defined below).

The Court having considered the Motion, the exhibits attached thereto, the First Day Declaration, the Doak Declaration, the DIP Credit Agreement, and the evidence submitted and argument made at the interim hearing (the “Interim Hearing”); the Court having entered the Interim Order on April 6, 2021 [Docket No. 59]; and the Court having considered the Motion, the exhibits attached thereto, the Declarations, and the evidence submitted and arguments made at the final hearing held on May 14, 2021 (the “Final Hearing”), if any; and notice of the Motion, the relief requested therein on a final basis, and the Final Hearing having been provided in accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), and all applicable Local Bankruptcy Rules and paragraph 51 of the Interim Order; and the Final Hearing having been held and concluded; and all objections, if any, to the relief requested in the Motion having been withdrawn, resolved or overruled by the Court; and it appearing that approval of the relief requested in the Motion on a final basis, as granted hereby, is fair and reasonable and in the best interests of the Debtors, their estates and all other parties-in-interest, and is essential for the continued operation of the Debtors’ business and the preservation of the value of the Debtors’ assets; and the Court having determined

that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the Debtors' entry into the DIP Documents was a sound and prudent exercise of the Debtors' business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor;

Based upon the record established at the Final Hearing, the Court makes the following findings of fact and conclusions of law:³

A. **Disposition.** The relief requested in the Motion is granted on a final basis in accordance with the terms of this Final Order. Any objections to the Motion with respect to the entry of this Final Order that have not been withdrawn, waived or settled, and all reservations of rights included therein, are hereby denied and overruled on the merits. This Final Order shall become effective immediately upon its entry and any applicable stay (including under Bankruptcy Rule 6004) is waived to permit such effectiveness.

B. **Petition Date.** On April 5, 2021 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Court.

C. **Debtors in Possession.** The Debtors are operating their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. As of the date hereof, no trustee or examiner has been appointed.

D. **Jurisdiction and Venue.** This Court has jurisdiction over the chapter 11 Cases, the Motion and the parties and property affected hereby pursuant to 28 U.S.C. § 1334. Consideration of the Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b) (2). This Court may enter a final order consistent with Article III of the United States Constitution. Venue for the

³ The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

Chapter 11 Cases and the proceedings on the Motion is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. The bases for the relief sought in the Motion are sections 105, 361, 362, 363, 364, 503, 507 and 552 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6003, 6004 and 9014, and the Local Bankruptcy Rules.

E. **Committee.** On April 15, 2021, the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed an official committee of unsecured creditors in these Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code (the “Committee”).

F. **Notice.** Upon the record presented to the Court at the Final Hearing, and under the exigent circumstances set forth therein, notice of the Motion and the relief requested thereby and this Final Order has been provided in accordance with Bankruptcy Rules 4001(b) and 4001(c)(1) to (a) the U.S. Trustee; (b) entities listed as holding the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel to the DIP Agent and Prepetition Agent, Proskauer Rose LLP, Eleven Times Square, New York, NY 10036, Attn: Vincent Indelicato (vindelicato@proskauer.com) and Megan Volin (mvolin@proskauer.com); and Morris, Nichols, Arsht & Tunnell LLP, 1201 North Market Street, Wilmington, DE 19899, Attn: Robert J. Dehney (rdehney@morrisnichols.com) and Andrew R. Remming (aremming@morrisnichols.com); (d) counsel to the Committee, Kelley Drye & Warren LLP, 3 World Trade Center, 175 Greenwich Street, New York, NY 10007, Attn: Lauren Schlussel (LSchlussel@KelleyDrye.com); Eric Wilson (EWilson@KelleyDrye.com); and Jason Adams (JAdams@KelleyDrye.com); (e) the United States Attorney’s Office for the District of Delaware; (f) the Internal Revenue Service; (g) the state attorneys general for states in which the Debtors conduct business; and (h) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the “Notice Parties”), which notice was appropriate under the circumstances and sufficient for the Motion. No further notice

of, or hearing regarding, the entry of this Final Order and the relief set forth therein is necessary or required.

G. **Debtors' Stipulations.** Subject to Paragraph 35 hereof, each stipulation, admission, and agreement contained in this Final Order, including, without limitation, the Debtors' Stipulations, shall be binding upon the Debtors, and any successors thereto (including, without limitation, any chapter 7 or chapter 11 trustee appointed or elected for any of the Debtors) under all circumstances and for all purposes. The Debtors are deemed to have irrevocably waived and relinquished all Challenges (as defined herein) as of the Petition Date. Without prejudice to the rights of parties in interest as set forth in Paragraph 35 herein, the Debtors, on their own behalf and on behalf of their estates, admit, stipulate, acknowledge, and agree as follows (Paragraphs G(i) through G(v) below are referred to, collectively, as the "Debtors' Stipulations"):

(i) *Prepetition Facility.* Pursuant to that certain Amended and Restated Credit Agreement, dated as of May 15, 2015 (as amended, restated, supplemented, or otherwise modified from time to time in accordance with the terms thereof, the "Prepetition Credit Agreement"), and collectively with all other agreements, instruments and documents executed or delivered in connection therewith, each as may be amended, restated, supplemented, otherwise modified from time to time, the "Prepetition Loan Documents"), among TCG, as borrower, and each other loan party thereto, KKR Loan Administration Services LLC, as administrative agent (in such capacity, together with any successor thereto, the "Prepetition Agent"), and the lenders⁴ party thereto from time to time (the "Prepetition Lenders," and together with the Prepetition Agent, collectively, the "Prepetition Secured Parties"), the Prepetition Lenders provided senior secured term loan credit facilities to the Debtors (the "Prepetition Facility").

⁴ The Prepetition Lenders include affiliates of the Prepetition Agent.

(ii) *Prepetition Secured Obligations.* As of the Petition Date, the aggregate principal amount of (i) Initial Term A Loans outstanding is \$85,087,573.55, (ii) Initial Term B Subordinated Loans outstanding is \$26,496,854.27, (iii) Bridge Term Loans outstanding is \$4,612,647.93, (iv) Delayed Draw Term Loans outstanding is \$19,425,492.42, (v) Eighth Amendment Term Loans outstanding is \$5,427,959.17, (vi) Twelfth Amendment Term Loans outstanding is \$3,000,000.00 and (vii) Thirteenth Amendment Term Loans outstanding is \$2,000,000.00. In total, as of the Petition Date, the Debtors were indebted and jointly and severally liable to the Prepetition Secured Parties in the aggregate principal amount outstanding under the Prepetition Facility of \$146,050,527.34 (together with accrued and unpaid interest, any fees, expenses and disbursements (including, without limitation, any accrued and unpaid attorneys' fees, accountants' fees, appraisers' fees and financial advisors' fees, and related expenses and disbursements), indemnification obligations, and other charges, amounts and costs of whatever nature owing, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Debtors' obligations in connection with the Prepetition Facility pursuant to the Prepetition Loan Documents, the "Prepetition Secured Obligations").

(iii) *Prepetition Liens and Prepetition Collateral.* As more fully set forth in the Prepetition Loan Documents, prior to the Petition Date, the Debtors granted to the Prepetition Agent, for the benefit of the Prepetition Secured Parties, a security interest in and continuing lien (the "Prepetition Liens") on all of their right, title and interest in the Collateral (as defined in the Prepetition Credit Agreement, the "Prepetition Collateral").

(iv) *Validity, Extent, Perfection and Priority of Prepetition Liens and Prepetition Secured Obligations.* As of the Petition Date: (a) the Prepetition Liens on the Prepetition

Collateral were valid, binding, enforceable, non-avoidable and properly perfected and were granted to, or for the benefit of, the Prepetition Secured Parties for fair consideration and reasonably equivalent value; (b) the Prepetition Liens were senior in priority over any and all other liens on the Prepetition Collateral, subject only to certain liens senior by operation of law or otherwise permitted by the Prepetition Loan Documents (solely to the extent any such permitted liens were valid, properly perfected, non-avoidable and senior in priority to the Prepetition Liens as of the Petition Date, or valid, non-avoidable, senior priority liens in existence as of the Petition Date that are perfected after the Petition Date as permitted by section 546(b) of the Bankruptcy Code, the “Permitted Liens”); (c) the Prepetition Secured Obligations constitute legal, valid, binding, and non-avoidable obligations of the Prepetition Secured Parties enforceable in accordance with the terms of the applicable Prepetition Loan Documents; (d) no offsets, recoupments, challenges, objections, defenses, claims or counterclaims of any kind or nature, whether arising at law or in equity, to any of the Prepetition Liens or Prepetition Secured Obligations exist, and no portion of the Prepetition Liens or Prepetition Secured Obligations is subject to any challenge or defense including, without limitation, avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including without limitation, avoidance claims under chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Prepetition Secured Parties, solely in their capacity as such, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, consultants, directors and employees arising out of, based upon or related to the Prepetition Facility; (f) the Debtors have waived, discharged, and released any

right to, and are forever barred from bringing any, Challenge to any of the Prepetition Secured Obligations, the priority of the Prepetition Secured Parties' obligations thereunder, and the legality, validity, extent, and priority of the Prepetition Liens; and (g) the Prepetition Secured Obligations constitute allowed, secured claims within the meaning of sections 502 and 506 of the Bankruptcy Code.

(v) *Cash Collateral*. All or substantially all of the Debtors' cash and cash equivalents, including cash on deposit in any account or accounts as of the Petition Date, securities or other property, wherever located, whether as original collateral or proceeds of other Prepetition Collateral, constitutes Cash Collateral of the Prepetition Secured Parties.

H. **Releases**. Subject to paragraph 35 hereof, the Debtors, on behalf of themselves and their respective estates (including any successor trustee or other estate representative in the Chapter 11 Cases and any Successor Cases (as defined herein), and any party acting by, through or under the Debtors or their estates), hereby stipulate and agree that they absolutely and unconditionally release and forever and irrevocably discharge and acquit each of the Prepetition Secured Parties and their respective affiliates and each of their respective former or current officers, partners, directors, managers, owners, members, principals, employees, agents, related funds, investors, financing sources, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other professionals and the respective successors and assigns thereof, in each case solely in their capacity as such (collectively, the "**Released Parties**"), from any and all obligations and liabilities to the Debtors (and their successors and assigns) and from any and all claims, counterclaims, demands, debts, accounts, contracts, disputes, liabilities, allegations, suits, controversies, proceedings, actions and causes of action arising prior to the Petition Date (collectively, the "**Released Claims**") of any kind, nature or description, whether known or

unknown, foreseen or unforeseen or liquidated or unliquidated, arising in law or equity or upon contract or tort or under any state or federal law or regulation or otherwise, arising out of or related to (as applicable) the Prepetition Loan Documents, obligations owing and the financial obligations made thereunder, the negotiation thereof on behalf of the Prepetition Secured Parties and of the transactions reflected thereby and the obligations and financial obligations made thereunder, in each case that the Debtors (or their successors or assigns) at any time had, now have or may have against any of the Released Parties for or by reason of any act, omission, matter, cause or thing whatsoever arising at any time on or prior to the date of this Final Order. The Debtors further waive and release any defense, right of counterclaim, right of set-off, or deduction to the payment of the Prepetition Secured Obligations that the Debtors may now have or may claim to have against the Released Parties, arising out of, connected with, or relating to any and all acts, omissions, or events occurring prior to this Court entering this Final Order relating to the Debtors' secured lending relationship with the Prepetition Secured Parties. Notwithstanding the foregoing, the waivers and releases set forth in this paragraph H shall not bar or impair any rights reserved with respect to the Challenge Period.

I. Findings Regarding Postpetition Financing

(i) *Request for Postpetition Financing.* The Debtors seek approval of the DIP Facility and the incurrence of the DIP Obligations on a final basis, and the continued use of Cash Collateral, in each case on the terms described in this Final Order and in the DIP Documents, to administer their Chapter 11 Cases and fund their operations in accordance with the Approved Budget, DIP Credit Agreement, and DIP Documents.

(ii) *Priming of the Prepetition Liens.* The priming of the Prepetition Liens on the Prepetition Collateral under section 364(d) of the Bankruptcy Code, as contemplated by the

DIP Documents and the DIP Orders, have and will continue to enable the Debtors to obtain the DIP Facility and to continue to operate their businesses for the benefit of their estates and creditors, and the Debtors would not be able to obtain debtor-in-possession financing in a sufficient amount without granting such priming liens. Consistent with the requirements of section 364(d) of the Bankruptcy Code, the Prepetition Secured Parties shall receive adequate protection as set forth in the DIP Orders pursuant to sections 361, 363, and 364 of the Bankruptcy Code, for any decrease in the value of their respective interests in the Prepetition Collateral (including Cash Collateral) resulting from (A) the use, sale, or lease by the Debtors of the Prepetition Collateral during the pendency of the Chapter 11 Cases, (B) the grant of the DIP Liens and the Carve-Out pursuant to the DIP Documents and the DIP Orders, or (C) the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code (such potential diminution, collectively, “Diminution”).

(iii) *Need for Postpetition Financing and Use of Cash Collateral.* The Debtors have a continuing critical need to obtain financing pursuant to the DIP Facility and to continue to use the Prepetition Collateral (including Cash Collateral) in order to, among other things, (i) pay the fees, costs, and expenses incurred in connection with the Chapter 11 Cases, (ii) fund any obligations benefitting from the Carve-Out, (iii) permit the orderly continuation of the operation of their businesses, (iv) maintain business relationships with customers, vendors, and suppliers, (v) make payroll, and (vi) satisfy other working capital and operational needs. The incurrence of new debt under the DIP Documents and use of Cash Collateral is necessary and vital to the preservation and maintenance of the going concern value of the Debtors. The terms of the proposed financing are fair and reasonable, reflect the Debtors’ exercise of prudent business judgment, and are supported by reasonably equivalent value and fair consideration. The

adequate protection provided in the DIP Orders and other benefits and privileges contained herein are consistent with and authorized by the Bankruptcy Code.

(iv) *No Credit Available on More Favorable Terms.* The DIP Facility is the best source of debtor-in-possession financing available to the Debtors. Given their current financial condition, financing arrangements, and capital structure, and the circumstances of these Chapter 11 Cases, the Debtors have been and continue to be unable to obtain financing from sources other than the DIP Lenders on terms more favorable than the DIP Facility. Further, the Prepetition Secured Parties have consented to the Debtors incurring debtor-in-possession financing, the priming of their Prepetition Liens, and the use of their Cash Collateral, only on the terms of and subject to the conditions set forth in the DIP Documents and the DIP Orders. The Debtors are unable to obtain unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense. The Debtors have also been unable to obtain: (a) unsecured credit having priority over that of administrative expenses of the kind specified in sections 503(b), 507(a), and 507(b) of the Bankruptcy Code; (b) credit secured solely by a lien on property of the Debtors and their estates that is not otherwise subject to a lien; or (c) credit secured solely by a junior lien on property of the Debtors and their estates that is subject to a lien. Financing on a postpetition basis is not otherwise available without granting the DIP Secured Parties: (1) perfected security interests in and liens on (each as provided herein) all of the Debtors' existing and after-acquired assets with the priorities set forth herein, (2) superpriority claims and priming liens to the extent set forth in the DIP Orders, the DIP Credit Agreement, and the DIP Documents, and (3) the other protections set forth in this Final Order.

(v) *Use of Cash Collateral and Proceeds of the DIP Facility.* As a condition to the Debtors' entry into the DIP Documents, the extension of credit under the DIP Facility and

the authorization to use Prepetition Collateral, including Cash Collateral, the Debtors have agreed that Cash Collateral and the proceeds of the DIP Facility shall be used solely in accordance with the terms and conditions of this Final Order and the DIP Documents and in accordance with the Approved Budget.

(vi) *Application of Proceeds of DIP Collateral.* As a condition to entry into the DIP Documents, the extension of credit under the DIP Facility, and authorization to use Cash Collateral, the Debtors have agreed that the Debtors shall apply the proceeds of DIP Collateral in accordance with the Interim Order, this Final Order, and the DIP Documents.

J. **Adequate Protection.** In exchange for their consent to (i) the priming of the Prepetition Liens by the DIP Liens, and (ii) the use of Cash Collateral to the extent set forth in this Final Order, the Prepetition Secured Parties shall receive adequate protection to the extent of any Diminution of their interests in the Prepetition Collateral, as more fully set forth in this Final Order.

K. **Sections 506(c) and 552(b).** In light of (i) the DIP Secured Parties' agreement that their liens and superpriority claims shall be subject to payment of the Carve-Out and (ii) the Prepetition Secured Parties' agreement that, with respect to the Prepetition Collateral, their respective liens and claims, including any adequate protection liens and claims, shall be subject to payment of the Carve-Out, and subordinate to the DIP Liens, (a) the DIP Secured Parties and the Prepetition Secured Parties have negotiated for a waiver of, any "equities of the case" exception under section 552(b) of the Bankruptcy Code, and (b) the DIP Secured Parties and the Prepetition Secured Parties have negotiated for a waiver of the provisions of section 506(c) of the Bankruptcy Code.

L. **Good Faith of the DIP Secured Parties.**

(i) *Willingness to Provide Financing.* The DIP Secured Parties have committed to provide financing to the Debtors subject to: (a) entry of the DIP Orders; (b) approval of the terms and conditions of the DIP Facility and those set forth in the DIP Documents; (c) satisfaction of the closing conditions set forth in the DIP Documents; and (d) findings by this Court that the DIP Facility is essential to the Debtors' estates, that the DIP Lenders are extending credit to the Debtors pursuant to the DIP Documents in good faith, and that the DIP Secured Parties' claims, superpriority claims, security interests and liens and other protections granted pursuant to the DIP Orders and the DIP Documents have or will have the protections provided by section 364(e) of the Bankruptcy Code.

(ii) *Business Judgment and Good Faith Pursuant to Section 364(e).* Based on the Motion, the First Day Declaration and the Doak Declaration, and the record presented to the Court at the Interim Hearing and the Final Hearing, (i) the terms of the financing embodied in the DIP Facility, including the fees, expenses and other charges paid and to be paid thereunder or in connection therewith, (ii) the adequate protection authorized by the DIP Orders and DIP Documents, and (iii) the terms on which the Debtors may continue to use the Prepetition Collateral (including Cash Collateral), in each case pursuant to this Final Order and the DIP Documents, are fair and reasonable, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties, constitute reasonably equivalent value and fair consideration, and represent the best financing and terms available under the circumstances.

(iii) *Good Faith Pursuant to Section 364(e).* The terms and conditions of the DIP Facility and the use of Cash Collateral were negotiated in good faith and at arm's-length among the Debtors, the DIP Secured Parties, and the Prepetition Secured Parties with the

assistance and counsel of their respective advisors. Use of Cash Collateral and credit to be extended under the DIP Facility shall be deemed to have been allowed, advanced, made, or extended in good faith by the DIP Secured Parties and the Prepetition Secured Parties within the meaning of section 364(e) of the Bankruptcy Code.

(iv) *Consent to DIP Facility and Use of Cash Collateral.* The Prepetition Secured Parties have consented, or are deemed to have consented, or have not objected, to the Debtors' use of Cash Collateral and the other Prepetition Collateral, and the Debtors' entry into the DIP Documents in accordance with and subject to the terms and conditions in this Final Order and the DIP Documents.

M. **Committee Settlement.** Prior to the entry of this Final Order, the Debtors, the Committee, the DIP Secured Parties and the Prepetition Secured Parties (each a "Settling Party" and collectively, the "Settling Parties") agreed to the terms of a global settlement (the "Committee Settlement") to address the Committee's potential challenges to this Final Order and the Debtors' proposed chapter 11 plan of reorganization, as incorporated into this Final Order, stated on the record at the Final Hearing, and to be incorporated into an amended chapter 11 plan of reorganization. For the avoidance of doubt, entry of this Final Order does not constitute the Court's approval of the Committee Settlement. The rights of all parties in interest (other than the Settling Parties) to object to the Committee Settlement are preserved.

N. **Good Cause.** Good cause has been shown for immediate entry of this Final Order, and the entry of this Final Order is in the best interests of the Debtors, their estates and their stakeholders. Among other things, the relief granted herein will minimize disruption of the Debtors' business and permit the Debtors to pay critical expenses necessary to maximize the value of their estates. The extensions of credit under the Debtors' DIP Facility, use of Cash Collateral

and proposed adequate protection arrangements, as set forth in this Final Order, are fair and reasonable under the circumstances, and reflect the Debtors' exercise of prudent business judgment.

O. **Immediate Entry.** Sufficient cause exists for immediate entry of this Final Order pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2) and the applicable Local Bankruptcy Rules.

Based upon the foregoing findings and conclusions, the Motion and the record before the Court with respect to the Motion, and after due consideration and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. **DIP Financing Approved.** On a final basis, entry into the DIP Facility is authorized and approved, and the use of Cash Collateral is authorized, in each case, subject to the terms and conditions set forth in this Final Order. All objections to this Final Order to the extent not withdrawn, waived, settled or resolved, and all reservations of rights included therein, are hereby denied and overruled on the merits. This Final Order shall become effective immediately upon its entry.

DIP Facility Authorization

2. **Authorization of the DIP Financing.** The Debtors' prior execution and delivery of, and continued performance under, the DIP Facility are hereby approved on a final basis. The Debtors are expressly authorized and empowered on a final basis to incur and to perform the DIP Obligations in accordance with, and subject to, the terms of this Final Order and the DIP Documents, and to execute, deliver and perform under all instruments, certificates, agreements, and documents which may be required or necessary for the performance by the

Debtors under the DIP Documents and the creation and perfection of the DIP Liens described in and provided for by the DIP Orders and the DIP Documents. The Debtors are hereby authorized to pay, in accordance with this Final Order, any principal, interest, fees, expenses, and other amounts described in the DIP Documents and this Final Order, as such amounts become due and owing, without need to obtain further Court approval (except as otherwise provided herein or in the DIP Documents) subject to and in accordance with the terms hereof and thereof, including, without limitation, any closing fees and commitment fees, as well as any reasonable and documented fees and disbursements of Proskauer Rose LLP and Morris, Nichols, Arsht & Tunnell LLP, as the DIP Professionals (as defined below), as set forth herein and in the DIP Documents, whether or not such professional fees and disbursements arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, to implement all applicable reserves and to take any other actions that may be necessary or appropriate, all to the extent provided in this Final Order and the DIP Documents. The DIP Documents represent legal, valid and binding obligations of the Debtors, enforceable against each of the Debtors and their estates in accordance with their terms. Each officer of a Debtor acting individually is hereby authorized to execute and deliver each of the DIP Documents, such execution and delivery to be conclusive evidence of such officer's respective authority to act in the name of and on behalf of the Debtors.

3. Authorization to Borrow. To enable the Debtors to continue to operate their business and preserve and maximize the value of their estates, subject to the terms and conditions set forth in the DIP Documents and this Final Order, the Debtors are hereby authorized to borrow up to the full amount available under the DIP Facility, subject to any limitations on, or conditions to, borrowing under the DIP Documents, which borrowings shall be used solely for purposes

permitted under the DIP Documents, including, without limitation, to provide working capital for the Debtors and to pay interest, fees, costs, charges and expenses, in each case, in accordance with this Final Order, the DIP Documents, and the Approved Budget (subject to Permitted Variances).

4. DIP Obligations. The DIP Documents and the DIP Orders shall constitute and evidence the validity and binding effect of the Debtors' DIP Obligations. All DIP Obligations shall be enforceable against the Debtors, their estates, and any successors thereto, including without limitation, any trustee appointed in the Chapter 11 Cases, or in any case under Chapter 7 of the Bankruptcy Code upon the conversion of any of the Chapter 11 Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, the "Successor Cases"). The DIP Obligations include all loans, guarantees, reimbursement obligations, and any other indebtedness or obligations, contingent or absolute, which may now or from time to time be owing by any of the Debtors to the DIP Secured Parties, including, without limitation, all principal, accrued interest, costs, charges, fees, expenses and other amounts, in each case under the DIP Documents. The Debtors shall be jointly and severally liable for the DIP Obligations. The DIP Obligations shall become due and payable, without notice or demand, on the DIP Termination Date. No obligation, payment, transfer, or grant of collateral security hereunder or under the DIP Documents (including any DIP Obligation or DIP Liens) to the DIP Secured Parties, including in connection with any adequate protection provided hereunder, shall be stayed, restrained, voidable, avoidable, or recoverable, under the Bankruptcy Code or under any applicable law (including, without limitation, under sections 502(d), 544, and 547–550 of the Bankruptcy Code or under any applicable state Uniform Voidable Transactions Act, Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or common law), or be subject to any disgorgement, avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether

equitable, contractual, or otherwise), claim, counterclaim, charge, assessment, cross-claim, defense, or any other liability or challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity for any reason.

5. DIP Collateral. To secure the DIP Obligations, effective upon entry of the Interim Order, and as ratified by this Final Order, pursuant to sections 361, 362, 364(c)(2), 364(c)(3), and 364(d) of the Bankruptcy Code, the DIP Agent (for the benefit of the DIP Lenders), is hereby granted continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition security interests in and liens on (collectively, the “DIP Liens”) the DIP Collateral. “DIP Collateral” means, collectively, all assets (other than avoidance actions under chapter 5 of the Bankruptcy Code) of each Debtor and its estate of any nature whatsoever and wherever located, whether first arising prior to or following the Petition Date, now owned or hereafter acquired, including all accounts, chattel paper, commercial tort claims, deposit accounts, documents, equipment, general intangibles, goods, instruments, inventory, investment property, letter-of-credit rights, real property, books and records, and all proceeds, rents, profits, and offspring of the foregoing, including but not limited to (i) all assets constituting Collateral (as defined in the Prepetition Credit Agreement), (ii) the Cash Collateral, (iii) all assets of the Debtors that, as of the Petition Date, were not otherwise subject to a security interest, including the DIP Proceeds Account (including all cash and cash equivalents held therein, and proceeds disbursed in contravention of the DIP Credit Agreement) and any assets constituting Excluded Assets (as defined in the Prepetition Credit Agreement), (iv) to the extent a DIP Lien is not permitted by law to attach to any property of any Debtor or its estate, the proceeds of such property, and (v) the proceeds of avoidance actions under chapter 5 of the Bankruptcy Code, other than any such avoidance actions against the DIP Lender, or any of its affiliates, in any capacity other than as DIP

Lender. For the avoidance of doubt, DIP Collateral shall not include the Debtors' interests in real property leases but shall include the proceeds of such real property leases.

6. DIP Liens. The DIP Liens securing the DIP Obligations are valid, automatically perfected, non-avoidable, senior in priority, and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP Collateral, except that the DIP Liens shall be subject to payment of the Carve-Out, and shall otherwise be junior only to the Permitted Liens. Other than as set forth herein or in the DIP Documents, the DIP Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Chapter 11 Cases or any Successor Cases, and shall be valid and enforceable against any trustee appointed in the Chapter 11 Cases or any Successor Cases, upon the conversion of any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code (or in any other Successor Case), and/or upon the dismissal of any of the Chapter 11 Cases or Successor Cases. The DIP Liens shall not be subject to section 510, 549, or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of any of the Debtors' estates pursuant to section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the DIP Liens. Notwithstanding anything herein to the contrary, the DIP Liens shall be subject to the CIT Intercreditor Agreement (as defined in the DIP Credit Agreement).

7. DIP Superpriority Claims. Subject to payment of the Carve-Out, upon entry of the Interim Order, and as ratified by this Final Order, the DIP Lenders are hereby granted, pursuant to section 364(c)(1) of the Bankruptcy Code, allowed superpriority administrative expense claims in each of the Chapter 11 Cases and any Successor Cases (collectively, the "DIP Superpriority Claims") for all DIP Obligations: (a) except as set forth herein (including with respect to the Carve-Out), with priority over any and all administrative expense claims and

unsecured claims against the Debtors or their estates in any of the Chapter 11 Cases and any Successor Cases, at any time existing or arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kinds specified in or ordered pursuant to Bankruptcy Code sections 105, 326, 328, 330, 331, 364, 503(a), 503(b), 507(a), 507(b), 546(c), 546(d), 726, 1113, and 1114, and any other provision of the Bankruptcy Code, as provided under section 364(c)(1) of the Bankruptcy Code; and (b) which shall at all times be senior to the rights of the Debtors and their estates, and any successor trustee or other estate representative, to the extent permitted by law.

8. No Obligation to Extend Credit. The DIP Secured Parties have no obligation to make any loan or advance under the DIP Documents unless all of the conditions precedent under the DIP Documents and the DIP Orders have been satisfied in full or waived by the DIP Lenders in accordance with the terms of the DIP Documents.

9. Use of Proceeds of DIP Facility. From and after the Petition Date, the Debtors shall use advances of credit under the DIP Facility only for the purposes specifically set forth in this Final Order and the DIP Documents, and only in compliance with the Approved Budget (subject to the Permitted Variances) and the terms and conditions in this Final Order and the DIP Documents.

10. No Monitoring Obligation. The DIP Secured Parties have no obligation or responsibility to monitor the Debtors' use of the DIP Facility, and the DIP Secured Parties may rely upon the Debtors' representation that the use of the DIP Facility at any time is in accordance with the requirements of this Final Order and the DIP Documents.

Authorization to Use Cash Collateral

11. Authorization to Use Cash Collateral. Subject to the terms and conditions of this Final Order and the DIP Documents, and in accordance with the Approved Budget (subject to the Permitted Variances), the Debtors are authorized to continue using Cash Collateral until the expiration of the Remedies Notice Period following the Termination Date (each as defined below). Nothing in this Final Order shall authorize the disposition of any assets of the Debtors outside the ordinary course of business, or any Debtor's use of any Cash Collateral or other proceeds resulting therefrom, except as permitted by this Final Order and the DIP Documents, and in accordance with the Approved Budget (subject to the Permitted Variances), as applicable.

12. Adequate Protection for Prepetition Secured Parties. Subject to Paragraph 35, as adequate protection for any Diminution of the Prepetition Secured Parties' interest in the Prepetition Collateral, the Prepetition Agent shall receive, for the benefit of the Prepetition Secured Parties,

(a) to the extent of any Diminution of the Prepetition Secured Parties' interest in the Prepetition Collateral, continuing valid, binding, enforceable and perfected postpetition replacement liens pursuant to sections 361, 363(e), and 364(d)(1) of the Bankruptcy Code on the DIP Collateral, which shall be subject and subordinated only to the Carve-Out, DIP Liens, and Permitted Liens (the "Replacement Liens") and which (x) shall otherwise be senior to all other security interests in, liens on, or claims against the DIP Collateral, and (y) shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Chapter 11 Cases or any Successor Cases, and shall be valid and enforceable against any trustee appointed in any of the Chapter 11 Cases or any Successor Cases, and shall not be subject to sections 510, 549, or 550 of the Bankruptcy Code;

(b) to the extent of any Diminution of the Prepetition Secured Parties' interest in the Prepetition Collateral, administrative superpriority expense claims in each of the Chapter 11 Cases (the "Adequate Protection Superpriority Claims"), junior and subordinate only to the Carve-Out and the DIP Obligations (including the DIP Superpriority Claims), pursuant to section 507(b) with priority over any and all other administrative expenses, administrative expense claims and unsecured claims against the Debtors or their estates, now existing or hereafter arising, of any kind or nature whatsoever, as to and to the extent provided by sections 503(b) and 507(b) of the Bankruptcy Code; and

(c) without duplication of any amounts actually paid pursuant to the Prepetition Credit Agreement, the DIP Credit Agreement, or any plan of reorganization, (i) monthly reimbursement payments of the Prepetition Secured Parties' respective reasonable and documented fees and expenses including the reasonable and documented professional fees of Proskauer Rose LLP, Morris, Nichols, Arsht & Tunnell LLP, and Choate Hall & Stewart LLP (in each case, without the need for the filing of formal fee applications but subject to the procedures set forth herein, whether incurred before or after the Petition Date), and (ii) continued accrual of paid-in-kind interest at the default rate under section 2.12(d) of the Prepetition Credit Agreement during the pendency of the Chapter 11 Cases.

13. Adequate Protection Reservation. Nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate protection provided to the Prepetition Secured Parties hereunder is insufficient to compensate for any Diminution of their respective interests in the Prepetition Collateral during the Chapter 11 Cases

or any Successor Cases. The receipt by the Prepetition Secured Parties of the adequate protection provided herein shall not be deemed an admission that the interests of the Prepetition Secured Parties are adequately protected, and this Final Order shall not prejudice or limit the rights of the Prepetition Secured Parties to seek additional relief with respect to the use of Cash Collateral or for additional adequate protection.

Provisions Common to DIP Financing and Use of Cash Collateral

14. Amendment of the DIP Documents. The Debtors and the DIP Agent may enter into one or more amendments, waivers, consents, or other modifications to and under the DIP Documents, in each case in accordance with the terms of the applicable DIP Documents and in such form as the Debtors and the DIP Agent agree, in the DIP Agent's sole discretion, and no further approval of this Court shall be required for any amendment, waiver, consent, or other modification to and under the DIP Documents (and any fees paid in connection therewith) that does not materially and adversely affect the Debtors or which does not (i) shorten the maturity of the DIP Facility, (ii) increase the principal amount of, the rate of interest on, or the fees payable in connection with the DIP Facility, or (iii) change any Event of Default (as defined in the DIP Documents), add any covenants, or amend the covenants to be materially more restrictive; *provided, however*, notice of any such amendment or other modification shall be provided by the Debtors to the Committee two days in advance of its effectiveness, to the extent reasonably practicable. No consent to any such amendment, waiver, consent, or modification set forth in this paragraph 14 shall be implied by any action, inaction, or acquiescence of the DIP Secured Parties. After obtaining the DIP Agent's prior written consent, the Debtors are authorized and empowered, without further notice and hearing or approval of this Court so long as such amendment, or

modification is not of the type set forth in clauses (i)–(iii) above, to amend, modify, supplement, or waive any provision of the DIP Documents in accordance with the provisions thereof.

15. Approved Budget.

(i) Attached to this Final Order as **Exhibit B** is an 8-week budget approved by the DIP Lenders, which sets forth, among other things, projected cash receipts and cash disbursements (the “Initial Budget”). Such budget shall be updated from time to time as set forth in the DIP Credit Agreement. As of any date of determination, the Initial Budget or the updated budget that has most recently become the “Approved DIP Budget” in accordance with and as defined in the DIP Credit Agreement shall be referred to herein as the “Approved Budget.” Until any updated budget has become the Approved Budget, the Debtors shall be subject to and be governed by the terms of the Approved Budget then in effect, subject to Permitted Variances.

(ii) The Approved Budget is approved on a final basis. The proceeds of the DIP Facility and Cash Collateral under this Final Order shall be used by the Debtors in accordance with the Approved Budget (subject to Permitted Variances), this Final Order and the DIP Documents.

(iii) Other than with respect to the Carve-Out, and except as provided in Paragraphs 24 and 25, none of the DIP Secured Parties’ and the Prepetition Secured Parties’ consent to, or acknowledgement of, the Approved Budget shall be construed as consent to use the proceeds of the DIP Facility or Cash Collateral beyond the Maturity Date (as defined in the DIP Credit Agreement) or the occurrence of the Termination Date, regardless of whether the aggregate funds shown on the Approved Budget have been expended.

(iv) Notwithstanding anything to the contrary herein, the Debtors shall pay the fees, costs and expenses of the DIP Professionals (as defined below) in accordance with the DIP Documents and this Final Order without reference to the Approved Budget. For the avoidance of

doubt, pursuant to the DIP Credit Agreement the Permitted Variances shall be determined based on actual aggregate operating disbursements, excluding such fees, costs and expenses of the DIP Professionals and other professional fees.

16. Budget Reporting. The Debtors shall at all times comply with the Approved Budget, subject to the Permitted Variances. The Debtors shall submit Variance Reports at the times and as set forth in the DIP Credit Agreement. Copies of any updated budget, and any other reporting provided to the DIP Lenders under the DIP Credit Agreement, including Variance Reports, shall be provided to the Committee.

17. Modification of Automatic Stay. The automatic stay of section 362 of the Bankruptcy Code is hereby modified and vacated to the extent necessary to permit the Debtors, the DIP Secured Parties and the Prepetition Secured Parties to accomplish the transactions contemplated by this Final Order.

18. Perfection of DIP Liens and Replacement Liens. The DIP Orders shall be sufficient and conclusive evidence of the creation, validity, perfection, and priority of all liens granted therein, including the Carve-Out, the DIP Liens, and the Replacement Liens, without the necessity of filing or recording any financing statement, mortgage, deed of trust, notice, or other instrument or document which may otherwise be required under the law or regulation of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement) to validate or perfect (in accordance with applicable non-bankruptcy law) the DIP Liens and the Replacement Liens or to entitle the DIP Secured Parties and the Prepetition Secured Parties to the priorities granted herein. Notwithstanding the foregoing, the DIP Agent and the Prepetition Agent are authorized, but not required, to file, as each deems necessary or advisable, such financing statements, security agreements, mortgages, notices of liens

and other similar documents to perfect in accordance with applicable non-bankruptcy law or to otherwise evidence the DIP Liens and the Replacement Liens, and all such financing statements, mortgages, notices and other documents shall be deemed to have been filed or recorded as of the Petition Date; *provided, however*, that no such filing or recordation shall be necessary or required in order to create or perfect the DIP Liens or the Replacement Liens. The DIP Agent and the Prepetition Agent may each, in its discretion, file a photocopy of the Interim Order and/or this Final Order as a financing statement with any filing or recording office or with any registry of deeds or similar office in addition to or in lieu of such financing statements, notices of lien or similar instruments. To the extent that the Prepetition Agent is, with respect to the DIP Collateral, the secured party under any security agreement, mortgage, leasehold mortgage, landlord waiver, credit card processor notices or agreements, bailee letters, custom broker agreements, financing statement, account control agreements or any other Prepetition Loan Documents or is listed as loss payee, lenders' loss payee or additional insured under any of the Debtors' insurance policies, the DIP Agent (for the benefit of the DIP Lenders) shall also be deemed to be the secured party or mortgagee, as applicable, under such documents or to be the loss payee or additional insured, as applicable. The Prepetition Agent shall act as agent for the DIP Secured Parties solely for purposes of perfecting the DIP Secured Parties' liens on all DIP Collateral that, without giving effect to the Bankruptcy Code and the DIP Orders, is of a type such that perfection of a lien therein may be accomplished only by possession or control by a secured party (including any deposit account control agreement), and all of the Prepetition Agent's respective rights in such DIP Collateral shall inure to the benefit of and be exercisable exclusively by the DIP Agent until the Payment in Full (as defined below) of the DIP Obligations in cash; *provided*, that the DIP Agent may, in its sole discretion, require the Debtors and the Prepetition Agent to (and the Debtors and the Prepetition

Agent shall) use commercially reasonable efforts to provide the DIP Agent with such possession or control as is necessary to perfect the DIP Obligations and DIP Liens.

19. Proceeds of Subsequent Financing. If the Debtors, any trustee, any examiner, or any responsible officer subsequently appointed in these Chapter 11 Cases or any Successor Cases, shall obtain credit or incur debt pursuant to Bankruptcy Code sections 364(b), 364(c), or 364(d) in violation of the DIP Documents at any time prior to the indefeasible repayment in full in cash of all DIP Obligations (other than unasserted contingent obligations that expressly survive termination of the DIP Documents) and the termination of the DIP Lenders' obligation to extend credit under the DIP Facility, (with respect to the DIP Obligations, "Payment in Full"), and such facilities are secured by any DIP Collateral, then, after satisfaction of the Carve-Out, and unless otherwise agreed by the DIP Agent, all cash proceeds derived from such credit or debt shall immediately be turned over to the DIP Agent to be distributed in accordance with this Final Order and the DIP Documents. For the avoidance of doubt, if the Debtors, any trustee, any examiner, or any responsible officer subsequently appointed in the Chapter 11 Cases, or any Successor Cases, shall obtain credit or incur debt (other than the DIP Facility) pursuant to Bankruptcy Code section 364(d) in violation of the DIP Documents at any time prior to the indefeasible repayment in full of the Prepetition Secured Obligations (other than unasserted contingent obligations that expressly survive termination of the Prepetition Loan Documents) (with respect to the Prepetition Secured Obligations, "Payment in Full"), the Prepetition Secured Parties' rights to object to the Debtors' use of Cash Collateral and assert a lack of adequate protection shall be fully preserved.

