IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
AVENUE STORES, LLC, *et al.*,[1]	Case No. 19-11842 (LSS)
Debtors.	(Joint Administration Requested)

DEBTORS' MOTION FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO (A) OBTAIN POST-PETITION FINANCING, (B) GRANT LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS TO POST-PETITION LENDERS, AND (C) UTILIZE CASH COLLATERAL, (II) PROVIDING ADEQUATE PROTECTION TO THE PRE-PETITION SECURED PARTIES, (III) MODIFYING THE AUTOMATIC STAY, AND (IV) GRANTING RELATED RELIEF, PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, 364, AND 507

Avenue Stores, LLC ("Avenue") and its affiliated debtors and debtors in possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (collectively, the "Chapter 11 Cases") hereby move the Court (this "Motion") for entry of an interim order, substantially in the form attached hereto as Exhibit A (the "Interim Order"), and a final order (the "Final Order" and together with the Interim Order, the "Proposed Orders"), pursuant to sections 105, 361, 362, 363, 364, and 507(b) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"), Rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and 4001-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"): (i) authorizing the Debtors to (a) obtain postpetition financing on the terms described herein (the "DIP Facility"); (b) grant liens and superpriority administrative expense claims to the DIP Agent and DIP Lenders (each as defined below); and (c) use cash collateral;

[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: Avenue Stores, LLC (0838); Ornatus URG Holdings, LLC (1146); Ornatus URG Real Estate, LLC (9565); and Ornatus URG Gift Cards, LLC (9203). The Debtors' headquarters are located at 365 West Passaic Street, Suite 230, Rochelle Park, New Jersey 07662.

(ii) providing adequate protection to the Pre-Petition Secured Parties (as defined below); (iii) modifying the automatic stay; (iv) scheduling a final hearing with respect to the relief requested herein; and (v) granting related relief. In support of this Motion, the Debtors rely on the *Declaration of David Rhoads in Support of Chapter 11 Petitions and Requests for First Day Relief* (the "First Day Declaration"), which was filed contemporaneously with this Motion and is incorporated herein by reference. In further support of this Motion, the Debtors respectfully represent as follows:

PRELIMINARY STATEMENT[2]

1. As set forth more fully in the First Day Declaration, the Debtors have struggled to overcome various financial and operational challenges since acquiring the "Avenue" business operations in 2012. As a result, the Debtors and their professional advisors, after evaluating the strategic options available to them and have considered the options to maximize the value of the Debtors' estates, have determined to commence a bidding and sale process (the "Going Concern Sale Process") to sell their e-commerce business as a going concern, including their Texas distribution center and the inventory stored there, as well as their intellectual property (collectively, the "Going Concern Assets"), while simultaneously conducting store closing sales at all of their brick-and-mortar locations (the "Store Closing Sales").

2. The Debtors, therefore, seek approval of debtor-in-possession ("DIP") financing to provide for their cash needs while they operate during the Store Closing Sales and the Going Concern Sale Process, as more fully described in the First Day Declaration. To preserve estate value, the Debtors secured the DIP Facility from the DIP Lenders, who are the same lenders that provided the Debtors their prepetition revolving credit facility. Avenue and

[2] Capitalized terms used but not defined in this Preliminary Statement shall have the meanings ascribed to them below.

Ornatus URG Gift Cards, LLC ("Ornatus GC," and together with Avenue, the "Borrowers") will be the borrowers under the DIP Facility, and Ornatus URG Holdings, LLC ("Ornatus Holdings") and Ornatus URG Real Estate, LLC ("Ornatus RE," and together with Ornatus Holdings, the "Guarantors") will guarantee the DIP Facility. The DIP Facility will provide the Debtors with the liquidity they need to operate in chapter 11 while the Debtors conduct the Store Closing Sales and the Going Concern Sale Process unfolds.

3. The DIP Facility is generally secured by a first-priority lien on all present and after acquired property of the Debtors of any nature whatsoever. Although the liens securing the DIP Facility prime the liens securing the obligations owing under the Pre-Petition ABL Financing Documents (the "Pre-Petition Obligations") and the obligations owing under the Pre-Petition Subordinated Financing Documents (the "Pre-Petition Subordinated Obligations"), the priming is consensual, as more fully explained below.

4. The DIP Facility is a senior-secured revolving loan credit facility that provides the Debtors with critical funding, in the aggregate principal amount of up to $12 million, to fund their operations in accordance with, and subject to, a budget approved by the DIP Lenders (the "Budget"). Subject to certain conditions precedent set forth in the DIP Credit Agreement, the Debtors propose to borrow up to $12 million under the DIP Facility on both an interim and final basis. The Pre-Petition Secured Parties will receive adequate protection in the form of post-petition replacement liens and acknowledgement that the liens securing the Pre-Petition Obligations and Pre-Petition Subordinated Obligations are valid, perfected, and non-avoidable obligations, as well as super-priority claims under section 507(b) for any diminution in value of the collateral securing the Pre-Petition Obligations.[3] In addition, the interest on the Pre-

[3] The holders of the Pre-Petition Subordinated Obligations are not receiving super-priority claims under the Proposed Orders.

Petition Obligations shall be accrued and payable and paid in accordance with the Pre-Petition ABL Financing Documents during the pendency of these Chapter 11 Cases, and the Pre-Petition ABL Agent will receive payment of professional fees as well as superpriority administrative expense claims, all as set forth in the Proposed Orders.

5. The DIP Facility and related Proposed Orders provide the lenders thereunder with a number of rights, which were required by the DIP Lenders as a condition to providing the DIP Facility. Given the existing liens on substantially all of the Debtors' assets and the need for immediate liquidity, and the intercreditor arrangements and consents in favor of the revolving lenders under the documents governing the Pre-Petition Subordinated Obligations, the Debtors' existing revolving lender was the most practical and reasonable source of financing. The DIP Lenders have indicated that the DIP Facility (and the DIP Credit Agreement and ancillary documents governing the DIP Facility) set forth the only terms under which they would agree to provide the Debtors with financing.

6. The Debtors seek authorization to enter into the DIP Facility to enable them to continue operating while they implement the Going Concern Sale Process and Store Closing Sales. Access to borrowings under the DIP Facility is critical to funding the Debtors' immediate operational needs and these Chapter 11 Cases so that the value of the Debtors' assets can be preserved and maximized for the benefit of all stakeholders. If the Debtors are unable to gain access to the DIP Facility, the Debtors will not have sufficient liquidity to conduct the Store Closing Sales and Going Concern Sale Process.

JURISDICTION AND VENUE

7. The Court has jurisdiction over these Chapter 11 Cases and this Motion pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a

core proceeding pursuant to 28 U.S.C. § 157(b), and pursuant to Local Rule 9013-1(f), the Debtors consent to entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue of these Chapter 11 Cases and this Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

8. The statutory and legal predicates for the relief requested herein are sections 105, 361, 362, 363, 364, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004, and 9014, and Local Rule 4001-2.

BACKGROUND

A. General Background

9. On the date hereof (the "Petition Date"), each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue to operate their business and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. To date, no trustee, examiner or statutory committee has been appointed in these Chapter 11 Cases. Additional factual background relating to the Debtors' business, capital structure and the commencement of these Chapter 11 Cases is set forth in detail in the First Day Declaration.

B. The Debtors' Pre-Petition Funded Debt Structure

10. The Debtors' prepetition funded debt structure primarily consists of (i) the Pre-Petition ABL Facility (defined below) and (ii) the Pre-Petition Subordinated Note (defined below), each of which are discussed more fully below.

i. Pre-Petition ABL Facility

11. On April 12, 2019, Avenue, Ornatus Holdings, and Ornatus GC entered into that certain Revolving Credit and Security Agreement (as amended, restated, modified, supplemented or replaced from time to time, the "Pre-Petition ABL Credit Agreement")[4] with PNC Bank, National Association ("PNC"), as lender and agent (in such capacities, the "Pre-Petition ABL Agent" and the underlying facility, the "Pre-Petition ABL Facility"). The Pre-Petition ABL Facility permits borrowings of up to $45 million, including a first-in, last-out loan tranche (the "FILO Loan") of $6 million, which can increase by an additional $4 million during the period commencing on December 1 of each year and ending on the last day of February of the following year. The Pre-Petition ABL Facility is guaranteed by Ornatus RE and secured by a first-priority lien in the Collateral (as defined in the Pre-Petition ABL Credit Agreement, hereafter "Pre-Petition Collateral"). Amounts due under the FILO Loan are also guaranteed by affiliates of the Debtors' equity holders.

12. Availability under the Pre-Petition ABL Facility is capped by a borrowing base, which is calculated monthly based on percentages of the value of certain of the Debtors' inventory and receivables and is subject to certain reserves and sub-limits. The Pre-Petition ABL Facility matures on April 12, 2024. As of the date hereof, the aggregate amount of all obligations outstanding under the Pre-Petition ABL Facility was no less than (a) $15,262,763.08, consisting of Revolving Advances outstanding under (and as defined in) the Pre-Petition ABL Credit Agreement, plus interest accrued and accruing thereon at the rate in effect on the Petition Date, plus (b) outstanding letters of credit in the aggregate amount of $1,006,246.23, plus (c) accrued and accruing fees, plus (d) all accrued and accruing costs and expenses (including attorneys' fees and legal expenses), plus (e) all accrued and accruing charges and obligations in

[4] Capitalized terms used in describing the Pre-Petition ABL Facility but not otherwise defined in this section shall have the meanings ascribed to such terms in the Pre-Petition ABL Credit Agreement.

respect of Cash Management Products and Services (as defined in the Pre-Petition ABL Credit Agreement), plus (f) any other charges and liabilities accrued, accruing or chargeable, whether due or to become due, matured or contingent, under the Pre-Petition ABL Credit Agreement.

13. On July 22, 2019, the Pre-Petition ABL Agent issued that certain Notice of Events of Default and Imposition of Default Rate of Interest (the "Notice of Default") indicating that the Debtors were in default under the Pre-Petition ABL Credit Agreement. At the same time, the Pre-Petition ABL Agent implemented a cash dominion structure whereby all cash held in the Debtors' store deposit and collections accounts with PNC are swept on a daily basis to pay down the Pre-Petition ABL Facility. Under this structure, the Debtors are required to re-borrow cash under the Pre-Petition ABL Facility on an as-needed basis to make disbursements. Finally, the Pre-Petition ABL Agent has applied the default rate of interest to the outstanding obligations under the Pre-Petition ABL Facility as a result of the Notice of Default.

ii. Pre-Petition Subordinated Note

14. On or about April 12, 2019, Ornatus Holdings issued that certain Master Subordinated Note (as amended, restated, modified, supplemented or replaced from time to time, the "Pre-Petition Subordinated Note") in favor of Ornatus URG Funding, LLC (the "Pre-Petition Subordinated Lender"), an affiliate of the Debtors' equity holders, which secures a loan in the principal amount of approximately $38,394,840 plus additional amounts advanced by the Pre-Petition Subordinated Lender, the Sponsor,[5] or any of such parties' affiliates from time to time (the "Pre-Petition Subordinated Note"). The Pre-Petition Subordinated Note is guaranteed by Avenue, Ornatus GC, and Ornatus RE and is collateralized by a security interest in the Collateral (as defined in the Pre-Petition Subordinated Note and hereafter, the "Subordinated Collateral"),

[5] The "Sponsor" is Versa Capital Management, LLC.

which, under the terms of the Pre-Petition Subordinated Note, is subordinate to the obligations under the Pre-Petition ABL Facility. The Pre-Petition Subordinated Note bears interest at a rate of 15% per annum, which is paid in kind.

15. The Pre-Petition Subordinated Note replaced that certain Master Subordinated Note dated as of December 13, 2017, among Ornatus Holdings and the Pre-Petition Subordinated Lender totaling approximately $34,044,840, inclusive of letters of credit totaling $12 million, provided a new cash advance of $3,700,000, and capitalized certain outstanding fees and expenses owed by the Debtors to the Sponsor, an affiliate of the Pre-Petition Subordinated Lender. As contemplated by that certain Liquidity Support Agreement by and among the Debtors and the Pre-Petition Subordinated Lender, dated April 12, 2019 (the "Liquidity Support Agreement"), the terms of the Pre-Petition Subordinated Note allow the Sponsor, through the Pre-Petition Subordinated Lender, to cause additional funds to be advanced from time to time to support the Debtors' business operations. From October 2018 through April 2019, the Sponsor or the Pre-Petition Subordinated Lender provided capital infusions to the Debtors of approximately $25.2 million, consisting of approximately $14.2 million funded directly to the Debtors and $11 million in letters of credit provided for the Debtors' benefit, and deferred or funded certain expenses on behalf of the Debtors in the aggregate amount of approximately $2.1 million. As of the Petition Date, the Pre-Petition Subordinated Lender asserts that no less than $38,903,531.80 was due under the Pre-Petition Subordinated Note.

C. The Debtors Have a Critical Need for Funding Through the DIP Facility.

16. As further detailed in the First Day Declaration, the Debtors have a significant need to obtain DIP financing to continue their business operations while they pursue the Going Concern Sale Process and Store Closing Sales within the context of these Chapter 11 Cases.

17. Without access to a ready source of post-petition financing, the Debtors would be unable to pay for necessary operating expenses or business functions critical to the success of their sale efforts. If the Debtors are unable to pay the expenses necessary to continue their business operations during the Store Closing Sales and Going Concern Sales, the value of the Debtors' estates will be significantly diminished.

D. The DIP Facility is the Debtors' Best, if not Sole, Alternative to Obtain DIP Financing.

18. Based on the facts and circumstances of these Chapter 11 Cases and the Debtors' operational performance, after considering the limited alternatives available, it is evident to the Debtors that (i) they are unable to obtain DIP financing from sources other than the DIP Lenders on terms as or more favorable as those under the DIP Facility, and (ii) any credit extended by the DIP Lenders should be provided to the Debtors with certain protections provided under the Bankruptcy Code to post-petition lenders, including superpriority claims and liens on the Debtors' assets (to the extent provided for in the DIP Credit Agreement and Proposed Orders), provision of adequate protection to the Pre-Petition Secured Parties, and a "creeping" roll-up of the Pre-Petition Obligations (the "Roll-Up") through application of post-petition collections to pay down the obligations under the Pre-Petition ABL Facility. The Debtors' internal analysis, combined with reference to historical practice, culminated with the DIP Lenders agreeing to provide the Debtors with superpriority secured DIP financing under the DIP Facility, subject to the terms and conditions set forth in the DIP Credit Agreement.

19. The DIP Facility represents the best financing option available to the Debtors and is extended in good faith because, among other things, (a) it serves to provide the Debtors with liquidity necessary to continue the operation of their business during the Store Closing Sales and Going Concern Sale Process, (b) the proposed liens will not prejudice any

other creditors of the Debtors, and (c) the DIP Facility is a reasonable and fair financing on market terms.

E. Use of the DIP Facility

20. Proceeds of the DIP Facility will be used for the payment of certain expenditures, in accordance with the terms of the Budget, the DIP Credit Agreement, and the Proposed Orders, including: (a) payment, in whole or in part, at the discretion of the DIP Agent, the Pre-Petition Obligations, subject to entry of the Final Order; (b) paying fees, costs and expenses required to be paid pursuant to the DIP Credit Agreement; (c) general operating and working capital needs in accordance with the Budget; (d) funding the Carve-Out in accordance with the Budget; (e) paying for allowed professional and statutory fees allocated to the Debtors during these Chapter 11 Cases in accordance with the Budget; and (f) paying certain pre-petition obligations authorized by order(s) of the Bankruptcy Court in accordance with the Budget.

RELIEF REQUESTED

21. By this Motion, the Debtors request entry of the Proposed Orders, which provide the Debtors with the following relief, among other things:

a. authorization and approval for the Debtors to obtain post-petition loans, advances and other financial accommodations ("Post-Petition Financing") on an interim basis for a period through and including the date of a final hearing on the Motion from PNC, in its capacity as agent (in such capacity, the "DIP Agent") for itself and the other financial institutions from time to time party to the DIP Credit Agreement (as defined below) as lenders (collectively, "DIP Lenders"), under or in connection with the debtor-in-possession revolving loan credit facility ("DIP Facility") in an aggregate amount up to $12 million and otherwise in accordance with the Interim Order, secured by first-priority perfected security interests in and liens, senior and above all other liens, upon all of the DIP Collateral (as defined below) pursuant to sections 364(c)(2), 364(c)(3), and 364(d) of the Bankruptcy Code and as set forth below;

b. authorization for Borrowers and Guarantors to (i) enter into (a) the Debtor-In-Possession Revolving Credit and Security Agreement with the DIP Agent and the DIP Lenders, substantially in the form attached to the

Interim Order as Exhibit 2 ("DIP Credit Agreement");[6] (b) all security agreements, pledge agreements, notes, guarantees, mortgages, deeds of trust, control agreements, Uniform Commercial Code financing statements, certificates, reports and other agreements, documents and instruments either or both executed and/or delivered with or to the DIP Agent and/or the DIP Lenders in connection with or related to the DIP Credit Agreement (collectively, as amended, modified, supplemented, extended, restated or replaced from time to time, the "DIP Financing Documents"); and (ii) borrow upon entry of the Interim Order, up to an aggregate principal amount not to exceed $12 million to be used in part for working capital, capital expenditures, other general corporate purposes not prohibited by the DIP Financing Documents, and to pay and indefeasibly satisfy, in whole or in part at the DIP Agent's option, the outstanding principal balance of the revolving loans and other obligations under the Pre-Petition ABL Credit Agreement, and which shall indefeasibly satisfy, in whole or in part, the outstanding obligations under the Pre-Petition ABL Financing Documents (as defined below). The Pre-Petition ABL Credit Agreement and all security agreements, pledge agreements, notes, mortgages, guarantees, control agreements, collateral access agreements, subordination agreements, and related agreements and documents are collectively referred to herein as the "Pre-Petition ABL Financing Documents";

c. granting to the DIP Agent, for the benefit of itself and the DIP Lenders, superpriority administrative claim status for all existing and future obligations and liabilities of every kind or nature (including without limitation bank products, reimbursement obligations in respect of letters of credit, and indemnity obligations) under or in connection with the DIP Financing Documents, whether due or to become due, absolute or contingent (collectively, the "Post-Petition Obligations"), pursuant to sections 364(c)(1) and 507(b) of the Bankruptcy Code in accordance with the terms of the Interim Order;

d. authorization for the Debtors' use of "cash collateral" ("Cash Collateral"), which term shall include, without limitation, all cash and cash equivalents of the Debtors, whenever or wherever acquired, and the proceeds of all collateral pledged to the Pre-Petition ABL Agent and to the DIP Agent, as well as the Pre-Petition Subordinated Lender, as contemplated by section 363 of the Bankruptcy Code, in accordance with the terms set forth in the Interim Order;

e. granting adequate protection to the Pre-Petition ABL Agent, for the benefit of itself and the Pre-Petition ABL Lenders, under and in

[6] Capitalized terms used but not otherwise defined in this Motion shall have the meanings ascribed to them in the DIP Credit Agreement or Interim Order, as applicable.

connection with the Pre-Petition ABL Financing Documents in accordance with the terms set forth in the Interim Order, to the extent of the aggregate diminution in value of their interests in the Pre-Petition Collateral;

f. granting adequate protection on a junior basis to the Pre-Petition Subordinated Lender, to the extent of the aggregate diminution in value of its interests in the Subordinated Collateral;

g. modification of the automatic stay and waiving the fourteen (14) day stay provisions of Bankruptcy Rules 4001(a)(3) and 6004(h); and

h. setting a final hearing on the Motion for entry of an order authorizing the DIP Facility and use of Cash Collateral on a final basis.