20. Maintenance of DIP Collateral. Until the Payment in Full of the DIP Obligations and the Prepetition Secured Obligations, the Debtors shall: (a) insure the DIP Collateral as required under the DIP Documents or the Prepetition Loan Documents, as applicable;

and (b) maintain the cash management system consistent with the terms and conditions of the Cash Management Order and the DIP Documents.

21. Termination Date. On the applicable Termination Date (defined below), all applicable DIP Obligations shall be immediately due and payable and, all commitments to extend credit under the applicable DIP Facility will terminate.

22. Events of Default. Until the Payment in Full of the DIP Obligations, the occurrence of any of the following events, unless waived by the DIP Lenders in writing (which may be by electronic mail) and in accordance with the terms of the DIP Documents, shall constitute an event of default hereunder (collectively, the “Events of Default”): (a) the failure of the Debtors to perform, in any material respect, any of the terms, provisions, conditions, covenants or obligations under this Final Order, including, without limitation, failure to make any payment under this Final Order when due, and such failure continues for three (3) business days following receipt of written notice thereof by the Debtors from the DIP Agent, or comply with any Milestones (as defined below); (b) the occurrence and continuation of any Events of Default under, and as defined in, the DIP Credit Agreement, or any other DIP Documents; (c) without the prior written consent of the DIP Agent, the entry of an order providing for (i) any modification, stay, vacatur, or amendment to this Final Order, or any other use of Cash Collateral resulting from DIP Collateral or Prepetition Collateral; (ii) a priority claim for any administrative expense or unsecured claim against the Debtors (now existing or hereafter arising of any kind or nature whatsoever, including without limitation any administrative expense of the kind specified in sections 503(b), 506(c), 507(a), or 507(b) of the Bankruptcy Code) in any of the Chapter 11 Cases or Successor Cases, equal or superior to the DIP Superpriority Claims or the Adequate Protection Superpriority Claims, other than the Carve-Out and the Permitted Liens; (iii) any lien on any of the DIP Collateral with

priority equal or superior to the DIP Liens, except as specifically permitted by the DIP Documents;

(iv) without the prior written consent of the Prepetition Agent, any lien on any of the Prepetition Collateral with priority equal to or superior to the Prepetition Liens or Replacement Liens; or (d) the Debtors propose or support any plan of reorganization or sale of all or substantially all of the Debtors' assets, or order confirming such plan or approving such sale, that is not conditioned upon the Payment in Full of the DIP Obligations upon the consummation of such plan or sale.

23. Milestones. As a condition to the DIP Facility and the use of Cash Collateral, the Debtors have agreed to the following milestones (the "Milestones"):

- (a) no later than thirty-nine (39) calendar days after the entry of the Interim Order, entry by the Court of the Final Order;
- (b) no later than fifty (50) calendar days after the Petition Date, the confirmation of a chapter 11 plan;
- (c) no later than sixty-five (65) calendar days after the Petition Date, the effective date of a chapter 11 plan;

For the avoidance of doubt, unless waived by the DIP Lenders in their sole discretion, the failure of the Debtors to meet the Milestones by the applicable specified deadlines set forth therefor shall constitute an Event of Default under the DIP Documents and this Final Order.

24. Rights and Remedies Upon Event of Default. Upon the occurrence and during the continuation of an Event of Default, notwithstanding the provisions of section 362 of the Bankruptcy Code, without any application, motion or notice to, hearing before, or order from the Court, other than as set forth in this Final Order: (a) the DIP Agent (at the direction of the DIP Lenders or as otherwise provided in the DIP Documents) may send a written notice to the Debtors, counsel to the Committee, and the U.S. Trustee (any such declaration shall be referred to herein as a "Termination Declaration") declaring (1) all DIP Obligations owing under the DIP Documents to be immediately due and payable, (2) the commitment of each DIP Lender to make DIP Loans

to be terminated, whereupon such commitments and obligation shall be terminated to the extent any such commitment remains under the DIP Facility, (3) the termination of the DIP Facility and the DIP Documents as to any future liability or obligation of the DIP Secured Parties, but without affecting any of the DIP Liens or the DIP Obligations, and (4) the application of the Carve-Out has occurred following the delivery of the Carve-Out Trigger Notice (as defined below) to the Borrower; (b) interest, including, where applicable, default interest, shall accrue and be paid as set forth in the DIP Documents; and (c) the DIP Agent may declare a termination, reduction, or restriction on the ability of the Debtors to use cash collateral, other than to pay expenses set forth in the Approved Budget that are necessary to avoid immediate and irreparable harm to the Debtors' estates and to assert that no Event of Default has occurred and is continuing. The earliest date on which a Termination Declaration is delivered by the DIP Agent shall be referred to herein as the "Termination Date." Following a Termination Date, neither the DIP Secured Parties nor the Prepetition Secured Parties shall be required to consent to the use of any Cash Collateral or provide any loans or other financial accommodations under the DIP Facility. The Termination Declaration shall be given by electronic mail (or other electronic means) to counsel to the Debtors, counsel to the Committee, and the U.S. Trustee. After the DIP Repayment, the Prepetition Agent shall be entitled to make a Termination Declaration with respect to the foregoing subclause (a)(4) in accordance with the same procedures set forth herein.

25. Emergency Hearing. The Debtors and the Committee may seek an emergency hearing during the five (5) business days following the date a Termination Declaration is delivered (such five (5) business day period, the "Remedies Notice Period"). During the Remedies Notice Period, the Debtors shall continue to have the right to use Cash Collateral in accordance with the terms of this Final Order, solely to pay necessary expenses set forth in the

Approved Budget to avoid immediate and irreparable harm to the Debtors' estates and to assert that no Event of Default has occurred and is continuing.

26. Certain Rights and Remedies Following Termination Date. Following a Termination Date and upon order of the Court upon an emergency motion by the DIP Agent (at the direction of the DIP Lenders) to be heard on no less than five (5) business days' notice (and the Debtors, the Committee, and any other party-in-interest excluding the U.S. Trustee shall not object to such shortened notice) (the "Termination Enforcement Order"), the DIP Agent shall be entitled to exercise all rights and remedies in accordance with the DIP Documents, this Final Order and applicable law.

27. Carve-Out. Each of the DIP Liens, the DIP Superpriority Claims, the Prepetition Liens, the Replacement Liens and the Adequate Protection Superpriority Claims shall be subject and subordinate to payment of the Carve-Out.

(i) "Carve-Out" means the following expenses: (i) all fees required to be paid to the Clerk of the Court and to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a) (without regard to the notice set forth in (iii) below); (ii) all reasonable fees and expenses incurred by a trustee under section 726(b) of the Bankruptcy Code in an amount not exceed \$50,000 (without regard to the notice set forth in (iii) below), which shall not be subject to the Approved Budget or any other budget; (iii) to the extent allowed at any time, whether by interim or final compensation order, procedural order, or otherwise, all (A) unpaid fees and expenses (including any restructuring, sale, success, or other transaction fee of any investment bankers or financial advisors of the Debtors) (the "Allowed Debtor Professional Fees") incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code (the "Debtor Professionals") and (B) unpaid fees and expenses (the "Allowed Committee Professional Fees" and together with the

Allowed Debtor Professional Fees, collectively, the “Allowed Professional Fees”) incurred by persons or firms retained by the Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the “Committee Professionals” and, together with the Debtor Professionals, the “Professional Persons”) at any time before or on the first business day following delivery by the DIP Agent of a Carve Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve-Out Trigger Notice (these clauses (i) through (iii), the “Pre-Carve Out Amounts”); and (iv) Allowed Professional Fees not to exceed \$1,000,000, incurred after the first business day following delivery by the DIP Agent of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, final order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “Post-Carve Out Trigger Notice Cap”), and together with the Pre-Carve Out Amounts, the “Carve-Out Amount”). For purposes of the foregoing, “Carve-Out Trigger Notice” shall mean a written notice delivered by email (or other electronic means) by the DIP Agent to the Debtors, their lead restructuring counsel, the United States Trustee, and counsel to the Committee, which notice may be delivered following the occurrence and during the continuation of an Event of Default and acceleration of the DIP Obligations under the DIP Credit Facility, stating that the Post-Carve Out Trigger Notice Cap has been invoked. No portion of the Carve-Out, any Cash Collateral, any other DIP Collateral, or any proceeds of the DIP Facility, including any disbursements set forth in the Approved Budget or obligations benefitting from the Carve-Out, shall be used for the payment of Allowed Professional Fees, disbursements, costs or expenses incurred by any person, including, without limitation, the Committee, in connection with challenging the DIP Secured Parties’ liens or claims (but not, for the avoidance of doubt, negotiating modifications or preparing objections to the DIP Orders), preventing, hindering or delaying any of the DIP Secured Parties’ enforcement or realization upon

any of the DIP Collateral, or initiating or prosecuting any claim or action against any DIP Secured Party; *provided that*, notwithstanding the foregoing, proceeds from the DIP Facility and/or Cash Collateral not to exceed \$75,000 in the aggregate (the “Investigation Budget Cap”) may be used on account of Allowed Professional Fees incurred by Committee Professionals in connection with the investigation of avoidance actions or any other claims or causes of action (but not the prosecution of such actions) on account of the Prepetition Facility and Prepetition Secured Parties (but not the DIP Facility) (the “Investigation”).

(ii) Carve-Out Reserve. Promptly after the delivery of the Carve Out Trigger Notice, the Debtors shall fund from the DIP Facility or cash on hand into a segregated account (the “Funded Reserve Account”) an amount equal to (i) the aggregate amount of estimated accrued fees of Professional Persons incurred before or on the first business day following delivery by the DIP Agent of a Carve Out Trigger Notice (to the extent not previously funded to the Funded Reserve Account) and (ii) the Post-Carve Out Trigger Notice Cap.

(iii) The Debtors shall use funds held in the Funded Reserve Account exclusively to pay Allowed Professional Fees and other obligations included within the Carve-Out as they become allowed and payable pursuant to the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and any interim or final orders of the Court; *provided that* when all Allowed Professional Fees have been paid in full (regardless of when such Allowed Professional Fees are allowed by the Court) and all other obligations included within the Carve-Out have been paid in full, any funds remaining in the Funded Reserve Account shall revert to DIP Agent for the benefit of the DIP Lenders. Funds transferred to the Funded Reserve Account shall be subject to the DIP Liens, adequate protection liens, and claims granted hereunder to the extent of such

reversionary interest; *provided* that, for the avoidance of doubt, such liens and claims shall be junior in all respects to the Carve-Out.

(iv) Notwithstanding anything to the contrary in this or any other Court order, the Funded Reserve Account and the amounts on deposit in the Funded Reserve Account shall be available and used only to satisfy obligations of Professionals Persons benefitting from the Carve-Out, and the other obligations that are part of the Carve-Out. The failure of the Funded Reserve Account to satisfy Professional Fees in full shall not affect the priority of the Carve-Out; *provided* that, to the extent that the Funded Reserve Account is actually funded, the Carve-Out shall be reduced by such funded amount dollar-for-dollar. In no way shall the Carve-Out, Funded Reserve Account, or DIP Budget be construed as a cap or limitation on the amount of fees required to be paid to the Clerk of the Court and to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a), nor as a cap or limitation on the amount of the Debtor Professional fees or Committee Professional fees due and payable by the Debtors or that may be allowed by the Court at any time (whether by interim order, final order, or otherwise).

(v) Payment of Allowed Professional Fees Prior to the Carve-Out Trigger Declaration Date. Any payment or reimbursement made prior to the occurrence of the Carve-Out Trigger Notice Date in respect of any Allowed Professional Fees shall not reduce the Post-Carve-Out Trigger Notice Cap.

(vi) No Direct Obligation to Pay Professional Fees; No Waiver of Right to Object to Fees. None of the DIP Secured Parties or Prepetition Secured Parties shall be responsible for the direct payment or reimbursement of any fees or disbursements of any of the Professional Persons incurred in connection with the Chapter 11 Cases or any Successor Cases under any chapter of the Bankruptcy Code. Nothing in this Final Order or otherwise shall be construed to

obligate any of the DIP Secured Parties or Prepetition Secured Parties in any way to compensate, or to reimburse expenses of, any of the Professional Persons, or to guarantee that the Debtors or their estates have sufficient funds to pay such compensation or reimbursement. Nothing herein shall be construed as consent to the allowance of any professional fees or expenses of any of the Debtors, the Committee, any other official or unofficial committee in these Chapter 11 Cases or any Successor Cases, or of any other person or entity, or shall affect the right of any party to object to the allowance and payment of any such fees and expenses.

28. Good Faith Under Section 364(e) of the Bankruptcy Code; No Modification or Stay of this Final Order. The DIP Secured Parties and the Prepetition Secured Parties have acted in good faith in connection with this Final Order and are entitled to rely upon the protections granted herein and by section 364(e) of the Bankruptcy Code. Based on the findings set forth in the DIP Orders and the record presented to this Court by the Debtors, and in accordance with section 364(e) of the Bankruptcy Code, in the event any or all of the provisions of this Final Order are hereafter modified, amended or vacated by a subsequent order of this Court or any other court, the DIP Secured Parties and Prepetition Secured Parties are entitled to the protections provided in section 364(e) of the Bankruptcy Code.

29. Approval of DIP Fees. In consideration for the DIP Financing and the consent to the use of Cash Collateral in accordance with the terms of this Final Order, the DIP Secured Parties shall be paid all fees, expenses and other amounts payable under the DIP Documents as such become due, including, without limitation, commitment fees, original issue discounts, extension fees and the reasonable and documented fees and expenses of the DIP Secured Parties in connection with the DIP Facility, without regard to whether or not the transactions contemplated hereby are consummated (all such fees, together, the “DIP Fees”). The DIP Fees

shall be fully earned and payable in accordance with the terms of the DIP Documents, without the need for any further order of this Court. The DIP Fees shall be part of the DIP Obligations.

30. Lender Professionals' Fees. Professionals for the DIP Secured Parties (the "DIP Professionals") and, subject to Paragraph 35 of this Final Order, professionals for the Prepetition Secured Parties ("Prepetition Professionals," and together with the DIP Professionals, the "Lender Professionals") shall not be required to file applications or motions with, or obtain approval of, this Court for compensation and reimbursement of fees and expenses. The Lender Professionals shall submit copies of summary invoices to the Debtors, the U.S. Trustee, and counsel for the Committee. The summary invoices shall provide only the total aggregate number of hours billed and a summary description of services provided and the expenses incurred by the applicable party and/or professionals, and shall be subject to all applicable privilege and work product doctrines. If the Debtors, U.S. Trustee, or the Committee object to the reasonableness of the fees and expenses of any DIP Professional and cannot resolve such objection within ten (10) days after receipt of such invoices, then the Debtors, U.S. Trustee, or the Committee, as the case may be, shall file with this Court and serve on such DIP Professional an objection (the "Fee Objection"), and any failure by any such party to file a Fee Objection within such ten (10) day period shall constitute a waiver of any right of such party to object to the applicable invoice. Notwithstanding any provision herein to the contrary, any objection to payment of any fees, costs, and expenses set forth in a professional fee invoice in respect of the DIP Professionals shall be limited to the reasonableness of the particular items or categories of the fees, costs, and expenses that are the subject of such objection. The Debtors shall timely pay in accordance with the terms and conditions of this Final Order (a) the undisputed fees, costs, and expenses reflected on any invoice to which a Fee Objection has been timely filed and (b) all fees, costs and expenses on any

invoice to which no Fee Objection has been timely filed. For the avoidance of doubt, the payment of fees, costs, and expenses of the Prepetition Professionals hereunder is subject to Paragraph 35.

31. Indemnification. The Debtors shall indemnify and hold harmless the DIP Secured Parties, each of their respective successors, assigns, affiliates, parents, subsidiaries, partners, controlling persons, representatives, agents, attorneys, advisors, financial advisors, consultants, professionals, officers, directors, members, managers, shareholders, and employees past, present, and future, and their respective heirs, predecessors, successors and assigns in accordance with, and subject to, the terms and conditions of the DIP Documents, except to the extent of such party's gross negligence, actual fraud, or willful misconduct as determined in a final order by a court of competent jurisdiction, or as otherwise excluded by the terms and conditions of the DIP Documents.

32. Proofs of Claim. Neither the DIP Secured Parties nor the Prepetition Secured Parties will be required to file proofs of claim in any of the Chapter 11 Cases or Successor Cases for any claim arising under the DIP Documents or the Prepetition Loan Documents. The Debtors' stipulations, admissions, and acknowledgments and the provisions of this Final Order shall be deemed to constitute a timely filed proof of claim for the DIP Secured Parties and the Prepetition Secured Parties with regard to all claims arising under the DIP Documents and the Prepetition Loan Documents, and, as a result, subject to the Challenge Period with respect to the Prepetition Secured Obligations, the DIP Obligations and the Prepetition Secured Obligations shall be deemed allowed for all purposes in accordance with section 502(a) of the Bankruptcy Code.

33. Limitations on Use of DIP Proceeds, Cash Collateral and Carve-Out. Except as otherwise permitted in this Final Order and the Approved Budget (including with respect to the Investigation), the DIP Facility, the DIP Collateral, the Prepetition Collateral, the Cash

Collateral, and the Carve-Out may not be used in connection with: (a) preventing, hindering, or delaying the DIP Secured Parties' or the Prepetition Secured Parties' enforcement or realization upon any of the DIP Collateral or Prepetition Collateral; (b) using or seeking to use Cash Collateral or selling or otherwise disposing of DIP Collateral outside the ordinary course of business in violation of the DIP Documents without the consent of the DIP Agent; (c) outside the ordinary course of business, using or seeking to use any insurance proceeds constituting DIP Collateral without the consent of the DIP Agent; (d) incurring any indebtedness without the prior consent of the DIP Lenders, except to the extent permitted under the DIP Documents; (e) seeking to amend or modify any of the rights granted to the DIP Secured Parties or the Prepetition Secured Parties under this Final Order, the DIP Documents, or the Prepetition Loan Documents, except with the consent of the DIP Agent; (f) objecting to or challenging in any way the DIP Liens, the DIP Obligations, the Prepetition Liens or the Prepetition Secured Obligations, the DIP Collateral (including Cash Collateral) or, as the case may be, Prepetition Collateral, or any other claims or liens, held by or on behalf of any of the DIP Secured Parties or the Prepetition Secured Parties, respectively; (g) asserting, commencing or prosecuting any claims or causes of action whatsoever, including, without limitation, any actions under Chapter 5 of the Bankruptcy Code, applicable state law equivalents, any so-called "lender liability" claims and causes of action or other actions to recover or disgorge payments against the DIP Secured Parties, the Prepetition Secured Parties, or any of their respective affiliates, successors and assigns and the partners, shareholders, controlling persons, directors, officers, employees, agents, attorneys, advisors, and professionals); (h) litigating, objecting to, challenging, contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of any of the DIP Obligations, the DIP Liens, the Prepetition Liens, the Prepetition Secured Obligations, or any other rights or

interests of the DIP Secured Parties or the Prepetition Secured Parties; or (i) seeking to subordinate, recharacterize, disallow or avoid the DIP Obligations or the Prepetition Secured Obligations; *provided, however* that the foregoing limitation shall not apply to (a) the preparation of the Committee's objection to the DIP Motion, (b) negotiating the terms of this Final Order, or (c) other actions undertaken by the Committee that are not directly related to the foregoing actions listed in clauses (a) through (i) above; *provided further, however* that nothing set forth in this Final Order shall limit or impair the right of Professional Persons to seek payment of any fees and expenses incurred in connection with the foregoing as an administrative claim.

34. Turn Over. If, prior to the Payment in Full of all DIP Obligations, any Prepetition Secured Party receives or is paid the proceeds of any DIP Collateral or receives any other payment or consideration from the Debtors or any other source (including under any chapter 11 plan) other than as expressly permitted in the DIP Documents and this Final Order, such party shall be deemed to have received, and shall hold, such proceeds or payments in trust for the DIP Secured Parties and shall immediately turn over such amounts to the DIP Agent for application in accordance with the DIP Documents and this Final Order.

35. Effect of Stipulations on Third Parties. The Debtors' Stipulations contained in paragraph G and releases in paragraph H hereof shall be binding in all circumstances upon the Debtors and their estates. The Debtors' Stipulations contained in paragraph G and releases in paragraph H hereof shall be binding upon each other party-in-interest, including the Committee (and including any chapter 11 trustee or if the Chapter 11 Cases are converted to cases under chapter 7 prior to the expiration of the Challenge Period (as defined below), the chapter 7 trustee in such Successor Case), except to the extent such party in interest *first* obtains standing, by no later than the earlier of (x) the deadline to object to confirmation of a chapter 11 plan, provided

that the effective date of any such plan occurs in accordance with the Milestones (as may be extended from time to time in accordance with the DIP Credit Agreement or this Final Order), and (y) seventy-five (75) calendar days following the date of entry of the Interim Order, (such time period established by the earlier of clauses (x) and (y) shall be referred to as the “Challenge Period,” and the date that is the next calendar day after the termination of the Challenge Period in the event that either (i) no Challenge (as defined below) is properly raised during the Challenge Period or (ii) with respect only to those parties who properly file a contested matter, adversary proceeding, or other matter challenging or otherwise objecting to the admissions, stipulations, findings, or releases included in the Debtors’ Stipulations (each, a “Challenge”), such Challenge is fully and finally adjudicated, (i) and (ii) shall be referred to as the “Challenge Period Termination Date”) and *second*, obtains a final, non-appealable order in favor of such party-in-interest sustaining any such Challenge in any such timely-filed contested matter, adversary proceeding, or other action (any such Challenge timely brought for which such a final and non-appealable order is so obtained, a “Successful Challenge”); *provided, however*, that the Challenge Period solely with respect to the Committee shall be tolled until the earlier of (x) the effective date of a chapter 11 plan incorporating the terms of the Committee Settlement, or (y) June 22, 2021, if the effective date of the plan does not occur by June 15, 2021, unless otherwise extended in writing by the Settling Parties. If during the Challenge Period, the Committee or other party in interest files a motion for standing with a draft complaint identifying and describing all Challenge(s) consistent with applicable law and rules of procedure, the Challenge Period will be tolled for the Committee or other party in interest solely with respect to the Challenge(s) asserted in the draft complaint until three (3) business days from the entry of an order granting the motion for standing to prosecute such Challenge(s) described in the draft complaint and permitted by the Court. If standing is

denied by the Court, the Challenge Period shall be deemed to have expired with respect to such Challenge(s). If the Chapter 11 Cases are converted to cases under chapter 7 or if a chapter 11 trustee is appointed, in each case prior to the expiration of the Challenge Period, the Challenge Period for the chapter 7 trustee or such chapter 11 trustee, as applicable, shall be extended until the later of (i) the occurrence of the Challenge Period Termination Date as described above, or (ii) 30 days after the appointment of such chapter 7 trustee or chapter 11 trustee, without prejudice to the right such chapter 7 trustee or chapter 11 trustee to seek a further extension of the Challenge Period from the Court. Except as otherwise expressly provided herein, from and after the Challenge Period Termination Date and for all purposes in these Chapter 11 Cases and any Successor Cases (and after the dismissal of these Chapter 11 Cases or any Successor Cases), and without further notice, motion, or application to, order of, or hearing before this Court, (i) any and all payments made to or for the benefit of the Prepetition Secured Parties or otherwise authorized by this Final Order (whether made prior to, on, or after the Petition Date) shall be indefeasible and not be subject to counterclaim, set-off, subordination, recharacterization, defense, disallowance, recovery or avoidance by any party in interest, (ii) any and all such Challenges by any party-in-interest shall be deemed to be forever released, waived, and barred, (iii) all of the Prepetition Secured Obligations shall be deemed to be fully allowed claims within the meaning of section 506 of the Bankruptcy Code, and (iv) the Debtors' Stipulations shall be binding on all parties in interest in these Chapter 11 Cases or any Successor Cases, including the Committee or chapter 11 or chapter 7 trustee. Notwithstanding the foregoing, to the extent any Challenge is timely asserted, the Debtors' Stipulations and the other provisions in clauses (i) through (iv) in the immediately preceding sentence shall nonetheless remain binding and preclusive on the Committee and on any other party-in-interest from and after the Challenge Period Termination Date, except to the extent

that such Debtors' Stipulations or the other provisions in clauses (i) through (iv) of the immediately preceding sentence were expressly challenged in such Challenge and such Challenge becomes a Successful Challenge; *provided* that all other stipulations (other than those subject to a successful Challenge) shall remain binding on the Committee or other party-in-interest. Notwithstanding any provision to the contrary herein, nothing in this Final Order shall be construed to grant standing on any party in interest, including the Committee, to bring any Challenge on behalf of the Debtors' estates. The failure of any party-in-interest, including the Committee, to obtain an order of this Court prior to the Challenge Period Termination Date granting standing to bring any Challenge on behalf of the Debtors' estates shall not be a defense to failing to commence a Challenge prior to the Challenge Period Termination Date as required under this Paragraph 35 or to require or permit an extension of the Challenge Period Termination Date. The Prepetition Secured Parties stipulate and agree that each of the Prepetition Secured Parties will not raise as a defense in connection with any Challenge the ability of creditors to file derivative suits on behalf of limited liability companies under the Delaware Limited Liability Company Act.

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

37. No Lender Liability. In determining to make any loan (whether under the DIP Documents or otherwise) or to permit the use of Cash Collateral, none of the DIP Secured Parties shall owe any fiduciary duty to the Debtors, their respective creditors, shareholders, or estates. Furthermore, nothing in this Final Order shall in any way be construed or interpreted to impose or allow the imposition upon any of the DIP Secured Parties or the Prepetition Secured

Parties of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors and their respective affiliates (as defined in section 101(2) of the Bankruptcy Code).

38. Section 506(c) Claims. As a further condition of the DIP Facility and any obligation of the DIP Lenders to make credit extensions pursuant to the DIP Documents (and the consent of the DIP Secured Parties to the payment of the Carve-Out to the extent provided herein and the consent of the Prepetition Secured Parties of the priming of the Prepetition Liens by the DIP Facility and the use of Cash Collateral), (a) no costs or expenses of administration of the Chapter 11 Cases or any Successor Cases shall be charged against or recovered from or against any or all of the DIP Secured Parties or the Prepetition Secured Parties with respect to the DIP Collateral or the Prepetition Collateral, in each case pursuant to section 105 or section 506(c) of the Bankruptcy Code or otherwise, without the prior written consent of the DIP Secured Parties or the Prepetition Secured Parties, as applicable and (b) no such consent shall be implied from any other action, inaction, or acquiescence of any or all of the DIP Secured Parties or the Prepetition Secured Parties.

39. No Marshaling. The DIP Secured Parties and the Prepetition Secured Parties shall not be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the DIP Collateral or the Prepetition Collateral, as applicable.

40. Section 552(b). The DIP Secured Parties and the Prepetition Secured Parties shall each be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and the “equities of the case” exception under section 552(b) of the Bankruptcy Code shall not apply to the DIP Secured Parties or the Prepetition Secured Parties, as applicable with respect to proceeds, product, offspring or profits of any of the Prepetition Collateral or DIP Collateral, as applicable.

41. Limitation on Liability. Nothing in this Final Order or the DIP Documents shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Secured Parties or Prepetition Secured Parties of any liability for any claims arising from the prepetition or postpetition activities of the Debtors, including with respect to the operation of their businesses, in connection with their restructuring efforts or administration of these Chapter 11 Cases.

42. Release of DIP Secured Parties. The Debtors, on their own behalf and their estates, forever and irrevocably: (i) release, discharge, and acquit each of the DIP Secured Parties and each of their former or current officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates, and predecessors-in-interest, in each case solely in their capacity as such, of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, of every type, including, without limitation, any so-called “lender liability” or equitable subordination claims or defenses, solely with respect to or relating to the negotiation of and entry into the DIP Documents; and (ii) waive, discharge and release any and all defenses (including, without limitation, offsets and counterclaims of any nature or kind) as to the validity, perfection, priority, enforceability, and avoidability of the DIP Liens and the DIP Obligations.

43. Insurance Proceeds and Policies. As of the date of entry of the Interim Order, and as ratified by this Final Order, and to the fullest extent provided by applicable law, the DIP Agent (for the benefit of the DIP Lenders), shall be, and shall be deemed to be, without any further action or notice, named as additional insured and loss payee on each insurance policy maintained by the Debtors that in any way relates to the DIP Collateral.

44. No Waiver by Failure to Seek Relief. The failure of the DIP Secured Parties or Prepetition Secured Parties to seek relief or otherwise exercise their rights and remedies under this Final Order, the DIP Documents, the Prepetition Loan Documents or applicable law, as the case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise.

45. Binding Effect of Final Order. Immediately upon entry of this Final Order by this Court, the terms and provisions of this Final Order shall become valid and binding upon and inure to the benefit of the Debtors, the DIP Secured Parties, the Prepetition Secured Parties, all other creditors of any of the Debtors, the Committee (or any other court appointed committee) appointed in the Chapter 11 Cases, and all other parties-in-interest and their respective successors and assigns, including any trustee or other fiduciary hereafter appointed in any of the Chapter 11 Cases, any Successor Cases, or upon dismissal of any Chapter 11 Case or Successor Case.

46. Discharge. Except as otherwise agreed in writing by the DIP Agent or the Prepetition Agent, as applicable, the DIP Obligations and the obligations of the Debtors with respect to the adequate protection provided herein shall not be discharged by the entry of an order confirming any plan of reorganization in any of the Chapter 11 Cases, notwithstanding the provisions of section 1141(d) of the Bankruptcy Code, unless such obligations have been indefeasibly paid in full in cash (and, in the case of DIP Obligations, Paid in Full), on or before the effective date of such confirmed plan of reorganization.

47. Joint and Several. The Debtors are jointly and severally liable for the DIP Obligations and all other obligations hereunder.

48. Survival. The provisions of this Final Order and any actions taken pursuant hereto shall survive entry of any order which may be entered: (a) confirming any plan of reorganization in any of the Chapter 11 Cases; (b) converting any of the Chapter 11 Cases to a case

under Chapter 7 of the Bankruptcy Code; (c) dismissing any of the Chapter 11 Cases or any Successor Cases; or (d) pursuant to which this Court abstains from hearing any of the Chapter 11 Cases or Successor Cases. The terms and provisions of this Final Order, including the claims, liens, security interests and other protections granted to the DIP Secured Parties and the Prepetition Secured Parties pursuant to this Final Order and the DIP Documents, shall continue in the Chapter 11 Cases, in any Successor Cases, or following dismissal of the Chapter 11 Cases or any Successor Cases, and shall maintain their priority as provided by this Final Order until: (i) in respect of the DIP Facility, all the DIP Obligations, pursuant to the DIP Documents and this Final Order, have been Paid in Full (such payment being without prejudice to any terms or provisions contained in the DIP Facility which survive such discharge by their terms); and (ii) in respect of the Prepetition Facility, subject to Paragraph 35 of this Final Order, all of the Prepetition Secured Obligations pursuant to the Prepetition Loan Documents and this Final Order, have been Paid in Full. The terms and provisions concerning the indemnification of the DIP Secured Parties shall continue in the Chapter 11 Cases, in any Successor Cases, following dismissal of the Chapter 11 Cases or any Successor Cases, following termination of the DIP Documents and/or the indefeasible repayment of the DIP Obligations. In addition, the terms and provisions of this Final Order shall continue in full force and effect for the benefit of the Prepetition Secured Parties notwithstanding the repayment in full or termination of the DIP Obligations until the Payment in Full of the Prepetition Secured Obligations, subject to Paragraph 35 of this Final Order.

49. The Interim Order. Except as specifically amended, supplemented, or otherwise modified hereby, all of the provisions of the Interim Order shall remain in full effect and are hereby ratified by this Final Order. In the event of any inconsistency between the terms of this Final Order and the terms of the Interim Order, the terms of this Final Order shall govern.

50. Necessary Action. The Debtors are authorized to take any and all such actions and to make, execute and deliver any and all instruments as may be reasonably necessary to implement the terms and conditions of this Final Order and the transactions contemplated hereby.

51. Enforceability. This Final Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable immediately upon entry thereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062 or 9014 of the Bankruptcy Rules, any applicable Local Bankruptcy Rules, or Rule 62(a) of the Federal Rules of Civil Procedure, this Final Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Final Order.

52. Headings. The headings in this Final Order are for purposes of reference only and shall not limit or otherwise affect the meaning of this Final Order.

53. Retention of Jurisdiction. This Court has and will retain jurisdiction to enforce this Final Order according to its terms.

Dated: May 14th, 2021
Wilmington, Delaware


LAURIE SELBER SILVERSTEIN
49 UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

DIP Credit Agreement

SENIOR SECURED SUPERPRIORITY PRIMING DEBTOR-IN-POSSESSION
CREDIT AGREEMENT

dated as of

April [6], 2021

among

THE COLLECTED GROUP, LLC,
a Debtor and Debtor in Possession under Chapter 11 of the Bankruptcy Code,
as Holdings and as a Guarantor,

THE COLLECTED GROUP COMPANY, LLC,
a Debtor and Debtor in Possession under Chapter 11 of the Bankruptcy Code,
as the Borrower,

CERTAIN SUBSIDIARIES OF THE COLLECTED GROUP COMPANY, LLC
FROM TIME TO TIME PARTY HERETO,
each a Debtor and Debtor in Possession under Chapter 11 of the Bankruptcy Code,
as Guarantors,

KKR LOAN ADMINISTRATION SERVICES LLC,
as Administrative Agent,

and

THE OTHER LENDERS PARTY HERETO

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**SENIOR SECURED SUPERPRIORITY PRIMING DEBTOR-IN-POSSESSION CREDIT
AGREEMENT**

This SENIOR SECURED SUPERPRIORITY PRIMING DEBTOR-IN-POSSESSION CREDIT AGREEMENT is entered into as of April [6], 2021 (this “Agreement”), among THE COLLECTED GROUP, LLC, a Delaware limited liability company and a Debtor and debtor in possession under Chapter 11 of the Bankruptcy Code (the “Holdings” or a “Guarantor”), THE COLLECTED GROUP COMPANY, LLC, a California limited liability company and a Debtor and debtor in possession under Chapter 11 of the Bankruptcy Code (the “Borrower”), certain Subsidiaries of the Borrower from time to time party hereto, each a Debtor and debtor in possession under Chapter 11 of the Bankruptcy Code, as Guarantors, the Lenders from time to time party hereto and KKR LOAN ADMINISTRATION SERVICES LLC, as Administrative Agent (the “Administrative Agent”).

RECITALS

WHEREAS, on April [5], 2021 (the “Petition Date”), the Borrower, Holdings and the other Guarantors each filed voluntary petitions with the Bankruptcy Court commencing their respective cases that are pending under Chapter 11 of the Bankruptcy Code (each a “Case” and collectively, the “Cases”) and have continued in the possession of their assets and in the management of their business as debtors in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code;

WHEREAS, the Borrower has requested that the Lenders provide it with a super-priority senior secured priming debtor-in-possession term loan facility in an aggregate principal amount equal to \$9,200,000 (the “Credit Facility”), subject to the conditions set forth herein, the proceeds of which facility will be used in accordance with Section 3.17 herewith. The Lenders are willing to extend such credit to the Borrower on the terms and subject to the conditions set forth herein;

WHEREAS, the Borrower desires to secure all of its obligations under the Loan Documents by granting to the Administrative Agent, for the benefit of the Secured Parties, a security interest in and Lien upon substantially all of its property, as provided herein, in the Security Documents and in the DIP Orders;

WHEREAS, subject to the terms hereof, the Guarantors party hereto shall guaranty all of the Borrower’s obligations under the Credit Facility and shall grant to the Administrative Agent, for the benefit of the Secured Parties, a security interest in and Lien upon substantially all of its property, in each case, as provided herein, in the Security Documents, and in the DIP Orders;

WHEREAS, the respective priorities of the Credit Facility and the other Loan Document Obligations with respect to the DIP Collateral shall be as set forth in the Interim Order and the Final Order, in each case upon entry thereof by the Bankruptcy Court, and in the Security Documents;

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

ARTICLE I

Definitions

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

“ABR” when used in reference to any Loan or Borrowing, refers to whether such Loan or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

“Acceptable Confirmation Order” shall mean an order of the Bankruptcy Court confirming an Acceptable Plan that is in form and substance satisfactory to the Required Lenders and the Loan Parties in their reasonable discretion (as the same may be amended, supplemented, or modified from time to time after entry thereof with the consent of the Required Lenders in their reasonable discretion).

“Acceptable Plan” shall mean a Reorganization Plan that is satisfactory to the Required Lenders (and, with respect to those provisions thereof that affect the rights, obligations, liabilities and duties of the Administrative Agent, to the Administrative Agent) and the Loan Parties in their reasonable discretion (as the same may be amended, supplemented, or modified from time to time after entry thereof with the consent of the Required Lenders (and, with respect to those provisions thereof that affect the rights, obligations, liabilities and duties of the Administrative Agent, to the Administrative Agent) in their reasonable discretion); it being agreed that each of (i) the Chapter 11 plan (the “Plan”) filed by the Debtors on the Petition Date with the consent of the Required Lenders, and (ii) any other Chapter 11 plan that provides for the Payment in Full of the Loan Document Obligations substantially concurrently with the effective date thereof shall be deemed to be an Acceptable Plan.

“Adjusted Eurodollar Rate” means, with respect to any Eurodollar Borrowing denominated in dollars for any Interest Period, an interest rate per annum equal to (i) the Eurodollar Rate for such Interest Period multiplied by (ii) the Statutory Reserve Rate.

“Administrative Agent” means KKR Loan Administration Services LLC, in its capacity as administrative agent and collateral agent hereunder and under the other Loan Documents, and its successors in such capacity as provided in Article VIII.

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 9.01 or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

“Administrative Questionnaire” means an administrative questionnaire in a form supplied by the Administrative Agent.

“Affiliate” means, with respect to a specified Person, another Person that directly or indirectly Controls or is Controlled by or is under common Control with the Person specified. Notwithstanding anything herein to the contrary, no Lender as of the Closing Date (or its Affiliates and its or their managed funds and accounts thereof) shall be or be deemed to be an Affiliate of the Borrower.

“Agent Parties” has the meaning given to such term in Section 10.01(c).

“Agreement” has the meaning given to such term in the preliminary statements hereto.

“Agreement Currency” has the meaning assigned to such term in Section 10.15(b).

“Alternate Base Rate” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1.00% and (c) the Adjusted Eurodollar Rate in effect on such day for a one-month Interest Period commencing on the second Business Day prior to such day plus 1.00%; and, if the Alternate Base Rate shall be less than 2.00% per annum, such rate shall be deemed to be 2.00% per annum for purposes of this

Agreement. If for any reason the Administrative Agent shall have determined (which determination shall be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Effective Rate or the Adjusted Eurodollar Rate for any reason, including the inability or failure of the Administrative Agent to obtain sufficient quotations in accordance with the terms of the definition thereof, the Alternate Base Rate shall be determined without regard to clause (b) or (c) of the preceding sentence until the circumstances giving rise to such inability no longer exist. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted Eurodollar Rate shall be effective on the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted Eurodollar Rate, respectively. Notwithstanding the foregoing, the Alternate Base Rate for any Term Loan will be deemed to be 2.00% per annum if the Alternate Base Rate for such Term Loan calculated pursuant to the foregoing provisions would otherwise be less than 2.00% per annum.

“Applicable Creditor” has the meaning assigned to such term in Section 10.15(b).

“Applicable Rate” means, for any day, with respect to any Term Loans, a percentage per annum equal to 10.00%.

“Approved Bank” has the meaning assigned to such term in the definition of the term “Permitted Investments.”

“Approved DIP Budget” has means, as of any date of determination, the Updated Budget then in effect pursuant to Section 5.01(d), or, if no Updated Budget has become the Approved DIP Budget pursuant to Section 5.01(d), the Initial Budget.

“Approved Fund” means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or investing in commercial loans and similar extensions of credit in the ordinary course of its activities and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any Person whose consent is required by Section 10.04), substantially in the form of Exhibit A or any other form reasonably approved by the Administrative Agent.

“Avoidance Action” has the meaning specified in the Interim Order or the Final Order, as applicable.

“Bankruptcy Code” shall mean Title 11 of the United States Code entitled “Bankruptcy,” as now and hereafter in effect, or any successor thereto.

“Bankruptcy Court” shall mean the United States Bankruptcy Court for the District of Delaware, or any other court having jurisdiction over the Cases from time to time.

“Bankruptcy Rules” shall mean the Federal Rules of Bankruptcy Procedure, as the same may from time to time be in effect and applicable to the Cases.

“Beneficial Ownership Certification” means a certification requested by any Lender regarding beneficial ownership required by the Beneficial Ownership Regulation.

“Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.

“Board of Directors” means, with respect to any Person, (a) in the case of any corporation, the board of directors of such Person or any committee thereof duly authorized to act on behalf of such board, (b) in the case of any limited liability company, the board of managers or sole manager of such Person or the board of directors or board of managers or sole manager of the member of such Person if such Person has only one member, (c) in the case of any partnership, the board of directors or board of managers of the general partner of such Person and (d) in any other case, the functional equivalent of the foregoing.

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

“Borrower” has the meaning given to such term in the preliminary statements hereto.

“Borrower Materials” has the meaning assigned to such term in Section 5.01.

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

“Borrowing Minimum” means, unless otherwise specified herein or agreed or required by the Administrative Agent: (a) in the case of a Eurodollar Borrowing, \$1,000,000 and (b) in the case of an ABR Borrowing, \$500,000, or, in each case if less, the remaining amount of the Term Loan Commitment.

“Borrowing Multiple” means, unless otherwise specified herein or agreed or required by the Administrative Agent: (a) in the case of a Eurodollar Borrowing, \$100,000 and (b) in the case of an ABR Borrowing, \$100,000, or, in each case if less, the remaining amount of the Term Loan Commitment.

“Borrowing Request” means a request by the Borrower for a Borrowing in accordance with Section 2.03, which shall be substantially in the form of Exhibit I or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the Borrower.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, New York City and, if such day relates to any Eurodollar Loan, means any such day that is also a London Banking Day.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as Capital Leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP. For purposes of Section 6.02, a Capital Lease Obligation shall be deemed to be secured by a Lien on the property being leased and such property shall be deemed to be owned by the lessee.

“Capital Leases” means all leases that have been or should be, in accordance with GAAP, recorded as capitalized or capital leases.

“Carve-Out” has the meaning specified in the Interim Order or the Final Order, as applicable.

“Case” has the meaning given to such term in the preliminary statements hereto.

“Casualty Event” means any event that gives rise to the receipt by Holdings, the Borrower or any Restricted Subsidiary of any casualty insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.

“Change in Control” means:

(a) the failure of Holdings, directly or indirectly (through one or more Intermediate Parents), to own all of the Equity Interests of the Borrower; or

(b) at any time, the occupation of a majority of the seats (other than vacant seats) on the Board of Directors of Holdings or the Borrower by Persons who were neither (i) nominated, designated or approved by the Board of Directors of Holdings or the Borrower, as applicable, or the Lenders as of the Closing Date nor (ii) appointed by directors so nominated, designated or approved.

“Change in Law” means the occurrence, after the Closing Date, of any of the following:

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

“CIT” means The CIT Group/Commercial Services, Inc.

“CIT Factoring Agreement” means that certain Factoring Agreement dated as of December 28, 2012 between the Borrower and CIT, as amended or otherwise modified.

“CIT Intercreditor Agreement” means any intercreditor agreement or arrangements (including, without limitation, pursuant to applicable provisions of the Orders) between the Lenders (or the Administrative Agent on their behalf) and CIT, on terms substantially similar to that certain intercreditor agreement dated as December 28, 2012 by and among the Borrower, the Prepetition Agent and CIT, as amended or otherwise modified, or other terms reasonably acceptable to the Required Lenders.

“Closing Date” shall have the meaning assigned to such term in Section 4.01.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Collateral” means any and all assets of any Loan Party, whether real or personal, tangible or intangible, pledged or purported to be pledged as collateral security for the Secured Obligations pursuant to DIP Orders, the Security Documents or otherwise, and all other property of any Loan Party that is now or hereafter in the possession or control of any member of the Lenders, or on which any Lender has been granted a Lien (or upon which a Lien has been purported to have been granted) by any Loan Party.

“Collateral Agreement” means a customary collateral and security agreement among the Borrower, each other Loan Party and the Administrative Agent, substantially in the form to be mutually agreed between the Loan Parties and the Collateral Agent.

“Collateral and Guarantee Requirement” means, at any time, the requirement that:

(a) the Administrative Agent shall have received from Holdings, the Borrower, each Intermediate Parent and each Restricted Subsidiary (other than an Excluded Subsidiary) (x) a counterpart of the Collateral Agreement duly executed and delivered on behalf of such Person to the extent required (as determined by the Collateral Agent) and/or (y) in the case of any Person that becomes a Loan Party after the Closing Date (including by ceasing to be an Excluded Subsidiary), a supplement to this Agreement to join as a Guarantor (in form and substance satisfactory to the Administrative Agent) and, if required, the Collateral Agreement, in the form specified therein, duly executed and delivered on behalf of such Person, in each case under this clause (a) together with, in the case of any such Loan Documents executed and delivered after the Closing Date, at the reasonable request of the Administrative Agent, board resolutions, officers’ certificates and opinions of the type referred to in Section 4.01(d) (other than changes to such legal opinions resulting from a change in law, change in fact or change to counsel’s form of opinion reasonably satisfactory to the Administrative Agent);

(b) all outstanding Equity Interests of the Borrower, each Intermediate Parent and each Restricted Subsidiary (other than any Equity Interests constituting Excluded Assets) owned by or on behalf of any Loan Party, shall have been pledged pursuant to the Collateral Agreement and the Orders, and the Administrative Agent shall have received certificates or other instruments representing all such Equity Interests, together with undated stock powers or other instruments of transfer with respect thereto endorsed in blank;

(c) if any Indebtedness for borrowed money of Holdings, the Borrower, any Intermediate Parent or any Restricted Subsidiary in a principal amount of \$100,000 or more is owing by such obligor to any Loan Party, such Indebtedness shall be evidenced by a promissory note that shall have been pledged pursuant to the Collateral Agreement, and the Administrative Agent shall have received all such promissory notes, together with undated instruments of transfer with respect thereto endorsed in blank; and

(d) all certificates, agreements, documents and instruments, including Uniform Commercial Code financing statements, required by the Security Documents, Requirements of Law or reasonably requested by the Administrative Agent to be filed, delivered, registered or recorded to create the Liens intended to be created by the Security Documents and perfect such Liens to the extent required by, and with the priority required by, the Security Documents and the other provisions of the term “Collateral and Guarantee Requirement”, shall have been filed, registered or recorded or delivered to the Administrative Agent for filing, registration or recording.

Notwithstanding the foregoing provisions of this definition or anything in this Agreement or any other Loan Document to the contrary, (a) the foregoing provisions of this definition shall not require the creation or perfection of pledges of or security interests in, or the obtaining of legal opinions or other deliverables with respect to, particular assets of the Loan Parties, or the provision of Guarantees by any Restricted Subsidiary, if, and for so long as the Administrative Agent reasonably agrees with the Borrower that, the cost of creating or perfecting such pledges or security interests in such assets, or obtaining such legal opinions or other deliverables in respect of such assets, or providing such Guarantees (taking into account any material adverse tax consequences to Holdings and its Affiliates (including the imposition of withholding or other material taxes)), shall be excessive in view of the benefits to be obtained by the Lenders therefrom, (b) Liens

required to be granted from time to time pursuant to the term “Collateral and Guarantee Requirement” shall be subject to exceptions and limitations set forth in the Security Documents, (c) no action to perfect a security interest in motor vehicles and other assets subject to certificates of title shall be required other than the filing of a financing statement under the Uniform Commercial Code, (d) in no event shall any Loan Party be required to enter into any collateral documentation governed by the laws of any non-U.S. jurisdiction, and (e) in no event shall the Collateral include any Excluded Assets to the extent, and for so long as, such property constitutes Excluded Assets. The Administrative Agent may grant extensions of time for the creation and perfection of security interests in or the obtaining of legal opinions or other deliverables with respect to particular assets or the provision of any Guarantee by any Restricted Subsidiary (including extensions beyond the Closing Date or in connection with assets acquired, or Restricted Subsidiaries formed or acquired, after the Closing Date) where it determines that such action cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required to be accomplished by this Agreement or the Security Documents.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*) as amended or otherwise modified, and any successor statute.

“Compliance Certificate” means a Compliance Certificate required to be delivered pursuant to Section 5.01(c) substantially in the form attached hereto as Exhibit K.

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

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

“Credit Facility” has the meaning given to such term in the preliminary statements hereto.

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

“Debtors” shall mean the Borrower, Holdings, and any Subsidiary thereof that shall be a debtor in the Cases.

“Declining Lender” has the meaning given to such term in Section 2.10(f).

“Default” means any event or condition that constitutes an Event of Default or that upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Defaulting Lender” means, subject to Section 2.21(b), any Lender that (a) has failed to perform any of its funding obligations hereunder, including in respect of its Loans, within one Business Day of the date required to be funded by it hereunder, (b) has notified the Borrower or the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement or provided any written notification to any Person to that effect with respect to its funding obligations hereunder or generally under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by the Administrative Agent (whether acting on its own behalf or at the reasonable request of the Borrower (it being understood that the Administrative Agent shall comply with

any such reasonable request)), to confirm in a manner satisfactory to the Administrative Agent and the Borrower that it will comply with its funding obligations, or (d) has, or has a direct or indirect parent company that has, on or after the Closing Date, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, or (iii) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment, unless, in the case of this clause (d), the Borrower and the Administrative Agent are each reasonably satisfied that such Lender will remain capable of performing its obligations hereunder; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.21(b)) as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to the Borrower and each other Lender promptly following such determination.

“Designated Jurisdiction” means any country or territory to the extent that such country or territory is the subject of any Sanction.

“DIP Collateral” shall have the meaning assigned to such term in Section 2.19.

“DIP Orders” means the Interim Order and the Final Order, as applicable, based on which such order is then in effect.

“DIP Proceeds Account” shall mean a deposit account of the Borrower with [Bank of America, N.A.], with an account number ending with the last four digits of [9593]¹.

“DIP Superpriority Claims” has the meaning specified in the Interim Order or the Final Order, as applicable.

“Disposition” means any sale, license, transfer or other disposition (including (x) pursuant to a sale and leaseback transaction and (y) by way of merger or consolidation) of any property or asset of Holdings, the Borrower or any of the Restricted Subsidiaries (including any Equity Interest) to a Person that is not a Loan Party, or any issuance by any Restricted Subsidiary of any additional Equity Interests in such Restricted Subsidiary after the Closing Date (other than issuing directors’ qualifying shares, nominal shares issued to foreign nationals to the extent required by applicable Requirements of Law or any issuance of such Equity Interests to Holdings, the Borrower or a Restricted Subsidiary in compliance with Section 6.04(c)), other than any such disposition (a) of property acquired in the ordinary course of business that is obsolete, worn out or no longer used or useful in the conduct of the business of Holdings and its Restricted Subsidiaries (including the abandonment of registered Intellectual Property), (b) of inventory and immaterial assets in the ordinary course of business or (c) resulting in aggregate Net Proceeds not exceeding \$1,000,000 in the case of any single transaction or series of related transactions and \$2,000,000 for all such transactions during any fiscal year of Holdings; provided, however, that (x) in the event Holdings and its Restricted Subsidiaries do not use the entire exemption amount in any fiscal year, the unused amount shall

¹ To be updated to reflect the account where proceeds are wired on closing date and final order date.

be deemed carried forward and added to the applicable exemption amount for the succeeding fiscal year and (y) any sale, transfer or other disposition to a Restricted Subsidiary permitted by Section 6.05 (other than under clause (f), (j) or (o) thereof) shall not count against the foregoing exemption amounts.

“Disqualified Equity Interest” means, with respect to any Person, any Equity Interest in such Person that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable, either mandatorily or at the option of the holder thereof), or upon the happening of any event or condition:

(a) matures or is mandatorily redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests), whether pursuant to a sinking fund obligation or otherwise;

(b) is convertible or exchangeable, either mandatorily or at the option of the holder thereof, for Indebtedness or Equity Interests (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests); or

(c) is redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests) or is required to be repurchased by such Person or any of its Affiliates, in whole or in part, at the option of the holder thereof;

in each case, on or prior to the date that is 91 days after the Latest Maturity Date; provided, however, that (i) an Equity Interest in any Person that would not constitute a Disqualified Equity Interest but for terms thereof giving holders thereof the right to require such Person to redeem or purchase such Equity Interest upon the occurrence of an “asset sale”, “casualty or condemnation event” or a “change of control” shall not constitute a Disqualified Equity Interest if any such requirement becomes operative only after the Loan Document Obligations are Paid in Full and (ii) if an Equity Interest in any Person is issued pursuant to any plan for the benefit of employees of Holdings (or any direct or indirect parent thereof) or any of its Restricted Subsidiaries or by any such plan to such employees, such Equity Interest shall not constitute a Disqualified Equity Interest solely because it may be required to be repurchased by Holdings (or any direct or indirect parent company thereof) or any of its Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations of such Person.

“dollars” or “\$” refers to lawful money of the United States of America.

“Eligible Assignee” means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund and (d) any other Person (other than Holdings or any of its Subsidiaries), other than, in each case, (x) a natural person or (y) any Person that is an Affiliate of the Borrower.

“Environmental Laws” means all applicable treaties, rules, regulations, codes, ordinances, judgments, orders, decrees and other applicable Requirements of Law, and all applicable and injunctions or binding agreements issued, promulgated or entered into by or with any Governmental Authority, in each instance relating to the protection of the environment, to preservation or reclamation of natural resources, to Release or threatened Release of any Hazardous Material or to the extent relating to exposure to Hazardous Materials, to health or safety matters.

“Environmental Liability” means any liability, obligation, loss, claim, action, order or cost, contingent or otherwise (including any liability for damages, costs of medical monitoring, costs of environmental remediation or restoration, administrative oversight costs, consultants’ fees, fines, penalties

and indemnities), of Holdings, the Borrower or any Restricted Subsidiary resulting from or based upon (a) any actual or alleged violation of any Environmental Law or permit, license or approval issued thereunder, (b) Environmental Laws and the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release or threatened Release of any Hazardous Materials or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person.

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

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with a Loan Party, is treated as a single employer under Section 414(b) or 414(c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is also treated as a single employer under Section 414(m) and (o) of the Code.

“ERISA Event” means (a) a “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to an ERISA Plan (other than an event for which notice is waived); (b) the failure by any ERISA Plan to satisfy the minimum funding standard (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such ERISA Plan, whether or not waived (unless such failure is corrected by the final due date for the plan year for which such failure occurred); (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any ERISA Plan; (d) a determination that an ERISA Plan is, or is reasonably expected to be, in “at-risk” status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code); (e) the incurrence by a Loan Party or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any ERISA Plan; (f) the receipt by a Loan Party or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any ERISA Plan or ERISA Plans or to appoint a trustee to administer any ERISA Plan; (g) the incurrence by a Loan Party or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any ERISA Plan or Multiemployer Plan; or (h) the receipt by a Loan Party or any ERISA Affiliate of any written notice, or the receipt by any Multiemployer Plan from a Loan Party or any ERISA Affiliate of any written notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA or, in “endangered status” or “critical status”, within the meaning of Section 305(b) of ERISA.

“ERISA Plan” means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which any Loan Party or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Erroneous Payment” has the meaning assigned to such term in Section 10.22(a).

“Eurodollar” when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted Eurodollar Rate.

“Eurodollar Rate” means, for any Interest Period with respect to a Eurodollar Borrowing, the rate per annum equal to the London Interbank Offered Rate (“LIBOR”) or a comparable or successor rate, which rate is approved by the Administrative Agent, as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; provided, that, to the extent a comparable or successor rate is approved by the Administrative Agent in connection herewith, the approved rate shall be applied to the applicable Interest Period in a manner consistent with market practice; provided, further, that, to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied to the applicable Interest Period as otherwise reasonably determined by the Administrative Agent. Notwithstanding the foregoing, the Eurodollar Rate with respect to any applicable Interest Period for any Term Loan will be deemed to be 1.00% per annum if the Eurodollar Rate for such Interest Period determined pursuant to this definition would otherwise be less than 1.00% per annum.

“Event of Default” has the meaning assigned to such term in Section 7.01.

“Exchange Act” means the United States Securities Exchange Act of 1934, as amended from time to time.

“Excluded Assets” has the meaning assigned to such term in the Collateral Agreement.

“Excluded Subsidiary” means (a) any Subsidiary (other than, for the avoidance of doubt, the Borrower) (i) that is prohibited by applicable law, rule or regulation or contractual obligation existing on the Closing Date or, if later, the date it first becomes a Restricted Subsidiary, from guaranteeing the Secured Obligations or (ii) that is prohibited from guaranteeing the Secured Obligations by any term or provision of its Organizational Documents, provided, that such prohibition (x) was in existence at the time such Subsidiary was acquired (and not entered into in contemplation of such acquisition), (y) affects a Non-Wholly Owned Subsidiary and is the result of arms-length negotiations with other investors therein or (z) was adopted in response to bona fide tax or regulatory issues affecting such Subsidiary, (b) any Foreign Subsidiary not organized under the laws of Canada or any province or other subdivision thereof, (c) [reserved], (d) The Collected Group Holdings Manager, LLC and The Collected Group Holdings, LLC, in each case for so long as the primary purpose of such Subsidiary is the facilitation of employee equity arrangements and (e) any other Subsidiary excused from becoming a Loan Party pursuant to the last paragraph of the definition of the term “Collateral and Guarantee Requirement”, in each case, subject to compliance with Section 6.04.

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender, or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder or under any other Loan Document, (a) Taxes measured by or imposed on such recipient’s net or overall gross income or profits (however denominated) and franchise (or similar) Taxes (i) imposed on such recipient in lieu of income Taxes by the laws of the United States of America or any political subdivision thereof, or the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located, or (ii) that are Other Connection Taxes, (b) any branch profits Tax imposed by the United States of America or any similar Tax imposed by any other jurisdiction described in clause (a) above, (c) any withholding Tax that is attributable to a recipient’s failure to comply with Section 2.16(e), (d) any U.S. federal withholding Taxes to the extent imposed under FATCA and (e) except in the case of an assignee pursuant to a request by the Borrower under Section 2.18 hereto, any U.S. federal withholding Taxes imposed due to a Requirement of Law in effect at the time a Lender becomes a party hereto (or designates a new lending office), except to the extent that such Lender (or its assignor, if any) was entitled, at the time of designation of a new lending

office (or assignment), to receive additional amounts with respect to such withholding Tax under Section 2.16(a).

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

“FATCA” means Sections 1471 through 1474 of the Code, as in effect on the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, and any intergovernmental agreements pursuant to any of the foregoing.

“Federal Funds Effective Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System on such day, as published by the Federal Reserve Bank on the Business Day next succeeding such day; provided, that (a), if such day is not a Business Day, the Federal Funds Effective Rate for such day shall be such rate on such transactions on the immediately preceding Business Day as so published on the next succeeding Business Day and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Effective Rate for such day shall be the average rate charged to the Administrative Agent by three major banks on such day on such transactions as determined by the Administrative Agent.

“Final Order” shall mean, collectively, the order of the Bankruptcy Court entered in the Cases after a final hearing under Bankruptcy Rule 4001(c)(2) or such other procedures as approved by the Bankruptcy Court, which order shall be substantially in the form of the Interim Order (with only such modifications thereto as are necessary to convert the Interim Order to a final order and such other modifications as are satisfactory to the Required Lenders (and, with respect to those provisions thereof that affect the rights, obligations, liabilities and duties of the Administrative Agent, to the Administrative Agent) in their reasonable discretion.

“Final Order Availability Amount” shall mean \$3,200,000.

“Final Order Availability Date” shall mean the date of the first Borrowing on which the conditions precedent set forth in Sections 4.01 and 4.03 have been satisfied or waived, which date shall be after the Final Order Entry Date.

“Final Order Entry Date” shall mean the date on which the Final Order is entered by the Bankruptcy Court.

“Final Order Term Loan” shall have the meaning assigned to such term in Section 2.01.

“Financial Officer” means the chief financial officer, the Chief Restructuring Officer (or interim chief restructuring officer reasonably acceptable to the Required Lenders), principal accounting officer, treasurer, controller or similar officer of Holdings, the Borrower or any applicable Subsidiary.

“Financing Transactions” means the execution, delivery and performance by each Loan Party of the Loan Documents to which it is to be a party, the borrowing of Loans and the use of the proceeds thereof.

“First Day Orders” shall mean all orders entered by the Bankruptcy Court on or, within five Business Days of, the Petition Date, or based on motions filed on or about the Petition Date which, for

the avoidance of doubt, shall include a “cash management order” and shall not include, for the purposes of this definition, an Acceptable Confirmation Order.

“Foreign Subsidiary” means (i) any Subsidiary (other than a parent company of the Borrower) that is organized under the laws of a jurisdiction other than the United States of America, any State thereof or the District of Columbia, and (ii) any Subsidiary (other than a parent company of the Borrower) that is a disregarded entity or partnership for U.S. federal income tax purposes, substantially all of the assets of which consist of Equity Interests and intercompany debt in one or more Subsidiaries described in clause (i) of this definition.

“GAAP” means generally accepted accounting principles in the United States of America, as in effect from time to time but subject to Section 1.04.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether federal, state, or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any such group or body charged with setting financial accounting or regulatory capital rules or standards (including the Bank for International Settlements and the Basel Committee on Banking Supervision) and any supra-national bodies such as the European Union or the European Central Bank).

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness; provided that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined in good faith by a Financial Officer. The term “Guarantee” as a verb has a corresponding meaning.

“Guarantor” means each of (a) Holdings, (b) each Intermediate Parent, (c) each Subsidiary Loan Party, (d) any other Person that joins as a Guarantor pursuant to Section 5.11, and (e) the successors and permitted assigns of the foregoing.

“Hazardous Materials” means all explosive, radioactive, hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum by-products or distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated as hazardous or toxic, or any other term of similar import, pursuant to any Environmental Law.

“HMT” has the meaning given to such term in the definition of “Sanction(s)”.

“Holdings” has the meaning given to such term in the preliminary statements hereto.

“Immaterial Subsidiaries” means, collectively, (a) The Collected Group Holdings Manager, LLC, a Delaware limited liability company and (b) The Collected Group Holdings, LLC, a Delaware limited liability company.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (d) all obligations of such Person in respect of the deferred purchase price of property or services (excluding (i) trade accounts payable in the ordinary course of business, (ii) any earn-out obligation until such obligation is not paid after becoming due and payable or such obligation is reflected on the balance sheet in accordance with GAAP and (iii) accruals for payroll and other liabilities accrued in the ordinary course of business), (e) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (f) all Guarantees by such Person of Indebtedness of others, (g) all Capital Lease Obligations of such Person, (h) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (i) all obligations of such Person under Swap Agreements, (j) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances and (k) all obligations of such Person with respect to the redemption, repurchase, repayment, return of capital or other similar obligations in respect of Disqualified Equity Interests; provided that the term “Indebtedness” shall not include (x) deferred or prepaid revenue, (y) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the seller in the ordinary course of business or (z) for the avoidance of doubt, any Qualified Equity Interests. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor. The amount of Indebtedness of any Person shall for purposes of clause (e) above (unless such Indebtedness has been assumed by such Person) be deemed to be equal to the lesser of (A) the aggregate unpaid amount of such Indebtedness and (B) the fair market value of the property encumbered thereby as determined by such Person in good faith.

“Indemnified Taxes” means Taxes other than Excluded Taxes.

“Indemnitee” has the meaning assigned to such term in Section 10.03(b).

“Information” has the meaning assigned to such term in Section 10.13(a).

“Initial Budget” has the meaning specified in the Interim Order or the Final Order, as applicable.

“Intellectual Property” has the meaning assigned to such term in the Collateral Agreement.

“Interest Election Request” means a request by the Borrower to convert or continue a Term Loan Borrowing in accordance with Section 2.06.

“Interest Period” means, with respect to any Eurodollar Borrowing, the period commencing on the date such Borrowing is disbursed or converted to or continued as a Eurodollar Borrowing, as applicable, and ending on the date that is one month thereafter; provided that

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

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

(c) no Interest Period shall extend beyond (i) in the case of the Term Loans, the Term Loan Maturity Date, and (ii) in the case of any other Loans, the Latest Maturity Date applicable thereto. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“Interim Availability Amount” shall mean \$6,000,000.

“Interim Order” shall mean the order of the Bankruptcy Court entered in the Cases after an interim hearing (assuming satisfaction of the standard prescribed in Bankruptcy Rule 4001 and other applicable law) substantially in the form of Exhibit M hereto or otherwise in form and substance satisfactory to the Required Lenders (and, with respect to those provisions thereof that affect the rights, obligations, liabilities and duties of the Administrative Agent, to the Administrative Agent) and the Loan Parties in their reasonable discretion, which, among other matters but not by way of limitation, authorizes, on an interim basis, the Borrower and Guarantors to execute and perform under the terms of this Agreement and the other Loan Documents.

“Interim Term Loan” shall have the meaning assigned to such term in Section 2.01.

“Intermediate Parent” means any Wholly Owned Subsidiary of Holdings of which the Borrower is a Subsidiary.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests or debt or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person (excluding in the case of Holdings and its Subsidiaries, intercompany loans, advances, or Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business) or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. The amount, as of any date of determination, of (a) any Investment in the form of a loan or an advance shall be the principal amount thereof outstanding on such date, but without any adjustment for write-downs or write-offs (including as a result of forgiveness of any portion thereof) with respect to such loan or advance after the date thereof, (b) any Investment in the form of a Guarantee shall be equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof, as determined in good faith by a Financial Officer, (c) any Investment in the form of a transfer of Equity Interests or other non-cash property by the investor to the investee, including any such transfer in the form of a capital contribution, shall be the fair market value (as determined in good faith by a Financial Officer) of such Equity Interests or other property as of the time

of the transfer, minus any payments actually received by such investor representing a return of capital of, or dividends or other distributions in respect of, such Investment (to the extent such payments do not exceed, in the aggregate, the original amount of such Investment), but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the date of such Investment, and (d) any Investment (other than any Investment referred to in clauses (a), (b) or (c) above) by the specified Person in the form of a purchase or other acquisition for value of any Equity Interests, evidences of Indebtedness or other securities of any other Person shall be the original cost of such Investment (including any Indebtedness assumed in connection therewith), plus (i) the cost of all additions thereto and minus (ii) the amount of any portion of such Investment that has been returned or repaid to the investor in cash as a repayment of principal or a return of capital and of any cash payments actually received by such investor representing interest, dividends or other distributions in respect of such Investment (to the extent the amounts referred to in clause (ii) do not, in the aggregate, exceed the original cost of such Investment plus the costs of additions thereto), but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the date of such Investment. For purposes of Section 6.04, if an Investment involves the acquisition of more than one Person, the amount of such Investment shall be allocated among the acquired Persons in accordance with GAAP; provided that pending the final determination of the amounts to be so allocated in accordance with GAAP, such allocation shall be as reasonably determined by a Financial Officer.

“IRS” means the United States Internal Revenue Service.

“Judgment Currency” has the meaning assigned to such term in Section 10.15(b).

“Junior Financing” means any unsecured, junior secured or subordinated Material Indebtedness.

“Latest Maturity Date” means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Term Loan Commitment hereunder at such time, in each case as extended in accordance with this Agreement from time to time.

“Lenders” means the Lenders listed on Schedule 2.01 as of the Closing Date and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption.

“LIBOR” has the meaning specified in the definition of “Eurodollar Rate”.

“LIBOR Successor Rate” has the meaning specified in Section 2.06(e).

“LIBOR Successor Rate Conforming Changes” means, with respect to any proposed LIBOR Successor Rate, any conforming changes to the definition of Alternate Base Rate, the definition of Interest Period, timing and frequency of determining rates and making payments of interest and other administrative matters as may be appropriate, in the discretion of the Administrative Agent, to reflect the adoption of such LIBOR Successor Rate and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such LIBOR Successor Rate exists, in such other manner of administration as the Administrative Agent determines in consultation with Borrower).

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset and (b) the interest of a

vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset; provided, that in no event shall an operating lease or an agreement to sell, or the license or sublicense of Intellectual Property in the ordinary course of business, be deemed to constitute a lien.

“Loan Document Obligations” means (a) the due and punctual payment by the Borrower of (i) the principal of and interest at the applicable rate or rates provided in this Agreement (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise, and (ii) all other monetary obligations of the Borrower under or pursuant to this Agreement and each of the other Loan Documents, including obligations to pay fees, expense reimbursement obligations and indemnification obligations, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), (b) the due and punctual payment and performance of all other obligations of the Borrower under or pursuant to each of the Loan Documents and (c) the due and punctual payment and performance of all the obligations of each other Loan Party under or pursuant to this Agreement and each of the other Loan Documents (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding). For the avoidance of doubt and notwithstanding anything to the contrary, the “Loan Document Obligations” shall include the “Guaranteed Obligations”.

“Loan Documents” means (i) this Agreement, (ii) [reserved], (iii) (x) the Collateral Agreement and (y) the DIP Orders, (iv) the other Security Documents, (v) except for purposes of Section 10.02, any promissory notes delivered pursuant to Section 2.08(e), (vi) the CIT Intercreditor Agreement, and (viii) each document or instrument executed in connection with this Agreement and designated by the Borrower and the Administrative Agent as a “Loan Document”.

“Loan Party(ies)” means Holdings, each Intermediate Parent, the Borrower and the Subsidiary Loan Parties.

“Loans” means the loans made by the Lenders to the Borrower pursuant to this Agreement, including, without limitation, the Term Loans.

“London Banking Day” means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank Eurodollar market.

“Majority in Interest” means, at any time, Lenders holding outstanding Term Loans representing more than 50% of all Term Loans outstanding at such time; provided that whenever there are one or more Defaulting Lenders, the total outstanding Term Loans of each Defaulting Lender shall in each case be excluded for purposes of making a determination of the Majority in Interest.

“Material Adverse Effect” means any event, circumstance or condition that has had, or could reasonably be expected to have, a materially adverse effect on (a) the business, financial condition, or results of operations of Holdings, the Intermediate Parents, the Borrower and the Restricted Subsidiaries, taken as a whole, (b) the ability of the Borrower and the other Loan Parties, taken as a whole, to perform their payment obligations under the Loan Documents or (c) the rights and remedies of the Administrative Agent and the Lenders under the Loan Documents, other than, in each case, as a result of the events leading up to, and following the commencement of a proceeding under Chapter 11 and the continuation and prosecution thereof, including circumstances or conditions resulting from, or incidental to, such events,

commencement, continuation and prosecution; provided that no effect on the business, assets, operations, financial condition or operating results of the Borrower and the Subsidiaries as a result of the Coronavirus Disease 2019 (COVID-19) shall constitute a Material Adverse Effect under clause (a) of this definition thereof.

“Material Indebtedness” means Indebtedness (other than the Loan Document Obligations), or obligations in respect of one or more Swap Agreements, of any one or more of Holdings, any Intermediate Parent, the Borrower and the Restricted Subsidiaries in an aggregate principal amount exceeding \$250,000. For purposes of determining Material Indebtedness, the “principal amount” of the obligations in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that Holdings, any Intermediate Parent, the Borrower or such Restricted Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

“Maximum Rate” has the meaning assigned to such term in Section 10.18.

“Milestone” has the meaning given to such term in Section 5.16.

“Moody’s” means Moody’s Investors Service, Inc. and any successor to its rating agency business.

“Multiemployer Plan” means a multiemployer plan, as defined in Section 4001(a)(3) of ERISA, subject to the provisions of Title IV of ERISA to which a Loan Party or any ERISA Affiliate is an “employer” as defined in Section 3(5) of ERISA.

“Net Proceeds” means, with respect to any event, (a) the proceeds received in respect of such event in cash or Permitted Investments, including (i) any cash or Permitted Investments received in respect of any non-cash proceeds (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment or earn-out, but excluding any interest payments), but only as and when received, (ii) in the case of a Casualty Event, amounts or insurance proceeds, as applicable, received in respect thereof in cash or Permitted Investments, and (iii) in the case of a condemnation or similar event, condemnation awards and similar payments received in respect thereof in cash or Permitted Investments, minus (b) the sum of (i) all reasonable and customary fees and out-of-pocket expenses paid by Holdings, any Intermediate Parent, the Borrower and the Restricted Subsidiaries in connection with such event (including reasonable attorney’s fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, underwriting discounts and commissions, other customary expenses and brokerage, consultant, accountant and other customary fees), (ii) in the case of a sale, transfer or other disposition of an asset (including pursuant to a sale and leaseback transaction or a casualty or a condemnation or similar proceeding), (x) the amount of all payments that are permitted hereunder and are made by Holdings, any Intermediate Parent, the Borrower and the Restricted Subsidiaries as a result of such event to repay Indebtedness (other than the Secured Obligations, the Prepetition Secured Obligations or any Indebtedness owing to any Loan Party or any of their Subsidiaries) secured by such asset and subject to mandatory prepayment as a result of such event (solely to the extent such Indebtedness is not required to be subordinated in right of payment or otherwise pursuant to this Agreement), (y) the pro rata portion of net cash proceeds thereof (calculated without regard to this clause (y)) attributable to minority interests and not available for distribution to or for the account of Holdings, any Intermediate Parent, the Borrower and the Restricted Subsidiaries as a result thereof and (z) the amount of any liabilities directly associated with such asset and retained by Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary, and (iii) the amount of all Taxes paid (or reasonably estimated to be payable), and the amount of any reserves established by Holdings, any Intermediate Parent, the Borrower and the Restricted Subsidiaries to fund contingent liabilities reasonably estimated to be payable, that are directly attributable to such event or

any transaction occurring in connection with any resulting Term Loan Prepayment Event or other Disposition; provided that any reduction at any time in the amount of any such reserves (other than as a result of payments made in respect thereof) shall be deemed to constitute the receipt by the Borrower at such time of Net Proceeds in the amount of such reduction.

“Non-Consenting Lender” has the meaning assigned to such term in Section 10.02(c).

“Non-Defaulting Lender” means, at any time, each Lender that is not a Defaulting Lender at such time.

“Non-Loan Party Investment Amount” means at any time, \$2,000,000 (which shall also include the value of assets other than cash used to make such Investments) in the aggregate for all permitted purposes and uses under this Agreement less (i) the aggregate amount of Investments outstanding in Restricted Subsidiaries that are not Loan Parties pursuant to Section 6.04(c)(iii)(A), (ii) the aggregate amount Investments paid or provided for any Restricted Subsidiaries that are not Loan Parties pursuant to Section 6.04(h) and (iii) the aggregate amount of Investments made pursuant to Section 6.04(bb).

“Non-Wholly Owned Subsidiary” of any Person means any Subsidiary of such Person other than a Wholly Owned Subsidiary.

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Orders” shall mean, collectively, the Interim Order and the Final Order.

“Organizational Documents” means, with respect to any Person, the charter, articles or certificate of organization or incorporation and bylaws or limited liability company agreement or other organizational or governing documents of such Person.

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

“Other Taxes” means any and all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.18).

“Participant” has the meaning assigned to such term in Section 10.04(c)(i).

“Participant Register” has the meaning assigned to such term in Section 10.04(c)(ii).

“Payment in Full” or “Paid in Full” shall mean, with respect to the Loan Document Obligations or Secured Obligations, (i) termination of the Commitments of all of the Lenders and (ii) payment in full in cash of all Loan Document Obligations (or Secured Obligations, respectively) under

the Loan Documents (other than contingent indemnification obligations and other obligations not then payable which expressly survive termination and as to which no claim has been asserted).

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“Perfection Certificate” means a customary perfection and collateral listing certificate substantially in the form agreed between the Borrower and Collateral Agent.

“Permitted Encumbrances” means:

(a) Liens for Taxes or assessments that are not overdue for a period of more than 30 days or that are being contested in good faith and by appropriate action diligently pursued, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(b) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s or construction contractors’ Liens and other similar Liens imposed by law arising in the ordinary course of business that secure amounts not overdue for a period of more than 60 days or, if more than 60 days overdue, are unfiled and no other action has been taken to enforce such Lien or that are being contested in good faith and by appropriate actions diligently pursued, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(c) Liens incurred or deposits made in the ordinary course of business (i) in connection with workers’ compensation, unemployment insurance and other social security legislation and (ii) securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary;

(d) Liens incurred or deposits made to secure the performance of bids, trade contracts, governmental contracts, leases, statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the ordinary course of business;

(e) easements, rights-of-way, restrictions (including zoning restrictions), encroachments, protrusions, covenants, and other similar charges or encumbrances and minor title defects affecting real property imposed by law or arising in the ordinary course of business, in each case whether now or hereafter in existence, that, in the aggregate, do not in any case materially interfere with the ordinary conduct of the business of Holdings and its Restricted Subsidiaries, taken as a whole;

(f) Liens securing, or otherwise arising from, judgments not constituting an Event of Default under Section 7.01(j);

(g) Liens on goods the purchase price of which is financed by a documentary letter of credit issued for the account of the Borrower or any of the Restricted Subsidiaries in form and substance satisfactory to the Administrative Agent; provided that such Lien secures only the obligations of the Borrower or such Restricted Subsidiaries in respect of such letter of credit to the extent such obligations are permitted by Section 6.01; and

(h) Liens arising from precautionary Uniform Commercial Code financing statements or similar filings made in respect of operating leases entered into by the Borrower or any of the Restricted Subsidiaries;

provided that the term “Permitted Encumbrances” shall not include any Lien securing Indebtedness other than Liens referred to in clauses (c) and (d) above securing obligations under letters of credit and in clause (g) above.