Concise Statement of DIP Facility Pursuant to Bankruptcy Rule 4001 and Local Rule 4001-2

22. Pursuant to Bankruptcy Rule 4001(c) and Local Rule 4001-2(a), the essential terms of the DIP Facility are as follows:

MATERIAL TERMS OF DIP FACILITY[7]	
Borrowers	Avenue Stores, LLC & Ornatus URG Gift Cards, LLC DIP Credit Agreement, Preamble
Guarantors	Orantus URG Holdings, LLC & Ornatus URG Real Estate, LLC DIP Credit Agreement, Preamble
DIP Lenders	PNC Bank, National Association, in its capacity as agent for itself and the other financial institutions from time to time party to the DIP Credit Agreement as lenders DIP Credit Agreement, Preamble
Limitation on the Use of Proceeds	Borrowers shall apply the proceeds of Advances to (i) repay any and/or all of the Pre-Petition Obligations, in whole or in part, in cash, and/or to reimburse any and/or all of the professional fees, costs and expenses of the Pre-Petition ABL Agent and the Pre-Petition ABL Lenders, in whole or in part, in cash, in each case as elected by the DIP Agent in its sole and absolute discretion from time to time as provided for herein, (ii) pay fees and expenses payable under the DIP Credit Agreement or any of the DIP Financing Documents to the Post-Petition Secured Parties, (iii) reimburse drawings under Letters of Credit and provide for their working capital needs in accordance with the Budget subject to the Permitted Variance, (iv) to fund the Carve-Out strictly in accordance with the Budget subject to the Permitted Variance, and (v) to pay for

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

	Allowed Professional Fees and Statutory Fees allocated to the Debtors during the Chapter 11 Cases in accordance with the Budget subject to the Permitted Variance; in each case, to the extent such use of proceeds is not otherwise prohibited under the terms of the DIP Credit Agreement and is otherwise consistent with the terms of the Interim Order and the Final Order, as applicable. DIP Credit Agreement, Section 2.21
Budget	"Budget" shall mean the nine-week budget for the Debtors delivered to and approved by the DIP Agent on or before the Closing Date setting forth Debtors' cash flow forecast in reasonable detail satisfactory to the DIP Agent with line item detail approved by the DIP Agent on or before the Closing Date, including receipts, and disbursements, as well as projected borrowings under the DIP Credit Agreement for the nine-week period commencing with the week in which the Closing Date shall occur, as such budget shall be updated from time to time in accordance with and subject to approval of the DIP Agent as set forth in Section 9.(6) of the DIP Credit Agreement. Each Debtor shall, and shall cause each Subsidiary to, until Payment in Full of the Obligations: (a) Commencing with the weekly period ending August 31, 2019 reflected in the Initial Budget delivered as of the Closing Date, cause Debtors' disbursements, on an aggregate basis, to be not more than one hundred ten percent (110%) (provided, however, that in DIP Agent's sole and absolute discretion and without court order, approval of, or notice to, any other Persons, DIP Agent may increase such percentage up to one hundred fifteen percent (115%)) of forecasted disbursements set forth in the Budget for the applicable period (the "Permitted Variance"), such covenant to be tested on a rolling four week period provided that for the initial three weekly tests such covenant shall be tested against the Budget as follows: (i) for the second week based on two weeks forecast and two weeks actual; and (ii) for the third week based on three weeks forecast and three weeks actual, in each case, on a cumulative basis. (b) Commencing with the weekly period ending August 31, 2019 reflected in the Initial Budget delivered as of the Closing Date, cause Debtors' receipts, on an aggregate basis but excluding payments received from the GOB Liquidator under the GOB Agency Agreement, to be at least 90% (provided, however, that in DIP Agent's sole and absolute discretion and without court order, approval of, or notice to, any other Persons, DIP Agent may decrease such percentage down to eighty-five percent (85%)) of the forecasted receipts as set forth in the Budget for the applicable period, such covenant to be tested on a rolling 4-week basis; provided that for the initial three weekly tests such covenant shall be tested against the Budget as follows: (i) for the second week based on two weeks forecast and two weeks actual; and (ii) for the third week based on three weeks forecast and three weeks actual, in each case, on a cumulative basis. DIP Credit Agreement, Sections 1.2 & 6.15
Maturity Date	"Maturity Date" shall mean September 30, 2019 unless DIP Agent shall have received a fully executed agreement (in form and substance reasonably satisfactory to DIP Agent) and a corresponding deposit in cash (in an amount reasonably satisfactory to DIP Agent) from a stalking-horse bidder to purchase Borrowers' On-Line Merchandise in Sale through the E-Commerce Platform (as each term is defined in the GOB Agency Agreement), in which case the "Maturity Date" shall mean October 14, 2019. DIP Credit Agreement, Section 1.2

Fees	Letter of Credit Fees Borrowers shall pay (x) to the DIP Agent, for the ratable benefit of the DIP Lenders holding Revolving Commitments, fees for each Letter of Credit for the period from and excluding the date of issuance of same to and including the date of expiration or termination, equal to the aggregate daily face amount of each outstanding Letter of Credit multiplied by the Applicable Margin for Revolving Advances consisting of LIBOR Rate Loans, such fees to be calculated on the basis of a 360-day year for the actual number of days elapsed and to be payable quarterly in arrears on the first day of each calendar quarter and on the Maturity Date, and (y) to Issuer, a fronting fee of one quarter of one percent (0.25%) per annum times the aggregate daily face amount of each outstanding Letter of Credit for the period from and excluding the date of issuance of same to and including the date of expiration or termination, to be payable quarterly in arrears on the first day of each calendar quarter and on the Maturity Date. (all of the foregoing fees, the "Letter of Credit Fees"). In addition, Borrowers shall pay to the DIP Agent, for the benefit of Issuer, any and all administrative, issuance, amendment, payment and negotiation charges with respect to Letters of Credit and all fees and expenses as agreed upon by Issuer and Borrowing Agent in connection with any Letter of Credit, including in connection with the opening, amendment or renewal of any such Letter of Credit and any acceptances created thereunder, all such charges, fees and expenses, if any, to be payable on demand. All such charges shall be deemed earned in full on the date when the same are due and payable under the DIP Credit Agreement and shall not be subject to rebate or pro-ration upon the termination of the DIP Credit Agreement for any reason. Any such charge in effect at the time of a particular transaction shall be the charge for that transaction, notwithstanding any subsequent change in Issuer's prevailing charges for that type of transaction. Upon and after the occurrence of an Event of Default, and during the continuation thereof, at the option of the DIP Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of any such Event of Default without the requirement of any affirmative action by any party), the Letter of Credit Fees described in clause (x) of Section 3.2(a) shall be increased by an additional two percent (2.0%) per annum. Facility Fee If, for any day in each calendar quarter during prior to the Maturity Date, the daily unpaid balance of the sum of Revolving Advances plus Swing Loans plus the Maximum Undrawn Amount of all outstanding Letters of Credit (the "Usage Amount") for each day of such calendar quarter does not equal the Maximum Revolving Advance Amount, then Borrowers shall pay to the DIP Agent, for the ratable benefit of DIP Lenders based on their Revolving Commitment Percentages, a fee at a rate equal to .375% per annum on the amount by which the Maximum Revolving Advance Amount on such day exceeds such Usage Amount (the "Facility Fee"). Such Facility Fee shall be payable to the DIP Agent in arrears on the first day of each calendar quarter with respect to the previous calendar quarter. Closing Fee A closing fee of $250,000. Collateral Management Fee A collateral monitoring fee equal to $2,500 per month. Collateral Evaluation Fee A collateral evaluation fee equal to $1,250 per day for each person employed to perform such evaluation, plus a field exam management fee equal to $2,500 for new facilities, and $1,500 for

	recurring examinations, plus all costs and disbursements. Expenses All of the fees and out-of-pocket costs and expenses of any (i) field examination conducted pursuant to Section 4.6 of the DIP Credit Agreement and (ii) appraisals conducted pursuant to Section 4.7 of the DIP Credit Agreement shall be paid for when due, in full and without deduction, off-set or counterclaim by Borrowers. Debtors shall pay (i) all reasonable and documented out-of-pocket expenses incurred by DIP Agent and its Affiliates (including the reasonable and documented fees, charges and disbursements of a single firm of counsel for DIP Agent and a local counsel as deemed necessary by DIP Agent) in connection with the syndication of the credit facilities provided for in the DIP Credit Agreement, the preparation, negotiation, execution, delivery and administration of the DIP Credit Agreement and the DIP Financing Documents or any amendments, modifications or waivers of the provisions of the DIP Credit Agreement or the DIP Financing Documents (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable and documented out-of-pocket expenses incurred by Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable and documented out-of-pocket expenses incurred by DIP Agent, DIP Lenders or Issuer (including the reasonable and documented fees, charges and disbursements of a single counsel for DIP Agent, local counsel as deemed necessary by DIP Agent, a single counsel for DIP Lenders and to the extent necessary a single counsel for Issuer (and, in the case of an actual or reasonably perceived conflict of interest, of another firm of counsel for such affected Person), (A) in connection with the DIP Credit Agreement and the DIP Financing Documents, including its rights under Section 16.9, or (B) in connection with the Advances made or Letters of Credit issued under the DIP Credit Agreement, including all such reasonable and documented out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Advances or Letters of Credit, (iv) all reasonable and documented out-of-pocket expenses of DIP Agent's regular employees and agents engaged periodically to perform audits of the any Debtor's or any Debtor's Affiliate's or Subsidiary's books, records and business properties, or (v) in connection with the Chapter 11 Cases, including without limitation, (a) costs and expenses incurred in connection with review of pleadings and other filings made with the Bankruptcy Court, (b) attendance at all hearings in respect of the Chapter 11 Cases, and (c) defending and prosecuting any actions or proceedings arising out of or relating to the Pre-Petition Obligations, the Obligations, the Liens securing the Pre-Petition Obligations and the Obligations or any transactions related to arising in connection with the Pre-Petition ABL Financing Documents or the DIP Financing Documents. Each Debtor agrees that in the event that any actions or proceedings are in effect or are threatened by or DIP Agent reasonably believes any actions or proceedings may be brought by the Committee or any other party in interest attacking the legality, validity, enforceability of the Pre-Petition Obligations, the Liens arising under the Pre-Petition Credit Agreement or any other matters relating to the Pre-Petition ABL Financing Documents at the time of the consummation of any sale of the assets of the Debtors or at the time that Debtors propose to pay and satisfy the Obligations in full, DIP Agent may hold a reserve following the date of payment in full of the Obligations as cash collateral for the expenses (including the fees, charges and disbursements of counsel for DIP Agent and DIP Lenders) expected to be incurred in connection with such actions or proceedings until the earliest of (x) DIP Agent's receipt of a general release satisfactory in form and substance to DIP Agent, (y) the entry of a final non-appealable order determining the outcome of such litigation, and (z) the expiration of the Challenge Period so long as no Challenge (as defined in the Interim Order or, if entered, the Final Order) has been asserted by that date. DIP Credit Agreement, Sections 3.2, 3.3, 3.4 & 16.9