“Permitted Investments” means any of the following, to the extent owned by Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary:

(a) dollars or other currencies held by it from time to time in the ordinary course of business;

(b) readily marketable obligations issued or directly and fully guaranteed or insured by the government or any agency or instrumentality of (i) the United States or (ii) any member nation of the European Union (other than Greece, Portugal, Ireland or Spain), having average maturities of not more than 12 months from the date of acquisition thereof; provided that the full faith and credit of the United States or a member nation of the European Union (other than Greece, Portugal, Ireland or Spain) is pledged in support thereof;

(c) time deposits with, or insured certificates of deposit or bankers’ acceptances of, any commercial bank that (i) is a Lender or (ii) has combined capital and surplus of at least \$250,000,000 (any such bank in the foregoing clauses (i) or (ii) being an “Approved Bank”), in each case with average maturities of not more than 12 months from the date of acquisition thereof;

(d) commercial paper and variable or fixed rate notes issued by an Approved Bank (or by the parent company thereof) or any variable or fixed rate note issued by, or guaranteed by, a corporation rated A-2 (or the equivalent thereof) or better by S&P or P-2 (or the equivalent thereof) or better by Moody’s, in each case with average maturities of not more than 12 months from the date of acquisition thereof;

(e) repurchase agreements entered into by any Person with an Approved Bank, a bank or trust company (including any of the Lenders) or recognized securities dealer, in each case, having capital and surplus in excess of \$250,000,000 for direct obligations issued by or fully guaranteed or insured by the government or any agency or instrumentality of (i) the United States or (ii) any member nation of the European Union (other than Greece, Portugal, Ireland or Spain), in which such Person shall have a perfected first priority security interest (subject to no other Liens) and having, on the date of purchase thereof, a fair market value of at least 100% of the amount of the repurchase obligations;

(f) marketable short-term money market and similar highly liquid funds either (i) having assets in excess of \$250,000,000 or (ii) having a rating of at least A-2 or P-2 from either S&P or Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, an equivalent rating from another nationally recognized rating service);

(g) securities with average maturities of 12 months or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory having a rating of at least A from S&P or A2 from Moody’s (or the equivalent thereof);

(h) investments with average maturities of 12 months or less from the date of acquisition in mutual funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody's;

(i) instruments equivalent to those referred to in clauses (a) through (h) above denominated in any foreign currency comparable in credit quality and tenor to those referred to above and customarily used by corporations for cash management purposes in any jurisdiction outside the United States to the extent reasonably required in connection with any business conducted by any Restricted Subsidiary organized in such jurisdiction; and

(j) investments, classified in accordance with GAAP as current assets of Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary, in money market investment programs that are registered under the Investment Company Act of 1940 or that are administered by financial institutions having capital of at least \$250,000,000, and, in either case, the portfolios of which are limited such that substantially all of such investments are of the character, quality and maturity described in clauses (a) through (i) of this definition.

"Permitted Refinancing" means, with respect to any Person, any modification, refinancing, refunding, renewal or extension of any Indebtedness of such Person; provided that (a) the principal amount (or accreted value, if applicable) thereof less any original issue discount, if applicable, does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, renewed or extended except by an amount equal to unpaid accrued interest and premium thereon plus other amounts paid, and reasonable and customary discounts, commissions, fees and expenses incurred, in connection with such modification, refinancing, refunding, renewal or extension and by an amount equal to any existing commitments unutilized thereunder, (b) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 6.01(a)(v), Indebtedness resulting from such modification, refinancing, refunding, renewal or extension has a final maturity date equal to or later than the final maturity date of the Indebtedness being modified, refinanced, refunded, renewed or extended, (c) immediately after giving effect thereto, no Event of Default shall have occurred and be continuing, (d) if the Indebtedness being modified, refinanced, refunded, renewed or extended is subordinated in right of payment to the Loan Document Obligations, Indebtedness resulting from such modification, refinancing, refunding, renewal or extension is subordinated in right of payment to the Loan Document Obligations on terms at least as favorable to the Lenders, when taken as a whole, as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, renewed or extended, (e) the terms and conditions applicable to such Permitted Refinancing (including as to collateral), when taken as a whole, shall be comparable to, or not materially less favorable to the Borrower than, either, (x) the terms and conditions of the Indebtedness being so modified, refinanced, refunded, renewed or extended or (y) the prevailing market terms and conditions applicable to similar Indebtedness for similarly-situated issuers (except for covenants or other provisions applicable exclusively to periods commencing after the Latest Maturity Date at the time such Indebtedness is incurred), and (f) except as otherwise permitted under Section 6.01, the obligors (i.e., the borrower, issuer and/or guarantors) in respect of such modification, refinancing, refunding, renewal or extension are limited to the obligors in respect of the Indebtedness being modified, refinanced, refunded, renewed or extended. For the avoidance of doubt, it is understood that a Permitted Refinancing may constitute a portion of an issuance of Indebtedness in excess of the amount of such Permitted Refinancing; provided that such excess amount is otherwise permitted to be incurred under Section 6.01.

"Permitted Variance" as the meaning assigned to such term in Section 6.10.

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

“Petition Date” has the meaning given to such term in the preliminary statements hereto.

“Plan Effective Date” shall mean the date of the substantial consummation (as defined in section 1101(2) of the Bankruptcy Code, which for purposes hereof shall be no later than the effective date) of the plan of reorganization confirmed pursuant to a final order entered by the Bankruptcy Court.

“Platform” has the meaning assigned to such term in Section 5.01.

“Prepayment Amount” has the meaning given to such term in Section 2.10(f).

“Prepayment Date” has the meaning given to such term in Section 2.10(f).

“Prepayment Notice” means a notice of prepayment of Loans pursuant to Sections 2.10(a) or 2.10(c), which shall be substantially in the form of Exhibit J or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer.

“Prepetition Agent” shall mean KKR Loan Administrative Services LLC, as administrative agent and collateral agent under the Prepetition Credit Agreement.

“Prepetition Credit Agreement” shall mean that certain Amended and Restated Credit Agreement, dated as of May 15, 2015, among the Borrower, the lenders from time to time party thereto, and Prepetition Agent, as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time prior to the Petition Date.

“Prepetition Debt” means any and all Indebtedness of the Loan Parties incurred prior to the Petition Date and outstanding as of the Petition Date.

“Prepetition Lenders” shall mean “Lenders” under the Prepetition Credit Agreement.

“Prepetition Payments” means any payment (by way of adequate protection or otherwise) of principal or interest or otherwise on account of any Prepetition Debt or other obligations or claims (including trade payables and payments in respect of reclamation and/or Section 503(b)(9) claims) of the Loan Parties outstanding immediately prior to the Petition Date.

“Prepetition Secured Obligations” shall mean “Secured Obligations” under and as defined in the Prepetition Credit Agreement.

“primary obligor” has the meaning assigned to such term in the definition of “Guarantee.”

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

“Proposed Change” has the meaning assigned to such term in Section 10.02(c).

“Public Lender” has the meaning assigned to such term in Section 5.01.

“Purchased Accounts” has the meaning assigned to such term in the CIT Intercreditor Agreement, as such definition may be amended in a manner not materially adverse to the Lenders.

“Qualified Equity Interests” means Equity Interests other than Disqualified Equity Interests.

“Register” has the meaning assigned to such term in Section 10.04(b)(iv).

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the partners, directors, officers, employees, trustees, agents, controlling persons, advisors (including its attorneys and financial advisors) and other representatives of such Person and of each of such Person’s Affiliates and permitted successors and assigns.

“Release” means any release, spill, emission, leaking, dumping, injection, pouring, disposal, discharge or leaching into the environment (including ambient air, surface water, groundwater, land surface or subsurface strata).

“Removal Effective Date” has the meaning assigned to such term in Section 8.06(b).

“Reorganization Plan” shall mean a plan of reorganization in any or all of the Cases of the Debtors.

“Required Lenders” means, any such Lenders collectively having Term Loans and unused Commitments representing more than 50% of the outstanding Term Loans and unused Commitments at such time; provided that to the extent set forth in Section 10.02, whenever there are one or more Defaulting Lenders, the total outstanding Term Loans of each Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Requirements of Law” means, with respect to any Person, any statutes, laws, treaties, rules, regulations, orders, decrees, writs, injunctions or determinations of any arbitrator or court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Resignation Effective Date” has the meaning assigned to such term in Section 8.06(a).

“Responsible Officer” means (i) the chief executive officer, chief accounting officer, chief operating officer, the Chief Restructuring Officer (or interim chief restructuring officer reasonably acceptable to the Required Lenders), president, vice president, chief financial officer, treasurer, assistant treasurer or controller of a Loan Party, (ii) with respect to certain limited liability companies or partnerships that do not have officers, any manager, sole member, managing member or general partner thereof, (iii) solely for purposes of the delivery of certificates pursuant to Section 4.01(c), the secretary or any assistant secretary of a Loan Party and (iv) solely for purposes of notices given pursuant to Article II, any other officer or employee of the applicable Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent or any other officer or employee of the applicable Loan Party designated in or pursuant to an agreement between the applicable Loan Party and the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party. To the extent requested by the Administrative Agent, each Responsible Officer will

provide an incumbency certificate and to the extent requested by the Administrative Agent, appropriate authorization documentation, in form and substance satisfactory to the Administrative Agent.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Equity Interests in Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary or any option, warrant or other right to acquire any such Equity Interests in Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary.

“Restricted Subsidiary” means any Subsidiary of Holdings.

“S&P” means Standard & Poor’s Financial Services LLC, a subsidiary of The McGraw-Hill Companies, Inc., and any successor thereto.

“Sanctions” means any international economic sanction administered or enforced by the United States government (including, without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty’s Treasury (“HMT”) or other relevant sanctions authority.

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

“Secured Obligations” means the Loan Document Obligations.

“Secured Parties” means (a) each Lender, (b) the Administrative Agent, (c) the beneficiaries of each indemnification obligation undertaken by any Loan Party under any Loan Document and (d) any other holders of the Secured Obligations.

“Securities Act” means the Securities Act of 1933, as amended.

“Security Documents” means this Agreement, the Collateral Agreement, if any, the DIP Orders and each other security agreement or pledge agreement executed and delivered pursuant to the Collateral and Guarantee Requirement or Section 5.11 or 5.12 to secure any of the Secured Obligations.

“Stated Maturity Date” means June [10]², 2021; provided, however, if such date is not a Business Day, the Stated Maturity Date shall be the next preceding Business Day.

“Statutory Reserve Rate” means, with respect to any currency, a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve, liquid asset or similar percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by any Governmental Authority of the United States or of the jurisdiction of such currency or any jurisdiction in which Loans in such currency are made to which banks in such jurisdiction are subject for any category of deposits or liabilities customarily used to fund loans in such currency or by reference to which interest rates applicable to Loans in such currency are determined. Such reserve, liquid asset or similar percentages shall include those imposed pursuant to Regulation D of the Board of Governors. Eurodollar Loans and ABR Loans the interest on which is determined by reference to the Eurodollar Rate shall be deemed to be subject to such reserve, liquid asset or similar requirements without benefit of or credit for proration, exemptions or offsets that

² 65 days after the closing date.

may be available from time to time to any Lender under Regulation D or any other applicable law, rule or regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP, as well as any other corporation, limited liability company, partnership, association or other entity of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held.

“Subsidiary” means any subsidiary of Holdings unless otherwise specified.

“Subsidiary Loan Party” means each Subsidiary of Holdings (other than the Borrower) that is a Guarantor.

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

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Term Lender” means a Lender with a Term Loan Commitment or an outstanding Term Loan.

“Term Loan Commitment” shall mean, with respect to each Term Lender, the commitment of such Term Lender to make Term Loans hereunder as set forth on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender assumed its Commitment, as applicable, as the same may be (a) reduced from time to time pursuant to Section 2.07 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to an Assignment and Assumption.

“Term Loan Maturity Date” means the earliest to occur of (a) the Stated Maturity Date, (b) the date that is twenty-five (25) calendar days after the Petition Date if the Final Order has not been entered by the Bankruptcy Court on or before that date, (c) the substantial consummation (as defined in Section 1101 of the Bankruptcy Code), or the effective date, of a plan of reorganization or liquidation filed in the Chapter 11 Cases that is confirmed pursuant to an order entered by the Bankruptcy Court, (d) the

date of acceleration of the Secured Obligations upon an Event of Default in accordance with the terms set forth herein and the other Loan Documents, and (e) the Termination Declaration Date.

“Term Loan Prepayment Event” means:

(a) (i) any Disposition to the extent permitted in reliance on Section 6.05(f), (j) or (o) or not permitted pursuant to Section 6.05 and (ii) any Casualty Event or condemnation (or similar) event; or

(b) the incurrence by Holdings or any of its Restricted Subsidiaries of any Indebtedness, other than Indebtedness permitted under Section 6.01 or permitted by the Required Lenders pursuant to Section 10.02.

“Term Loans” means the term loans issued pursuant to Section 2.01 or otherwise pursuant to the terms hereof.

“Termination Declaration” shall have the meaning assigned to such term in Section 7.01.

“Termination Declaration Date” shall have the meaning assigned to such term in Section 7.01.

“Transaction Costs” means all fees, costs and expenses incurred or payable by Holdings, the Borrower or any other Restricted Subsidiary in connection with the Transactions.

“Transactions” means (a) the Financing Transactions, (b) the Cases and (c) the payment of the Transaction Costs.

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

“United States” and “U.S.” mean the United States of America.

“United States Tax Compliance Certificate” has the meaning assigned to such term in Section 2.16(e)(ii)(C).

“Updated Budget” shall have the meaning assigned to such term in Section 5.01(d).

“U.S. Trustee” shall have the meaning assigned to such term in Section 5.17(a).

“USA Patriot Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended from time to time.

“Variance Report” shall have the meaning assigned to such term in Section 5.01(j).

“Variance Report Date” shall have the meaning assigned to such term in Section 5.01(j).

“Variance Testing Period” shall mean, as of any Variance Report Date, the four-week calendar period most recently ended.

“Wholly Owned Subsidiary” means, with respect to any Person at any date, a subsidiary of such Person of which securities or other ownership interests representing 100% of the Equity Interests (other than (a) directors’ qualifying shares and (b) nominal shares issued to foreign nationals to the extent required by applicable Requirements of Law) are, as of such date, owned, controlled or held by such Person or one or more Wholly Owned Subsidiaries of such Person or by such Person and one or more Wholly Owned Subsidiaries of such Person.

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

1.02 Classification of Loans and Borrowings. For purposes of this Agreement, Loans and Borrowings may be classified and referred to by Type (e.g., a “Eurodollar Loan”). Borrowings also may be classified and referred to by Type (e.g., a “Eurodollar Borrowing”).

1.03 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (a) any definition of or reference to any agreement (including this Agreement and the other Loan Documents), instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, amended and restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or other modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (f) any reference to any law shall include all statutory and regulatory rules, regulations, orders and provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified, extended, restated, replaced or supplemented from time to time. Notwithstanding anything contained herein to the contrary, (i) where compliance with any provision herein or the other Loan Documents is determined by reference to the proceeds of any issuances of Equity Interests or capital contributions, such proceeds shall be deemed to be limited to such amount as was not previously (and is not concurrently being) applied in determining the permissibility of another transaction hereunder or under the Loan Documents and (ii) with respect to determining the permissibility of the incurrence of any Indebtedness, the proceeds thereof shall not be counted as cash or Permitted Investments in any “net debt” determinations relating to the incurrence thereof.

1.04 Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Financial Accounting Standards Accounting Standards Codification No. 825—Financial Instruments, or any successor thereto (including pursuant to

the Accounting Standards Codification), to value any Indebtedness of Holdings, the Borrower or any Restricted Subsidiary at “fair value” as defined therein. Notwithstanding any other provision contained herein, any lease that is treated as an operating lease for purposes of GAAP as of December 31, 2019 shall continue to be treated as an operating lease (and any future lease, if it were in effect prior to such time, that would be treated as an operating lease for purposes of GAAP shall be treated as an operating lease), in each case for purposes of this Agreement, notwithstanding any change in GAAP after such date.

1.05 Effectuation of Transactions. All references herein to Holdings, the Borrower and the other Subsidiaries shall be deemed to be references to such Persons, and all the representations and warranties of Holdings, the Borrower and the other Loan Parties contained in this Agreement and the other Loan Documents shall be deemed made, in each case, after giving effect to the Transactions to occur on the Closing Date, unless the context otherwise requires.

1.06 Currency Translation. For purposes of any determination under Article V, Article VI or Article VII or any determination under any other provision of this Agreement expressly requiring the use of a currency exchange rate, all amounts incurred, outstanding or proposed to be incurred or outstanding in currencies other than dollars shall be translated into dollars at currency exchange rates in effect on the date of such determination; provided, however, that for purposes of determining compliance with Article VI with respect to the amount of any Indebtedness, Investment, Disposition or Restricted Payment in a currency other than dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of exchange occurring after the time such Indebtedness or Investment is incurred or Disposition or Restricted Payment made.

1.07 Application and Utilization of LIBOR. Notwithstanding anything to the contrary herein or in any other Loan Document, to the extent the interest rate and/or margin on all the Loans and Borrowings hereunder are a “fixed rate” and not a “floating” rate based on any reference rate (including, without limitation, LIBOR), all the provisions relating to LIBOR, ABR and Eurodollar Rate, including, without limitation, Sections 2.13, 2.14, 2.15 and 2.22 (and any related definitions), shall be inoperative and of no force and effect and may be disregarded for all purposes hereunder. As of the Closing Date, this Section 1.07 shall be applicable until this Agreement is further amended in accordance with the provisions herein.

1.08 Timing of Payment or Performance. Except as otherwise provided herein, when the payment of any obligation or the performance of any covenant, duty, or obligation is stated to be due or performance required on (or before) a day which is not a Business Day, the date of such payment or performance shall extend to the immediately succeeding Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

1.09 Fiscal Periods. References to fiscal periods, fiscal months, fiscal quarters or fiscal years herein (including the abbreviations “FY” and “Q1”, “Q2”, “Q3” or “Q4” of a fiscal year) shall be deemed to refer to the corresponding periods set forth on the fiscal calendar of Holdings and its Subsidiaries attached hereto as Schedule 1.09.

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

1.11 Treatment of LLC Division. Any restriction, condition or prohibition applicable to a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale or transfer, or similar term set forth in the Loan Documents shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability companies, including any Division

or other process or action permitted under Section 18-217 of Title 6 of the Delaware Code, as if it were a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale or transfer, or similar term, as applicable. Any reference in any Loan Document to a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability companies (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person under the Loan Documents (and each division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity). For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

ARTICLE II

The Credits

2.01 Commitments. Subject to the terms and conditions set forth herein and in the Orders, each Term Lender agrees, severally and not jointly, to make Term Loans in dollars to the Borrower in two (2) draws as follows: (i) a single draw on the Closing Date (the "Interim Term Loan") and (ii) a single draw on the Final Order Availability Date (the "Final Order Term Loan") and together with the Interim Term Loan, the "Term Loans"), in each case, in an aggregate principal amount not to exceed its Term Loan Commitment. For the avoidance of doubt, any Term Loan Commitments shall be reduced dollar for dollar immediately after the funding of any Term Loans thereunder. Each Term Loan Borrowing shall consist of Term Loans of the same Type made on the same day by the Term Lenders ratably according to their respective Term Loan Commitments; provided that (x) the Borrowing of the Interim Term Loan shall be in an amount up to the full amount authorized by the Bankruptcy Court in the Interim Order (but which shall not be more than the Interim Availability Amount) and (y) the Borrowing of the Final Order Term Loan shall be in an amount up to the lesser of (A) the full amount authorized by the Bankruptcy Court in the Final Order and (B)(I) the Final Order Availability Amount minus (II) the aggregate principal amount of Term Loans funded on the Closing Date; provided that, any unused Term Loan Commitments shall terminate immediately after the Borrowing of Term Loans in connection with the Final Order Term Loan. Amounts paid or prepaid in respect of the Term Loans may not be reborrowed.. For the avoidance of doubt, the Term Loans funded on the Closing Date and, once funded, the Final Order Availability Date, shall each constitute a single class of Term Loans.

2.02 Loans and Borrowings.

(a) Each Loan shall be made as part of a Borrowing consisting of Loans of the same Type made by the Lenders ratably in accordance with their Term Loan Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Term Loan Commitments of the Lenders are several and other than as expressly provided herein with respect to a Defaulting Lender, no Lender shall be responsible for any other Lender's failure to make Loans as required hereby.

(b) Subject to Section 2.13, each Term Loan Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Lender at its option

may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurodollar Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; provided that a Eurodollar Borrowing that results from a continuation of an outstanding Eurodollar Borrowing may be in an aggregate amount that is equal to such outstanding Borrowing. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum. Borrowings of more than one Type may be outstanding at the same time.

2.03 Requests for Borrowings. To request Term Loan Borrowing, the Borrower shall notify the Administrative Agent of such request by written notice for a Loan (a) in the case of a Eurodollar Borrowing, not later than 12:00 p.m., three Business Days before the date of the proposed Borrowing (or, in the case of any Eurodollar Borrowing to be made on the Closing Date, such shorter period of time as may be agreed to by the Administrative Agent) or (b) in the case of an ABR Borrowing or fixed rate borrowing, not later than 12:00 p.m., on the Business Day before the proposed Borrowing. Each such Borrowing Request shall be irrevocable and shall be in the form of a written Borrowing Request signed by a Responsible Officer of the Borrower; provided that the Borrower may condition each Borrowing in such notice on the entry of the Interim Order or the Final Order, as applicable. Each such written Borrowing Request shall specify the following information:

- (i) the aggregate amount of such Borrowing;
- (ii) the date of such Borrowing, which shall be a Business Day;
- (iii) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;
- (iv) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period";
- (v) that as of the date of such Borrowing, the conditions set forth in Sections 4.03(a), (b) and (c) are satisfied; and
- (vi) Borrower's wire instructions for the remittance of funds.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. Promptly following receipt of a Borrowing Request in accordance with this Section 2.03, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

2.04 [Reserved].

2.05 Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds in dollars by 1:00 p.m. (or on the Closing Date, such earlier time as notified to the Lenders prior to the Closing Date), to the Administrative Agent's designated account.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section 2.05 and may, in reliance on such assumption and in its sole discretion, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender agrees to pay to the Administrative Agent an amount equal to such share on demand of the Administrative Agent. If such Lender does not pay such corresponding amount forthwith upon demand of the Administrative Agent therefor, the Administrative Agent shall promptly notify the Borrower, and the Borrower agrees to pay such corresponding amount to the Administrative Agent forthwith on demand. The Administrative Agent shall also be entitled to recover from such Lender or the Borrower interest on such corresponding amount, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to such Borrowing in accordance with Section 2.12. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

(c) The obligations of the Lenders hereunder to make Term Loans and to make payments pursuant to Section 10.03(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 10.03(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 10.03(c).

2.06 Interest Elections.

(a) Each Term Loan Borrowing initially shall be of the Type specified in the applicable Borrowing Request or designated by Section 2.03 and, in the case of a Eurodollar Borrowing shall have an Interest Period as specified in such Borrowing Request or designated by Section 2.03.

(b) Each written Interest Election Request shall specify the following information in compliance with Section 2.03:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is to be a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

(c) Promptly following receipt of an Interest Election Request in accordance with this Section 2.06, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(d) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing, (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

(e) LIBOR Successor Rate.

Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or Borrower or Required Lenders notify the Administrative Agent (with, in the case of the Required Lenders, a copy to Borrower) that Borrower or Required Lenders (as applicable) have determined, that: (a) adequate and reasonable means do not exist for ascertaining LIBOR for any requested Interest Period, including, because the LIBOR Screen Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or (b) the administrator of the LIBOR Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which LIBOR or the LIBOR Screen Rate shall no longer be made available, or used for determining the interest rate of loans (such specific date, the "Scheduled Unavailability Date"); or (c) syndicated loans currently being executed, or that include language similar to that contained in this Section 3.08, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR; then, reasonably promptly after such determination by the Administrative Agent or receipt by the Administrative Agent of such notice, as applicable, the Administrative Agent and Borrower may amend this Agreement to replace LIBOR with an alternate benchmark rate (including any mathematical or other adjustments to the benchmark (if any) incorporated therein), giving due consideration to any evolving or then existing convention for similar Dollar-denominated syndicated credit facilities for such alternative benchmarks (any such proposed rate, a "LIBOR Successor Rate"), together with any proposed LIBOR Successor Rate Conforming Changes and any such amendment shall become effective at 5:00 p.m. on the fifth (5th) Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and Borrower unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders do not accept such amendment.

If no LIBOR Successor Rate has been determined and the circumstances under clause (a) above exist or the Scheduled Unavailability Date has occurred (as applicable), the Administrative Agent will promptly so notify Borrower and each Lender. Thereafter, (i) the obligation of the Lenders to make or maintain Loans of a Type referencing the Adjusted Eurodollar Rate shall be suspended, (to the extent of the affected Loans or Interest Periods), and (ii) the Eurodollar Rate component shall no longer be utilized in determining the Alternate Base Rate. Upon receipt of such notice, Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Loans of a Type referencing the Adjusted Eurodollar Rate (to the extent of the affected Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Loans of a Type referencing the Alternate Base Rate (subject to the foregoing clause (ii)) in the amount specified therein.

Notwithstanding anything else herein, any definition of LIBOR Successor Rate shall provide that in no event shall such LIBOR Successor Rate be less than zero for purposes of this Agreement.

2.07 Termination and Reduction of Commitments. The Term Loan Commitments (x) shall be automatically reduced immediately after the Borrowing of the Interim Term Loan pursuant to Section 2.01, by the amount of such Borrowing and (y) shall be automatically reduced immediately after the Borrowing of the Final Order Term Loan pursuant to Section 2.01, by the amount of such Borrowing.

2.08 Repayment of Loans; Evidence of Debt.

(a) The Borrower hereby unconditionally promises to pay, as provided in Section 2.09, to the Administrative Agent for the account of each Lender the then unpaid outstanding principal amount (and all accrued and unpaid interest thereon) of each Loan of such Lender.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section 2.08 shall be prima facie evidence of the existence and amounts of the obligations recorded therein absent manifest error; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to pay any amounts due hereunder in accordance with the terms of this Agreement. In the event of any inconsistency between the entries made pursuant to paragraphs (b) and (c) of this Section 2.08, the accounts maintained by the Administrative Agent pursuant to paragraph (c) of this Section 2.08 shall control. In the event of any conflict between the accounts and records of any Lender or the Administrative Agent under this Section 2.08, on the one hand, and the Register, on the other hand, the Register shall control.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in form to be mutually agreed by the Borrower and the Administrative Agent.

2.09 Maturity of the Loans.

(a) The Borrower shall repay the outstanding principal amount of the Term Loans and any other Loans, in each case, in full on the Term Loan Maturity Date, or on such earlier date to which the maturity may be accelerated sooner pursuant to Section 7.01, together in each case with accrued and unpaid interest on the principal amount to be paid to but excluding the date of such payment; provided that if, with respect to the Term Loan Maturity Date, such date is not a Business Day, such payment shall be due on the next preceding Business Day.

(b) Each repayment of a Borrowing shall be applied ratably to the Loans included in the repaid Borrowing.

2.10 Prepayment of Loans.

(a) Voluntary Prepayments. The Borrower shall have the right at any time and from time to time, upon notice to the Administrative Agent pursuant to delivery to the Administrative Agent of a Prepayment Notice, to voluntarily prepay any Borrowing or Loan, at par, in whole or in part on a pro rata basis, without penalty or premium, subject to the requirements of this Section 2.10 and Section 2.15. All optional prepayments of the Loans shall be applied in the manner set forth in Section 2.10(c). Any amount repaid or prepaid under this Section 2.10(a) may not be reborrowed.

(b) In the event and on each occasion that any Net Proceeds are received by or on behalf of Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary in respect of any Term Loan Prepayment Event, the Borrower shall, within three (3) Business Days after such Net Proceeds are received (or, in the case of a Term Loan Prepayment Event described in clause (b) of the definition of the term “Term Loan Prepayment Event,” on the date of such Term Loan Prepayment Event), prepay Term Loan Borrowings in an aggregate amount equal to 100% of such Net Proceeds.

(c) Subject to Section 7.03, (i) any prepayments pursuant to this Section 2.10 shall be applied first, to pay all reasonable and documented or invoiced out-of-pocket costs and expenses (including, without limitation reasonable and documented costs of counsel and professionals to the Administrative Agent and Lenders) incurred by, or for the benefit of, the Administrative Agent and Lenders in connection with the Loan Parties, the Cases, or the Loan Documents until paid in full in cash, second, to pay all accrued and unpaid interest owing to the Lenders on a pro rata basis, third, to repay any principal amounts outstanding in respect of the Loans (including any amounts, that have been added to the principal balance or paid in kind) on a pro rata basis, fourth, all other Loan Document Obligations owing to the Lenders and the Administrative Agent on a pro rata basis, and fifth, to the extent permitted by any DIP Order or any other order of the Bankruptcy Court, to prepay other Secured Obligations or any other amounts owing hereunder, on a pro rata basis among all such other Secured Obligations or other amounts. To the extent permitted by the foregoing sentence, amounts prepaid shall be applied first to any ABR Loans then outstanding and then to outstanding Eurodollar Loans with the shortest Interest Periods remaining. Together with each prepayment under this Section 2.10, the Borrowers shall pay any amounts required pursuant to Section 2.11, Section 2.12, Section 2.14 and Section 2.15.

(d) The Borrower shall notify the Administrative Agent in writing which may be by facsimile or other electronic transmission) of any prepayment pursuant to (i) Section 2.10(a) hereunder (A) in the case of prepayment of a Eurodollar Borrowing, not later than 12:00 noon, three Business Days before the date of prepayment or (B) in the case of prepayment of an ABR Borrowing, not later than 12:00 noon, one Business Day prior to the date of prepayment or (ii) Section 2.10(b) in accordance with the notice provisions of Section 2.10(f). Each such notice shall be in the form of a Prepayment Notice, shall be irrevocable and shall specify the prepayment date and principal amount of each Borrowing or portion thereof to be prepaid and, in the case of a mandatory prepayment, a reasonably detailed calculation of the amount of such prepayment; provided that a notice of optional prepayment may state that such notice is conditional upon the effectiveness of other credit facilities or the receipt of the proceeds from the issuance of other Indebtedness or the occurrence of some other identifiable event or condition, in which case such notice of prepayment may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified date of prepayment) if such condition is not satisfied. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type as provided in Section 2.02, except as necessary to apply fully the required amount of a mandatory prepayment. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.12 and amounts required pursuant to Section 2.15.

(e) [Reserved].

(f) So long as any Term Loans remain outstanding, any Term Lender may elect to decline the entire portion of the prepayment of its Term Loans pursuant to Sections 2.10(b) (other than mandatory prepayments pursuant to clause (b) of the definition of Term Loan Prepayment Event) in accordance with the terms of this Section 2.10(f). The Borrower shall notify the Administrative Agent of any event giving rise to a prepayment pursuant to Sections 2.10(b) by delivering a Prepayment Notice at least ten (10) Business Days prior to the date of such prepayment. Each such Prepayment Notice shall specify the date of such prepayment and provide a reasonably detailed calculation of such prepayment (the “Prepayment Amount”). The Administrative Agent will promptly notify each Term Lender of the contents of the applicable Prepayment Notice, including the date on which such prepayment is to be made by the Borrower (the “Prepayment Date”). Any Term Lender may decline to accept all (but not less than all) of its share of any such prepayment (other than mandatory prepayments pursuant to clause (b) of the definition of Term Loan Prepayment Event) (any such Term Lender, a “Declining Lender”) by providing written notice to the Administrative Agent no later than five (5) Business Days prior to the prepayment date, in which case the aggregate amount of the prepayment that would have been applied to prepay Term Loans but was so declined shall be re-offered to those Term Lenders under this Agreement who have initially accepted such prepayment (such re-offer to be made to each such Term Lender based on the percentage which such Term Lender’s Term Loans represents of the aggregate Term Loans of all such Term Lenders who have initially accepted such prepayment). In the event of such a re-offer, the relevant Lenders may elect to decline by notice to the Administrative Agent all of the amount of such prepayment that is re-offered to them within three (3) Business Days prior to the prepayment date. On any Prepayment Date, an amount equal to the Prepayment Amount minus the portion thereof allocable to Declining Lenders, in each case for such Prepayment Date, shall be paid to the Administrative Agent by the Borrower and applied by the Administrative Agent ratably to prepay Term Loans owing to Term Lenders (other than Declining Lenders) ratably to the outstanding principal amount of the ABR Loans and Eurodollar Loans that make up such Term Lender’s Term Loan. If any Term Lender does not give a notice to the Administrative Agent on or prior to such fifth Business Day prior to the prepayment date informing the Administrative Agent that it declines to accept the applicable prepayment, then such Lender shall be deemed to have accepted such prepayment. If any Term Lender does not give a notice to the Administrative Agent regarding re-offered amounts on or prior to such third Business Day prior to the prepayment date informing the Administrative Agent that it declines to accept the applicable re-offered prepayment, then such Lender shall be deemed to have accepted such prepayment.

2.11 Fees. In addition to certain fees described in subsections (h) and (i) of Section 2.04:

(a) [Reserved.]

(b) The Borrower agrees to pay to the Administrative Agent for the ratable account of each Term Lender, an upfront fee in an amount equal to 3.00% of the principal amount of each Term Lender’s aggregate Term Loan Commitment as of the Closing Date to be paid on the Final Order Entry Date, which fee shall be earned on the Closing Date but due and payable on the Final Order Entry Date upon the funding of the Final Order Term Loans, and shall be netted from such funding on the Final Order Entry Date.

(c) All fees shall be paid on the dates due, in immediately available funds, to the Administrative Agent for distribution, if and as appropriate, among the Lenders. Once paid, none of such fees shall be refundable under any circumstances.

(d) Notwithstanding the foregoing, and subject to Section 2.21, the Borrower shall not be obligated to pay any amounts to any Defaulting Lender.

2.12 Interest.

(a) The Loans shall bear interest at the Applicable Rate.

(b) [Reserved].

(c) [Reserved].

(d) Notwithstanding the foregoing, commencing upon the occurrence of and during the continuation of an Event of Default, upon notice to the Borrower from the Administrative Agent (at the direction of the Required Lenders), the Borrower shall pay interest on the principal amount of all Loans outstanding hereunder (and any other past due amounts not constituting principal), (i) in the case of principal of any Loan, 2.00% per annum plus the rate otherwise applicable to such Loan, as provided in the preceding paragraphs of this Section 2.12 or (ii) in all other cases, 2.00% per annum plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section 2.12.

(e) Accrued interest on each Loan shall be payable in arrears on the first Business Day of each fiscal month of the Borrower; provided that (i) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment, and (ii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(f) All interest and fees hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or Adjusted Eurodollar Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

2.13 Alternate Rate of Interest. Subject to Section 2.06(e), if at least two Business Days prior to the commencement of any Interest Period for a Eurodollar Borrowing or if in connection with a Borrowing of an ABR Loan the interest on which is determined by reference to the Eurodollar Rate:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted Eurodollar Rate for such Interest Period or such existing or proposed ABR Loan; or

(b) the Administrative Agent is advised by the Required Lenders that the Adjusted Eurodollar Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for such Interest Period;

the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or facsimile as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective, (ii) if any Borrowing Request requests a Eurodollar Borrowing, then such Borrowing shall be made as an ABR Borrowing and (iii) in the event of a determination described in above in this Section 2.13 with respect to the Eurodollar component of the Alternate Base Rate, the utilization of the Eurodollar component in determining the Alternate Base Rate shall be suspended; provided, however,

that, in each case, the Borrower may revoke any Borrowing Request that is pending when such notice is received.

2.14 Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted Eurodollar Rate);

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

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

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

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

(c) A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company in reasonable detail, as the case may be, as specified in paragraph (a) or (b) of this Section 2.14 delivered to the Borrower shall be presumptively correct absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 15 days after receipt thereof.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section 2.14 shall not constitute a waiver of such Lender's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender pursuant to this Section 2.14 for any increased costs incurred or reductions suffered more than 180 days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

2.15 Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan prior to the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Term Loan on the date specified in any notice delivered pursuant hereto or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.18 or Section 10.02(c), then, in any such event, the Borrower shall, after receipt of a written request by any Lender affected by any such event (which request shall set forth in reasonable detail the basis for requesting such amount), compensate each Lender for the loss, cost and expense attributable to such event. For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 2.15, each Lender shall be deemed to have funded each Eurodollar Loan made by it at the Adjusted Eurodollar Rate, as applicable, for such Loan by a matching deposit or other borrowing in the applicable interbank Eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Loan was in fact so funded. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section 2.15 delivered to the Borrower shall be presumptively correct absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 15 days after receipt of such demand. Notwithstanding the foregoing, this Section 2.15 will not apply to Taxes indemnifiable under Section 2.16, as to which Section 2.16 shall govern, or Excluded Taxes.

2.16 Taxes.

(a) (i) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made free and clear of and without deduction for any Indemnified Taxes or Other Taxes. If any Requirement of Law (as determined in the good faith discretion of the Administrative Agent or a Loan Party, as applicable) requires the deduction or withholding of any Tax from any such payment by the Administrative Agent or a Loan Party, then the Administrative Agent or such Loan Party shall be entitled to make such deduction or withholding.

(ii) If any Loan Party or the Administrative Agent shall be required by the Code to withhold or deduct any Taxes, including both United States Federal backup withholding and withholding taxes, from any payment, then (A) the Administrative Agent shall withhold or make such deductions as are determined by the Administrative Agent to be required, (B) the Administrative Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Code, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 2.16) the applicable recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(iii) If any Loan Party or the Administrative Agent shall be required by any Requirements of Law other than the Code to withhold or deduct any Taxes from any payment, then (A) such Loan Party or the Administrative Agent, as required by such Requirements of Law, shall withhold or make such deductions as are determined by it to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) such Loan Party or the Administrative Agent, to the extent required by such Requirements of Law, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such Requirements of Law, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after any required withholding or the making of all required

deductions (including deductions applicable to additional sums payable under this Section 2.16) the applicable recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Without limiting the provisions of paragraph (a) above, the Borrower shall timely pay any Other Taxes (without duplication of Section 2.16(a)) to the relevant Governmental Authority in accordance with Requirements of Law.

(c) (i) The Borrower shall indemnify the Administrative Agent and each Lender, within 30 days after written demand therefor, for the full amount of any Indemnified Taxes paid by the Administrative Agent or such Lender, as the case may be, or required to be withheld or deducted from any payment by or on account of any obligation of any Loan Party under any Loan Document and any Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 2.16) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth in reasonable detail the basis and calculation of the amount of such payment or liability delivered to the Borrower by a Lender, or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. The Borrower shall, and does hereby, indemnify the Administrative Agent, and shall make payment in respect thereof within 10 days after demand therefor, for any amount which a Lender for any reason fails to pay indefeasibly to the Administrative Agent as required pursuant to Section 2.16(c)(ii) below.

(ii) Each Lender shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 10 days after demand therefor, (x) the Administrative Agent against any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (y) the Administrative Agent and the Borrower, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.04(c) relating to the maintenance of a Participant Register and (z) the Administrative Agent and the Borrower, as applicable, against any Excluded Taxes attributable to such Lender that are payable or paid by the Administrative Agent or the Borrower in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this clause (ii).

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

(e) Each Lender shall, at such times as are reasonably requested by the Borrower or the Administrative Agent, provide the Borrower and the Administrative Agent with any properly completed and executed documentation prescribed by Requirements of Law, or reasonably requested by the Borrower or the Administrative Agent, certifying as to any entitlement of such Lender to an exemption from, or reduction in, any withholding Tax with respect to any payments to be made to such Lender under the Loan Documents (including any documentation necessary to establish an exemption from, or reduction of, any

Taxes that may be imposed by FATCA). Each such Lender shall, whenever a lapse in time or change in circumstances renders such documentation expired, obsolete or inaccurate in any respect, deliver promptly to the Borrower and the Administrative Agent updated or other appropriate documentation (including any new documentation reasonably requested by the applicable withholding agent) or promptly notify the Borrower and the Administrative Agent of its inability to do so. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Requirements of Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.16(e)(i) and (ii) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

Without limiting the generality of the foregoing:

(i) Each Lender that is a United States person (as defined in Section 7701(a)(30) of the Code) shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent) two properly completed and duly signed copies of IRS Form W-9 (or any successor form) certifying that such Lender is exempt from U.S. federal backup withholding.

(ii) Each Lender that is not a United States person (as defined in Section 7701(a)(30) of the Code) shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement (and from time to time thereafter when required by Requirements of Law or upon the reasonable request of the Borrower or the Administrative Agent) whichever of the following is applicable:

(A) two properly completed and duly signed copies of IRS Form W-8BEN or W-8BEN-E (or any successor forms) claiming eligibility for benefits of an income tax treaty to which the United States of America is a party,

(B) two properly completed and duly signed copies of IRS Form W-8ECI (or any successor forms),

(C) in the case of a Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a properly completed and duly signed certificate, in substantially the form of Exhibit H (any such certificate a "United States Tax Compliance Certificate"), or any other form approved by the Administrative Agent and the Borrower, establishing that such Lender is not (1) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (2) a "10 percent shareholder" of a Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (3) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code and (y) two properly completed and duly signed copies of IRS Form W-8BEN or W-8BEN-E (or any successor forms),

(D) to the extent a Lender is not the beneficial owner (for example, where the Lender is a partnership), IRS Form W-8IMY (or any successor forms) of the Lender, accompanied, to the extent required to obtain an exemption from or reduction of Tax, by a Form W-8ECI, W-8BEN, W-8BEN-E, United States Tax Compliance Certificate, Form

W-9, Form W-8IMY, (or other successor forms) or any other required information from each beneficial owner, as applicable (provided that, if the Lender is a partnership and one or more beneficial owners are claiming the portfolio interest exemption, the United States Tax Compliance Certificate shall be provided by such Lender on behalf of such beneficial owners), and/or

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

Notwithstanding any other provisions of this clause (e), neither the Administrative Agent, nor any Lender, shall be required to deliver any form pursuant to this clause (e) that the Administrative Agent or such Lender is not legally eligible to deliver.

(f) Unless required by applicable laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender, or have any obligation to pay any Lender, any refund of Taxes withheld or deducted from funds paid for the account of such Lender. If the Administrative Agent or a Lender determines, in its reasonable discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.16, it shall pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 2.16 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of the Administrative Agent, such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Borrower, upon the request of the Administrative Agent or such Lender, agrees promptly to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. The Administrative Agent or such Lender, as the case may be, shall, at the Borrower's request, provide the Borrower with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant Governmental Authority (provided that the Administrative Agent or such Lender may delete any information therein that the Administrative Agent or such Lender deems confidential). Notwithstanding anything to the contrary in this paragraph (f), in no event will the Administrative Agent or a Lender be required to pay any amount to the Borrower pursuant to this paragraph (f) the payment of which would place such Administrative Agent or Lender in a less favorable net after-Tax position than the it would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. If the Borrower pays any additional amounts under this Section 2.16 with respect to the Indemnified Taxes or Other Taxes and the Borrower reasonably believes that such additional amounts or portion thereof are attributable to Taxes that were not correctly or legally

asserted, the Lender and Administrative Agent shall use reasonable efforts to cooperate with Borrower (at the Borrower's expense) to obtain a refund of such Taxes so long as such efforts would not, in the reasonable determination of such Lender or the Administrative Agent result in any non-reimbursable additional costs, expenses or risks or any other adverse effects for such Lender or the Administrative Agent. Notwithstanding anything to the contrary, this Section 2.16 shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to Taxes which it deems confidential).

2.17 Payments Generally; Pro Rata Treatment; Sharing of Setoffs.

(a) The Borrower shall make each payment required to be made by it under any Loan Document (whether of amounts payable under Section 2.14, 2.15 or 2.16, or otherwise) prior to the time expressly required hereunder or under such other Loan Document for such payment (or, if no such time is expressly required, prior to 2:00 p.m.), on the date when due, in immediately available funds, without condition or deduction for any counterclaim, recoupment or setoff. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to such account as may be specified by the Administrative Agent. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment (other than payments on the Eurodollar Loans) under any Loan Document shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day. If any payment on a Eurodollar Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate for the period of such extension. All payments under each Loan Document shall be made in dollars except as otherwise expressly provided herein.

(b) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Term Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Term Loans and accrued interest thereon than the proportion received by any other applicable Lender as required under the Loan Documents (including, without limitation, pursuant to Section 7.03), then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Term Loans of other applicable Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Term Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest and (ii) the provisions of this paragraph shall not be construed to apply to (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender) or (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant. The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(c) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder

that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption and in its sole discretion, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

2.18 Mitigation Obligations. If any Lender requests compensation under Section 2.14, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16 or any event gives rise to the operation of Section 2.22, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder affected by such event, or to assign and delegate its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the judgment of such Lender, such designation or assignment and delegation (i) would eliminate or reduce amounts payable pursuant to Section 2.14 or 2.16 or mitigate the applicability of Section 2.22, as the case may be, and (ii) would not subject such Lender to any unreimbursed cost or expense reasonably deemed by such Lender to be material and would not be inconsistent with the internal policies of, or otherwise be disadvantageous in any material economic, legal or regulatory respect to, such Lender.

2.19 Priority and Liens.

(a) Each of the Loan Parties hereby covenants and agrees that upon the entry of, and subject to the terms of, the Interim Order (and when applicable, the Final Order) (including and without prejudice to, without limitation, in each case, any rights or liens or perfected security interests (and the priorities thereof) granted under the Interim Order or Final Order under any other provision of 364 of the Bankruptcy Code or any other applicable provisions of the of the Bankruptcy Code) and subject to the Carve-Out in all respects, the Loan Document Obligations: (i) pursuant to Section 364(c)(1) of the Bankruptcy Code, shall at all times constitute allowed DIP Superpriority Claims in the Cases, which DIP Superpriority Claims in respect of the Credit Facility shall rank *pari passu* with each other; and (ii) pursuant to Section 364(c)(3) of the Bankruptcy Code, shall be secured by a valid, binding, enforceable, non-avoidable, and automatically perfected senior priority (subject to the Carve-Out and Permitted Liens (as defined in the Orders)) Lien upon all assets of each Debtor of any nature whatsoever and wherever located, whether first arising prior to or following the Petition Date, now owned or hereafter acquired, including all accounts, chattel paper, commercial tort claims, deposit accounts, documents, equipment, general intangibles, goods, instruments, inventory, investment property, letter-of-credit rights, real property, books and records, and all proceeds, rents, profits, and offspring of the foregoing, including but not limited to (x) all assets constituting Collateral (as defined in the Prepetition Credit Agreement), (y) all assets of the Debtors that, as of the Petition Date, were not otherwise subject to a security interest, including any assets constituting Excluded Assets (as defined in the Prepetition Credit Agreement), (z) subject to entry of the Final Order, the proceeds of avoidance actions under chapter 5 of the Bankruptcy Code and the proceeds thereof (the assets described in clauses (x), (y), and (z) above, the “DIP Collateral”).

(b) The relative priorities of the Liens described in this Section 2.19 with respect to the DIP Collateral shall be as set forth in the Interim Order (and, when entered, the Final Order) and the Collateral Agreement. In accordance with the Interim Order (or, once entered, the Final Order), all of the Liens described in this Section 2.19 shall be effective and perfected upon entry of the Interim Order, without the necessity of the execution, recordation of filings by the Debtors of security agreements, control agreements, pledge agreements, financing statements or other similar documents, or the possession or control by the Administrative Agent, of, or over, any DIP Collateral, as set forth in the Interim Order.

(c) Each Loan Party that is a Debtor hereby confirms and acknowledges that, pursuant to the Interim Order (and, when entered, the Final Order), the Liens in favor of the Administrative Agent on behalf of and for the benefit of the Secured Parties in all of the DIP Collateral, now existing or hereafter acquired, shall be created and perfected without the recordation or filing in any land records or filing offices of any mortgage, assignment or similar instrument.

2.20 No Discharge; Survival of Claims. Each of the Loan Parties agrees that prior to Payment in Full of the Loan Document Obligations the Loan Document Obligations shall not be discharged by the entry of an order confirming a Reorganization Plan (and each of the Loan Parties, pursuant to Section 1141(d)(4) of the Bankruptcy Code, hereby waives any such discharge).

2.21 Defaulting Lenders.

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

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definitions of "Required Lenders" and Section 10.02.

(ii) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VII or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 10.08), shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; second, [reserved]; third, [reserved]; fourth, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, [reserved]; sixth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and eighth, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided, that, if (x) such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made at a time when the conditions set forth in Section 4.03 were satisfied or waived, such payment shall be applied solely to pay the Loans of all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans are funded without giving effect to Section 2.21(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this Section 2.21(a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(b) Defaulting Lender Cure. If the Borrower and the Administrative Agent agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such

notice and subject to any conditions set forth therein, such Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans to be held on a pro rata basis by the Lenders in accordance with their applicable percentages (without giving effect to Section 2.21(a)(iv)), whereupon that Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

2.22 Illegality. If any Lender determines that any law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender to make, maintain or fund Loans whose interest is determined by reference to the Adjusted Eurodollar Rate, or to determine or charge interest rates based upon the Adjusted Eurodollar Rate, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurodollar Loans or to convert ABR Loans to Eurodollar Loans shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining ABR Loans the interest rate on which is determined by reference to the Adjusted Eurodollar Rate component of the Alternate Base Rate, the interest rate on such ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Eurodollar Rate component of the Alternate Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrower shall, upon three Business Days' notice from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Loans of such Lender to ABR Loans (the interest rate on which ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Eurodollar Rate component of the Alternate Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Loans, and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Adjusted Eurodollar Rate, the Administrative Agent shall during the period of such suspension compute the Alternate Base Rate applicable to such Lender without reference to the Adjusted Eurodollar Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Adjusted Eurodollar Rate. Each Lender agrees to notify the Administrative Agent and the Borrower in writing promptly upon becoming aware that it is no longer illegal for such Lender to determine or charge interest rates based upon the Adjusted Eurodollar Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

2.23 Payment of Obligations. Subject to the Orders, upon the maturity (whether by acceleration or otherwise) of any of the Loan Document Obligations of the Loan Parties under this Agreement or any of the other Loan Documents, the Administrative Agent and the Lenders shall be entitled to immediate payment of such Loan Document Obligations without further application to or order of the Bankruptcy Court.

ARTICLE III

Representations and Warranties

Each of Holdings and the Borrower and the other Loan Parties represents and warrants to the Lenders that:

3.01 Organization; Powers. Each of Holdings, the Borrower and the Restricted Subsidiaries are duly organized, validly existing and in good standing (to the extent such concept exists in the relevant jurisdictions) under the laws of the jurisdiction of its organization, and, subject to the entry and the terms of the Orders and other orders of the Bankruptcy Court, as applicable, has the corporate or other organizational power and authority to, except as would not reasonably be expected to have a Material Adverse Effect, carry on its business as now conducted and as proposed to be conducted and to execute, deliver and perform its obligations under each Loan Document to which it is a party and to effect the Transactions and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

3.02 Authorization; Enforceability. Subject to the entry of the Orders and subject to the terms thereof, the Transactions to be entered into by each Loan Party have been duly authorized by all necessary corporate or other organizational action and, if required, action by the holders of such Loan Party's Equity Interests. This Agreement has been duly executed and delivered by each of Holdings and the Borrower and constitutes, and each other Loan Document to which any Loan Party is to be a party, when executed and delivered by such Loan Party, will constitute, a legal, valid and binding obligation of Holdings, the Borrower or such Loan Party, as the case may be, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other similar laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law, and implied covenants of good faith and fair dealing.

3.03 Governmental and Third-Party Approvals; No Conflicts. Subject to the entry of the Orders and subject to the terms thereof, the Transactions do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority or any other Person, except such as have been obtained or made and are in full force and effect and except filings necessary to perfect Liens created under the Loan Documents except to the extent that the failure to obtain or make such consent, approval, registration, filing or action, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. Subject to the entry of the Orders and subject to the terms thereof, the execution, delivery and performance by the Loan Parties of the Loan Documents to which they are a party and the consummation of the transactions contemplated by the Loan Documents, the Transactions (a) will not violate (i) the Organizational Documents of, or (ii) any Requirements of Law applicable to, Holdings, the Borrower or any Restricted Subsidiary, (b) will not violate or result in a default under any indenture or other material agreement or instrument (other than, in each case, any such indenture, agreement, or instrument governing Prepetition Debt) binding upon Holdings, the Borrower or any Restricted Subsidiary or their respective assets, or give rise to a right thereunder to require any payment, repurchase or redemption to be made by Holdings, the Borrower or any Restricted Subsidiary, or give rise to a right of, or result in, termination, cancellation or acceleration of any obligation thereunder and (c) will not result in the creation or imposition of any Lien on any asset of Holdings, the Borrower or any Restricted Subsidiary, except Liens created under the Loan Documents, except (in the case of clauses (a) and (b)) to the extent that the such violation, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

3.04 [Reserved].

3.05 Properties. Other than as set forth on Schedule 3.05:

(a) Each of Holdings, the Borrower and the Restricted Subsidiaries has good title to, or valid leasehold interests in, all its real and personal property material to its business, if any, (i) free and clear of all Liens except for Liens permitted by Section 6.02 and (ii) except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or as proposed to be conducted or to utilize such properties for their intended purposes, except, in each case, where the failure to do so could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) As of the Closing Date after giving effect to the Transactions, none of Holdings, the Borrower or any Restricted Subsidiary owns any real property.

3.06 Litigation and Environmental Matters. Other than as set forth on Schedule 3.06:

(a) Except for the Cases, there are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of Holdings or the Borrower, threatened in writing against or affecting Holdings, the Borrower or any Restricted Subsidiary that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(b) Except as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, none of Holdings, the Borrower or any Restricted Subsidiary (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has, to the knowledge of Holdings or the Borrower, become subject to any Environmental Liability, (iii) has received written notice of any claim with respect to any Environmental Liability or (iv) has, to the knowledge of Holdings or the Borrower, any basis to reasonably expect that Holdings, the Borrower or any Restricted Subsidiary will become subject to any Environmental Liability.

3.07 Compliance with Laws and Agreements. Each of Holdings and its Restricted Subsidiaries is in compliance with (a) its Organizational Documents, (b) other than such violations arising as a result of the commencement of the Cases, all Requirements of Law applicable to it or its property and (c) all indentures and other agreements and instruments binding upon it or its property, except, in the case of clauses (a) (other than as it relates to the Borrower), (b) and (c) of this Section 3.07, where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

3.08 Investment Company Status. None of Holdings, the Borrower or any Restricted Subsidiary is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended from time to time.

3.09 Taxes. Other than as set forth on Schedule 3.09 or as otherwise could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, and except Taxes the payment of which are stayed by the Cases, Holdings, the Borrower and each Restricted Subsidiary (a) have timely filed or caused to be filed all federal and other material Tax returns and reports required to have been filed and (b) have paid or caused to be paid all federal and other material Taxes required to have been paid (whether or not shown on a Tax return) including in their capacity as Tax withholding agents, except any Taxes that are being contested in good faith by appropriate actions; provided that Holdings or such Subsidiary, as the case may be, has set aside on its books adequate reserves therefore in accordance with GAAP.

3.10 ERISA; Labor Matters. Other than as set forth on Schedule 3.10:

(a) Except as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each ERISA Plan is in compliance with the applicable provisions of ERISA, the Code and other federal or state laws.

(b) Except as could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, (i) no ERISA Event has occurred or, to the knowledge of Holdings or the Borrower is reasonably expected to occur, (ii) neither a Loan Party nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any ERISA Plan (other than premiums due and not delinquent under Section 4007 of ERISA), (iii) neither a Loan Party nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan and (iv) neither a Loan Party nor any ERISA Affiliate has engaged in a transaction that could reasonably be expected to be subject to Section 4069 or 4212(c) of ERISA.

(c) There are no collective bargaining agreements covering the employees of Holdings, the Borrower or any of the Restricted Subsidiaries and, except as could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, neither any Loan Party nor any Restricted Subsidiary has suffered any strikes, walk-outs, work stoppages or other material labor dispute within the last five years.

3.11 Disclosure; Undisclosed Liabilities.

(a) No reports, financial statements, certificates or other written information (other than information of a general economic or industry nature) furnished by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with any Loan Document or delivered thereunder (as modified or supplemented by other information so furnished) when taken as a whole contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not materially misleading; provided that, with respect to projected financial information, Holdings and the Borrower represent only that such information was prepared in good faith based upon assumptions believed by them to be reasonable at the time delivered and, if such projected financial information was delivered prior to the Closing Date, as of the Closing Date, it being understood that any such projected financial information may vary from actual results and such variations could be material.

(b) As of the Closing Date, the Loan Parties have no material obligations or liabilities, matured or unmatured, fixed or contingent, other than (i) those set forth or adequately provided for in the financial statements delivered to the Administrative Agent and the Lenders pursuant to this Agreement, (ii) those incurred in the ordinary course of business and not required to be set forth in the financial statements under GAAP, (iii) those incurred in the ordinary course of business since the date of the most recently delivered balance sheet and consistent with past practice, and (iv) those incurred in connection with the execution of this Agreement.

3.12 Subsidiaries; Equity Interests. As of the Closing Date, Part (a) of Schedule 3.12 sets forth the name of, and the ownership interest of Holdings and each Subsidiary in, each Subsidiary. As of the Closing Date, Part (b) of Schedule 3.12 sets forth all equity investments in any other corporation or entity other than those specifically disclosed in Part (a) of Schedule 3.12. All of the outstanding Equity Interests in the Borrower have been validly issued, are fully paid and non-assessable and are owned by Holdings in the amounts specified on Part (a) of Schedule 3.12 free and clear of all Liens except (i) those

created under the Security Documents, (ii) Liens granted to secure the Prepetition Secured Obligations, and (iii) those created pursuant to the Orders.

3.13 Intellectual Property; Licenses, Etc.. Except, in each case, as could not reasonably be expected to have a Material Adverse Effect: Holdings, the Borrower and the Restricted Subsidiaries own, license or possess the right to use, all of the trademarks, service marks, trade names, domain names, copyrights, patents, patent rights, technology, software, know-how database rights, design rights and other rights to Intellectual Property that are reasonably necessary for the operation of their businesses as currently conducted. No Intellectual Property, advertising, product, process, method, substance, part or other material used by Holdings, the Borrower or any Restricted Subsidiary in the operation of its business as currently conducted infringes upon any rights held by any Person except for such infringements, individually or in the aggregate, which could not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any Intellectual Property is pending or, to the knowledge of Holdings, the Borrower, and the Restricted Subsidiaries, threatened against Holdings, the Borrower or any Restricted Subsidiary, which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. Notwithstanding anything in this Section 3.13 to the contrary, no sale, transfer or other Disposition of Intellectual Property in connection with any Disposition made pursuant to Section 6.05(q) shall be deemed to cause a breach of the representations and warranties in this Section 3.13 or any similar representations and warranties with respect to Intellectual Property in any Loan Document.

3.14 Status of Obligations; Perfection and Priority of Security Interests. Subject to entry of the Interim Order (and the Final Order, as applicable) the Loan Document Obligations shall have the status and priority set forth in Section 2.19 and, for the avoidance of doubt, are subject to the Carve-Out in all respects.

3.15 Federal Reserve Regulations. None of Holdings, the Borrower or any Restricted Subsidiary is engaged or will engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors), or extending credit for the purpose of purchasing or carrying margin stock. No part of the proceeds of the Loans will be used, directly or indirectly, to purchase or carry any margin stock or to refinance any Indebtedness originally incurred for such purpose, or for any other purpose that entails a violation (including on the part of any Lender) of the provisions of Regulations U or X of the Board of Governors.

3.16 USA Patriot Act; FCPA; OFAC.

(a) Holdings and its Subsidiaries are in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 C.F.R. Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (ii) the USA Patriot Act. The Loan Parties and their Subsidiaries have conducted their business in compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions, and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

(b) The use of the proceeds of the Loans will not violate the Trading with the Enemy Act, as amended or any of the foreign assets control regulations of the United States Treasury Department (31 C.F.R. Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto.

(c) Neither Holdings, nor any Subsidiary, nor, to the knowledge of Holdings and its Subsidiaries, any director, officer, employee, agent, affiliate or representative thereof, is an individual or

entity that is, or is owned or controlled by any individual or entity that is (i) currently the subject or target of any Sanctions, (ii) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant sanctions authority or (iii) located, organized or resident in a Designated Jurisdiction.

3.17 Use of Proceeds. The proceeds of the Loans have been used and shall be used in accordance with Section 5.10.

3.18 Security Interests. Subject to the entry of the Orders and subject to the terms thereof, the provisions of the Orders, this Agreement and the Collateral Agreement create in favor of the Administrative Agent, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the DIP Collateral, and upon entry of the Orders, the Lien created under the Orders, this Agreement and the Collateral Agreement will constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such DIP Collateral, enforceable (except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or similar laws affecting creditors' rights generally and general principles of equity (regardless of whether the application of such principles is considered in a proceeding in equity or at law)) against the applicable Loan Party and all third parties, and having priority over all other Liens on the DIP Collateral except as contemplated by the Orders, in each case, without the necessity of the execution of mortgages, security agreements, pledge agreements, financing statements or other agreements or documents except to the extent set forth in the Orders.

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

3.20 [Reserved].

3.21 [Reserved].

3.22 DIP Budget. The Approved DIP Budget has been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time made, it being understood that projections as to future events are not to be viewed as facts and actual results may vary materially from such forecasts.

3.23 Non-Loan Party Subsidiaries. No Subsidiary of Holdings that is not a Loan Party owns any Intellectual Property that is material to the business of the Loan Parties.

3.24 Immaterial Subsidiaries. No Immaterial Subsidiary (a) owns any assets (other than assets of a de minimis nature), (b) has any liabilities (other than liabilities of a de minimis nature), or (c) engages in any business activity.

ARTICLE IV

Conditions

4.01 Closing Date; Conditions to Borrow Initial Term Loans. On the date of the Borrowing of the Interim Term Loans (the date such conditions are satisfied or waived, the "Closing Date"), the obligations of the Lenders to make Loans in an aggregate amount not to exceed the lesser of (x) the

amount approved by the Bankruptcy Court and (y) \$6,000,000 are also subject to the satisfaction (or waiver) of the following conditions:

(a) The Administrative Agent (or its counsel) shall have received from the Borrower and Holdings either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include facsimile or other electronic transmission of a signed counterpart of this Agreement) that such party has signed a counterpart of this Agreement (including via any electronic means).

(b) [Reserved].

(c) [Reserved].

(d) The Administrative Agent shall have received (unless waived by the Required Lenders) a copy of (i) each Organizational Document of each Loan Party certified, to the extent applicable, as of a recent date by the applicable Governmental Authority, (ii) signature and incumbency certificates of the Responsible Officers of each Loan Party executing the Loan Documents to which it is a party, (iii) resolutions of the Board of Directors and/or similar governing bodies of each Loan Party approving and authorizing the execution, delivery and performance of the Loan Documents to which it is a party, certified as of the Closing Date by its secretary, an assistant secretary or a Responsible Officer as being in full force and effect without modification or amendment, and (iv) a good standing certificate (to the extent such concept exists) from the applicable Governmental Authority of each Loan Party's jurisdiction of incorporation, organization or formation.

(e) Prior to or substantially simultaneously therewith, all fees, costs and expenses (including, without limitation, invoiced legal fees and expenses), in the case of costs and expenses and legal fees (but not other fees) to the extent invoiced at least three (3) Business Days prior to the Petition Date required to be paid to the Administrative Agent and the Lenders in accordance with the terms hereof, if any, on or before the Closing Date shall have been paid in full in cash, in each case subject to and in accordance with the Interim Order.

(f) [Reserved].

(g) [Reserved].

(h) [Reserved].

(i) [Reserved].

(j) The Administrative Agent and the Lenders shall have received a duly executed W-9 (or other applicable tax form) of the Borrower, and all documentation and other information about the Loan Parties as shall have been reasonably requested in writing at least 5 days prior to the Closing Date by the Administrative Agent or any Lender required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the USA Patriot Act.

(k) All Lenders shall have received the Initial Budget.

(l) The Petition Date shall have occurred.

(m) The Bankruptcy Court shall have entered the Interim Order in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders within three (3) Business Days after the Petition Date, it being understood that drafts approved by counsel to the Administrative Agent and the Required Lenders, on or prior to the Petition Date are reasonably satisfactory, and the Interim Order shall not have been vacated, reversed, modified, amended or stayed, in the case of any modification or amendment, in a manner that is materially adverse to the Lenders, without the consent of the Required Lenders (and, with respect to those provisions thereof that affect the rights, obligations, liabilities and duties of the Administrative Agent, to the Administrative Agent).

(n) All First Day Orders shall have been entered by the Bankruptcy Court and all such entered First Day Orders shall be reasonably satisfactory in form and substance to the Required Lenders, it being understood that counsel to the Required Lenders have reviewed drafts of all First Day Orders on or prior to the Petition Date and all such drafts are reasonably satisfactory.

(o) No trustee under Chapter 7 or Chapter 11 of the Bankruptcy Code or examiner with enlarged powers beyond those set forth in Section 1106(a)(3) and (4) of the Bankruptcy Code shall have been appointed in any of the Cases.

(p) The Administrative Agent, for the benefit of the Secured Parties, shall have valid and perfected Liens on all DIP Collateral, to the extent contemplated hereby, and pursuant to the other Loan Documents, including the Interim Order.

The Borrowing of the Interim Term Loans shall be deemed to constitute a representation and warranty by Holdings and the Borrower on the date thereof as to the matters specified in paragraphs (d), (k), (l), (m), (n), (o) and (p) of this Section 4.01.

4.02 Conditions to Borrowing on the Final Order Availability Date. After the Closing Date and the funding of the Interim Term Loan, the obligation of the Lenders to make Loans in an amount equal to the lesser of (x) the amount approved by the Bankruptcy Court and (y)(I) the Final Order Availability Amount minus (II) the aggregate principal amount of the Term Loans funded on the Closing Date, is also subject to the satisfaction (or waiver) of the following conditions precedent:

(a) All “second day” orders approving on a final basis the relief granted under any First Day Orders shall have been entered by the Bankruptcy Court, shall be reasonably satisfactory to the Required Lenders (and, with respect to those provisions thereof that affect the rights, obligations, liabilities and duties of the Administrative Agent, to the Administrative Agent), shall be in full force and effect, shall not have been vacated or reversed, shall not be subject to a stay and shall not have been modified or amended other than as reasonably acceptable to the Required Lenders (and, with respect to those provisions thereof that affect the rights, obligations, liabilities and duties of the Administrative Agent, to the Administrative Agent).

(b) The Administrative Agent, for the benefit of the Secured Parties, shall continue to have valid and perfected Liens on all DIP Collateral, to the extent contemplated hereby, and pursuant to the other Loan Documents, including the Orders.

(c) The Administrative Agent shall have received a certificate, dated as of the Final Order Availability Date and signed by a Financial Officer of the Borrower, confirming compliance with the conditions precedent set forth in paragraphs (a), (b) and (c) of Section 4.03.

4.03 Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing (each such event being called a “Credit Event”) is subject to receipt of the request therefor in accordance herewith and to the satisfaction (or waiver) of the following conditions:

(a) The representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct in all material respects on and as of the date of such Borrowing; provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided further that any representation and warranty that is qualified as to “materiality”, “Material Adverse Effect” or similar language shall be true and correct in all respects on the date of such credit extension or on such earlier date, as the case may be.

(b) At the time of and immediately after giving effect to such Borrowing, no Default or Event of Default shall have occurred and be continuing.

(c) The Administrative Agent shall have received a notice of such Borrowing as required by Section 2.03 (or such notice shall have been deemed given in accordance with Section 2.02).

(d) The making of such Loan shall not violate any requirement of material law applicable to the Loan Parties, after giving effect to the Orders and any other order of the Bankruptcy Court entered on or prior to the date of the applicable Credit Event, and shall not be enjoined, temporarily, preliminarily or permanently.

(e) The Administrative Agent and the Lenders shall have received the fees in the amounts previously agreed in writing by the Administrative Agent or otherwise pursuant to the Loan Documents, if any, on or prior to such date and all expenses (including the reasonable and documented fees, disbursements and other charges of counsel to the extent payable in accordance with the terms hereof) payable by the Loan Parties for which, with respect to expenses, invoices have been presented at least three (3) Business Days prior to such date shall have been paid, in each case subject to and in accordance with the Orders; which amounts may, at the election of the Borrower, be paid from the proceeds of the Loans funded on the date of such Borrowing unless required to be paid by the Borrower prior to such date.

(f) For purposes of the single draw on the Final Order Availability Date of the Final Order Term Loan, the Final Order shall have been granted by the Bankruptcy Court.

Each Borrowing (provided that a conversion or a continuation of a Borrowing shall not constitute a “Borrowing” for purposes of this Section 4.03) shall be deemed to constitute a representation and warranty by Holdings and the Borrower on the date thereof as to the matters specified in paragraphs (a) through (e) of this Section 4.03.

ARTICLE V

Affirmative Covenants

Until the Loan Document Obligations are Paid in Full, each of Holdings and the Borrower and the other Loan Parties covenants and agrees with the Lenders that:

5.01 Financial Statements and Other Information. Holdings will furnish to the Administrative Agent (for distribution to each Lender through the Administrative Agent):

(a) [reserved].

(b) with respect to each of the first three fiscal quarters of each fiscal year, on or before the date that is 45 days after the end of each such fiscal quarter, an unaudited consolidated balance sheet and unaudited consolidated statements of operations and cash flows of Holdings and its Restricted Subsidiaries as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year; all certified by a Financial Officer of Holdings as presenting fairly in all material respects, as applicable, the financial condition as of the end of and for such fiscal quarter and such portion of the fiscal year and results of operations and cash flows of Holdings and its Restricted Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes, together with customary management's discussion and analysis describing results of operations.

(c) concurrently with the delivery of financial statements under paragraph (b) above, a certificate of a Financial Officer (i) certifying as to whether a Default has occurred and, if a Default has occurred and is continuing, specifying the details thereof and any action taken or proposed to be taken with respect thereto, and (ii) describing any material change in accounting policies or financial reporting practices by Holdings or any Subsidiary.

(d) on or before 12:00 p.m. New York City time on the Wednesday of each fourth (4th) calendar week following the week in which the Petition Date occurs, the Loan Parties shall deliver to the Administrative Agent and the Lenders a supplement to the Approved DIP Budget covering the 8-week period (or such shorter period as is acceptable to the Required Lenders) that commences with the beginning of the week in which the supplemental budget is required to be delivered, consistent with the form and level of detail set forth in the Initial Budget and otherwise in form and substance reasonably acceptable to the Required Lenders in their reasonable discretion (each such supplemental budget, an "Updated Budget"). Upon (and subject to) the approval of any such Updated Budget by the Required Lenders in their reasonable discretion, such Updated Budget shall constitute the then-approved Approved DIP Budget, effective as of the beginning of the week in which it was delivered; provided that unless and until the Required Lenders approve such supplemental budget in their reasonable discretion, the then-current Approved DIP Budget shall remain in effect;

(e) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and registration statements (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statement on Form S-8) filed by Holdings or any of the Restricted Subsidiaries with the SEC or with any national securities exchange, or distributed by Holdings or any of the Restricted Subsidiaries to the holders of its Equity Interests generally, as the case may be;

(f) (i) no more than 35 days after the end of each calendar month, a "flash report" for Holdings and its Restricted Subsidiaries, in the form provided pursuant to the Prepetition Credit Agreement, and (ii) no more than 45 days after the end of each calendar month, an unaudited consolidated balance sheet and unaudited consolidated statements of operations and cash flows of Holdings and its Restricted Subsidiaries as of the end of and for such calendar month; which shall be subject to normal year-end audit adjustments and the absence of footnotes and, in each case, in the form provided to the Board of Directors of Holdings;

(g) promptly, and in any event within five (5) Business Days after receipt thereof by any Loan Party or any Subsidiary thereof, copies of each material written notice or other material correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other

operational results of any Loan Party or any Subsidiary thereof other than routine investigations, inquiries, audits and surveys;

(h) [reserved];

(i) By no later than 12:00 p.m. New York City time on the Thursday of each calendar week following the first complete week after the Petition Date occurs, the Debtors shall deliver to the Administrative Agent and the Lenders (and their advisors) a line-item by line-item report setting forth for each line item in the Approved DIP Budget, in reasonable detail, the actual receipts and operating disbursements (including any professional fees) for each such line item for the prior week (or, in the case of the first such report, for the prior two weeks);

(j) By no later than 12:00 p.m. New York City time on the Thursday of each calendar week following the first week in which the Petition Date occurs (each such Thursday, a “Variance Report Date”), the Debtors shall deliver to the Administrative Agent and the Lenders (and their advisors) a line-item by line-item variance report (each, a “Variance Report”) setting forth, in reasonable detail, (x) any differences between actual receipts and operating disbursements (for the avoidance of doubt, excluding any professional fees) for each such line item for the Variance Testing Period versus projected receipts and operating disbursements set forth in the Approved DIP Budget (as in effect at the beginning of such Variance Testing Period) for each such line item for such Variance Testing Period and on a cumulative basis for the period from beginning of the week in which the Petition Date occurs through the end of such Variance Testing Period (such cumulative report to be prepared by aggregating the variances set forth in each Variance Report) and (y) the computations necessary to determine compliance with Section 6.10, together with a statement from the Borrower’s chief financial officer certifying the information contained in the report. The Variance Report shall also provide a reasonably detailed explanation for any variance in such Variance Report in excess of 10.0% in actual receipts or operating disbursements for each such line item during the Variance Testing Period as compared to projections for such line items during the Variance Testing Period as set forth in the Approved DIP Budget (as in effect at the beginning of such Variance Testing Period); and

(k) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of Holdings, any Intermediate Parent, the Borrower or any of the Subsidiaries, or compliance with the terms of any Loan Document, as the Administrative Agent on its own behalf or on behalf of any Lender may reasonably request in writing.

In addition, quarterly, if requested by the Administrative Agent or the Required Lenders and at a time to be mutually agreed with the Administrative Agent and the Required Lenders that is promptly after the delivery of the information required pursuant to clause (b) above, as applicable, participate in a conference call for Lenders to discuss the financial condition and results of Holdings and its Subsidiaries for the most recently-ended period for which financial statements have been delivered.

Documents required to be delivered pursuant to Section 5.01(b), (d), (e), (f), (g), (h) or (i) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which such documents are posted on the Borrower’s behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent upon its reasonable request until a written notice to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify the Administrative Agent (by facsimile or electronic mail) of the posting of any such documents and upon its reasonable request, provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or

maintain paper copies of the documents referred to above, and each Lender shall be solely responsible for timely accessing posted documents and maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, “Borrower Materials”) by posting the Borrower Materials on DebtDomain, IntraLinks, SyndTrak or another similar electronic system (the “Platform”) and (b) certain of the Lenders (each, a “Public Lender”) may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons’ securities. The Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked “PUBLIC” which, at a minimum, shall mean that the word “PUBLIC” shall appear prominently on the first page thereof; (x) by marking Borrower Materials “PUBLIC”, the Borrower shall be deemed to have authorized the Administrative Agent and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Borrower or any of its Affiliates or the Borrower’s or any such Affiliates’ securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.13); (y) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public Side Information”; and (z) the Administrative Agent shall be entitled to treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public Side Information.” Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Borrower Materials “PUBLIC.”

5.02 Notices of Material Events. Promptly after any Responsible Officer of Holdings or the Borrower obtains actual knowledge thereof and, if applicable, after notifying the appropriate Governmental Authority, Holdings or the Borrower will furnish to the Administrative Agent (for distribution to each Lender through the Administrative Agent) written notice of the following:

- (a) the occurrence of any Default;
- (b) to the extent permissible by applicable law, the filing or commencement of any action, suit or proceeding (other than the Cases), by or before any arbitrator or Governmental Authority against Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary or the receipt of a notice of an Environmental Liability, in each case that an adverse determination (as applicable) is reasonably probable and, if adversely determined (as applicable), could reasonably be expected to result in a Material Adverse Effect; and
- (c) the occurrence of any event that is not a matter of general public knowledge that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Each notice delivered under this Section 5.02 shall be accompanied by a written statement of a Responsible Officer of Holdings or the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

5.03 Information Regarding Collateral. Holdings or the Borrower will furnish to the Administrative Agent with five days’ (or such shorter period as reasonably agreed to by the Administrative Agent) prior written notice of any change (i) in any Loan Party’s legal name (as set forth in its certificate of organization or like document), (ii) in the jurisdiction of incorporation or organization

of any Loan Party or in the form of its organization or (iii) in any Loan Party's organizational identification number.

5.04 Existence; Conduct of Business. Each of Holdings and the Borrower will, and will cause each Restricted Subsidiary to, do or cause to be done all things necessary to obtain, preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges, franchises, patents, copyrights, trademarks and trade names material to the conduct of its business, except (other than with respect to the legal existence of Holdings or the Borrower) to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, consolidation, amalgamation, liquidation or dissolution permitted under Section 6.03 or any Disposition permitted by Section 6.05.

5.05 Payment of Taxes, Etc. Subject to the Approved DIP Budget, and except where not permitted to do so as a result of the commencement of the Case, each of Holdings and the Borrower will, and will cause each Restricted Subsidiary to, pay its obligations in respect of all material federal and other material Taxes (solely to the extent arising after the Petition Date) before the same shall become delinquent or in default; provided that neither Holdings nor any Restricted Subsidiary shall be required to pay any such Tax which is being contested in good faith and by proper proceedings if it has maintained adequate reserves (in the good faith judgment of the management of Holdings) with respect thereto in accordance with GAAP.

5.06 Maintenance of Properties. Each of Holdings and the Borrower will, and will cause each Restricted Subsidiary to, keep and maintain all material property necessary to the conduct of its business in good working order and condition, ordinary wear and tear excepted and fire, casualty or condemnation excepted, except where the failure to do so could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

5.07 Insurance. Each of Holdings and the Borrower will, and will cause each Restricted Subsidiary to, maintain, with insurance companies that Holdings believes (in the good faith judgment of the management of Holdings) are financially sound and responsible at the time the relevant coverage is placed or renewed, insurance in at least such amounts (after giving effect to any self-insurance which Holdings believes (in the good faith judgment of management of Holdings) is reasonable and prudent in light of the size and nature of its business) and against at least such risks (and with such risk retentions) as Holdings believes (in the good faith judgment of the management of Holdings) are reasonable and prudent in light of the size and nature of its business, and will furnish to the Administrative Agent, upon written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried.

5.08 Books and Records; Inspection and Audit Rights. Each of Holdings and the Borrower will, and will cause each Restricted Subsidiary to, maintain proper books of record and account in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of Holdings, the Borrower or their Restricted Subsidiaries, as the case may be. Each of Holdings and the Borrower will, and will cause each Restricted Subsidiary to, permit any representatives designated by the Administrative Agent or the Required Lenders, upon reasonable prior notice, to visit and inspect its properties (to the extent it is within such Person's control to permit such inspection), to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times during normal business hours and as often as reasonably requested (and subject, in the case of any such meetings or advice from such independent accountants, to such accountants' customary policies and procedures); provided that, excluding any such visits and inspections during the continuation of an Event of Default, the

Administrative Agent and the Required Lenders shall not exercise visitation and inspection rights more often than once during any fiscal year absent the existence of an Event of Default and only one such time shall be at the Borrower's expense; provided further that when an Event of Default exists, the Administrative Agent and the Required Lenders (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice; provided, further, that any Lender (or representative designated by such Lender) may accompany the Administrative Agent on any such inspection. Notwithstanding anything to the contrary in this Section 5.08, none of Holdings, the Borrower or any Restricted Subsidiary shall be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information or (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by applicable law or any binding agreement.