Interest Rate	Interest on Advances shall be payable in arrears on the first day of each month with respect to Domestic Rate Loans and, with respect to LIBOR Rate Loans, at (a) the end of each Interest Period, and (b) for LIBOR Rate Loans with an Interest Period in excess of three months, at the end of each three-month period during such Interest Period, provided that all accrued and unpaid interest shall be due and payable on the Maturity Date. Interest charges shall be computed on the actual principal amount of Advances outstanding during the month at a rate per annum equal to (i) with respect to Revolving Advances (other than FILO Advances), the applicable Revolving Interest Rate, (ii) with respect to Swing Loans, the Revolving Interest Rate for Domestic Rate Loans and (iii) with respect to the FILO Advances, the applicable FILO Advance Interest Rate (as applicable, the "Contract Rate"). Except as expressly provided otherwise in the DIP Credit Agreement, any Obligations, other than the Advances, that are not paid when due, shall accrue interest at the Revolving Interest Rate for Domestic Rate Loans, subject to the provision of the final sentence of Section 3.1 regarding the Default Rate. Whenever, subsequent to the date of the DIP Credit Agreement, the Alternate Base Rate is increased or decreased, the applicable Contract Rate shall be similarly changed without notice or demand of any kind by an amount equal to the amount of such change in the Alternate Base Rate during the time such change or changes remain in effect. The LIBOR Rate shall be adjusted with respect to LIBOR Rate Loans without notice or demand of any kind on the effective date of any change in the Reserve Percentage as of such effective date. Upon and after the occurrence of an Event of Default, and during the continuation thereof, at the option of the DIP Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of any such Event of Default without the requirement of any affirmative action by any party), the Obligations shall bear interest at the applicable Contract Rate plus two percent (2%) per annum (the "Default Rate"). "Revolving Interest Rate" shall mean (a) with respect to Revolving Advances (other than FILO Advances) that are Domestic Rate Loans and Swing Loans, an interest rate per annum equal to the sum of the Applicable Margin plus the Alternate Base Rate and (b) with respect to LIBOR Rate Loans (other than FILO Advances), the sum of the Applicable Margin plus the greater of (i) the LIBOR Rate and 0%. *Provided, however, that it is not contemplated that LIBOR Rate Loan borrowings will be available under the DIP Credit Agreement.* "Alternate Base Rate" shall mean, for any day, a rate per annum equal to the highest of (a) the Base Rate in effect on such day, (b) the sum of the Overnight Bank Funding Rate in effect on such day plus one half of one percent (0.5%), and (c) the sum of the Daily LIBOR Rate in effect on such day plus one percent (1.0%), so long as a Daily LIBOR Rate is offered, ascertainable and not unlawful. Any change in the Alternate Base Rate (or any component thereof) shall take effect at the opening of business on the day such change occurs. "Applicable Margin" shall mean for Revolving Advances (other than FILO Amount) and Swing Loans: (i) 3.50% with respect to Domestic Rate Loans and (ii) 4.50% with respect to LIBOR Rate Loans. "FILO Advance Interest Rate" shall mean (a) with respect to FILO Advances that are Domestic Rate Loans, an interest rate per annum equal to the sum of 5.50% plus the Alternate Base Rate and (b) with respect to FILO Advances that are LIBOR Rate Loans, an interest rate per annum equal to the sum of 6.50% plus the LIBOR Rate. DIP Credit Agreement, Sections 1.2 & 3.1
DIP Collateral	All property and rights and interests in property of each of the Debtors of any kind or nature whatsoever in existence as of the Petition Date as well as thereafter created or acquired, and wherever located, including without limitation, (a) all Pre-Petition Collateral, (b) all accounts and accounts receivable, inventory, chattel paper, equipment, fixtures, machinery, commercial tort claims, deposit accounts, instruments, documents, cash and cash equivalents, investment property (including without limitation all equity interests in subsidiaries), books and records, patents,

	trademarks, trade names, copyrights, rights under license agreements and all other intellectual property, rights, rebates, refunds and other claims under and with respect to insurance policies, tax refunds, deposits, rebates, contract rights and other general intangibles, software, letter of credit rights, money and inter-company claims or receivables (whether or not evidenced by notes) at any time owing to each Debtor, (c) all real property, leaseholds, rents and profits and proceeds thereof; (provided, however, that as to a lien on all fee, leasehold, and other real property interests and the proceeds thereof: (i) with respect to non-residential real property leases, no liens or encumbrances shall be granted or extended to such leases under the Interim Order, except as permitted by the applicable lease or pursuant to applicable law, but if any such restriction applies, liens shall then be deemed to extend only to the economic value of proceeds of any sale or other disposition of, and any other proceeds or products of, such leasehold interests; and (ii) should any DIP Lender's internal regulatory or compliance requirements require the completion of either or both flood due diligence and obtaining evidence of applicable flood insurance with respect to any real property or leasehold interest, then until completion of such flood due diligence, the DIP Agent shall be deemed to have obtained a lien only on the economic value of, proceeds of any sale or other disposition of such real property interests), (d) if not otherwise described, all of the property or rights in property identified as Collateral (as defined in the Pre-Petition ABL Credit Agreement, and the DIP Credit Agreement), (e) all causes of action whether pursuant to federal or applicable state law, and the proceeds thereof and property received thereby whether by judgment, settlement, or otherwise, and upon entry of the Final Order, all claims and causes of action under Chapter 5 of the Bankruptcy Code or any other avoidance actions under the Bankruptcy Code of the Debtors or their Estates, and (f) as to all of the foregoing, all rents, issues, products, proceeds (including insurance policies), and profits of, from, or generated by any of the foregoing (all of the foregoing being collectively referred to as the "DIP Collateral"). (2) Subject, in each instance, to the Carve-Out, the DIP Liens shall be: a) Liens on Unencumbered Assets. Pursuant to Bankruptcy Code section 364(c)(2), continuing valid, perfected, enforceable, first priority, and fully perfected liens on and security interests in all of the Debtors' right, title, and interest in, to, and under all DIP Collateral that is not otherwise encumbered by a validly perfected security interest or lien as of the Petition Date ("Unencumbered Property"). b) Liens on Encumbered Assets. Pursuant to Bankruptcy Code section 364(c)(3), a continuing valid, enforceable, second priority, and fully perfected lien on and security interest (other than as set forth in clause (c) below) in all of the Debtors' right, title, and interest in, to, and under all DIP Collateral which is subject to, as of the Petition Date, a Senior Lien. c) Priming Liens on Encumbered Assets. Subject to any applicable Senior Liens, pursuant to Bankruptcy Code section 364(d), valid, enforceable, and fully perfected first priority senior priming security interests in and senior priming liens upon all of the Debtors' right, title, and interest in, to, and under all DIP Collateral, including, without limitation, priming security interests and priming liens which are senior to (i) the security interests and liens held by the Pre-Petition ABL Agent, on behalf of the Pre-Petition ABL Secured Parties; (ii) the Adequate Protection Liens (as defined in the Interim Order); and (iii) the security interests and liens held by the Pre-Petition Subordinated Lender. d) Liens Senior to Certain Other Liens. Notwithstanding anything to the contrary contained in this Interim Order, the DIP Liens and the First Lien Adequate Protection Liens (as defined in the Interim Order) shall not be subject or subordinate to (i) any lien or security interest that is avoided or preserved for the benefit of the Debtors or their Estates under Bankruptcy Code section 551 or (ii) any intercompany or affiliate liens of the Debtors.

	Interim Order, Section II.A(1) and (2)
DIP Superpriority Administrative Expense Claim	For all Post-Petition Obligations, whether now existing or hereafter arising, subject only to the Carve-Out, the DIP Agent, for the benefit of itself and the DIP Lenders, is granted an allowed superpriority administrative expense claim in Borrower's and Guarantors' Estates pursuant to section 364(c)(1) of the Bankruptcy Code, having priority in right of payment over any and all other obligations, liabilities, and indebtedness of any of such Debtors, whether now in existence or hereafter incurred by any of such Debtors of every kind or nature, including any and all unsecured claims, administrative expenses, adequate protection claims, priority claims or any other claims of the kind specified in, or ordered pursuant to, the Bankruptcy Code, including without limitation, inter alia, sections 105, 326, 328, 330, 331, 503(b), 507, 364(c)(1), 546(c), 726 or 1114 of the Bankruptcy Code and, upon entry of the Final Order, sections 506(c) and 552(b). Interim Order, Section II.C(1)
Adequate Protection	Adequate Protection for Pre-Petition ABL Secured Parties. As adequate protection for the interests of the Pre-Petition ABL Agent, for the benefit of itself and the Pre-Petition ABL Lenders, on account of the Adequate Protection Obligations owed to the Pre-Petition ABL Secured Parties (the "First Lien Adequate Protection Obligations"), the Pre-Petition ABL Agent is being provided with adequate protection (collectively, "First Lien Adequate Protection"). A. First Lien Adequate Protection Liens. Until the indefeasible discharge of the Pre-Petition Obligations, the Pre-Petition ABL Agent, for itself and for the benefit of the Pre-Petition ABL Lenders, is hereby granted valid, binding, enforceable and perfected replacement and additional security interests in and liens ("First Lien Adequate Protection Liens") on all the Debtors' right, title, and interest in and to the DIP Collateral to the extent of the First Lien Adequate Protection Obligations, which liens shall be junior in all respects only to the DIP Liens, the Senior Liens and the Carve Out. (1) The First Lien Adequate Protection Liens shall be deemed to be fully perfected as of the Petition Date and, subject to Section IX of the Interim Order, not subject to subordination or avoidance for any cause or purpose in the Cases. (2) Except for the DIP Liens, the Senior Liens, and the Carve Out, the First Lien Adequate Protection Liens (i) shall not be made subject to or pari passu with any lien or security interest by any court order heretofore or hereafter entered in the Cases (unless with the consent of the Pre-Petition ABL Secured Parties); (ii) shall not be subject to Bankruptcy Code sections 506(c) (upon entry of the Final Order), 510, 549, or 550; and (iii) no lien or interest avoided and preserved for the benefit of any Estate pursuant to Bankruptcy Code section 551 shall be made pari passu with or senior to the First Lien Adequate Protection Liens. B. First Lien Adequate Protection Claims. As further adequate protection, to the extent that the First Lien Adequate Protection Liens do not adequately protect the diminution in value of the Pre-Petition ABL Agent's interest in the Pre-Petition Collateral, the Pre-Petition ABL Agent, for the benefit of the Pre-Petition ABL Lenders, is hereby granted an allowed superpriority administrative expense claim ("First Lien Adequate Protection Claim") against the Debtors' Estates under Bankruptcy Code sections 503 and 507(b), which shall, subject only to the DIP Superpriority Claim and the Carve-Out, have priority over all other administrative expense claims, priority claims and unsecured claims against the Debtors or their Estates, which are now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses and priority or other claims of the kinds specified in or ordered pursuant to Bankruptcy Code sections 105, 326, 328, 330, 331, 364, 365, 503(a), 503(b), 506(c) (upon entry of the Final Order), 507(a), 507(b), 546(c), 546(d), 726, 1113 and