5.09 Compliance with Laws.

(a) Except as otherwise excused by the Bankruptcy Code with respect to any Loan Party that is a Debtor, each of Holdings and the Borrower will, and will cause each Restricted Subsidiary to, comply with its Organizational Documents and all Requirements of Law with respect to it, its property and operations, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(b) Except as otherwise excused by the Bankruptcy Code with respect to any Loan Party that is a Debtor, without limitation of clause (a) above, Holdings and Borrower will, and will cause each Restricted Subsidiary to: (i) comply with all applicable Environmental Laws and with any permit, license or other approval required under any Environmental Law ("Environmental Permits") except, in each case, to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect; (ii) obtain and renew all Environmental Permits necessary for its operations and properties; and (iii) to the extent required under Environmental Laws, conduct any investigation, mitigation, study, sampling and testing, and undertake any clean-up, removal or remedial, corrective or other action necessary to remove and clean up all Hazardous Materials from any of its properties, in accordance with the requirements of all Environmental Laws, except, in the case of clauses (ii) and (iii), to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(c) Without limitation of clause (a) above, Holdings and the Borrower will, and will cause each Restricted Subsidiary to comply with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 C.F.R. Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, (ii) the USA Patriot Act, (iii) the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions and maintain policies and procedures designed to promote and achieve compliance with such laws and (iv) all applicable Bank Secrecy Act and anti-money laundering laws and regulations.

5.10 Use of Proceeds. The Borrower will use the proceeds of the Loans, together with cash on hand of the Loan Parties and their Subsidiaries, to (i) finance the Transactions on the Closing Date, (ii) to pay obligations arising from or related to the Carve-Out, (iii) to pay professional fees and expenses in connection with the Cases (including fees incurred prior to the Closing Date), (iv) to make adequate protection payments, (v) to pay Transaction Costs and (vi) for working capital, capital expenditures and for other general corporate purposes; provided that, for the avoidance of doubt, it is acknowledged and agreed that the use of proceeds of the Loans shall be subject to and consistent with the then-Approved DIP Budget (subject to any Permitted Variance).

5.11 Additional Restricted Subsidiaries.

If (i) any additional Subsidiary (other than an Excluded Subsidiary) or Intermediate Parent is formed or acquired after the Closing Date or (ii) if any Subsidiary ceases to be an Excluded Subsidiary, Holdings or the Borrower will, within 30 days (or such longer period as the Administrative Agent shall reasonably agree) after such newly formed or acquired Subsidiary or Intermediate Parent is formed or acquired or such Subsidiary ceases to be an Excluded Subsidiary, notify the Administrative Agent thereof (unless such Subsidiary is an Excluded Subsidiary), and will cause such Subsidiary (unless such Subsidiary is an Excluded Subsidiary) or Intermediate Parent to satisfy the Collateral and Guarantee Requirement with respect to such Subsidiary or Intermediate Parent and with respect to any Equity Interest in or Indebtedness of such Subsidiary or Intermediate Parent owned by any Loan Party within 45 days after such notice (or such longer period as the Administrative Agent shall reasonably agree) and, within such period, the Administrative Agent shall have received a completed Perfection Certificate with respect to such Subsidiary or Intermediate Parent signed by a Responsible Officer, together with all attachments contemplated thereby. Notwithstanding anything contained in this Section 5.11 or any other Loan Document to the contrary, (i) no more than 65% of the total combined voting power of all classes of Equity Interests entitled to vote in or of any Foreign Subsidiary shall be pledged or similarly hypothecated to guarantee or support any Secured Obligation herein, (ii) no Foreign Subsidiary shall guarantee or support any Secured Obligation herein and (iii) no security or similar interest shall be granted in the assets of any Foreign Subsidiary, which security or similar guarantees or supports any Secured Obligation herein.

5.12 Further Assurances. Subject to the limitations set forth in the definition of Collateral and Guarantee Requirement and in the Security Documents, each of Holdings and the Borrower will, and will cause each Loan Party to, execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents), that may be required under any applicable law and that the Administrative Agent or the Required Lenders may reasonably request, to cause the Collateral and Guarantee Requirement to be and remain satisfied, all at the expense of the Loan Parties.

5.13 Compliance with ERISA. The Borrower and each Loan Party shall and shall cause its ERISA Affiliates to maintain each ERISA Plan which is subject to or governed under ERISA, the Code or other federal or state law in compliance in all material respects with the applicable provisions of ERISA, except where noncompliance would not be reasonably likely to have a Material Adverse Effect or cause a Lien on the assets of the Borrower or any Loan Party (other than Permitted Encumbrances).

5.14 Management and Advisor Calls. Each Loan Party shall require its senior management to participate in a bi-weekly call with the Lenders and their advisors at times to be mutually agreed to discuss the then-Approved DIP Budget and the Variance Report and any other matters reasonably requested by the advisors or attorneys to the Lenders.

5.15 First and Second Day Orders. Cause all proposed First Day Orders and “second day orders” submitted to the Bankruptcy Court to be in accordance with and permitted by the terms of this Agreement and reasonably acceptable to the Required Lenders, it being understood and agreed that the forms of orders approved by the Required Lenders prior to the Petition Date are in accordance with and permitted by the terms of this Agreement in all respects and are reasonably acceptable.

5.16 Milestones. Comply with all milestones set forth in Schedule 5.16 (the “Milestones”).

5.17 Bankruptcy Notices.

(a) as soon as reasonably practicable in advance of, but no later than two (2) Business Days prior to the earlier of (x) filing with the Bankruptcy Court or (y) delivering to any statutory committee appointed in the Cases or the United States Trustee for the District of Delaware (the “U.S. Trustee”), as the case may be, drafts of all proposed orders and pleadings related to the Loans and the Loan Documents, any other financing or use of cash collateral, any sale or other disposition of DIP Collateral outside the ordinary course, cash management, adequate protection, any Reorganization Plan and/or any disclosure statement related thereto (except that with respect to any pleading or document for which, despite the Debtors’ best efforts, such advance notice is impracticable, the Debtors shall be required to furnish such documents as soon as reasonably practicable and in no event later than substantially concurrently with such filings or deliveries thereof, as applicable); and

(b) by the earlier of (x) two (2) Business Days prior to being filed (and if impracticable, then as soon as possible and in no event later than as promptly practicable before being filed) on behalf of any of the Debtors with the Bankruptcy Court or (y) at the same time as such documents are provided by any of the Debtors to any statutory committee appointed in the Cases or the U.S. Trustee, a draft of any request to approve any compromise and settlement of claims or for relief under Section 363, 365, 1113 or 1114 of the Bankruptcy Code or Bankruptcy Rule 9019 (to the extent not covered by Section 5.17(a) above).

5.18 Business and Property of the Loan Parties. Unless the Administrative Agent otherwise agrees, upon the instruction of the Required Lenders, upon and after the Closing Date, no Loan Party nor any of their respective Subsidiaries shall engage in any business other than those businesses in which such entity is engaged on the date of this Agreement or that are reasonably related thereto and activities necessary to conduct the foregoing.

5.19 Bankruptcy Related Matters. The Borrower will and will cause each of the other Loan Parties to:

(a) cause all proposed (i) orders related to or affecting the Loans and other Obligations and the Loan Documents (including, without limitation, the proposed First Day Orders and “second day” orders), any other orders seeking authorization of any financing or use of cash collateral, any sale or other disposition of DIP Collateral outside the ordinary course of business, cash management, adequate protection, any Reorganization Plan and/or any disclosure statement related thereto, (ii) orders seeking relief under section 363, 365, 1113 or 1114 of the Bankruptcy Code or section 9019 of the Federal Rules of Bankruptcy Procedure, (iii) orders authorizing additional payments to critical vendors and (iv) orders establishing procedures for administration of the Cases or approving significant transactions submitted to the Bankruptcy Court (in the case of each of the foregoing clause (iii), other than the relief sought pursuant to the proposed First Day Orders and “second day” orders), in each case, proposed by the Debtors to be in accordance with and permitted by the terms of this Agreement and reasonably acceptable to the Required Lenders (and (i) with respect to any provision that affects the rights, obligations, liabilities or duties of the Administrative Agent and (ii) with respect to any orders described in clauses (i)-(iv) above, acceptable to the Required Lenders in their reasonable discretion) in all respects, it being understood and agreed that the forms of orders approved by the Required Lenders (and with respect to any provision that affects the rights, obligations, liabilities or duties of the Administrative Agent) prior to the Petition Date are in accordance with and permitted by the terms of this Agreement and are reasonably acceptable in all respects;

(b) comply in all material respects with each order entered by the Bankruptcy Court in connection with the Cases;

(c) comply in all material respects with their obligations under the Bankruptcy Code, the Bankruptcy Rules, the Interim Order and the Final Order, as applicable, and any other order of the Bankruptcy Court;

(d) (i) to the extent reasonably practicable, deliver to counsel to the Administrative Agent promptly as soon as available, but no later than one (1) Business Day prior to filing, drafts of all material pleadings, motions, applications, orders, financial information and other documents that are proposed to be (x) filed by or on behalf of the Loan Parties with the Bankruptcy Court in the Cases, or (y) distributed by or on behalf of the Loan Parties to any statutory committee appointed or appearing in the Cases or any other party in interest; *provided*, that in the case of any emergency pleading or document for which, despite the Debtors' reasonable best efforts, such advance notice is impracticable, the Loan Parties shall instead deliver such documents substantially concurrently with such filing or distribution, as applicable, and (ii) consult in good faith with the Required Lenders' advisors regarding the form and substance of any such documents (except that with respect to any emergency pleading or document for which, despite the Debtors' best efforts, such advance notice is impracticable, the Debtors shall be required to furnish such documents as soon as reasonably practicable and in no event later than substantially concurrently with such filings or deliveries thereof, as applicable); and

(e) except as otherwise permitted by an Acceptable Plan, provide prior written notice as soon as reasonably practicable to the Administrative Agent prior to any assumption or rejection of any Debtor's or any Subsidiary's material contracts or material non-residential real property leases pursuant to Section 365 of the Bankruptcy Code, and no such contract or lease shall be assumed or rejected, if such assumption or rejection materially adversely impacts the DIP Collateral, any Liens thereon or any DIP Superpriority Claims payable therefrom (including, without limitation, any sale or other disposition of DIP Collateral or the priority of any such Liens or DIP Superpriority Claims), if the Administrative Agent (at the direction of the Required Lenders) informs the Borrower in writing within three (3) Business Days of receipt of the notice from the Borrower that it objects to such assumption or rejection, as applicable.

5.20 Segregated Account. Subsequent to each Credit Event, except as otherwise agreed by the Required Lenders or as disbursed in accordance with the then Approved DIP Budget (including Permitted Variances), hold the proceeds of the Term Loans in the DIP Proceeds Account.

5.21 Chief Restructuring Officer. At all times on and after the Closing Date, retain a chief restructuring officer (for the Borrower and its Subsidiaries) (the "Chief Restructuring Officer"), and provide the Required Lenders and their respective advisors with reasonable access to the Chief Restructuring Officer; provided that such Chief Restructuring Officer shall have requisite authority to monitor the operations and finances of the Borrower and its Subsidiaries in compliance with the provisions of this Agreement.

ARTICLE VI

Negative Covenants

Until the Loan Document Obligations are Paid in Full, each of Holdings and the Borrower covenants and agrees with the Lenders that:

6.01 Indebtedness; Certain Equity Securities.

(a) Holdings and the Borrower will not, and will not permit any Restricted Subsidiary or Intermediate Parent to, create, incur, assume or permit to exist any Indebtedness, except:

(i) (x) Indebtedness of Holdings, any Intermediate Parent, the Borrower and any of the Restricted Subsidiaries under the Loan Documents and (y) Indebtedness of Holdings, any Intermediate Parent, the Borrower and any of the Restricted Subsidiaries under the Loan Documents (as defined in the Prepetition Credit Agreement);

(ii) Indebtedness outstanding immediately prior to the Petition Date and either (x) does not constitute Material Indebtedness and is permitted under the Prepetition Credit Agreement as of the commencement of the Cases or (y) otherwise listed on Schedule 6.01, and any Permitted Refinancing thereof that is to remain outstanding immediately after giving effect to the closing hereunder on the Petition Date and such Schedule accurately sets forth the aggregate principal amount of any such Indebtedness as of the Petition Date;

(iii) Guarantees by Holdings, any Intermediate Parent, the Borrower and the Restricted Subsidiaries in respect of Indebtedness of the Borrower or any Restricted Subsidiary otherwise permitted hereunder; provided that such Guarantee is otherwise permitted by Section 6.04; provided further that (A) no Guarantee by any Restricted Subsidiary (other than the Borrower) of any permitted Junior Financing shall be permitted unless such Restricted Subsidiary shall have also provided a Guarantee of the Loan Document Obligations and (B) if the Indebtedness being Guaranteed is subordinated to the Loan Document Obligations, such Guarantee shall be subordinated to the Guarantee of the Loan Document Obligations on terms at least as favorable to the Lenders as those contained in the subordination of such Indebtedness;

(iv) Indebtedness of Holdings, the Intermediate Parent or the Borrower owing to any Restricted Subsidiary or of any Restricted Subsidiary owing to any other Restricted Subsidiary or the Borrower, Holdings or any Intermediate Parent to the extent permitted by Section 6.04; provided that (A) all such Indebtedness of any Loan Party owing to any Restricted Subsidiary that is not a Loan Party shall be subordinated to the Loan Document Obligations on terms (i) at least as favorable to the Lenders as those set forth in the form of intercompany note to be mutually agreed among the Collateral Agent and the Loan Parties or (ii) otherwise reasonably satisfactory to the Administrative Agent, and (B) all such Indebtedness in excess of \$100,000 owing by a Subsidiary that is not a Loan Party to any Loan Party shall be evidenced by a note and pledged as Collateral for the Secured Obligations;

(v) (A) Indebtedness (including Capital Lease Obligations) of the Borrower or any Restricted Subsidiaries financing the acquisition, construction, repair, replacement or improvement of fixed or capital assets, other than software; provided that such Indebtedness is incurred concurrently with or within 270 days after the applicable acquisition, construction, repair, replacement or improvement, and (B) any Permitted Refinancing of any Indebtedness set forth in the immediately preceding clause (A); provided further that the aggregate principal amount of Indebtedness that is outstanding in reliance on this clause (v) shall not, at any time outstanding, exceed \$1,000,000;

(vi) Indebtedness in respect of Swap Agreements entered into in the ordinary course of business and not for speculative purposes;

(vii) [reserved];

(viii) [reserved].

(ix) Indebtedness representing deferred compensation or stock-based compensation to employees, consultants or independent contractors of Holdings and its Restricted Subsidiaries incurred in the ordinary course of business, and (B) Indebtedness consisting of obligations of the Borrower or the Restricted Subsidiaries under deferred compensation to their employees, consultants or independent contractors or other similar arrangements incurred by such Persons in connection with any other Investment permitted under Section 6.04;

(x) Indebtedness consisting of unsecured promissory notes issued by any Loan Party to current or former officers, directors and employees or their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests of Holdings or any direct or indirect parent thereof permitted by Section 6.06(a) (it being understood that amounts outstanding under this clause (x) shall reduce the applicable amounts available under Section 6.06(a) by a corresponding amount);

(xi) Indebtedness constituting indemnification obligations or obligations in respect of purchase price or other similar adjustments incurred in any Investment or any Disposition, in each case, permitted under this Agreement;

(xii) [reserved];

(xiii) cash management obligations and other Indebtedness in respect of netting services, automatic clearing house arrangements, employees' credit or purchase cards, overdraft protections and similar arrangements, in each case, incurred in the ordinary course of business;

(xiv) Indebtedness of Subsidiaries that are not Loan Parties (including Foreign Subsidiaries); provided that the aggregate principal amount of Indebtedness incurred pursuant to this clause (xiv) shall not exceed at any time outstanding, \$750,000;

(xv) Indebtedness consisting of (A) the financing of insurance premiums or (B) take-or-pay obligations contained in supply or manufacturing arrangements, in each case in the ordinary course of business;

(xvi) Indebtedness incurred by the Borrower or any of the Restricted Subsidiaries in respect of bankers' acceptances or similar instruments (other than letters of credit) issued or created in the ordinary course of business, including in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other reimbursement-type obligations (other than obligations in respect of letters of credit) regarding workers compensation claims; provided that the reimbursement obligations in respect thereof are reimbursed within 30 days following the date thereof;

(xvii) obligations in respect of performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by the Borrower or any of the other Restricted Subsidiaries, in each case in the ordinary course of business or consistent with past practice;

(xviii) Indebtedness supported by a letter of credit in form and substance satisfactory to the Administrative Agent, in a principal amount not to exceed the face amount of such letter of credit;

(xix) other Indebtedness of Holdings and its Restricted Subsidiaries not to exceed \$1,000,000 at any time outstanding;

(xx) Guarantees incurred in the ordinary course of business in respect of obligations (not constituting Indebtedness) to suppliers, customers, franchisees, lessors, licensees or sublicensees (which shall be non-exclusive in the case of Intellectual Property unless consented to by the Required Lenders (with email from counsel being sufficient)) or distribution partners;

(xxi) (A) unsecured Indebtedness in respect of obligations of the Borrower or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; provided that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money and (B) unsecured Indebtedness in respect of intercompany obligations of the Borrower or any Restricted Subsidiary in respect of accounts payable incurred in connection with goods sold or services rendered in the ordinary course of business and not in connection with the borrowing of money;

(xxii) Indebtedness of Holdings and its Restricted Subsidiaries under letters of credit, in an aggregate amount not to exceed \$1,000,000 at any one time outstanding;

(xxiii) [reserved]; and

(xxiv) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (i) through (xxiii) above.

6.02 Liens. Neither Holdings nor the Borrower will, nor will they permit any Restricted Subsidiary or Intermediate Parent to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, except:

(i) (x) Liens created under the Loan Documents, including the Orders (which, for the avoidance of doubt, include Liens granted as adequate protection on account of the Prepetition Secured Obligations in accordance with the Orders) and (y) Liens created under the Prepetition Credit Agreement and any Loan Document (as defined in the Prepetition Credit Agreement),

(ii) Permitted Encumbrances;

(iii) Liens existing on the Petition Date and set forth on Schedule 6.02 and any modifications, replacements, renewals or extensions thereof; provided that (A) such modified, replacement, renewal or extension Lien does not extend to any additional property other than (1) after-acquired property that is affixed or incorporated into the property covered by such Lien and (2) proceeds and products thereof, and (B) the obligations secured or benefited by such modified, replacement, renewal or extension Lien are permitted by Section 6.01;

(iv) Liens securing Indebtedness permitted under Section 6.01(a)(v); provided that (A) such Liens attach concurrently with the acquisition, repair, replacement, construction or improvement (as applicable) of the property subject to such Liens, (B) such Liens do not at any time encumber any property other than the property financed by such Indebtedness except for accessions to such property and the proceeds and the products thereof and (C) with respect to Capital Lease Obligations, such Liens do not at any time extend to or cover any assets (except for accessions to or proceeds of such assets) other than the assets subject to such Capital Lease Obligations; provided further that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender;

(v) leases, licenses, subleases or sublicenses (which shall be non-exclusive in the case of Intellectual Property unless consented to by the Required Lenders (with email from counsel being sufficient)) granted to others in the ordinary course of business (including, without limitation, any such licenses pursuant to Section 6.05(q)) that do not (A) interfere in any material

respect with the business of Holdings and its Restricted Subsidiaries, taken as a whole, or (B) secure any Indebtedness;

(vi) Liens (A) in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business or (B) on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods in the ordinary course of business;

(vii) Liens (A) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection and (B) in favor of a banking institution arising as a matter of law encumbering deposits (including the right of setoff) and that are within the general parameters customary in the banking industry;

(viii) Liens consisting of an agreement to dispose of any property in a Disposition permitted under Section 6.05, in each case, solely to the extent such Investment or Disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(ix) subject to the CIT Intercreditor Agreement, Liens of CIT on the Purchased Accounts pursuant to the CIT Factoring Agreement;

(x) Liens granted by a Subsidiary that is not a Loan Party in favor of any Loan Party and Liens granted by a Loan Party in favor of any other Loan Party;

(xi) Liens granted as adequate protection on account of certain Prepetition Debt pursuant to the DIP Orders;

(xii) any interest, lien, or title of a lessor or sublessor under leases or subleases (other than leases constituting Capital Lease Obligations) entered into by any of the Borrower or any Restricted Subsidiaries in the ordinary course of business and covering the assets so leased;

(xiii) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods by any of the Borrower or any Restricted Subsidiaries in the ordinary course of business;

(xiv) Liens deemed to exist in connection with Investments in repurchase agreements under clause (e) of the definition of the term "Permitted Investments";

(xv) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(xvi) Liens that are contractual rights of setoff (A) relating to the establishment of depository relations with banks not given in connection with the incurrence of Indebtedness, (B) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and its Restricted Subsidiaries or (C) relating to purchase orders and other agreements entered into with customers of the Borrower or any Restricted Subsidiary in the ordinary course of business;

(xvii) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of the Restricted Subsidiaries are located;

(xviii) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto and deposits made in the ordinary course of business to secure liability to insurance carriers;

(xix) (A) zoning, building, entitlement and other land use regulations by Governmental Authorities with which the normal operation of the business complies, and (B) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Borrower or any of its Restricted Subsidiaries;

(xx) Liens on Equity Interests of a joint venture securing obligations of such joint venture;

(xxi) Liens on cash or Permitted Investments used to defease or to satisfy and discharge Indebtedness; provided that such defeasance or satisfaction and discharge is permitted hereunder;

(xxii) other Liens on assets of the Borrower or any of the Restricted Subsidiaries; provided that the aggregate principal amount of obligations secured by Liens existing in reliance on this clause (xxii) shall not exceed \$1,000,000 at any time outstanding;

(xxiii) Liens on the property or assets of Foreign Subsidiaries securing Indebtedness permitted to be incurred by them under Section 6.01;

(xxiv) Liens securing obligations in respect of trade-related letters of credit permitted under Section 6.01 and covering the goods (or the documents of title in respect of such goods) financed by such letters of credit and the proceeds and products thereof;

(xxv) Liens solely on any cash earnest money deposits made by the Borrower or any of the Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder with respect to any acquisition that would constitute an Investment permitted by this Agreement;

(xxvi) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business; and

(xxvii) Liens solely on cash or Permitted Investments pledged to support obligations of Holdings and its Restricted Subsidiaries under letters of credit permitted under Section 6.01(a)(xxii), in an amount not to exceed the aggregate stated amount of such letters of credit.

6.03 Fundamental Changes; Sale-Leasebacks.

(a) Neither Holdings nor the Borrower will, nor will they permit any Restricted Subsidiary or Intermediate Parent to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, or Dispose of all or substantially all of the assets of Holdings and its Restricted Subsidiaries, except that:

(i) any Restricted Subsidiary or Intermediate Parent may merge with (A) the Borrower; provided that the Borrower shall be the continuing or surviving Person, or (B) in the case of any Restricted Subsidiary (other than the Borrower), any one or more other Restricted Subsidiaries; provided that when any Subsidiary Loan Party is merging with another Subsidiary (1) the continuing or surviving Person shall be a Subsidiary Loan Party or (2) if the continuing or surviving Person is not a Subsidiary Loan Party, the acquisition of such Subsidiary Loan Party by such surviving Restricted Subsidiary is otherwise permitted under Section 6.04;

(ii) (A) any Restricted Subsidiary that is not a Loan Party may merge, amalgamate or consolidate with or into any other Restricted Subsidiary that is not a Loan Party and (B) any Restricted Subsidiary (other than the Borrower) may liquidate or dissolve or change its legal form if Holdings determines in good faith that such action is in the best interests of Holdings and the Restricted Subsidiaries and is not materially disadvantageous to the Lenders;

(iii) any Restricted Subsidiary (other than the Borrower) may make a Disposition of all or substantially all of its assets (upon voluntary liquidation or otherwise) to another Restricted Subsidiary; provided that if the transferor in such a transaction is a Loan Party, then (A) the transferee must be a Loan Party, (B) to the extent constituting an Investment, such Investment must be a permitted Investment in a Restricted Subsidiary that is not a Loan Party in accordance with Section 6.04 or (C) to the extent constituting a Disposition to a Restricted Subsidiary that is not a Loan Party, such Disposition is for fair value (taking into consideration any Investment arising therefrom), is permitted under Section 6.05 and any promissory note or other non-cash consideration received in respect thereof is a permitted Investment in a Restricted Subsidiary that is not a Loan Party in accordance with Section 6.04 (in each case, without reference to this Section 6.03) and such proceeds are applied in accordance with Section 2.10(b);

(iv) [reserved];

(v) any Restricted Subsidiary (other than the Borrower) may merge, consolidate or amalgamate with any other Person in order to effect an Investment permitted pursuant to Section 6.04; provided that the continuing or surviving Person shall be a Restricted Subsidiary, which together with each of its Restricted Subsidiaries, shall have complied with the requirements of Sections 5.11 and 5.12 (or arrangements for the compliance with such requirements within 30 days (or by such later date reasonably satisfactory to the Administrative Agent) shall have been made) and if the other party to such transaction is not a Loan Party, no Default exists after giving effect to such transaction; and

(vi) any Restricted Subsidiary (other than the Borrower) may effect a merger, dissolution, liquidation, consolidation or amalgamation to effect a Disposition permitted pursuant to Section 6.05; provided that if the other party to such transaction is not a Loan Party, no Default exists after giving effect to the transaction;

provided that, notwithstanding anything to the contrary in this clause (a), (x) no transaction that results in a merger of a Person with the Borrower shall result in the Borrower ceasing to exist and being a California limited liability company without the express prior written consent of the Administrative Agent and (y) nothing in this clause (a) shall permit the liquidation or dissolution of any Debtor or any merger or consolidation involving a Debtor, unless a Debtor is the surviving entity.

(b) The Borrower will not, and Holdings and the Borrower will not permit any Restricted Subsidiary or Intermediate Parent to, engage to any material extent in any business other than businesses

of the type conducted by the Borrower and the Restricted Subsidiaries on the Petition Date and businesses reasonably related, ancillary thereto, complementary, synergistic or reasonable extensions thereof.

(c) Neither Holdings nor any Intermediate Parent will conduct, transact or otherwise engage in any business or operations other than (i) the ownership and/or acquisition of the Equity Interests of the Borrower, any Intermediate Parent, RBR, LLC, The Collected Group Holdings Manager, LLC and The Collected Group Holdings, LLC, (ii) the maintenance of its legal existence, including the ability to incur fees, costs and expenses relating to such maintenance, (iii) participating in tax, accounting and other administrative matters as a member of the consolidated group of Holdings, any Intermediate Parent, the Borrower and RBR, LLC, (iv) the incurrence of any Indebtedness or Guarantees permitted to be created, incurred, assumed or made by it under Article VI, and the performance of its obligations under and in connection with the Loan Documents, any documentation governing any Indebtedness or Guarantee permitted to be incurred or made by it under Article VI and the other agreements contemplated hereby and thereby, (v) any public offering of its common stock or any other issuance or registration of its Equity Interests for sale or resale not prohibited by this Agreement, including the costs, fees and expenses related thereto, (vi) any transaction that Holdings or any Intermediate Parent is permitted to enter into or consummate under Article VI (including, but not limited to, the making of any Restricted Payment permitted by Section 6.06 or holding of any cash or Permitted Investments received in connection with Restricted Payments made in accordance with Section 6.06 pending application thereof in the manner contemplated by Section 6.04, the incurrence of any Indebtedness permitted to be incurred by it under Section 6.01 and the making of any Investment permitted to be made by it under Section 6.04), (vii) incurring fees, costs and expenses relating to overhead and general operating including professional fees for legal, tax and accounting issues and paying Taxes, (viii) providing indemnification to officers and directors and as otherwise permitted in Section 6.07, (ix) activities incidental to the consummation of the Transactions, (x) guarantees of contracted obligations of its Subsidiaries in the ordinary course of business and (xi) activities incidental to the businesses or activities described in clauses (i) to (x) of this paragraph.

(d) Neither Holdings nor any Intermediate Parent will own or acquire any assets (other than in connection with permitted business activities) or incur any liabilities (other than unsecured guarantees of contract obligations of its Subsidiaries in the ordinary course of business).

(e) Holdings will not, and will not permit any Restricted Subsidiary to, enter into any arrangement with any Person providing for the leasing by any Loan Party of real or personal property that has been or is to be sold or transferred by such Loan Party to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of such Loan Party, unless such sale or transfer is permitted by Section 6.05 and any Capital Lease or other Indebtedness deemed to arise from such transaction is permitted by Section 6.01.

6.04 Investments, Loans, Advances, Guarantees and Acquisitions. Neither Holdings nor the Borrower will, nor will they permit any Restricted Subsidiary or Intermediate Parent to, make or hold any Investment, except:

(a) Permitted Investments;

(b) loans or advances to current or former officers, directors and employees of Holdings and its Restricted Subsidiaries (i) for reasonable and customary business-related travel, entertainment, relocation and analogous ordinary business purposes, (ii) in connection with such Person's purchase of Equity Interests of Holdings (provided that the amount of such loans and advances made in cash to such Person shall be contributed to the Borrower in cash as common equity or Qualified Equity Interests) and (iii) for purposes not described in the foregoing clauses (i) and (ii), in an aggregate principal amount

outstanding at any time not to exceed \$20,000, in each case, to the extent made with the consent of the Board of Directors and/or any special committees with respect to the Case or such matters;

(c) Investments (i) by Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary in any Loan Party, (ii) by any Restricted Subsidiary that is not a Loan Party in any other Restricted Subsidiary that is also not a Loan Party, (iii) by Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary (A) in any Restricted Subsidiary; provided that the aggregate outstanding amount of Investments made by Loan Parties in Restricted Subsidiaries that are not Loan Parties in reliance on this clause (iii)(A) shall not exceed the Non-Loan Party Investment Amount at the time of any such Investment, (B) in any Restricted Subsidiary that is not a Loan Party, constituting an exchange of Equity Interests of such Restricted Subsidiary for Indebtedness of such Restricted Subsidiary or (C) constituting Guarantees of Indebtedness or other monetary obligations of Restricted Subsidiaries that are not Loan Parties owing to any Loan Party, (iv) by Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary in Restricted Subsidiaries that are not Loan Parties so long as such Investment is part of a series of simultaneous Investments that result in the proceeds of the initial Investment being invested in one or more Loan Parties and (v) by Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary in any Restricted Subsidiary that is not a Loan Party, consisting of the contribution of Equity Interests of any other Restricted Subsidiary that is not a Loan Party so long as the Equity Interests of the transferee Restricted Subsidiary is pledged to secure the Secured Obligations;

(d) Investments consisting of extensions of trade credit and accommodation guarantees in the ordinary course of business;

(e) Investments (i) existing or contemplated on the Petition Date and set forth on Schedule 6.04(e) and any modification, replacement, renewal, reinvestment or extension thereof and (ii) existing on the Petition Date by the Borrower or any Restricted Subsidiary in the Borrower or any Restricted Subsidiary and any modification, renewal or extension thereof; provided that, in each case, the amount of the original Investment is not increased except by the terms of such Investment to the extent as set forth on Schedule 6.04(e) or as otherwise permitted by this Section 6.04;

(f) Investments in Swap Agreements permitted under Section 6.01(a)(vi);

(g) promissory notes and other non-cash consideration received in connection with Dispositions permitted by Section 6.05;

(h) [reserved];

(i) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Uniform Commercial Code Article 4 customary trade arrangements with customers consistent with past practices;

(j) Investments (including debt obligations and Equity Interests) received in connection with the bankruptcy or reorganization of suppliers and customers or in settlement of delinquent obligations of, or other disputes with, customers and suppliers or upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment;

(k) [reserved];

(l) [reserved];

(m) advances of payroll payments to employees in the ordinary course of business;

(n) Investments and other acquisitions to the extent that payment for such Investments is made solely with Qualified Equity Interests of Holdings (or any direct or indirect parent thereof);

(o) [reserved];

(p) [reserved];

(q) non-cash Investments in connection with tax planning and reorganization activities; provided that, in the reasonable judgment of the Administrative Agent (following consultation with the Borrower), after giving effect to any such activities, the security interests of the Lenders in the Collateral, taken as a whole, would not be materially impaired;

(r) Investments (A) for utilities, security deposits, leases and similar prepaid expenses incurred in the ordinary course of business and (B) trade accounts created, or prepaid expenses accrued, in the ordinary course of business;

(s) the licensing, sublicensing or contribution of rights in any Intellectual Property pursuant to joint marketing arrangements with Persons other than Holdings and its Restricted Subsidiaries in the ordinary course of business, in each case, solely to the extent permitted by Section 6.14;

(t) Investments to the extent that payment for such Investments is made solely by the issuance of Equity Interests (other than Disqualified Equity Interests) of Holdings (or any direct or indirect parent of Holdings) to the seller of such Investments;

(u) any Investments in a Subsidiary that is not a Loan Party or in a joint venture, in each case, to the extent such Investment is contemporaneously repaid in full with a dividend or other distribution from such Subsidiary or joint venture;

(v) the forgiveness or conversion to Equity Interests of any Indebtedness owed by a Loan Party and permitted by Section 6.02;

(w) Restricted Subsidiaries of the Borrower may be established or created if the Borrower and such Restricted Subsidiary comply with the requirements of Section 5.11, if applicable;

(x) to the extent that they constitute Investments, purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of Intellectual Property (which shall be non-exclusive in the case of Intellectual Property unless consented to by the Required Lenders (with email from counsel being sufficient)), in each case in the ordinary course of business;

(y) Investments received substantially contemporaneously in exchange for, or the payment of which is made with, Equity Interests of the Borrower; provided that (i) no Change in Control would result therefrom, and (ii) such Equity Interests do not constitute Disqualified Equity Interests;

(z) Guarantees by (i) the Borrower or any Subsidiary Loan Party of operating leases (other than Capital Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case, entered into by the Borrower or any Subsidiary Loan Party in the ordinary course of business and (ii) any Subsidiary that is not a Loan Party of operating leases (other than Capital Lease Obligations) or of obligations that do not constitute Indebtedness, in each case, entered into by any Subsidiary that is not a Loan Party in the ordinary course of business;

(aa) [reserved]; and

(bb) other Investments (including acquisitions) by Holdings or any Restricted Subsidiary not to exceed, in the aggregate, at any time outstanding, the Non-Loan Party Investment Amount.

6.05 Asset Sales. Neither Holdings nor the Borrower will, nor will they permit any Restricted Subsidiary or Intermediate Parent to make any Disposition, except:

(a) Dispositions of property for fair market value consideration, to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are promptly applied to the purchase price of such replacement property;

(b) Dispositions of property to a Restricted Subsidiary; provided that (i) if the transferor in such a transaction is a Loan Party (and the transferee is not a Loan Party), such Disposition is for fair value, any consideration received in respect thereof constituting an Investment is permitted by Section 6.04 and any such transfer of Intellectual Property is permitted by Section 6.14;

(c) Dispositions permitted by Section 6.03, Investments permitted by Section 6.04, Restricted Payments permitted by Section 6.06 and Liens permitted by Section 6.02;

(d) Dispositions of Permitted Investments for fair market value consideration;

(e) leases, subleases, licenses or sublicenses (including the provision of software under an open source license), in each case in the ordinary course of business and that do not materially interfere with the business of Holdings and its Restricted Subsidiaries, taken as a whole; *provided*, that unless consented to by the Required Lenders (with email from counsel being sufficient), any such licenses or sublicenses of Intellectual Property shall be non-exclusive;

(f) Dispositions of property for fair market value consideration (including the sale or issuance of Equity Interests of a Restricted Subsidiary) not otherwise permitted under this Section 6.05; provided that (i) no Event of Default shall exist at the time of, or would result from, such Disposition (other than any such Disposition made pursuant to a legally binding commitment entered into at a time when no Event of Default existed or would have resulted from such Disposition), (ii) the aggregate fair market value of all assets sold, transferred, leased or disposed of pursuant to this Section 6.05(f) shall not exceed \$500,000 (or such greater amount as agreed by the Required Lenders in their reasonable discretion) and (iii) 75% of the consideration therefor is in the form of cash or Permitted Investments; provided, however, that for the purposes of this clause (iii), (A) any liabilities (as shown on the most recent balance sheet of Holdings provided hereunder or in the footnotes thereto) of Holdings, the Borrower or such Restricted Subsidiary, other than liabilities that are by their terms subordinated in right of payment to the Loan Document Obligations, that are assumed by the transferee with respect to the applicable Disposition and for which Holdings, any Intermediate Parent, the Borrower and all of the Restricted Subsidiaries shall have been validly released by all applicable creditors in writing, shall be deemed to be cash, and (B) any asset received in consideration of such Disposition which are assets in which the Net Proceeds of such Disposition could be invested pursuant to Section 2.10(b) shall be deemed to be cash;

(g) Dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(h) Dispositions, discounts or forgiveness of accounts receivable in the ordinary course of business in connection with the collection or compromise thereof, except in each case in connection with any financing transaction;

(i) the unwinding of Swap Agreements permitted hereunder pursuant to their terms;

(j) transfers of condemned property as a result of the exercise of “eminent domain” or other similar policies to the respective Governmental Authority or agency that has condemned the same (whether by deed in lieu of condemnation or otherwise), and transfers of property that have been subject to a casualty to the respective insurer of such real property as part of an insurance settlement;

(k) any Disposition of any asset between or among the Borrower and its Restricted Subsidiaries as a substantially concurrent interim Disposition in connection with a Disposition otherwise permitted pursuant to this Section 6.05;

(l) the transfer for fair value of property (including Equity Interests of Restricted Subsidiaries) to another Person in connection with a joint venture arrangement with respect to the transferred property; provided that such transfer is permitted under Section 6.04(bb) and Section 6.14;

(m) [reserved];

(n) subject to the terms of the CIT Intercreditor Agreement, assignments of receivables to CIT in accordance with the CIT Factoring Agreement;

(o) transfers of property subject to Casualty Events (if consensual, upon receipt of the Net Proceeds of such Casualty Event);

(p) [reserved]; and

(q) licenses or sublicenses (other than exclusive irrevocable licenses or exclusive irrevocable sublicenses) of any Intellectual Property of the Loan Parties or their Subsidiaries (including, without limitation, Intellectual Property associated with the Joie and Equipment brands) to the extent the following conditions are met with respect to such license or sublicense:

(i) such Intellectual Property is not otherwise being used in the business of the Loan Parties or their Subsidiaries, or is not being used for the particular purpose that is the subject of such license or sublicense;

(ii) the license or sublicense is not to an Affiliate of any Loan Party;

(iii) [reserved]; and

(iv) the license or sublicense will not prohibit or materially limit the Disposition of the licensor’s rights in the Intellectual Property;

provided, that none of the foregoing exceptions (nor any exclusions from the definition of “Disposition”) will be deemed to permit (i) Dispositions of the Equity Interests in the Borrower or (ii) Dispositions of the Equity Interests in any Restricted Subsidiary that is a Loan Party except (in the case of this clause (ii) if (x) such Disposition will not result in the release of such Restricted Subsidiary from its Guaranteed Obligations, (y) such Disposition is for all of the outstanding Equity Interests of such Restricted Subsidiary owned (directly or indirectly) by the Borrower or Holdings, as the case may be, or (z) the remaining Equity Interests

of such Restricted Subsidiary owned (directly or indirectly) by the Borrower or Holdings is, or would be, a permitted Investment under Section 6.04 after giving effect to such Disposition (and shall be deemed to be such an Investment for purposes of calculating usage of any capped exception under Section 6.04)).

6.06 Restricted Payments; Certain Payments of Indebtedness.

(a) Neither Holdings nor the Borrower will, nor will they permit any Restricted Subsidiary or Intermediate Parent to, declare or make, directly or indirectly, any Restricted Payment on or after the Closing Date, except:

(i) each Restricted Subsidiary may make Restricted Payments to the Borrower or any other Restricted Subsidiary of the Borrower; provided that in the case of any such Restricted Payment by a Restricted Subsidiary that is not a Wholly Owned Subsidiary of the Borrower, such Restricted Payment is made to the Borrower, any Restricted Subsidiary and to each other owner of Equity Interests of such Restricted Subsidiary based on their relative ownership interests of the relevant class of Equity Interests;

(ii) Holdings, any Intermediate Parent, the Borrower and each Restricted Subsidiary may declare and make dividend payments or other distributions payable solely in the Qualified Equity Interests of such Person;

(iii) [reserved];

(iv) repurchases of Equity Interests in Holdings (or Restricted Payments by Holdings to allow repurchases of Equity Interests in any direct or indirect parent of Holdings) or any Restricted Subsidiary deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price or withholding taxes payable in connection with the exercise of such options or warrants;

(v) [reserved];

(vi) any Intermediate Parent, the Borrower and the Restricted Subsidiaries may make Restricted Payments in cash to Holdings or any Intermediate Parent:

(A) the proceeds of which shall be used by Holdings to distribute to each of its members an aggregate amount not in excess of the taxes required to be paid by such owners (or the direct or indirect beneficial owners of such owners), including, but not limited to, estimated taxes required to be paid by such owners, that are attributable solely to being a beneficial owner of Holdings;

(B) the proceeds of which shall be used by Holdings or any Intermediate Parent (i) to pay (1) its operating expenses incurred in the ordinary course of business and other corporate overhead costs and expenses (including administrative, legal, accounting and similar expenses payable to third parties) that are reasonable and customary and incurred in the ordinary course of business, and limited, in the case of Restricted Payments to or by Intermediate Parent, to an amount not to exceed \$500,000 in any fiscal year, and customary indemnification claims made by directors or officers of Holdings (or any parent thereof), in each case to the extent attributable to the ownership or operations of the Borrower and the Restricted Subsidiaries and (2) fees and expenses (x) due and payable by any of the Restricted Subsidiaries and (y) otherwise permitted to be paid by such Restricted

Subsidiary under this Agreement or (ii) to make Investments in the Borrower or any Restricted Subsidiary permitted by Section 6.04;

(C) the proceeds of which shall be used by Holdings or any Intermediate Parent to pay franchise Taxes and other fees, Taxes and expenses required to maintain its corporate existence; and

(D) the proceeds of which shall be used by Holdings to make Restricted Payments otherwise permitted by this Section 6.06;

(vii) [reserved];

(viii) [reserved];

(ix) [reserved];

(x) to the extent constituting Restricted Payments, Holdings and its Restricted Subsidiaries may enter into transactions expressly permitted by Sections 6.03 and 6.04;

(xi) the Borrower or any of its Restricted Subsidiaries may honor any non-cash conversion request by a holder of convertible Indebtedness and make cash payments in lieu of fractional shares in connection with any such conversion;

(xii) Restricted Payments in order to effectuate payments that at such time are permitted to be made pursuant to Section 6.07(vi), (viii) and (x);

(xiii) the payment of dividends and distributions, so long as on the date of such payment, such payment complies with the other provisions of this Section 6.06;

(xiv) [reserved]; and

(xv) redemptions in whole or in part of any of its Equity Interests for another class of its Equity Interests or with proceeds from substantially concurrent equity contributions or issuances of new Equity Interests; provided that such new Equity Interests contain terms and provisions at least as advantageous to the Lenders in all respects material to their interests as those contained in the Equity Interests redeemed thereby.

(b) Except as permitted by the terms and conditions set forth in the Orders, the Borrower or any Subsidiary shall not make any prepayment on account of (or set aside funds for the prepayment of) any Junior Financing or any other Indebtedness for borrowed money that is unsecured or subordinated or otherwise junior in priority to the Loan Document Obligations, in each case without the prior written consent of the Required Lenders.

6.07 Transactions with Affiliates. Neither Holdings nor the Borrower will, nor will they permit any Restricted Subsidiary or any Intermediate Parent to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (i) transactions with Holdings, the Borrower, any Intermediate Parent or any Restricted Subsidiary (or an entity that becomes a Restricted Subsidiary as a result of the transaction), (ii) on terms substantially as favorable to Holdings, the Borrower, such Intermediate Parent or such Restricted Subsidiary as would be obtainable by such Person at the time in a comparable arm's-length transaction with a Person other than an Affiliate, (iii) affiliate

transactions authorized or approved pursuant to (x) the Interim Order, and, when applicable, the Final Order, or any First Day Order or (y) any other order entered by the Bankruptcy Court without the objection of the Required Lenders; provided, for the avoidance of doubt, that such objection need not be filed with the Bankruptcy Court, (iv) [reserved], (v) issuances of Equity Interests of Holdings to the extent otherwise permitted by this Agreement, (vi) employment agreements and severance arrangements and health, disability and similar insurance or benefit plans between Holdings, the Borrower, any Intermediate Parent and the Restricted Subsidiaries and their respective directors, officers and employees (including management and employee benefit plans or agreements, agreements related to director and officer insurance and indemnification, subscription agreements or similar agreements pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with present or former employees, officers or directors and stock option or incentive plans and other compensation arrangements) in the ordinary course of business, (vii) payments by the Borrower and the Restricted Subsidiaries pursuant to tax sharing agreements among Holdings (and any such parent thereof), any Intermediate Parent, the Borrower and the Restricted Subsidiaries on customary terms to the extent attributable to the ownership or operation of the Borrower and the Restricted Subsidiaries, to the extent payments are permitted by Section 6.06, (viii) the payment of customary fees and reasonable out-of-pocket costs to, and indemnities provided on behalf of, directors, officers and employees of Holdings, the Borrower, any Intermediate Parent and the Restricted Subsidiaries in the ordinary course of business to the extent attributable to the ownership or operation of Holdings, any Intermediate Parent, the Borrower and the Restricted Subsidiaries, in an aggregate amount to exceed \$500,000 in any fiscal year, (ix) transactions pursuant to permitted agreements in existence or contemplated on the Petition Date and set forth on Schedule 6.07 or any amendment thereto to the extent such an amendment is not adverse to the Lenders in any material respect, (x) Restricted Payments permitted under Section 6.06, (xi) [reserved], (xii) Investments in Holdings' Subsidiaries and joint ventures (to the extent any such Subsidiary is an Excluded Subsidiary or any such joint venture is only an Affiliate as a result of Investments by Holdings and its Restricted Subsidiaries in such Subsidiary or joint venture) to the extent otherwise permitted under Section 6.04, (xiii) transactions between the Borrower or any Restricted Subsidiary and any Person that is an Affiliate solely due to the fact that a director of such Person is also a director of the Borrower, Holdings or any Intermediate Parent; provided that such director abstains from voting as a director of the Borrower or Holdings or such Intermediate Parent, as the case may be, on any matter involving such other Person; (xiv) any issuance of Equity Interests, or other payments, awards or grants in cash, securities, Equity Interests or otherwise pursuant to, or the funding of, employment arrangements, equity purchase agreements, deferred compensation agreements, stock options and stock ownership plans or similar employee benefit plans approved by the Board of Directors of the Borrower; (xv) loans or advances to officers, directors, employees or consultants of the Borrower or any of the Restricted Subsidiaries to the extent permitted by Section 6.04; (xvi) [reserved]; (xvii) any transaction in respect of which the Borrower delivers to the Administrative Agent (for delivery to the Lenders) a letter addressed to the Board of Directors of the Borrower from an accounting, appraisal or investment banking firm, in each case of nationally recognized standing that is (A) in the good faith determination of the Borrower qualified to render such letter and (B) reasonably satisfactory to the Administrative Agent and the Required Lenders, which letter states that such transaction is on terms that are substantially as favorable to the Borrower or such Restricted Subsidiary, as applicable, as would be obtainable at such time in a comparable arm's length transaction with a Person that is not an Affiliate and (xviii) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Agreement that are fair to the Borrower or the Restricted Subsidiaries.

6.08 Restrictive Agreements. Neither Holdings nor the Borrower will, nor will they permit any Restricted Subsidiary or Intermediate Parent to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of Holdings, any Intermediate Parent, the Borrower or any other Subsidiary Loan Party to create,

incur or permit to exist any Lien upon any of its property or assets to secure the Secured Obligations or (b) the ability of any Restricted Subsidiary that is not a Loan Party to pay dividends or other distributions with respect to any of its Equity Interests or to make or repay loans or advances to any Restricted Subsidiary or to Guarantee Indebtedness of any Restricted Subsidiary; provided that the foregoing clauses (a) and (b) shall not apply to any such restrictions that (i)(x) exist on the Petition Date and (to the extent not otherwise permitted by this Section 6.08) are listed on Schedule 6.08 and (y) any renewal or extension of a restriction permitted by clause (i)(x) or any agreement evidencing such restriction so long as such renewal or extension does not expand the scope of such restrictions, taken as a whole, in any material respect, (ii)(x) are binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary, so long as such restrictions were not entered into solely in contemplation of such Person becoming a Restricted Subsidiary and (y) any renewal or extension of a restriction permitted by clause (ii)(x) or any agreement evidencing such restriction so long as such renewal or extension does not expand the scope of such restrictions, taken as a whole, in any material respect, (iii) represent Indebtedness of a Restricted Subsidiary that is not a Loan Party that is permitted by Section 6.01; provided that such restrictions will not materially affect the Borrower's ability to pay the Loan Document Obligations as they become due, (iv) are customary restrictions that arise in connection with any Disposition permitted by Section 6.05 applicable pending such Disposition solely to the assets subject to such Disposition, (v) are customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted under Section 6.04, (vi) are negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 6.01 but solely to the extent any negative pledge relates to the property financed by or securing such Indebtedness (and excluding in any event any Indebtedness constituting any Junior Financing), (vii) are imposed by Requirements of Law, (viii) are customary restrictions contained in leases, subleases, licenses (including, without limitation, any licenses made pursuant to Section 6.05(q)) or asset sale agreements otherwise permitted hereby so long as such restrictions relate only to the assets subject thereto, (ix) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of Holdings, any Intermediate Parent, the Borrower or any Restricted Subsidiary, (x) are customary provisions restricting assignment of any license, lease or other agreement entered into in the ordinary course of business and otherwise permitted hereunder (including, without limitation, any licenses made pursuant to Section 6.05(q)), (xi) are restrictions on cash (or Permitted Investments) or deposits imposed by customers under contracts entered into in the ordinary course of business (or otherwise constituting Permitted Encumbrances on such cash or Permitted Investments or deposits), or (xii) are customary net worth provisions contained in real property leases or licenses of intellectual property entered into by the Borrower or any Restricted Subsidiary (including, without limitation, any licenses made pursuant to Section 6.05(q)), so long as the Borrower has determined in good faith that such net worth provisions could not reasonably be expected to impair the ability of the Loan Parties and their subsidiaries to meet their ongoing obligations.

6.09 Amendment of Junior Financing and Organizational Documents. Neither Holdings nor the Borrower will, nor will they permit any Restricted Subsidiary or any Intermediate Parent to, amend, modify, waive, terminate or release (a) the documentation governing any Junior Financing in violation of any subordination or intercreditor agreement applicable thereto or (b) any Organizational Document, if the effect of such amendment, modification, waiver, termination or release is materially adverse to the Lenders.

6.10 Budget Covenant. The Debtors shall not permit, as of any Variance Report Date, the actual aggregate operating disbursements (for the avoidance of doubt, excluding any professional fees) for any Variance Testing Period to exceed 115% of the projected aggregate operating disbursements for such period (such variance, the "Permitted Variance") set forth in the Approved DIP Budget (as in effect at the beginning of such Variance Testing Period).

6.11 Changes in Fiscal Periods. Neither Holdings nor the Borrower will make any change in fiscal year; provided, however, that Holdings and the Borrower may, upon written notice to the Administrative Agent, change its fiscal year to any other fiscal year reasonably acceptable to the Administrative Agent and the Required Lenders, in which case, Holdings, the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement and the other Loan Documents that are necessary to reflect such change in fiscal year.

6.12 Sanctions. Neither Holdings nor the Borrower will nor will they permit any Restricted Subsidiary or Intermediate Parent to, directly or indirectly, enter into, incur or permit any Loan or the proceeds of any Loan to be loaned contributed or otherwise made available to any Person, to fund any activities of or business with any Person, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of any Sanctions, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as Lender, Administrative Agent or otherwise) of Sanctions.

6.13 Anti-Corruption Laws. Neither Holdings nor the Borrower will nor will they permit any Restricted Subsidiary or Intermediate Parent to, directly or indirectly, enter into, incur or permit any Loan or the proceeds of any Loan for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions.

6.14 Dispositions of Intellectual Property. Notwithstanding anything to the contrary in any Loan Document:

(a) no Loan Party will sell, transfer, assign, grant any exclusive license to, or otherwise dispose of, any Patents, registered Copyrights or Trademarks (in each case, as defined in the Collateral Agreement) to any Subsidiary or any other Person that is not a Loan Party (including, without limitation, by way of selling, transferring, or otherwise disposing of any Loan Party that owns any Patents, registered Copyrights or Trademarks or has been grant any exclusive license to any Patents, registered Copyrights or Trademarks owned by a Loan Party);

(b) no Subsidiary, other than a Loan Party or a joint venture, will file any application to register any Patents, Copyrights or Trademarks; provided, that any application to register any Patents, Copyrights or Trademarks by a joint venture (i) shall be in the normal course of its business operations and (ii) shall not be for any Patent, Copyright or Trademark that is material to the business of any Loan Party at the time of the filing of such application; and

(c) any Disposition of Intellectual Property in connection with a Disposition permitted under this Agreement and the other Loan Documents shall be permitted under this Section 6.14 solely to the extent such Disposition is consented to in writing by the Required Lenders prior to such Disposition.

6.15 Extraordinary Transactions. Holdings and its Subsidiaries shall not (i) incur any material obligations or (ii) enter, or agree to enter, into any transaction, in each case outside of the ordinary course of business without the consent of the Required Lenders.

6.16 Non-Loan Party Subsidiaries. Holdings and the Borrower will not permit any of their respective Subsidiaries that are not Loan Parties to own any Intellectual Property that is material to the business of the Loan Parties.

6.17 Immaterial Subsidiaries. No Loan Party may permit any Immaterial Subsidiary to (a) own any assets (other than assets of a de minimis nature), (b) have any liabilities (other than liabilities of a de minimis nature), or (c) engage in any business activity.

6.18 Use of Proceeds. Use the proceeds of any Loan or Borrowing, whether directly or indirectly, in a manner inconsistent with the uses set forth in this Section 6.18. The Loans will be used for (i) working capital and general corporate purposes of the Loan Parties and their Subsidiaries, (ii) to pay obligations arising from or related to the Carve-Out, (iii) to pay professional fees and expenses in connection with the Cases (including fees incurred prior to the Closing Date), (iv) to make adequate protection payments and (v) to pay fees and expenses incurred in connection with the transactions contemplated by this Agreement; provided that, for the avoidance of doubt, it is acknowledged and agreed that the use of proceeds of any Credit Event shall be consistent with the then-Approved DIP Budget (including Permitted Variances) and subject to compliance with Section 6.10 hereof.

6.19 Additional Bankruptcy Matters. No Loan Party shall, and no Loan Party shall permit any of its Subsidiaries to, do any of the following:

(a) use any portion or proceeds of the Loans or the DIP Collateral, or disbursements set forth in the then Approved DIP Budget, for payments or purposes that would violate the terms of the Interim Order or the Final Order;

(b) incur, create, assume, suffer to exist or permit any other superpriority administrative claim which is *pari passu* with or senior to the claim of the Secured Parties against any Loan Party, except for the Carve-Out or as otherwise expressly permitted by the Orders;

(c) assert, join, investigate, support or prosecute any claim or cause of action against any of the Secured Parties (in their capacities as such), unless such claim or cause of action is in connection with the enforcement of the Loan Documents against any of the Secured Parties; provided that nothing contained in this clause (c) shall prohibit the Debtors from responding to or complying with discovery requests, in whatever form, whether made in connection with an investigation against any of the Secured Parties by any statutory committee appointed or appearing in the Cases or otherwise, or the payment from proceeds of the Loans of professional fees related thereto;

(d) [reserved];

(e) seek, without the prior written consent of the Administrative Agent, at the direction of Required Lenders, any order granting authority (i) to take any action that is prohibited by the terms of this Agreement, the Interim Order, the Final Order or the other Loan Documents or (ii) to refrain from taking any action that is required to be taken by the terms of this Agreement, the Interim Order, the Final Order or any of the other Loan Documents;

(f) [reserved]; or

(g) except as expressly provided or permitted hereunder (including, without limitation, to the extent pursuant to any First Day Orders or “second day” orders authorized under this Agreement) or as otherwise contemplated in the then Approved DIP Budget, make any payment or distribution to any non-Debtor Affiliate or insider of any Debtor outside of the ordinary course of business.

ARTICLE VII

Events of Default

7.01 Events of Default. If any of the following events (any such event, an “Event of Default”) shall occur:

(a) any Loan Party shall fail to pay any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) any Loan Party shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in paragraph (a) of this Section 7.01) payable under any Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five Business Days;

(c) any representation or warranty made or deemed made by or on behalf of Holdings or any of its Restricted Subsidiaries in any Loan Document or any amendment or modification thereof or waiver thereunder, or in any certificate or other document furnished pursuant to or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder, shall prove to have been incorrect in any material respect when made or deemed made;

(d) Holdings or any of its Restricted Subsidiaries shall fail to observe or perform any covenant, condition or agreement contained in 5.02(a), 5.04 (with respect to the existence of Holdings or the Borrower), 5.10, 5.16, 5.20, 5.21 (provided that, in the event the Chief Restructuring Officer resigns voluntarily (rather than being terminated by the Loan Parties), the Loan Parties shall have 30 days commencing with the date of such departure to appoint and install a new Chief Restructuring Officer prior to this event constituting an Event of Default) or in Article VI;

(e) Holdings or any of its Restricted Subsidiaries shall fail to observe or perform any covenant, condition or agreement contained in (i) Sections 5.02(b), 5.02(c), 5.02(d), or 5.17, and such failure shall continue unremedied for a period of five (5) days after the earlier of the date a senior officer of any Loan Party has knowledge of such failure and the receipt of written notice thereof from the Administrative Agent or the Required Lenders to the Borrower, (ii) Sections 5.01, 5.14, 5.15, or 5.19 and such failure under this clause (ii) shall continue for three (3) Business Days, or (iii) any Loan Document (other than those specified in paragraph (a), (b), (d) or (e)(i) of this Section 7.01), and such failure shall continue unremedied for a period of thirty (30) days after the earlier of the date a senior officer of any Loan Party has knowledge of such failure and the receipt of written notice thereof from the Administrative Agent or the Required Lenders to the Borrower;

(f) Holdings or any of its Restricted Subsidiaries shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness incurred after the Petition Date, when and as the same shall become due and payable (after giving effect to any applicable grace period);

(g) any event or condition occurs that results in any Material Indebtedness incurred after the Petition Date becoming due prior to its scheduled maturity or that enables or permits (with all applicable grace periods having expired) the holder or holders of any Material Indebtedness incurred after the Petition Date or any trustee or agent on its or their behalf to cause any Material Indebtedness incurred after the Petition Date to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this paragraph (g) shall not apply to (i) secured Indebtedness

that becomes due as a result of the sale, transfer or other disposition (including as a result of a casualty or condemnation event) of the property or assets securing such Indebtedness (to the extent such sale, transfer or other disposition is not prohibited under this Agreement and such Indebtedness is repaid when required under the documents providing for such Indebtedness), (ii) any Indebtedness outstanding hereunder and any Indebtedness of any Debtor that was incurred prior to the Petition Date (or, if later, the date on which such Person became a Debtor) unless such Indebtedness has been accelerated and the enforcement of remedies with respect to such Indebtedness shall not have been stayed by the commencement of the Cases or (iii) termination events or similar events occurring under any Swap Agreement that constitutes Material Indebtedness (it being understood that paragraph (f) of this Section 7.01 will apply to any failure to make any payment required as a result of any such termination or similar event) or (iii) any Indebtedness that becomes due as a result of a Permitted Refinancing thereof permitted under Section 6.01;

(h) [reserved];

(i) [reserved];

(j) one or more final judgments for the payment of money (in the case of the Debtors, only to the extent arising after the Petition Date) in an aggregate amount in excess of \$250,000 (to the extent not covered by insurance as to which the insurer has been notified of such judgment or order and has not denied coverage) shall be rendered against Holdings or any of its Restricted Subsidiaries or any combination thereof and the same shall remain undischarged for a period of 60 consecutive days during which execution shall not be effectively stayed, or any judgment creditor shall legally attach or levy upon assets of such Loan Party that are material to the businesses and operations of Holdings and its Restricted Subsidiaries, taken as a whole, to enforce any such judgment;

(k) (i) an ERISA Event occurs that has resulted or could reasonably be expected to result in liability of a Loan Party in an aggregate amount that could reasonably be expected to result in a Material Adverse Effect, or (ii) a Loan Party or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount that could reasonably be expected to result in a Material Adverse Effect;

(l) any Lien purported to be created under any Order or Security Document shall cease to be, or shall be asserted in writing by any Loan Party not to be, a valid and perfected Lien on any material portion of the DIP Collateral, with the priority required by the applicable Order or Security Document, except (i) as a result of the sale or other disposition of the applicable DIP Collateral in a transaction permitted under or consented to under the Loan Documents, (ii) solely as a result of the Administrative Agent's failure to (A) maintain possession of any stock certificates, promissory notes or other instruments delivered to it under the Security Documents or (B) file Uniform Commercial Code continuation statements or (iii) solely as a result of acts or omissions of the Administrative Agent or any Lender;

(m) any material provision of any Loan Document or any Guarantee of the Loan Document Obligations shall for any reason be asserted in writing by any Loan Party not to be a legal, valid and binding obligation of any Loan Party thereto other than as expressly permitted hereunder or thereunder;

(n) any of the Guarantees of the Loan Document Obligations by any Loan Party shall cease to be in full force and effect (in each case, other than in accordance with the terms of the Loan Documents);

(o) any of the Loan Document Obligations for any reason shall cease to be "Senior Indebtedness" (or any comparable term) under, and as defined in, any documentation relating to any subordinated Junior Financing, or the subordination provisions set forth in any documentation relating to

Junior Financing shall cease to be effective or cease to be legally valid, binding and enforceable against the holders of any Junior Financing, or in each case any Loan Party shall assert any of the foregoing;

- (p) a Change in Control shall occur;
- (q) [Reserved]; or
- (r) There occurs any of the following in the Cases:
 - (i) the bringing of a motion or taking of any action by any of the Loan Parties or any Subsidiary, or any person claiming to act by or through any Loan Party or any Subsidiary (A) to grant any Lien other than Liens permitted pursuant to Section 6.02 upon or affecting any DIP Collateral or (B) to use cash collateral of the Administrative Agent and the other Secured Parties under section 363(c) of the Bankruptcy Code without the prior written consent of the Required Lenders, except as provided in the Interim Order or Final Order;
 - (ii) the entry of an order in any of the Cases confirming a Reorganization Plan that is not an Acceptable Plan;
 - (iii) the entry of an order amending, supplementing, staying, vacating or otherwise modifying the Interim Order or the Final Order in any material respect without the written consent of the Required Lenders, the filing of a motion by the Debtors for reconsideration with respect to the Interim Order or the Final Order, or the Interim Order or the Final Order shall otherwise not be in full force and effect;
 - (iv) the allowance of any claim or claims under Section 506(c) of the Bankruptcy Code or otherwise against, any Agent, any Lender, any other Secured Party or any of the DIP Collateral;
 - (v) (A) the appointment of a trustee, receiver or an examiner (other than a fee examiner) in the Cases with expanded powers to operate or manage the financial affairs, the business, or reorganization of the Loan Parties, or (B) the sale without the Required Lenders' consent of all or substantially all of the Debtors' assets either through a sale under Section 363 of the Bankruptcy Code, through a confirmed Reorganization Plan in the Cases or otherwise that does not result in Payment in Full in cash of all of the Loan Document Obligations under this Agreement at the closing of such sale or initial payment of the purchase price or effectiveness of such Reorganization Plan, as applicable;
 - (vi) the dismissal of any Case, or the conversion of any Case from one under Chapter 11 to one under Chapter 7 of the Bankruptcy Code, or any Loan Party shall file a motion or other pleading seeking the dismissal of the Case under Section 1112 of the Bankruptcy Code or otherwise;
 - (vii) any Loan Party shall file a motion seeking, or shall support a request of any party for, relief from or modification of the automatic stay (A) to allow any creditor (other than the Administrative Agent) to execute upon or enforce a Lien on any DIP Collateral, (B) approving any settlement or other stipulation not approved by the Required Lenders (which approval shall not be unreasonably withheld) with any creditor of any Loan Party providing for payments as adequate protection or otherwise to such secured creditor or (C) with respect to any Lien on or the granting of any Lien on any DIP Collateral to any federal, state or local environmental or regulatory agency or authority;

(viii) the commencement by any Loan Party or Subsidiary of a suit or an action against any Agent, any Lender or any other Secured Party, where such suit or action asserts or seeks a claim or any legal or equitable remedy that would (x) have the effect of invalidating, subordinating or challenging any or all of the Loan Document Obligations, the Prepetition Secured Obligations, or Liens of any Agent (on behalf of the Secured Parties) to any other claim, or (y) have a Material Adverse Effect on the rights and remedies of any Agent or the collectability of all or any portion of the Loan Document Obligations and the Prepetition Secured Obligations (other than a challenge as to whether an Event of Default has, in fact, occurred and is continuing);

(ix) the entry of an order in the Cases avoiding recovery of any portion of the payments made on account of the Loan Document Obligations owing under this Agreement;

(x) the entry of an order in the Cases terminating the exclusive right of any Loan Party to file a Chapter 11 plan pursuant to Section 1121 of the Bankruptcy Code;

(xi) [reserved];

(xii) there shall arise or be granted by the Bankruptcy Court (I) any claim having priority over any or all administrative expenses of the kind specified in clause (b) of Section 503 of the Bankruptcy Code or clause (b) of Section 507 of the Bankruptcy Code (other than the Carve-Out and the Loan Document Obligations) or (II) any Lien on the DIP Collateral having a priority senior to or *pari passu* with the Liens and security interests granted herein, except, in each case, as expressly provided in the Loan Documents or in the Orders then in effect;

(xiii) the Interim Order (prior to the Final Order Entry Date) or, on and after entry thereof, the Final Order, in each case shall cease to create a valid and perfected Lien on the DIP Collateral or to be in full force and effect, or shall have been reversed, modified or amended in a manner materially adverse to the Secured Parties, or vacated, in each case without prior written consent of the Required Lenders;

(xiv) an order of the Bankruptcy Court shall be entered denying or terminating use of cash collateral by the Loan Parties;

(xv) any Loan Party shall challenge or support a challenge of any payments made to any Agent, any Lender, or any Secured Party with respect to the Loan Document Obligations or Prepetition Secured Obligations, without the consent of the Required Lenders and, if required by Section 10.02, any other Secured Party, the filing of any motion by the Loan Parties seeking approval of (or the entry of an order by the Bankruptcy Court approving) adequate protection to any Prepetition Agent, or the Prepetition Lenders, that is inconsistent with an Order;

(xvi) without the Required Lenders' consent, the entry of any order by the Bankruptcy Court (other than the Orders, the First Day Orders, and the "second day" orders) granting, or the filing by any Loan Party or any of its Subsidiaries of any motion or other request with the Bankruptcy Court (in each case, other than the Orders, the First Day Orders, the "second day" orders, and motions seeking entry thereof or permitted amendments or modifications of any of the foregoing) seeking, authority to use any cash proceeds of any of the DIP Collateral without the consent of the Administrative Agent (at the direction of the Required Lenders) or to obtain any financing under Section 364 of the Bankruptcy Code other than the Loan Documents;

(xvii) without the Required Lenders' consent, the filing by any Loan Party or any of its Subsidiaries of any motion or other request with the Bankruptcy Court seeking authority to

consummate a sale of material assets constituting DIP Collateral outside the ordinary course of business and not permitted hereunder;

(xviii) any Loan Party shall make any Prepetition Payment other than as authorized or required by one or more First Day Orders or related “second day” orders or any of the Orders (or other orders with the consent of Required Lenders) and materially consistent with the then Approved DIP Budget (including Permitted Variances);

(xix) without the Required Lenders’ consent, any Loan Party or any Subsidiary thereof shall file any motion or other request with the Bankruptcy Court seeking (A) to grant or impose, under Section 364 of the Bankruptcy Code or otherwise, liens or security interests in any DIP Collateral, whether senior, equal or subordinate to the Administrative Agent’s liens and security interests, other than Liens permitted by Section 6.02; or (B) to modify or affect any of the rights of the Administrative Agent, the Lenders or the Secured Parties under the Orders or the Loan Documents and related documents by any plan of reorganization confirmed in the Cases or subsequent order entered in the Cases;

(xx) [reserved];

(xxi) the liens or super-priority claims granted with respect to the Secured Obligations or the Prepetition Secured Obligations cease to be valid, perfected and enforceable in any respect; or

(xxii) the filing by any of the Loan Parties of a Reorganization Plan other than an Acceptable Plan.

then, and in every such event, and at any time thereafter during the continuance of such event, subject to the DIP Orders and any other applicable order of the Bankruptcy Court, upon written notice thereof by the Administrative Agent (which such notice shall be made to the Loan Parties, any official committee(s) appointed in the Cases, and the U.S. Trustee and shall be referred to herein as a “Termination Declaration” and the date which is the earliest to occur of any such Termination Declaration (excluding the notice period) being herein referred to as the “Termination Declaration Date”), the Administrative Agent may, and at the request of the Required Lenders shall, take any or all of the following actions, at the same or different times: (i) terminate the Term Loan Commitments, and thereupon the Term Loan Commitments shall terminate immediately, (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; (iii) declare a termination, reduction or restriction on the ability of the Loan Parties to use any cash collateral and (iv) subject to the terms of the Interim Order or the Final Order, as applicable, exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable law or equity.

7.02 [Reserved].

7.03 Application of Funds. Subject to the Orders, (i) in the event of any Event of Default pursuant to Sections 7.01(a) or (b) with respect to the Loans and during the continuance thereof, (ii) after the exercise of remedies provided for in Section 7.01 (or after the Loans have automatically become immediately due and payable) or (iii) upon maturity, in each case, any payment or other distribution (whether from the proceeds of Collateral or any other source, whether in the form of cash, securities or

otherwise and whether made by the Borrower or any Guarantor or in connection with any exercise of remedies by the Administrative Agent or any Lender) made or applied in respect of any of the Secured Obligations (including, without limitation, during or in connection with any insolvency proceedings involving the Borrower or any Guarantor or any plan of liquidation, distribution, asset sale or reorganization in connection therewith) shall, subject to Section 2.21, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Loan Document Obligations constituting fees, indemnities, expenses and other amounts payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Loan Document Obligations constituting fees, indemnities and other amounts (other than principal, interest) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Loan Document Obligations constituting accrued and unpaid interest on the Term Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Loan Document Obligations constituting unpaid principal of the Term Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fourth payable to them;

Fifth, to the payment of all other Secured Obligations that are due and payable, ratably to the Administrative Agent and Lenders and other Secured Parties in proportion to the respective amounts described in this clause Fifth payable to them; and

Last, the balance, if any, after all of the Secured Obligations have been indefeasibly paid in full, to the payment of the surplus, if any, to whoever may be lawfully entitled to receive such surplus.

In carrying out the foregoing, (x) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category; and (y) each of the Lenders or Secured Party or other Persons entitled to payment shall receive an amount equal to its pro rata share (based on the proportion that the then outstanding Loans held by such Lender bears to the aggregate then outstanding Loans) of amounts available to be applied pursuant to clauses “second”, “third”, “fourth”, and “fifth” above.

ARTICLE VIII

Administrative Agent

8.01 Appointment and Authority.

(a) Each of the Lenders hereby irrevocably appoints KKR Loan Administration Services LLC to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article VIII are solely for the benefit of the Administrative Agent and the Lenders, and neither the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the

Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Requirement of Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties. Each Lender authorizes the Administrative Agent to execute and deliver, and to enter into on its behalf, each of (x) any subordination or intercreditor agreement with respect to any Junior Financing and (y) the CIT Intercreditor Agreement and, in each case, hereby agrees to be bound by the terms and provisions of each such agreement as if such Lender were a direct signatory thereto.

(b) The Administrative Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders (in its capacities as a Lender) hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Secured Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as “collateral agent” and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 8.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article VIII and Article IX (including Section 10.03(c)), as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents) as if set forth in full herein with respect thereto.

8.02 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Loan Party or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

8.03 Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity;

(d) shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 10.02 and in the penultimate paragraph of Section 7.01) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and non-appealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice describing such Default is given to the Administrative Agent by the Borrower or a Lender; and

(e) shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement, any other Loan Document or any document delivered to the Administrative Agent in connection herewith or therewith, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

8.04 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, which by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

8.05 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article VIII shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

8.06 Resignation of Administrative Agent. (a) The Administrative Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank

with an office in the United States. If no such successor shall have been appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the “Resignation Effective Date”), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable Requirements of Law by notice in writing to the Borrower and such Person remove such Person as the Administrative Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days (or such earlier day as shall be agreed by the Required Lenders) (the “Removal Effective Date”), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section 8.06. Upon the acceptance of a successor’s appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than as provided in Section 10.05 and other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section 8.06). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Administrative Agent’s resignation or removal hereunder and under the other Loan Documents, the provisions of this Article VIII and Section 10.03 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

8.07 Non-Reliance on Administrative Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

8.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, no person named on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent or a Lender hereunder.

8.09 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Secured Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.11 and 9.03) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.11 and 9.03.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Secured Obligations or the rights of any Lender to authorize the Administrative Agent to vote in respect of the claim of any Lender or in any such proceeding.

The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Secured Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Secured Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code of the United States, including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any similar Requirements of Law in any other jurisdictions to which a Loan Party is subject, (b) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable Requirement of Law. In connection with any such credit bid and purchase, the Secured Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Secured Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such

purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (ii) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (a) through (d) of Section 10.02 of this Agreement, (iii) the Administrative Agent shall be authorized to assign the relevant Secured Obligations to any such acquisition vehicle pro rata by the Lenders, as a result of which each of the Lenders shall be deemed to have received a pro rata portion of any Equity Interests and/or debt instruments issued by such an acquisition vehicle on account of the assignment of the Secured Obligations to be credit bid, all without the need for any Secured Party or acquisition vehicle to take any further action, and (iv) to the extent that Secured Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Secured Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Secured Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Secured Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

8.10 Collateral and Guaranty Matters. Each Lender irrevocably authorizes the Administrative Agent, at its option and in its discretion,

(a) to release any Lien on any Collateral granted to or held by the Administrative Agent under any Loan Document (i) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other Disposition permitted hereunder or under any other Loan Document or any involuntary Disposition, (ii) that is owned by a Person that ceases to be a Guarantor or (iii) as approved in accordance with Section 10.02;

(b) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02(iii) or (iv); and

(c) to release any Guarantor (for the avoidance of doubt, other than Holdings, any Intermediate Parent or the Borrower) from its obligations under the Loan Documents if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents.

The Administrative Agent shall take the actions described above with reasonable promptness after written request by the Borrower. Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its Guaranteed Obligations, pursuant to this Section 8.10.

The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

8.11 [Reserved].

8.12 No Waiver; Cumulative Remedies; Enforcement. No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Article VII for the benefit of all the Lenders; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.17), or (c) any Lender from filing proofs of claim or voting such claims or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Article VII and (ii) in addition to the matters set forth in clauses (b) and (c) of the preceding proviso and subject to Section 2.17, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

ARTICLE IX

Guaranty

9.01 Guaranty. To induce the Lenders to make the Term Loans and each other Secured Party to make credit available to or for the benefit of the Borrower, each Guarantor hereby, jointly and severally, absolutely, unconditionally and irrevocably guarantees, as primary obligor and not merely as surety, the full and punctual payment when due, whether at stated maturity or earlier, by reason of acceleration, mandatory prepayment or otherwise in accordance with any Loan Document or the DIP Orders, of all the obligations (including, without limitation, the Loan Document Obligations) of the Borrower and the other Loan Parties under the Loan Documents, whether existing on the date hereof or hereinafter incurred or created (the “Guaranteed Obligations”). This guaranty by each Guarantor hereunder constitutes a guaranty of payment and not of collection.

9.02 Contribution. To the extent that a Guarantor shall be required hereunder to pay any portion of any Guaranteed Obligation exceeding the greater of (a) the amount of the value actually received by such Guarantor and its Subsidiaries from the Loans and other Obligations and (b) the amount such Guarantor would otherwise have paid if such Guarantor had paid the aggregate amount of the Guaranteed Obligations (excluding the amount thereof repaid by such Guarantor that received the benefit of the funds advanced that constituted Guaranteed Obligations) in the same proportion as such Guarantor’s net worth on the date enforcement is sought hereunder bears to the aggregate net worth of all Loan Parties on such date, then such Guarantor shall be reimbursed by such other Loan Parties for the amount of such excess, pro rata, based on the respective net worth of such other Loan Parties on such date.

9.03 Authorization; Other Agreement. The Secured Parties are hereby authorized, without notice to or demand upon any Guarantor and without discharging or otherwise affecting the obligations of any Guarantor hereunder and without incurring any liability hereunder, but subject to Section 10.02 and the other applicable provisions of the Loan Documents, from time to time, to do each of the following:

- (a) (i) modify, amend, supplement or otherwise change, (ii) accelerate or otherwise change the time of payment of, or (iii) waive or otherwise consent to noncompliance with, any Guaranteed Obligation or any Loan Document;
- (b) apply to the Guaranteed Obligations any sums by whomever paid or however realized to any Guaranteed Obligation in such order as provided in the Loan Documents;
- (c) refund at any time any payment received by any Secured Party in respect of any Guaranteed Obligation;
- (d) (i) sell, exchange, enforce, waive, substitute, liquidate, terminate, release, abandon, fail to perfect, subordinate, accept, substitute, surrender, exchange, affect, impair or otherwise alter or release any Collateral for any Guaranteed Obligation or any other guaranty therefor in any manner, (ii) receive, take and hold additional Collateral to secure any Guaranteed Obligation, (iii) add, release or substitute any one or more other Loan Parties, makers or endorsers of any Guaranteed Obligation or any part thereof and (iv) otherwise deal in any manner with the Borrowers, maker or endorser of any Guaranteed Obligation or any part thereof; and
- (e) settle, release, compromise, collect or otherwise liquidate the Guaranteed Obligations..