	1114. C. First Lien Adequate Protection Payments. (1) As further adequate protection, the Pre-Petition ABL Agent, for the benefit of the Pre-Petition ABL Lenders, shall be entitled to interest on account of the outstanding Pre-Petition Obligations at the default rate set forth in the Pre-Petition ABL Financing Documents, which was in effect as of the Petition Date and which shall accrue and be payable at the times and in the manner set forth in the Pre-Petition ABL Financing Documents. (2) As further adequate protection, and without limiting any rights of the Pre-Petition ABL Agent, for the benefit of the Pre-Petition ABL Lenders, under Bankruptcy Code section 506(b) which are hereby preserved, the Debtors shall pay or reimburse the Pre-Petition ABL Agent ("First Lien Adequate Protection Payments") for any and all of its reasonable fees, costs, expenses and charges accrued and payable under the Pre-Petition ABL Financing Documents, including, without limitation, the fees and expenses of the Pre-Petition ABL Agent as provided in Section 16.9 of the Pre-Petition ABL Credit Agreement, whether accrued and unpaid pre-petition or accrued and unpaid post-petition, all without further notice, motion or application to, order of, or hearing before, this Court; provided that DIP Agent shall be permitted to include such fees and expenses in the Post-Petition Obligations and make a Revolving Advance for the purposes of effectuating such payment by the Debtors, following submission of a redacted summary invoice to the Debtors, the U.S. Trustee and, if appointed, a Committee or its counsel, of a written invoice (subject in all respects to applicable privilege or work product doctrines) provided no objection has been raised within ten (10) days, and to the extent there is an objection, the Court may resolve the objection. Such written invoices shall include the invoices of (i) Blank Rome LLP, counsel to the Pre-Petition ABL Agent, and (ii) any other professional, advisor, or agent reasonably retained by the Pre-Petition ABL Agent or its counsel in connection with the Pre-Petition ABL Financing Documents pursuant to the Cases; provided that none of such fees and expenses as adequate protection payments hereunder shall be subject to approval by the Court or the United States Trustee Guidelines unless an objection is interposed and cannot be resolved by the parties. No recipient of any such payment shall be required to file with respect thereto any interim or final fee application with the Court. Any and all fees charged under the Pre-Petition ABL Financing Documents shall be as set forth in the Pre-Petition ABL Financing Documents and shall be payable at the times set forth in the Pre-Petition ABL Financing Documents. Adequate Protection for Pre-Petition Subordinated Lender. As adequate protection for the interests of the Pre-Petition Subordinated Lender, on account of the Adequate Protection Obligations owed to the Pre-Petition Subordinated Lender, if any, under applicable bankruptcy law (the "Second Lien Adequate Protection Obligations"), the Pre-Petition Subordinated Lender is being provided with adequate protection (collectively, "Second Lien Adequate Protection"). A. Second Lien Adequate Protection Liens. Until the indefeasible discharge of the Pre-Petition Subordinated Obligations, the Pre-Petition Subordinated Lender is hereby granted valid, binding, enforceable and perfected replacement and additional security interests in and liens ("Second Lien Adequate Protection Liens" together with the First Lien Adequate Protection Liens, collectively, the "Adequate Protection Liens") on all the Debtors' right, title, and interest in and to the DIP Collateral to the extent of the Second Lien Adequate Protection Obligations, which liens shall be junior in all respects only to the DIP Liens, the Senior Liens, the Carve-Out, the First Lien Adequate Protection Liens, and the Pre-Petition ABL Liens. B. Second Lien Adequate Protection Payments. Upon the later to occur of (i) the Payment in Full (as such term is defined in the Pre-Petition Subordinated Note) of the respective Pre-Petition Obligations and Post-Petition Obligations outstanding under the Pre-Petition Financing Documents and the DIP Financing Documents, as applicable, and (ii) the

	expiration of the Challenge Period with no Challenge having been asserted or threatened: (1) As further adequate protection, the Pre-Petition Subordinated Lender shall be entitled to interest on account of the outstanding Pre-Petition Obligations as set forth in the Pre-Petition subordinated Financing Documents, which shall accrue and be payable at the times and in the manner set forth in the Pre-Petition Subordinated Financing Documents. (2) As further adequate protection, and without limiting any rights of the Pre-Petition Subordinated Lender under Bankruptcy Code section 506(b) which are hereby preserved, the Debtors shall pay or reimburse the Pre-Petition Subordinated Lender for any and all of its reasonable fees, costs, expenses and charges accrued and payable under the Pre-Petition Subordinated Financing Documents, including, without limitation, the fees and expenses of the Pre-Petition Subordinated Lender, whether accrued and unpaid pre-petition or accrued and unpaid post-petition, all without further notice, motion or application to, order of, or hearing before, this Court following submission of a redacted summary invoice to the Debtors, the U.S. Trustee and, if appointed, a Committee or its counsel, of a written invoice (subject in all respects to applicable privilege or work product doctrines) provided no objection has been raised within ten (10) days, and to the extent there is an objection, the Court may resolve the objection. Such written invoices shall include the invoices of (i) Landis Rath & Cobb LLP, counsel to the Pre-Petition Subordinated Lender, and (ii) any other professional, advisor, or agent reasonably retained by the Pre-Petition Subordinated Lender or its counsel in connection with the Pre-Petition Subordinated Financing Documents pursuant to the Cases; provided that none of such fees and expenses as adequate protection payments hereunder shall be subject to approval by the Court or the United States Trustee Guidelines unless an objection is interposed and cannot be resolved by the parties. No recipient of any such payment shall be required to file with respect thereto any interim or final fee application with the Court. (3) Notwithstanding the forgoing, the Debtors and the Committee, if one is appointed, reserve their rights to assert that, to the extent that any cash payment of interest, fees and expenses as adequate protection to the Pre-Petition Subordinated Lender under this Section V.B. is not allowed under Bankruptcy Code section 506(b) and not allowed on any other basis, such payments may be recharacterized and applied as payments of principal owed under the Pre-Petition Subordinated Financing Documents; provided, however, that the Pre-Petition Subordinated Lender reserves its rights to assert defenses to any such arguments and to otherwise oppose any such recharacterization or application. Interim Order Sections IV and V.
Modification of Automatic Stay	Upon the occurrence of and during the continuance of an Event of Default, and without the necessity of seeking relief from the automatic stay or any further Order of the Bankruptcy Court (i) the DIP Agent and DIP Lenders shall no longer have any obligation to make any Revolving Advances (or otherwise extend credit) under the DIP Facility; (ii) all amounts outstanding under the DIP Financing Documents shall, at the option of the DIP Agent, be accelerated and become immediately due and payable; (iii) the DIP Agent and the Pre-Petition ABL Agent shall be entitled to immediately terminate the Debtors' right to use Cash Collateral, without further application or order of this Court, provided, however, that the Debtors shall have the right to use Cash Collateral to pay their weekly ordinary course payroll included in the Approved Budget through and including the date immediately following the date on which such Event of Default occurs, (iv) the Debtors shall be bound by all post-default restrictions, prohibitions, and other terms as provided in the Interim Order, the DIP Credit Agreement and the other DIP Financing Documents and the Pre-Petition ABL Financing Documents, (v) the DIP Agent shall be entitled to charge the default rate of interest under the DIP Credit Agreement and (vi) subject only to the notice requirement set forth in Section VIII(B)(2) of the Interim Order, both the DIP Agent and the Pre-Petition ABL Agent shall be entitled to take any other act or exercise any other right or remedy as provided in the Interim Order, the DIP Financing Documents, the Pre-Petition ABL Financing Documents, or applicable law, including, without limitation, setting off

	any Post-Petition Obligations or Pre-Petition Obligations with DIP Collateral, Pre-Petition Collateral or proceeds in the possession of any Pre-Petition ABL Secured Party or DIP Lender, and enforcing any and all rights and remedies with respect to the DIP Collateral or Pre-Petition Collateral, as applicable. Without further notice, application or order of this Court, upon the occurrence and during the continuance of an Event of Default, and after providing five (5) business days' prior written notice thereof (which five (5) business day period only applies to the DIP Collateral enforcement remedies described in the Interim Order) to counsel for the Debtors, counsel for any Committee, the U.S. Trustee, and counsel to the Pre-Petition Subordinated Lender, the DIP Agent for the benefit of itself and the DIP Lenders, and the Pre-Petition ABL Agent, for the benefit of itself and the other Pre-Petition ABL Secured Parties, as applicable, shall be entitled to take any action and exercise all rights and remedies provided to them by the Interim Order, the DIP Financing Documents or the Pre-Petition ABL Financing Documents, or applicable law, unless otherwise ordered by this Court, as the DIP Agent or the Pre-Petition ABL Agent, as applicable, may deem appropriate in their sole discretion to, among other things, proceed against and realize upon the DIP Collateral (including the Pre-Petition Collateral) or any other assets or properties of the Debtors' Estates upon which the DIP Agent, for the benefit of itself and the DIP Lenders, and the Pre-Petition ABL Agent, for the benefit of itself and the other Pre-Petition ABL Secured Parties, has been or may hereafter be granted liens or security interests to obtain the full and indefeasible payment of all the Pre-Petition Obligations and Post-Petition Obligations. Notwithstanding the foregoing or anything in Section VIII(B)(1) above, DIP Agent may continue to apply proceeds received into the lockbox or collection account to reduce the Pre-Petition Obligations or the Post-Petition Obligations in any order at the sole discretion of the DIP Agent during such five (5) business day period. During such five business days period, either or both the Debtors and the Committee shall be entitled to seek an emergency hearing with the Court. For the purpose of exercising rights, options and remedies set forth in Section VIII, upon expiration of the five business-day period set forth in Section VIII(B)(2), unless otherwise ordered by the Court, the Pre-Petition ABL Agent, on behalf of the other Pre-Petition ABL Secured Parties, and DIP Agent, on behalf of the other DIP Secured Parties, shall be automatically and completely relieved from the effect of any stay under Bankruptcy Code section 362, any other restriction on the enforcement of their liens upon and security interests in the DIP Collateral or any other rights granted to them, or any of them, pursuant to the terms and conditions of the DIP Financing Documents, the Pre-Petition ABL Financing Documents or the Interim Order. Interim Order, Sections VIII.B(1)–(2) & VIII.C
Indemnification	Each Debtor shall defend, protect, indemnify, pay and save harmless the DIP Agent, Issuer, each DIP Lender and each of their respective officers, directors, Affiliates, attorneys, employees and agents (each an "Indemnified Party") for and from and against any and all claims, demands, liabilities, obligations, losses, damages, penalties, fines, actions, judgments, suits, and reasonable and documented costs, expenses and disbursements of any kind or nature whatsoever (including reasonable and documented fees and disbursements of counsel (collectively, "Claims") which may be imposed on, incurred by, or asserted against any Indemnified Party in any litigation, investigation, claim or proceeding arising out of or in any way relating to or as a consequence, direct or indirect, of: (i) the DIP Credit Agreement, the DIP Financing Documents, the Advances and other Obligations and/or the transactions contemplated hereby including the Transactions, (ii) any action or failure to act or action taken only after delay or the satisfaction of any conditions by any Indemnified Party in connection with and/or relating to the negotiation, execution, delivery or administration of the DIP Credit Agreement and the DIP Financing Documents, the credit facilities established under the DIP Credit Agreement and thereunder and/or the transactions contemplated hereby including the Transactions, (iii) any Debtor's failure to observe, perform or discharge any of its covenants,

	obligations, agreements or duties under or breach of any of the representations or warranties made in the DIP Credit Agreement and the DIP Financing Documents, (iv) the enforcement of any of the rights and remedies of the DIP Agent, Issuer or any DIP Lender under the DIP Credit Agreement and the DIP Financing Documents, (v) any threatened or actual imposition of fines or penalties, or disgorgement of benefits, for violation of any Anti-Terrorism Law by any Debtor, any Affiliate or Subsidiary of any Debtor, and (vi) any claim, litigation, proceeding or investigation instituted or conducted by any Governmental Body or instrumentality or any other Person with respect to any aspect of, or any transaction contemplated by the DIP Credit Agreement or the DIP Financing Documents whether or not the DIP Agent or any DIP Lender is a party thereto, except in each case to the extent that any of the foregoing arises out of the gross negligence or willful misconduct of the Indemnified Party (as determined by a court of competent jurisdiction in a final and non-appealable judgment). Without limiting the generality of the foregoing, this indemnity shall extend to any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, and reasonable and documented expenses and disbursements of any kind or nature whatsoever (including reasonable and documented fees and disbursements of counsel) asserted against or incurred by any of the Indemnified Parties by any Person under any Environmental Laws or similar laws by reason of any Debtor's or any other Person's failure to comply with laws applicable to solid or hazardous waste materials, including Hazardous Materials and Hazardous Waste, or other Toxic Substances. DIP Credit Agreement, Section 16.5
Borrowing Limits	The Debtors may borrow up to $12 million under the DIP Credit Agreement on an interim and final basis, subject to the other terms and provisions in the DIP Credit Agreement and Proposed Orders. DIP Credit Agreement, Sections 1.2 & 2.1(a).
Conditions to Borrowing	Conditions to Initial Advances. The DIP Credit Agreement contains conditions to making the initial advance that are customary for facilities of this type, plus it requires that the Sponsor and the DIP Agent shall have entered into a letter agreement in respect of the Sponsor Guaranty. Conditions to Each Advance. The DIP Credit Agreement contains conditions to making each advance that are customary for facilities of this type, plus it requires Borrowers to deliver to DIP Agent a written notice identifying the line-items on the applicable Budget that Borrowers intend to pay with the proceeds of such Advance. DIP Credit Agreement, Sections 8.1 & 8.2
Events of Default and Remedies	The DIP Credit Agreement includes customary events of default for facilities of these types, including ones relating to non-payment, breaches of representative, warranties and covenants, and cross-defaults, as well as the following one relating to the Chapter 11 Cases: a. the Bankruptcy Court shall enter any order, that has not been consented to by Agent (i) revoking, reversing, staying, vacating, rescinding, modifying, supplementing or amending (x) the Interim Order, the Final Order, the Cash Management Order, the Liquidation Agreement Assumption Order, Bidding Procedures Order, Sale Order, the GOB Agency Agreement, the DIP Credit Agreement, the Pre-Petition ABL Financing Documents or any DIP Financing Document, or (y) any other "first day" orders to the extent such revocation, reversal, stay, vacation, rescission, modification, supplement or amendment is materially adverse to the interests of Secured Parties, or (ii) permitting any administrative expense or any claim (now existing or hereafter arising, of any kind or nature whatsoever) to have administrative priority as to any Debtor equal or superior to the priority of the DIP Agent and DIP Lenders in respect of the Obligations, or there shall arise any such Superpriority Claim, or (iii) to grant or permit the grant of a Lien on

	the Collateral superior to, or pari passu with, the Liens of the DIP Agent on the Pre-Petition Collateral or the Collateral (other than the Senior Liens (as defined in the Interim Order), and the Carve-Out); b. the Bankruptcy Court shall enter any order (i) appointing a Chapter 11 trustee under Section 1104 of the Bankruptcy Code in the Chapter 11 Cases, (ii) appointing an examiner with enlarged powers relating to the operation of the business (powers beyond those set forth in Section 1106(a)(3) and (4) of the Bankruptcy Code) under Section 1106(b) of the Bankruptcy Code in the Chapter 11 Cases, (iii) appointing a fiduciary or representative of the estate with decision-making or other management authority over some or all of any Debtor's senior management other than the Debtors' Chief Restructuring Officer, (iv) substantively consolidating the estate of any Debtor with the estate of any other Person, (v) dismissing the Chapter 11 Cases or converting the Chapter 11 Cases to Chapter 7 cases; or (vi) approving a sale of substantially all of the assets of the Borrowers and/or of the Debtors which order does not provide that upon consummation of such sale, all of the Obligations shall be indefeasibly paid and satisfied in full and which shall otherwise be reasonable satisfactory to the DIP Agent, and in connection with such sale order, Secured Parties shall not have received a release (on terms and conditions and in form and substance satisfactory to the DIP Agent in its sole discretion) of Secured Parties in full from all claims of the Debtors and their estates on or before the entry of such sale order; c. the DIP Credit Agreement, any of the DIP Financing Documents, the Interim Order or the Final Order for any reason ceases to be in full force and effect or is declared to be null and void by a court of competent jurisdiction, or any of the Debtors shall seek to, or shall support (in any such case by way of any motion or other pleading filed with the Bankruptcy Court or any other writing to another party-in-interest executed by or on behalf of such Debtor) any other Person's motion to, disallow in whole or in part the Secured Parties' claim in respect of the Obligations or to challenge the validity and enforceability of the Liens in favor of any Secured Party; d. any Debtor files a motion with the Bankruptcy Court asserting that the Secured Parties do not have a right to, or supports a motion filed with the Bankruptcy Court that asserts the Secured Parties do not have the right to, credit bid for any assets of the Debtors in connection with any sale pursuant to Section 363(k) of the Bankruptcy Code; e. the Bankruptcy Court shall enter any order granting relief from the automatic stay to any creditor holding or asserting a Lien, reclamation claim or other rights on the assets of any Debtor in excess of $20,000; f. any application for any of the orders described in clauses (a), (b), (c), (d) or (e) above shall be made and, if made by a Person other than a Debtor, such application is not being diligently contested by such Debtor in good faith; g. except (i) as permitted by the Interim Order or Final Order and set forth in the Budget, or (ii) as otherwise agreed to by the DIP Agent in writing, and approved by all necessary Bankruptcy Court orders/approvals, any Debtor shall make any Pre-Petition Payment (including, without limitation, related to any reclamation claims) following the Closing Date; h. any Debtor shall be unable to pay its post-petition debts as they mature, shall fail to comply with any order of the Bankruptcy Court in any material respect, or shall fail to make, as and when such payments become due or otherwise; i. the period covered by the Budget shall expire without the Budget being updated

	pursuant to Section 9.12 prior to such expiration; j. any Debtor shall file a motion in the Chapter 11 Cases (i) to use cash Collateral under Section 363(c) of the Bankruptcy Code without the DIP Agent's prior written consent except to the extent expressly permitted in the Interim Order or, once entered, the Final Order, (ii) to sell a material portion of the assets of any Debtor without the DIP Agent's prior written consent, (iii) to recover from any portions of the Collateral any costs or expenses of preserving or disposing of such Collateral under Section 506(c) of the Bankruptcy Code, or to cut off rights in the Collateral under Section 552(b) of the Bankruptcy Code, (iv) to obtain additional financing under Sections 364(c) or (d) of the Bankruptcy Code not otherwise permitted under the DIP Credit Agreement, unless such motion and additional financing shall provide that upon initial closing and consummation of such financing, that upon consummation of such sale, all of the Obligations shall be indefeasibly paid and satisfied in full and Secured Parties receive a release (on terms and conditions and in form and substance satisfactory to the DIP Agent in its sole discretion) of Secured Parties in full from all claims of the Debtors and their estates, or (v) to take any other action or actions adverse to Secured Parties or their rights and remedies under the DIP Credit Agreement or under any of the DIP Financing Documents or Secured Parties interest in any of the Collateral; k. (i) a Reorganization Plan is filed in the Chapter 11 Cases by one or more of the Debtors which does not contain provisions for termination of the DIP Agent's and DIP Lenders' commitment to make Advances under the DIP Credit Agreement and indefeasible Payment in Full and the release of the Secured Parties (on terms and conditions and in form and substance satisfactory to the DIP Agent) in full from all claims of the Debtors and their estates, in each case, on or before, and the continuation of the Liens and security interests granted to the DIP Agent until, the effective date of such Reorganization Plan, or (ii) an order shall be entered by the Bankruptcy Court confirming a Reorganization Plan in the Chapter 11 Cases which does not contain provisions for termination of the DIP Agent's and DIP Lenders commitment to make Advances under the DIP Credit Agreement and indefeasible Payment in Full and the release of the Secured Parties (on terms and conditions and in form and substance satisfactory to the DIP Agent) in full from all claims of the Debtors and their estates on or before, and the continuation of the Liens and security interests granted to the DIP Agent until, the effective date of such Reorganization Plan upon entry thereof; l. the expiration or termination of the "exclusive period" of the Debtors under Section 1121 of the Bankruptcy Code for the filing of a plan of reorganization; m. any Debtor engages in or supports any challenge to the validity, perfection, priority, extent or enforceability of the credit facility provided under the DIP Credit Agreement or the Pre-Petition ABL Financing Documents or the liens on or security interest in the assets of the Debtors securing the Obligations or (ii) any Debtor engages in or supports any investigation or asserts any claims or causes of action (or directly or indirectly support assertion of the same) against Secured Parties; provided, however, that it shall not constitute an Event of Default if any Debtor provides information with respect to the Pre-Petition ABL Financing Documents to (x) the Creditors' Committee and (y) with prior written notice to the DIP Agent and the DIP Lenders of any requirement to do so, any other party in interest; n. the termination or rejection of any contract of any Debtor which would reasonably be expected to result in a Material Adverse Effect; o. any of the following (i) the Debtors shall fail to obtain all necessary Bankruptcy Court order(s) (each such order to be on terms and conditions and in form and substance acceptable to the DIP Agent) (collectively, the "Liquidation Agreement Assumption