9.04 Guaranty Absolute and Unconditional. Each Guarantor hereby waives and agrees not to assert any defense, whether arising in connection with or in respect of any of the following or otherwise, and hereby agrees that its guaranty obligations under this Agreement are irrevocable, absolute and unconditional and shall not be discharged as a result of or otherwise affected by any of the following (which may not be pleaded and evidence of which may not be introduced in any proceeding with respect to this Agreement, in each case except as otherwise agreed in writing by the Administrative Agent):

- (a) the invalidity or unenforceability of any obligation of any Borrower or any other Loan Party under any Loan Document or any other agreement or instrument relating thereto (including any amendment, consent or waiver thereto), or any security for, or other guaranty of, any Guaranteed Obligation or any part thereof, or the lack of perfection or continuing perfection or failure of priority of any security for the Guaranteed Obligations or any part thereof;
- (b) the absence of (i) any attempt to collect any Guaranteed Obligation or any part thereof from any Borrower or any Guarantor or other action to enforce the same or (ii) any action to enforce any Loan Document or any Lien thereunder;
- (c) the failure by any Person to take any steps to perfect and maintain any Lien on, or to preserve any rights with respect to, any Collateral;
- (d) any workout, insolvency, bankruptcy proceeding, reorganization, arrangement, liquidation or dissolution by or against the Borrower or any Guarantor or any of any Borrower's or any Guarantor's other Subsidiaries or any procedure, agreement, order, stipulation, election, action or omission thereunder, including any discharge or disallowance of, or bar or stay against collecting, any Guaranteed Obligation (or any interest thereon) in or as a result of any such proceeding;

(e) any foreclosure, whether or not through judicial sale, and any other sale or other disposition of any Collateral or any election following the occurrence of an Event of Default by any Secured Party to proceed separately against any Collateral in accordance with such Secured Party's rights under any applicable Requirement of Law; or

(f) any other defense, set-off, counterclaim or any other circumstance that might otherwise constitute a legal or equitable discharge of a Borrower or a Guarantor or any other Subsidiary of any Borrower or any Guarantor, in each case other than the payment in full of the Guaranteed Obligations.

9.05 Waivers. Each Loan Party hereby unconditionally and irrevocably waives and agrees not to assert any claim, defense, set-off or counterclaim based on diligence, promptness, presentment, requirements for any demand or notice hereunder including any of the following: (a) any demand for payment or performance and protest and notice of protest; (b) any notice of acceptance; (c) any presentment, demand, protest or further notice or other requirements of any kind with respect to any Guaranteed Obligation (including any accrued but unpaid interest thereon) becoming immediately due and payable; and (d) any other notice in respect of any Guaranteed Obligation or any part thereof, and any defense arising by reason of any disability or other defense of the Loan Parties. Each Loan Party further unconditionally and irrevocably agrees not to (x) enforce or otherwise exercise any right of subrogation or any right of reimbursement or contribution or similar right against any Borrower or any other Loan Party by reason of any Loan Document or any payment made thereunder and waives any such right to subrogation in all respects or (y) assert any claim, defense, set-off or counterclaim it may have against any other Loan Party or set-off any of its obligations to such other Loan Party against obligations of such Loan Party to such Loan Party. No obligation of any Loan Party hereunder shall be discharged other than by complete performance.

9.06 Reliance. Each Loan Party hereby assumes responsibility for keeping itself informed of the financial condition of each other Loan Party and any other guarantor, maker or endorser of any Guaranteed Obligation or any part thereof, and of all other circumstances bearing upon the risk of nonpayment of any Guaranteed Obligation or any part thereof that diligent inquiry would reveal, and each Loan Party hereby agrees that no Secured Party shall have any duty to advise any Loan Party of information known to it regarding such condition or any such circumstances. In the event any Secured Party, in its sole discretion, undertakes at any time or from time to time to provide any such information to any Loan Party, such Secured Party shall be under no obligation to (a) undertake any investigation not a part of its regular business routine, (b) disclose any information that such Secured Party, pursuant to accepted or reasonable commercial finance or banking practices, wishes to maintain confidential or (c) make any future disclosures of such information or any other information to any Loan Party.

9.07 Discharge of Guaranty Upon Sale of Guarantor. The Guaranty of any Guarantor shall be released in accordance with Section 8.10(c).

ARTICLE X

Miscellaneous

10.01 Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax or other electronic transmission, as follows:

(i) if to Holdings, the Borrower or the Administrative Agent, to the address, fax number, e-mail address or telephone number specified for such Person on Schedule 10.01; and

(ii) if to any other Lender, to it at its address (or fax number, telephone number or e-mail address) set forth in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrower).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures reasonably approved by the Administrative Agent; provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article II by electronic communication.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to Holdings, the Borrower, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to Holdings, the

Borrower, any Lender, or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of Holdings, the Borrower and the Administrative Agent may change its address, electronic mail address, fax or telephone number for notices and other communications or website hereunder by notice to the other parties hereto. Each other Lender may change its address, fax or telephone number for notices and other communications hereunder by notice to the Borrower and the Administrative Agent. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, fax number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(e) Reliance by Administrative Agent and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any written notices purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, each Lender and the Related Parties from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower in the absence of gross negligence or willful misconduct as determined in a final and non-appealable judgment by a court of competent jurisdiction.

10.02 Waivers; Amendments.

(a) No failure or delay by the Administrative Agent or any Lender in exercising any right or power under this Agreement or any Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 10.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent or any Lender may have had notice or knowledge of such Default at the time. No notice or demand on the Borrower or Holdings in any case shall entitle the Borrower or Holdings to any other or further notice or demand in similar or other circumstances.

(b) Neither this Agreement, any Loan Document nor any provision hereof or thereof may be waived, amended or modified except, in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by Holdings, the Borrower and the Required Lenders (or the Administrative Agent with the consent of the Required Lenders) or, in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, in each case with the consent of the Required Lenders (with a copy of all amendments provided to the Administrative Agent); provided that no such agreement shall:

(i) increase the Term Loan Commitment of any Lender without the written consent of such Lender (it being understood that a waiver of any condition precedent set forth in Section 4.03 or the waiver of any Default, mandatory prepayment or mandatory reduction of the Term

Loan Commitments shall not constitute an extension or increase of any Term Loan Commitment of any Lender);

(ii) reduce the principal amount of any Loan or reduce the rate of interest thereon, or reduce any fees or prepayment premium payable hereunder, without the written consent of each Lender directly and adversely affected thereby (it being understood that any waiver of any condition precedent set forth in Article IV or the waiver of any Default, or mandatory prepayment shall not constitute a reduction in principal, interest, fees or prepayment premiums)); provided that only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrower to pay default interest pursuant to Section 2.12(d);

(iii) postpone the maturity of any Loan, or the date of any scheduled amortization payment of the principal amount of any Loan under Section 2.09, or any date for the payment of any interest, fees or prepayment premium payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Term Loan Commitment, without the written consent of each Lender directly and adversely affected thereby (it being understood the waiving of the applicability of post-default increases in interest rates and any waiver of any Default or condition precedent set forth in Article IV shall not constitute a postponement of any date for payment of any principal, interest, fees or prepayment premiums payable hereunder);

(iv) (A) change Sections 2.09(d) or 2.17(b) hereof in a manner that would alter the pro rata sharing of payments required thereby, (B) change Section 2.10(c) hereof in a manner that would alter the manner in which payments or prepayments of principal, interest or other amounts shall be applied as among the Lenders or Types of Loans or (C) change Section 7.03, in each case without the written consent of each Lender directly and adversely affected thereby;

(v) change any of the provisions of this Section 10.02 or Section 10.04(f) without the written consent of each Lender directly and adversely affected thereby;

(vi) change the percentage set forth in the definition of "Required Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender;

(vii) release all or substantially all the value of the Guaranteed Obligations without the written consent of each Lender (except as expressly provided in the Security Documents); and

(viii) release all or substantially all of the DIP Collateral from the Liens of the Security Documents (except as expressly provided for in the Security Documents) or subordinate a substantial portion of such Liens to other Liens except as expressly permitted under this Agreement, in each case, without the written consent of each Lender;

provided further that (A) no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent without the prior written consent of the Administrative Agent and (B) the exercise of rights and remedies in respect of the DIP Collateral shall be subject to the provisions of Section 7.03.

Notwithstanding anything to the contrary contained in this Section 10.02 or otherwise in this Agreement or any other Loan Document, (i) [reserved], (ii) this Agreement and any other Loan Document may be amended, supplemented or otherwise modified, or any provision thereof waived as is reasonably necessary,

with the consent of the Administrative Agent and the Borrower without the need to obtain the consent of any Lender, if such amendment, supplement, modification or waiver is delivered in order to (A) cure ambiguities, omissions, mistakes or defects or (B) cause any Security Document to be consistent with this Agreement and the other Loan Documents, and (iii) without the consent of any Lender, the Borrower and the Administrative Agent or any other collateral agent may enter into any amendment, supplement, waiver or modification of any Loan Document, or enter into any new agreement or instrument, to effect the granting, perfection, protection, expansion or enhancement of any security interest of the Secured Parties in any DIP Collateral or additional property to become DIP Collateral for the benefit of the Secured Parties or as required by local law to give effect to, or protect any security interests for the benefit of the Secured Parties, in any property or so that the security interests therein comply with applicable law or this Agreement or in each case to otherwise enhance the rights or benefits of any Lender under any Loan Document. The Administrative Agent shall make available to the Lenders copies of each amendment or other modification to the Loan Documents.

Notwithstanding anything to the contrary contained in this Section 10.02 or otherwise in this Agreement or any other Loan Document, any amendment, modification, waiver or other action which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders, except that (x) the Term Loan Commitment of any such Defaulting Lender may not be increased or extended, the maturity of the Loans of any Defaulting Lender may not be extended, the rate of interest on any of such Loans may not be reduced and the principal amount of any of such Loans may not be forgiven, in each case without the consent of each such Defaulting Lender and (y) any amendment, modification, waiver or other action that by its terms adversely affects any Defaulting Lender in its capacity as a Lender in a manner that differs in any material respect from, and is more adverse to such Defaulting Lender than it is to other affected Lenders, shall require the consent of each such Defaulting Lender.

(c) In connection with any proposed amendment, modification, waiver or termination (a “Proposed Change”) requiring the consent of all Lenders or all directly and adversely affected Lenders, if the consent of the Required Lenders to such Proposed Change is obtained, but the consent to such Proposed Change of other Lenders whose consent is required is not obtained (any such Lender whose consent is not obtained as described in paragraph (b) of this Section 10.02 being referred to as a “Non-Consenting Lender”), then, so long as the Lender that is acting as Administrative Agent is not a Non-Consenting Lender, the Borrower may, at its sole expense and effort, upon notice to such Non-Consenting Lender and the Administrative Agent, require such Non-Consenting Lender (unless prohibited under applicable law) to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 10.04), all its interests, rights and obligations under this Agreement to an Eligible Assignee that shall assume such obligations (which Eligible Assignee may be another Lender, if a Lender accepts such assignment); provided that (a) the Borrower shall have received the prior written consent of the Administrative Agent to the extent such consent would be required under Section 10.04(b) for an assignment of Loans or Term Loan Commitments, as applicable, which consent shall not unreasonably be withheld, and (b) unless waived, the Borrower or such Eligible Assignee shall have paid to the Administrative Agent the processing and recordation fee specified in Section 10.04(b).

(d) Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, the Term Loans of any Lender that is at the time a Defaulting Lender shall not have any voting or approval rights under the Loan Documents and shall be excluded in determining whether all Lenders, all affected Lenders, or the Required Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to this Section 10.02); provided that (x) the Term Loan Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that affects

any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

10.03 Expenses; Indemnity; Damage Waiver.

(a) The Borrower shall pay (i) all reasonable and documented or invoiced out-of-pocket costs and expenses incurred by the Administrative Agent and its Affiliates (without duplication), including the reasonable fees, charges and disbursements of appraisers, financial advisors, investment bankers and other similar advisors, and one counsel to the Administrative Agent, and to the extent reasonably deemed necessary by the Administrative Agent, one local counsel in each relevant jurisdiction and, in the case of any conflict of interest (as reasonably determined by the Administrative Agent, subject to such conflict), one additional counsel in each relevant jurisdiction to each group of affected persons similarly situated taken as a whole), in connection with the syndication of the credit facilities provided for herein, and the preparation, execution, delivery and administration of the Loan Documents or any amendments, modifications or waivers of the provisions thereof, (ii) all reasonable and documented or invoiced out-of-pocket costs and expenses incurred by the Term Lenders and their Affiliates (without duplication), including the reasonable fees, charges and disbursements of appraisers, financial advisors, investment bankers and other similar advisors, and one counsel to the Term Lenders and their Affiliates and to the extent reasonably deemed necessary by the Term Lenders, one local counsel in each relevant jurisdiction and, in the case of any conflict of interest (as reasonably determined by the Term Lenders subject to such conflict), one additional counsel in each relevant jurisdiction to each group of affected persons similarly situated taken as a whole), in connection with the syndication of the credit facilities provided for herein, and the preparation, execution, delivery and administration of the Loan Documents or any amendments, modifications or waivers of the provisions thereof and (iii) all reasonable and documented or invoiced out-of-pocket expenses incurred by the Administrative Agent and each Lender, including the fees, charges and disbursements of counsel for the Administrative Agent, the Lenders in connection with the enforcement or protection of any rights or remedies (A) in connection with the Loan Documents (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Laws), including its rights under this Section 10.03 or (B) in connection with the Loans made hereunder, including all such reasonable and documented or invoiced out-of-pocket costs and expenses incurred during any workout, restructuring or negotiations in respect of such Loans; provided that such counsel shall be limited to (x) one lead counsel and such local counsel (exclusive of any reasonably necessary special counsel) as may reasonably be deemed necessary by the Administrative Agent in each relevant jurisdiction and, in the case of an actual or reasonably perceived conflict of interest, one additional counsel per affected party and (y) one additional lead counsel for the Term Lenders, taken as a whole, and in the case of an actual or reasonably perceived conflict of interest, one additional counsel per affected party.

(b) The Borrower shall indemnify the Administrative Agent, each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and reasonable and documented or invoiced out-of-pocket fees and expenses, including the fees, charges and disbursements of one counsel for all Indemnitees, taken as a whole, selected by the Administrative Agent (and, in the case of an actual or perceived conflict of interest where the Indemnitee affected by such conflict notifies the Borrower of any existence of such conflict and in connection with the investigating or defending any of the foregoing (including the reasonable fees) has retained its own counsel, of another firm of counsel for such affected Indemnitee), and to the extent required, one firm or local counsel in each relevant jurisdiction (which may include a single special counsel acting in multiple jurisdictions)), incurred by or asserted against any Indemnitee by any third party or by the Borrower, Holdings or any Subsidiary arising out of any claims, actions, suits, inquiries, litigation, investigation or proceeding in connection with, or as a result of (i) the execution or delivery of this Agreement, any Loan Document or any other agreement or instrument contemplated hereby or thereby, the performance by the parties to the Loan Documents of their respective

obligations thereunder or the consummation of the Transactions or any other transactions contemplated thereby, (ii) [Reserved] or (iii) to the extent in any way arising from or relating to any of the foregoing, any actual or alleged presence or Release of Hazardous Materials on, at, to or from any other property currently or formerly owned or operated by Holdings, the Borrower or any Subsidiary, or any other Environmental Liability related in any way to Holdings, the Borrower or any Subsidiary, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower, Holdings or any Subsidiary and regardless of whether any Indemnatee is a party thereto; provided that such indemnity shall not, as to any Indemnatee, be available to the extent that such losses, claims, damages, liabilities, costs or related expenses (x) resulted from the gross negligence, bad faith or willful misconduct of such Indemnatee or its Related Parties (as determined by a court of competent jurisdiction in a final and non-appealable judgment), (y) resulted from a material breach of the Loan Documents by such Indemnatee or its Related Parties (as determined by a court of competent jurisdiction in a final and non-appealable judgment) or (z) arise from disputes between or among Indemnitees that do not involve an act or omission by Holdings, the Borrower or any Subsidiary (provided that the Administrative Agent shall be indemnified in its capacities as such notwithstanding this clause (z)). For the avoidance of doubt, this paragraph (b) shall not apply with respect to Taxes that are imposed with respect to any payments of any obligation of any Loan Party under any Loan Document, which shall be governed solely by Section 2.16, or with respect to Other Taxes, which are the subject of, and which shall be governed by, Section 2.16.

(c) To the extent that the Borrower fails to pay any amount required to be paid by it to the Administrative Agent under paragraph (a) or (b) of this Section 10.03, each Lender severally agrees to pay to the Administrative Agent such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent in its capacity as such. The obligations of the Lenders under this paragraph (c) are subject to the last sentence of Section 2.02(a) (which shall apply mutatis mutandis to the Lenders' obligations under this paragraph (c)).

(d) To the extent permitted by applicable law, neither Holdings nor the Borrower shall assert, and each hereby waives, any claim against any Indemnatee (i) for any direct or actual damages arising from the use by unintended recipients of information or other materials distributed to such unintended recipients by such Indemnatee through telecommunications, electronic or other information transmission systems (including the Internet) in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby; provided that such indemnity shall not, as to any Indemnatee, be available to the extent that such direct or actual damages are determined by a court of competent jurisdiction by final, non-appealable judgment to have resulted from the gross negligence or willful misconduct of, or a material breach of the Loan Documents by, such Indemnatee or its Related Parties or (ii) on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or the use of the proceeds thereof. In addition, no Loan Party shall be liable to an Indemnatee for any indirect, special, consequential or punitive damages except any such damages incurred or paid by an Indemnatee to a third party.

(e) All amounts due under this Section 10.03 shall be payable not later than ten (10) Business Days after written demand therefor; provided, however, that any Indemnatee shall promptly refund an indemnification payment received hereunder to the extent that there is a final judicial determination that such Indemnatee was not entitled to indemnification with respect to such payment pursuant to this Section 10.03.

10.04 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void), (ii) no assignment shall be made to any Defaulting Lender or any of its Subsidiaries, or any Persons who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (ii) and (iii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 10.04. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (c) of this Section 10.04), the Indemnitees and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments

(i) Subject to the conditions set forth in paragraphs (b)(ii), (f) and (k) below, any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Term Loan Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of (A) the Borrower; provided that no consent of the Borrower shall be required for an assignment by a Term Lender (I) to any Lender or an Affiliate of any Lender or to an Approved Fund or (II) if an Event of Default has occurred and is continuing; and (B) the Administrative Agent; provided, further, that no consent of the Administrative Agent shall be required for an assignment by a Term Lender to any Lender or an Affiliate of any Lender or to an Approved Fund. Notwithstanding anything in this Section 10.04 to the contrary, if the Borrower has not given the Administrative Agent written notice of its objection to such assignment within five (5) Business Days after written notice to the Borrower requesting such consent, the Borrower shall be deemed to have consented to such assignment.(ii) Assignments shall be subject to the following additional conditions: (A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Term Loan Commitment or Loan, the amount of the Term Loan Commitment or Loan of the assigning Lender subject to each such assignment (as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$1,000,000 (and, in each case, integral multiples thereof), unless the Borrower and the Administrative Agent otherwise consent (such consent not to be unreasonably withheld or delayed); provided that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing, (B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement, (C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together (unless waived by the Administrative Agent) with a processing and recordation fee of \$3,500; provided that the Administrative Agent, in its sole discretion, may elect to waive such processing and recordation fee; provided further that assignments made pursuant to Section 2.18(b) or Section 10.02(c) shall not require the signature of the assigning Lender to become effective, and (D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent and the Borrower any Tax forms required by Section 2.16(e), all "know your customer" documents requested by the Administrative Agent pursuant to anti-money laundering rules and regulations, and an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower, the Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such

information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws; provided that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing.

(ii) Subject to acceptance and recording thereof pursuant to paragraph (b)(v) of this Section 10.04, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of (and subject to the obligations and limitations of) Sections 2.14, 2.15, 2.16 and 9.03 and to any fees payable hereunder that have accrued for such Lender's account but have not yet been paid). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c)(i) of this Section 10.04. Notwithstanding the foregoing, no assignee, which as of the date of any assignment to it pursuant to this Section 10.04 would be entitled to any payments under Sections 2.14 or 2.16 in an amount greater than the assigning Lender would have been entitled to as of such date with respect to the rights assigned, shall be entitled to such greater payments. The benefit of each Security Document shall be maintained in favor of the assignee (without prejudice to Section 8.07).

(iii) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Term Loan Commitment of, and principal and interest amounts of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and Holdings, the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register is intended to cause each Loan and other obligation hereunder to be in registered form within the meaning of Section 5f.103-1(c) of the United States Treasury Regulations and Proposed Treasury Regulations Section 1.163-5(b) (or any amended or successor version) and within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior written notice.

(iv) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire and any Tax forms required by Section 2.16(e) (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section 10.04 and any written consent to such assignment required by paragraph (b) of this Section 10.04, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph (v) and paragraph (iv) above.

(v) The words "execution", "signed", "signature" and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of

records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act or any other similar state laws based on the Uniform Electronic Transactions Act.

(vi) No assignment pursuant to this Section 10.04 shall be made (A) to any Defaulting Lender or any of its subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (A), (B) to any natural person, (C) to Holdings or any Subsidiary of Holdings, or (D) to any Affiliate of the Borrower.

(c) Participations.

(i) Any Lender may, without the consent of the Borrower or the Administrative Agent, sell participations to one or more banks or other Persons other than a natural person, an Affiliate of the Borrower, a Defaulting Lender or Holdings or any Subsidiary of Holdings (a “Participant”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Term Loan Commitment and the Loans owing to it); provided that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) Holdings, the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and any other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement and any other Loan Documents; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 10.02(b) that directly and adversely affects such Participant. Subject to paragraph (c)(iii) of this Section 10.04, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.14, 2.15 and 2.16 (subject to the obligations and limitations of such Sections, including such Participant’s compliance with Section 2.16(e) (it being understood that the documentation required under Section 2.16(e) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section 10.04. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.17(b) as though it were a Lender.

(ii) Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and related interest amounts) of each participant’s interest in the Loans or other obligations under this Agreement (the “Participant Register”). The Participant Register is intended to cause each Loan and other obligation hereunder to be in registered form within the meaning of Section 5f.103-1(c) of the United States Treasury Regulations and Proposed Treasury Regulations Section 1.163-5(b) (or any amended or successor version) and within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code. The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner

of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(iii) A Participant shall not be entitled to receive any greater payment under Section 2.14 or Section 2.16 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant (other than with respect to a Change in Law).

(d) Any Lender may, without the consent of the Borrower or the Administrative Agent, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (other than to a natural person) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other “central” bank, and this Section 10.04 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

10.05 Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to any Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid and so long as the Term Loan Commitments have not expired or terminated. The provisions of Sections 2.13, 2.14, 2.15, 2.16, 2.18, 2.22 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitments or the termination of this Agreement or any provision hereof.

10.06 Counterparts; Integration; Effectiveness. This Agreement and each of the other Loan Documents may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent or any syndication of the Loans and Term Loan Commitments constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement or any other Loan Document, or any certificate delivered thereunder by facsimile or other electronic transmission (e.g., “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement. Without limiting the foregoing, to the extent a manually executed counterpart is not specifically required to be delivered under the terms of any Loan Document, upon the request of any party, such facsimile transmission or electronic mail transmission shall be promptly followed by such manually executed counterpart.

10.07 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.07, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, then such provisions shall be deemed to be in effect only to the extent not so limited.

10.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, the Administrative Agent, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, with the consent of the Administrative Agent, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations in whatever currency at any time owing by the Administrative Agent, such Lender or any such Affiliate to or for the credit or the account of the Borrower against any of and all the obligations of the Borrower then due and owing under this Agreement held by the Administrative Agent or such Lender, irrespective of whether or not the Administrative Agent or such Lender shall have made any demand under this Agreement and although (i) such obligations may be contingent or unmatured and (ii) such obligations are owed to a branch or office of the Administrative Agent or such Lender different from the branch or office holding such deposit or obligated on such Indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.21 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Secured Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The Administrative Agent and the applicable Lender shall notify the Borrower and the Administrative Agent of such setoff and application; provided that any failure to give or any delay in giving such notice shall not affect the validity of any such setoff and application under this Section 10.08. The rights of the Administrative Agent, each Lender, and their respective Affiliates under this Section 10.08 are in addition to other rights and remedies (including other rights of setoff) that the Administrative Agent, such Lender, and their respective Affiliates may have.

10.09 Governing Law; Jurisdiction; Consent to Service of Process.

(a) This Agreement shall be construed in accordance with and governed by the laws of the State of New York.

(b) During the pendency of the Cases, each party to this Agreement hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Bankruptcy Court, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or the other Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that, during the pendency of the Cases, all claims in respect of any such action or proceeding may be heard and determined in such Bankruptcy Court. Following the close of the Cases, each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of 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 any Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in any Loan Document shall affect any right that the Administrative Agent or any Lender may otherwise have to bring any action or proceeding relating to any Loan Document against Holdings or the Borrower or their respective properties in the courts of any jurisdiction following the close of the Cases.

(c) Each party hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to any Loan Document in any court referred to in paragraph (b) of this Section 10.09. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 10.01. Nothing in any Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

10.10 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.10.

10.11 California Judicial Reference.

If any action or proceeding is filed in a court of the State of California by or against any party hereto in connection with any of the transactions contemplated by this Agreement or any other Loan Document, (a) the court shall, and is hereby directed to, make a general reference pursuant to California Code of Civil Procedure Section 638 to a referee (who shall be a single active or retired judge) to hear and determine all of the issues in such action or proceeding (whether of fact or of law) and to report a statement of decision; provided that at the option of any party to such proceeding, any such issues pertaining to a “provisional remedy” as defined in California Code of Civil Procedure Section 1281.8 shall be heard and determined by

the court, and (b) without limiting the generality of Section 10.03, the Borrower shall be solely responsible to pay all fees and expenses of any referee appointed in such action or proceeding.

10.12 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

10.13 Confidentiality.

(a) Each of the Administrative Agent and the Lenders severally agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (i) to its Affiliates and its and its Affiliates' directors, officers, employees, trustees and agents, including accountants, legal counsel and other agents and advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential and any failure of such Persons acting on behalf of the Administrative Agent or the relevant Lender to comply with this Section 10.13 shall constitute a breach of this Section 10.13 by the Administrative Agent or the relevant Lender, as applicable), (ii) to the extent requested by any regulatory authority or self-regulatory authority, required by applicable law or by any subpoena or similar legal process; provided that solely to the extent permitted by law and other than in connection with routine audits and reviews by regulatory and self-regulatory authorities, each Lender and the Administrative Agent shall notify the Borrower as promptly as practicable of any such requested or required disclosure in connection with any legal or regulatory proceeding; provided further that in no event shall any Lender or the Administrative Agent be obligated or required to return any materials furnished by the Borrower or any Subsidiary of Holdings, (iii) to any other party to this Agreement, (iv) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or any Loan Document or the enforcement of rights hereunder or thereunder, (v) subject to an agreement containing confidentiality undertakings substantially similar to those of this Section 10.13, to (A) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement, (B) any actual or prospective counterparty (or its advisors) to any Swap Agreement or derivative transaction relating to any Loan Party or its Subsidiaries and its obligations under the Loan Documents or (C) any pledgee referred to in Section 10.04(d), (vi) if required by (x) any rating agency or (y) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder; provided that prior to any such disclosure, such rating agency, CUSIP Service Bureau or similar agency shall have agreed in writing to maintain the confidentiality of such Information, (vii) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section 10.13 or (y) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a non-confidential basis from a source other than Holdings or the Borrower. For the purposes hereof, "Information" means all information received from Holdings or the Borrower relating to Holdings, the Borrower, any other Subsidiary or their business, other than any such information that is available to the Administrative Agent or any Lender on a non-confidential basis prior to disclosure by Holdings, the Borrower or any Subsidiary; it being understood that all information received from Holdings, the Borrower or any Subsidiary after the Closing Date shall be deemed confidential unless such information is clearly identified at the time of delivery as not being confidential, or (viii) [reserved]. Any Person required to maintain the confidentiality of Information as provided in this Section 10.13 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

(b) EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN SECTION 10.13(a) FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING HOLDINGS, THE BORROWER, THE

LOAN PARTIES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

(c) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT, WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT HOLDINGS, THE BORROWER, THE LOAN PARTIES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

10.14 USA Patriot Act. Each Lender that is subject to the USA Patriot Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the USA Patriot Act.

10.15 Judgment Currency.

(a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in one currency into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures in the relevant jurisdiction the first currency could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of the Borrower in respect of any sum due to any party hereto or any holder of any obligation owing hereunder (the “Applicable Creditor”) shall, notwithstanding any judgment in a currency (the “Judgment Currency”) other than the currency in which such sum is stated to be due hereunder (the “Agreement Currency”), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Applicable Creditor against such loss. The obligations of the Borrower under this Section 10.15 shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

10.16 Release of Liens and Guarantees.

(a) A Subsidiary Loan Party shall automatically be released from its obligations under the Loan Documents, and all security interests created by the Security Documents in DIP Collateral owned by such Subsidiary Loan Party shall be automatically released, upon the consummation of any transaction permitted by this Agreement as a result of which such Subsidiary Loan Party ceases to be a Restricted

Subsidiary (including pursuant to a merger with a Subsidiary that is not a Loan Party). Upon any sale or other transfer by any Loan Party (other than to Holdings, any Intermediate Parent, the Borrower or any Subsidiary Loan Party) of any DIP Collateral in a transaction permitted under this Agreement, or upon the effectiveness of any written consent to the release of the security interest created under any Security Document in any DIP Collateral or the release of Holdings or any Subsidiary Loan Party from its Guarantee pursuant to Section 10.02, the security interests in such DIP Collateral created by the Security Documents or such Guarantee shall be automatically released. Upon the Secured Obligations being Paid in Full, all obligations under the Loan Documents and all security interests created by the Security Documents shall be automatically released. In connection with any termination or release pursuant to this Section 10.16, the Administrative Agent shall execute and deliver to any Loan Party, at such Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence such termination or release so long as the Borrower or applicable Loan Party shall have provided the Administrative Agent such certifications or documents as the Administrative Agent shall reasonably request in order to demonstrate compliance with this Agreement.

(b) The Administrative Agent will, at the Borrower's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to subordinate its Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02(iii), (iv), (vii), (xi), (xii) or (xiii).

(c) Each of the Lenders irrevocably authorizes the Administrative Agent to provide any release or evidence of release, termination or subordination contemplated by this Section 10.16. Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Loan Party from its obligations under any Loan Document, in each case in accordance with the terms of the Loan Document and this Section 10.16.

10.17 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each of the Borrower and Holdings acknowledges and agrees that (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent and the Lenders are arm's-length commercial transactions between the Borrower, Holdings and their respective Affiliates, on the one hand, and the Administrative Agent and the Lenders, on the other hand, (B) each of the Borrower and Holdings has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each of the Borrower and Holdings is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Administrative Agent and the Lenders is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not and will not be acting as an advisor, agent or fiduciary for the Borrower, Holdings, any of their respective Affiliates or any other Person and (B) none of the Administrative Agent or the Lenders has any obligation to the Borrower, Holdings or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower, Holdings and their respective Affiliates, and none of the Administrative Agent and the Lenders has any obligation to disclose any of such interests to the Borrower, Holdings or any of their respective Affiliates. To the fullest extent permitted by law, each of the Borrower and Holdings hereby waives and releases any claims that it may have against the Administrative Agent or the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

10.18 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable law (the “Maximum Rate”). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable law, (a) characterize any payment that is not principal as an expense, fee or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the obligations hereunder.

10.19 Electronic Execution. The words “delivery,” “execute,” “execution,” “signed,” “signature,” and words of like import in any Loan Document or any other document executed in connection herewith shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; ***provided that notwithstanding anything contained herein to the contrary neither the Administrative Agent, no Lender is under any obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Administrative Agent, such Lender pursuant to procedures approved by it; provided further without limiting the foregoing, upon the request of any party, any electronic signature shall be promptly followed by such manually executed counterpart.***

10.20 Beneficial Ownership. Each Borrower and the Loan Parties agree to, promptly following a request by the Administrative Agent or any Lender, provide all such other documentation and information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the PATRIOT Act, and the Beneficial Ownership Regulation.

10.21 Orders Control. To the extent that any specific provision hereof is inconsistent with any of the Orders, the Interim Order or Final Order (as applicable) shall control.

10.22 Erroneous Payments.

(a) Each Lender hereby agrees that (i) if the Administrative Agent notifies such Lender that the Administrative Agent has determined in its sole discretion that any funds received by such Lender from the Administrative Agent or any of its Affiliates were erroneously or mistakenly transmitted to, or otherwise erroneously or mistakenly received by, such Lender (whether or not known to such Lender) (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, an “Erroneous Payment”) and demands the return of such Erroneous Payment (or a portion thereof), such Lender shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking

industry rules on interbank compensation from time to time in effect and (ii) to the extent permitted by applicable law, such Lender shall not assert any right or claim to the Erroneous Payment, and hereby waives any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payments received, including, without limitation, waiver of any defense based on “discharge for value” or any similar theory or doctrine. A notice of the Administrative Agent to any Lender under this clause (a) shall be conclusive, absent manifest error

(b) Without limiting immediately preceding clause (a), each Lender hereby further agrees that if it receives a payment from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment sent by the Administrative Agent, (y) that was not preceded or accompanied by notice of payment, or (z) that such Lender otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), then in each case, if an error has been made each such Lender is deemed to have knowledge of such error at the time of receipt of such Erroneous Payment, and to the extent permitted by applicable law, such Lender shall not assert any right or claim to the Erroneous Payment, and hereby waives, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payments received, including without limitation waiver of any defense based on “discharge for value” or any similar theory or doctrine. Each Lender agrees that, in each such case, it shall promptly (and, in all events, within one Business Day of its knowledge (or deemed knowledge) of such error) notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in all events no later than one Business Day thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(c) The Borrower and each other Loan Party hereby agrees that (x) in the event an Erroneous Payment (or portion thereof) is not recovered from any Lender that has received such Erroneous Payment (or portion thereof) for any reason (and without limiting the Administrative Agent’s rights and remedies under this Section 10.22), the Administrative Agent shall be subrogated to all the rights of such Lender with respect to such amount and (y) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Loan Document Obligations owed by the Borrower or any other Loan Party.

(d) In addition to any rights and remedies of the Administrative Agent provided by law, Administrative Agent shall have the right, without prior notice to any Lender, any such notice being expressly waived by such Lender to the extent permitted by applicable law, with respect to any Erroneous Payment for which a demand has been made in accordance with this Section 10.22 and which has not been returned to the Administrative Agent, to set off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final but excluding trust accounts), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by Administrative Agent or any of its Affiliate, branch or agency thereof to or for the credit or the account of such Lender. Administrative Agent agrees promptly to notify the Lender after any such setoff and application made by Administrative Agent; provided, that the failure to give such notice shall not affect the validity of such setoff and application

(e) Each party’s obligations under this Section 10.22 shall survive the resignation or replacement of the Administrative Agent, the termination of the Term Loan Commitments or the

repayment, satisfaction or discharge of all Loan Document Obligations (or any portion thereof) under any Loan Document.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

BORROWER:

THE COLLECTED GROUP COMPANY, LLC,
a California limited liability company

By: _____
Name:
Title:

HOLDINGS:

THE COLLECTED GROUP, LLC,
a Delaware limited liability company

By: _____
Name:
Title:

GUARANTORS:

THE COLLECTED GROUP EXPORTS, INC.,
a Delaware corporation

By: _____
Name:
Title:

THE COLLECTED GROUP RETAIL, LLC,
a New York limited liability company

By: _____
Name:
Title:

RBR, LLC,
a California limited liability company

By: _____
Name:
Title:

ADMINISTRATIVE AGENT:

KKR LOAN ADMINISTRATION SERVICES LLC,
as Administrative Agent

By: _____

Name:

Title:

LENDERS:

KKR LENDING PARTNERS II L.P.,
as a Lender

By: KKR ASSOCIATES LENDING II L.P., its
General Partner

By: KKR LENDING II GP LLC, its General
Partner

By: _____
Name: Jessica Woolf
Title: Authorized Signatory

KKR LENDING PARTNERS L.P.,
as a Lender

By: _____
Name: Jessica Woolf
Title: Authorized Signatory

KKR – VIOLET CALIFORNIA L.P.,
as a Lender

By: _____
Name: Jessica Woolf
Title: Authorized Signatory

LINCOLN INVESTMENT SOLUTIONS, INC.,
as a Lender

By: _____
Name: Jessica Woolf
Title: Authorized Signatory

Schedule 2.01
Term Loan Commitments¹

Lender	Interim Order Commitment	Final Order Commitment	Term Loan Commitment
[]	[]	[]	[]
[]	[]	[]	[]
[]	[]	[]	[]
[]	[]	[]	[]
[]	[]	[]	[]
Total	\$6,000,000.00	\$3,200,000.00	\$9,200,000.00

¹ To be updated based on Lender allocations.

Schedule 5.16

Milestones

1. No later than three (3) calendar days after the Petition Date, the Bankruptcy Court shall have entered the Interim Order.
2. No later than twenty-five (25) calendar days after the Petition Date, the Bankruptcy Court shall have entered the Final Order. Any material changes from the Interim Order to Final Order shall be subject to the consent of the Required Lenders in their reasonable discretion.
3. Subject to entry of the Final Order, no later than fifty (50) calendar days after the Petition Date, the Bankruptcy Court shall have entered the Acceptable Confirmation Order.
4. Subject to entry of the Final Order, no later than sixty-five (65) calendar days after the Petition Date, the Bankruptcy Court shall have caused the Plan Effective Date to occur.

EXHIBIT B

Budget

The Collected Group
DIP Budget
(\$ In 000s)

	May-21 5/8	May-21 5/15	May-21 5/22	May-21 5/29	May-21 5/29
	Week 5	Week 6	Week 7	Week 8	Total 5/8 - 5/29
Cash Receipts:					
1.) Total Collections	325	469	907	1,333	3,034
Operating Disbursements:					
2.) Merchandise Disbursements	(320)	(412)	(218)	(251)	(1,201)
3.) Payroll & Related	(587)	(40)	(425)	(26)	(1,076)
4.) Other Operating Disbursements	(505)	(644)	(250)	(230)	(1,628)
5.) Total Operating Disbursements	(1,412)	(1,095)	(893)	(506)	(3,906)
6.) Total Operating Cash Flow	(1,086)	(626)	14	827	(872)
Non Operating Activity:					
7.) Capital Expenditures	(15)	(15)	(15)	(15)	(60)
8.) Professional Fee Payments / Post-Petition Escrow	-	-	(91)	(4,345)	(4,436)
9.) Other Restructuring Disbursements	(241)	(154)	(430)	(954)	(1,779)
10.) DIP / Exit Loan Proceeds	-	-	3,200	-	3,200
11.) Total Non Operating Activity	(256)	(169)	2,664	(5,314)	(3,075)
Cash Balance:					
12.) Beginning Book Balance	4,044	2,702	1,907	4,584	4,044
13.) Net Cash Flow	(1,342)	(795)	2,678	(4,487)	(3,947)
14.) Canceled Checks Outstanding	-	-	-	-	-
14.) Ending Book Balance	2,702	1,907	4,584	97	97
15.) + Est. Checks Outstanding	146	173	180	139	139
16.) Ending Est. Bank Balance	2,848	2,080	4,764	236	236

*Exit financing discussions are preliminary and subject to change based on the profitability and working capital needs of the company upon emergence