	Order") to allow Debtors to assume the GOB Agency Agreement, or (ii) the Debtors shall fail to file a motion on the Petition Date requesting authority to assume the GOB Agency Agreement, (iii) the Debtors shall fail to obtain an interim Liquidation Agreement Assumption Order on terms and conditions and in form and substance reasonably acceptable to the DIP Agent on or before the second (2d) Business Day after the Petition Date, or (iv) the Debtors shall fail to obtain a final Liquidation Agreement Assumption Order on terms and conditions and in form and substance reasonably acceptable to the DIP Agent on or before September 13, 2019; p. any of the following (i) the Debtors shall fail to file a motion under section 363 of the Bankruptcy Code seeking authority to sell the Debtors' E-Commerce Business Assets, subject to the receipt of "higher and better" bids (the "Approved Sale"), together with bidding procedures ("Bidding Procedures"), in form and substance reasonably satisfactory to the DIP Agent, on or before August 20, 2019; (ii) the Debtors shall fail to obtain one or more Bankruptcy Court orders approving the Bidding Procedures (the "Bidding Procedures Order") on or September 13, 2019, such Bidding Procedures Order to be in form and substance acceptable to the DIP Agent; (iii) the Debtors fail to obtain a letter of intent for the purchase of the E-Commerce Business assets ("LOI") on or before September 14, 2019, such LOI in form and substance reasonably acceptable to DIP Agent; (iv) the Debtors fail to obtain an executed asset purchase agreement for the purchase of the E-Commerce Business assets ("APA") and deposit on or before September 24, 2019, such APA and deposit in form and substance reasonably acceptable to DIP Agent; (v) the Debtors fail to exercise the E-Commerce Option (as defined in the GOB Agency Agreement) either (A) on September 15, 2019, if Debtors fail to obtain an LOI in accordance with subparagraph (iii) above, or (B) on September 25, 2019, if Debtors fail to obtain an APA and deposit in accordance with subparagraph (iv) above; (vi) if the Debtors do not exercise the Ecommerce Option, the Debtors fail to conduct an auction in accordance with the Bidding Procedures ("Auction") on or before October 3, 2019; (vii) if the Debtors do not exercise the Ecommerce Option, the Debtors shall (A) fail to obtain a court order of the Approved Sale (the "Sale Order") of the E-Commerce Business Assets to the successful bidder on or before October 7, 2019, such Sale Order to be in form and substance satisfactory to the DIP Agent or (B) seek to approve any Sale Order that does not provide for the indefeasible payment in full of the Obligations (after giving effect to any payments received by DIP Agent and made by Sponsor pursuant to the Sponsor Guaranty) without the DIP Agent's prior written consent; (viii) if the Debtors do not exercise the Ecommerce Option, the Approved Sale has not been consummated on or before October 14, 2019; q. the Chapter 11 Cases are converted to cases under Chapter 7 of the Bankruptcy Code; r. the Chapter 11 Cases are dismissed; s. a breach or default occurs under the GOB Agency Agreement, or such agreement is terminated for any reason, in each case, except as consented to by the DIP Agent; t. the Final Order is not entered, following an application or motion of the Debtors reasonably satisfactory, in form and substance, to the DIP Agent and upon prior notice to such parties required to receive such notice and such other parties as may be reasonably requested by the DIP Agent, immediately following the expiration of the Interim Order, and in any case, not later than September 13, 2019; u. a breach of the terms or provisions of the Interim Order or Final Order; v. solely upon entry of the Final Order, any Person shall be permitted to surcharge the Collateral or the Pre-Petition Collateral under Section 506(c) of the Bankruptcy Code,

	or any costs or expenses whatsoever shall be imposed against the Collateral or the Pre-Petition Collateral, other than the Carve-Out; or w. solely upon entry of the Final Order, the DIP Agent shall be made subject to any equitable remedy of marshalling or any similar doctrine with respect to the DIP Collateral and the Pre-Petition Collateral. DIP Credit Agreement, Section 10.7
Waiver of Marshalling	Subject to the entry of a Final Order, in no event shall the DIP Agent, the DIP Lenders, or the Pre-Petition ABL Secured Parties be subject to the equitable doctrine of "marshalling" or any similar doctrine with respect to the Pre-Petition Collateral or the DIP Collateral. Interim Order, XI.H.; DIP Credit Agreement, 16.22

Requirements Under Local Rule 4001-2

23. Rule 4001-2 of the Local Rules requires that certain provisions contained in the DIP Financing Documents be highlighted and that the Debtors provide justification for the inclusion of such highlighted provisions. The Debtors hereby identify the following provisions of the Post-Petition Financing and the relevant portions of the Interim Order. The justifications for such provisions, if applicable, are set forth below in the "Basis for Relief" section of the Motion.

No Cross-Collateralization **Local Rule. 4001-2(a)(i)(A)**	Other than replacement liens to protect against diminution of value, which do not require specific disclosure, the DIP Financing Documents do not grant cross-collateralization protections.
Stipulations and Waivers **Local Rule 4001-2(a)(i)(B)**	The Debtors make certain customary stipulations with respect to, among other things, the amounts outstanding in respect of the Pre-Petition Financing Documents and the Pre-Petition Subordinated Financing Documents and the validity, perfection, enforceability and priority of liens and security interests securing the same, which are subject to the Challenge Period described below. Interim Order, Section D The DIP Credit Agreement also includes the following Stipulations and Waivers, which are not subject to the Challenge Period: • limitations on the Debtors' ability to discharge the Obligations under the DIP Credit Agreement, which are defined to include the obligations under the Pre-Petition ABL Facility. DIP Credit Agreement, Section 16.23 • A stipulation that the Debtors' exclusive remedies under the DIP Credit Agreement are limited to monetary damages. DIP Credit Agreement, Section 16.20. • A purported disavowal and waiver of subsequent relief based on changed circumstances. DIP Credit Agreement, Section 16.24.

Lien Challenges **Local Rule 4001-2(a)(i)(B)**	The stipulations and admissions contained in the Interim Order, including without limitation, the Paragraph D Stipulations, shall also be binding upon the Debtors' Estates and all other parties in interest, including the Committee or any chapter 7 or chapter 11 trustee appointed or elected for any of the Debtors (a "Trustee"), for all purposes unless (a) (i) any party in interest other than the Committee, no later than the date that is seventy five (75) days from entry of the Interim Order, and (ii) the Committee, no later than sixty (60) days from the appointment of the Committee (as applicable for clauses (i) and (ii), the "Initial Challenge Period") has properly filed an adversary proceeding as required under the Bankruptcy Rules (x) challenging the amount, validity, enforceability, priority or extent of the Pre-Petition Obligations, the liens of the Pre-Petition ABL Agent on the Pre-Petition Collateral securing the Pre-Petition Obligations, the Pre-Petition Subordinated Obligations or the liens of the Pre-Petition Subordinated Lender to secure the Pre-Petition Subordinated Obligations or (y) otherwise asserting any other claims, counterclaims, causes of action, objections, contests or defenses against the Pre-Petition ABL Agent and/or any other Pre-Petition ABL Secured Party and/or the Pre-Petition Subordinated Lender on behalf of the Debtors' Estates ((x) and (y), collectively, referred to in the Interim Order as "Challenges"), and (b) the Court rules in favor of the plaintiff sustaining any such challenge or claim in any such duly filed adversary proceeding or contested matter; provided that, as to the Debtors, all such Challenges are hereby irrevocably waived and relinquished effective as of the Petition Date. If during the Initial Challenge Period, the Committee or other third party files a motion for standing with a draft complaint identifying and describing all Challenge(s) consistent with applicable law and rules of procedure, the Initial Challenge Period will be tolled for the Committee or other third party solely with respect to the Challenge(s) asserted in the draft complaint until three (3) business days from the entry of an order granting the motion for standing to prosecute such Challenge(s) described in the draft complaint and permitted by the Court (the "Extended Challenge Period", together with the Initial Challenge Period, the "Challenge Period"). If standing is denied by the Court, the Challenge Period shall be deemed to have expired. If no such Challenge or motion for standing, as applicable, is timely filed prior to the expiration of the Initial Challenge Period, without further order of the Court: (1) the Debtors' stipulations, admissions and releases contained in the Interim Order (including the Paragraph D Stipulations and the releases set forth in Section X(B) below) shall be binding on all parties in interest, including the Debtors' Estates, the Committee, and any subsequently appointed Trustee, case fiduciary, or successors and assigns; (2) the Pre-Petition Obligations and Pre-Petition Subordinated Obligations shall constitute allowed claims, not subject to counterclaim, setoff, subordination, recharacterization, defense or avoidance, for all purposes in these Chapter 11 Cases and any subsequent chapter 7 case; (3) the Pre-Petition ABL Agent's liens and the respective Pre-Petition Subordinated Lender's liens on the Pre-Petition Collateral shall be deemed to have been, as of the Petition Date, and to be, legal, valid, binding, perfected, and with the priority specified in the Paragraph D Stipulations, not subject to defense, counterclaim, recharacterization, subordination or avoidance; and (4) the Pre-Petition Obligations, the Pre-Petition ABL Secured Parties' liens on the Pre-Petition Collateral, the Pre-Petition Subordinated Obligations, the Pre-Petition Subordinated Lender's liens on the Pre-Petition Collateral, as applicable; and the Pre-Petition Secured Parties (and their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors) shall not be subject to any other or further challenge by any Committee or any other party in interest, and any such Committee or party in interest shall be enjoined from seeking to exercise the rights of the Debtors' Estates, including without limitation, any successor thereto (including, without limitation, any estate representative or a Trustee, whether such Trustee is appointed or elected prior to or following the expiration of the Initial Challenge Period); provided that if the Chapter 11 Cases are converted to chapter 7 or a Trustee is appointed prior to the expiration of the Initial Challenge Period, any such estate representative or

	Trustee shall receive the full benefit of any remaining Initial Challenge Period, subject to the limitations described in the Interim Order. If any Challenge or motion for standing, as applicable, is timely and properly filed prior to the expiration of the Initial Challenge Period, the releases, stipulations and admissions contained in the Interim Order, including without limitation, in the Paragraph D Stipulations, of the Interim Order, shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) on any Committee and any other person, including any Trustee appointed in any Chapter 11 Case(s) or any subsequently converted bankruptcy case(s) of any Debtors (collectively, the "Successor Cases"), as applicable, except as to any such findings and admissions that were expressly challenged in the original complaint initiating the adversary proceeding and excluding any amended or additional claims that may or could have been asserted thereafter through an amended complaint under FRCP 15 or otherwise. Nothing in the Interim Order vests or confers on any person, including any Committee, any Trustee, or any other party in interest, standing or authority to pursue any cause of action belonging to the Debtors or their Estates. This stipulation shall be binding upon the Debtors, their Estates, all parties in interest in the Chapter 11 Cases and their respective successors and assigns, including any Trustee or other fiduciary appointed in the Chapter 11 Cases or Successor Cases and shall inure to the benefit of the Pre-Petition Secured Parties and the Debtors and their respective successors and assigns. For the avoidance of doubt, Challenges may be filed against one or more of the Pre-Petition ABL Secured Parties and/or Pre-Petition Subordinated Lender without filing Challenges against each of the other parties and likewise the Challenge Period may expire as to some but not all of the Pre-Petition Secured Parties if a Challenge is filed against one or more of the Pre-Petition Secured Parties but not all of them. Notwithstanding anything to the contrary contained in the Interim Order, this Court expressly reserves the right to unwind the discretionary roll-up of the Pre-Petition Obligations into Post-Petition Obligations that is contemplated to be approved upon entry of the Final Order or to order other appropriate relief against the Pre-Petition ABL Agent and the Pre-Petition ABL Lenders in the event there is a timely (in accordance with Section IX) and successful Challenge by any party in interest to the validity, enforceability, extent, perfection or priority of the Pre-Petition ABL Agent's liens in the Pre-Petition Collateral, or to the amount, validity, enforceability of the Pre-Petition Obligations. Interim Order, Section IX.A.
Releases **Local Rule 4001-2(a)(i)(B)**	In consideration of and as a condition to the DIP Agent and the DIP Lenders making Revolving Advances, consent to use of Cash Collateral (including the Pre-Petition Subordinated Lender's consent to use of Cash Collateral and further subordination of its rights as provided in the Interim Order) and providing other credit and financial accommodations to the Debtors pursuant to the provisions of this Interim Order and the DIP Financing Documents, each Debtor, on behalf of itself, and successors and assigns and such Debtor's Estate (collectively, "Releasors"), subject only to Section IX above, hereby absolutely releases and forever discharges and acquits (i) each Pre-Petition ABL Secured Party, (ii) the respective successors, participants, and assigns of each Pre-Petition ABL Secured Party, (iii) the present and former shareholders, affiliates, subsidiaries, divisions, and predecessors of each Pre-Petition ABL Secured Party, (iv) the Pre-Petition Subordinated Lender, and (v) the directors, officers, attorneys, employees, and other representatives of the parties identified in clauses (i) through (iv) but solely in their capacity as such and not in any other capacity (the parties identified in clauses (i) through (v) being hereinafter referred to collectively as "Releasees") of and from any and all claims, demands, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages, and any and all other claims, counterclaims, cross claims, defenses, rights of set-off, demands, and liabilities

	whatsoever (individually, a "Pre-Petition Released Claim" and collectively, "Pre-Petition Released Claims") of every kind, name, nature and description, known or unknown, foreseen or unforeseen, matured or contingent, liquidated or unliquidated, primary or secondary, suspected or unsuspected, both at law and in equity, which, including, without limitation, any so-called "lender liability" claims or defenses, that any Releasor may now or hereafter own, hold, have, or claim to have against Releasees, or any of them for, upon, or by reason of any nature, cause, or thing whatsoever which arose or may have arisen at any time on or prior to the date of the Interim Order, in respect of the Debtors, the Pre-Petition Subordinated Obligations, the Pre-Petition Obligations, the Pre-Petition ABL Financing Documents, and any Revolving Advances, Letters of Credit, or other financial accommodations under the Pre-Petition ABL Financing Documents; provided that such release shall not be effective with respect to the Debtors until entry of the Final Order, and with respect to the Debtors' Estates, until the expiration of the Challenge Period. In addition, upon entry of the Final Order and the indefeasible payment in full of all Obligations (as defined in the DIP Credit Agreement) owed to the DIP Agent and the DIP Lenders by the Debtors and termination of the rights and obligations arising under the Interim Order and the DIP Financing Documents (which payment and termination shall be on terms and conditions acceptable to the DIP Agent), the DIP Agent and the DIP Lenders shall be automatically deemed absolutely and forever released and discharged from any and all obligations, liabilities, actions, duties, responsibilities, commitments, claims and causes of action arising or occurring in connection with or related to the DIP Financing Documents or the Interim Order (whether known or unknown, direct or indirect, matured or contingent, foreseen or unforeseen, due or not due, primary or secondary, liquidated or unliquidated). Upon the entry of the Final Order, and subject to Section IX with respect to all applicable parties other than the Debtors, each Releasor hereby absolutely, unconditionally and irrevocably, covenants and agrees with each Releasee that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Pre-Petition Released Claim released and discharged by each Releasor pursuant to Section X(B)(1) above. If any Releasor violates the forgoing covenant, Debtors agree to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by any Releasee as a result of such violation. Interim Order, Section X.B(1)-(2)
Section 506(c) and 552(b) Waiver **Local Rule 4001-2(1)(i)(C), (H)**	Effective upon the entry of a Final Order approving the Motion, no costs or expenses of administration which have been or may be incurred in the Chapter 11 Cases or Successor Cases at any time shall be charged against any of the Pre-Petition Secured Parties or the DIP Secured Parties, their respective claims or the DIP Collateral or Pre-Petition Collateral, as applicable, pursuant to section 506(c) of the Bankruptcy Code without the prior written consent of the DIP Agent (and no such consent shall be implied from any other action, inaction or acquiescence by the DIP Agent or any DIP Lender). Effective upon the entry of a Final Order, the Pre-Petition Secured Parties and DIP Lenders 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 Pre-Petition Secured Parties and DIP Lenders with respect to proceeds, products, offspring or profits of any of the Pre-Petition Collateral or DIP Collateral, as applicable. Interim Order, Section X.A, DIP Credit Agreement, 16.21.

Liens on Avoidance Actions **Local Rule 4001-2(a)(i)(D)**	No liens on avoidance actions are being requested effective upon entry of the Interim Order, but the Final Order grants to the DIP Lenders and Prepetition Secured Parties liens on avoidance actions. Interim Order, Sections II.A(1), IV.A & V.A
Roll-up Provisions **Local Rule 4001-(2)(a)(i)(E)**	The DIP Credit Agreement contemplates, and the Proposed Orders request, authorization for a partial repayment of the Pre-Petition Obligations upon entry of the Interim Order and a full repayment of the Pre-Petition Obligations at the discretion of the DIP Agent. Interim Order, Sections I.F & H
No Disparate Treatment of Committee Professionals **Local Rule 4001-2(a)(i)(F)**	The DIP Credit Agreement and Proposed Orders do not provide disparate treatment for the professionals retained by any official committee of unsecured creditors from those professional retained by the Debtors with respect to a professional fee carve-out, other than different amounts set forth in the Budget for each set of professionals that are consonant with the rules the Debtors anticipate those professionals playing in these Chapter 11 Cases.
No Non-Consensual Priming **Local Rule 4001-2(a)(i)(G)**	The Pre-Petition Secured Parties have consented to the priming liens.

BASIS FOR RELIEF

A. The Debtors Satisfy the Requirements for Obtaining DIP Financing on a Secured and Superpriority Basis Pursuant to Section 364 of the Bankruptcy Code.

24. The statutory requirement for obtaining post-petition credit under section 364(c) of the Bankruptcy Code is a finding, made after notice and a hearing, that the debtors in possession are "unable to obtain unsecured credit allowable under section 503(b)(1) of [the Bankruptcy Code] as an administrative expense." 11 U.S.C. § 364(c);[8] *see generally In re Photo Promotion Assocs., Inc.*, 881 F.2d 6, 8 (2d Cir. 1989) (stating that secured or priority credit under section 364(c) of the Bankruptcy Code is authorized, after notice and a hearing, upon showing

[8] Section 364(c) of the Bankruptcy Code provides that:

(c) If the trustee [or debtor in possession] is unable to obtain unsecured credit allowable under § 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt –

(1) with priority over any and all administrative expenses of the kind specified in § 503(b) or 507(b) of this title;
(2) secured by a lien on property of the estate that is not otherwise subject to a lien; or
(3) secured by a junior lien on property of the estate that is subject to a lien.

that unsecured credit cannot be obtained); *In re 495 Cent. Park Ave. Corp.*, 136 B.R. 626, 630 (Bankr. S.D.N.Y. 1992) (discussing secured or superpriority financing options under section 364 if the debtor cannot obtain credit as an administrative expense). The statutory requirement for obtaining post-petition credit under section 364(d) of the Bankruptcy Code is a finding, made after notice and a hearing, that the debtors in possession are "unable to obtain such credit otherwise" and "there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted." 11 U.S.C. § 364(d)(1).

25. Here, the Debtors propose to incur the Post-Petition Obligations on a senior-secured basis, providing the DIP Lenders a senior lien on the Debtors' assets, as well as a superpriority administrative expense claim. As described below, the Debtors also will provide adequate protection for the Pre-Petition ABL Secured Parties and the Pre-Petition Subordinated Lender to the extent of aggregate diminution in value of their interests in the Pre-Petition Collateral and Subordinated Collateral, respectively. The Court should approve the DIP Facility because: (i) the Debtors could not obtain financing on better terms than under the DIP Facility; (ii) the proposed financing is on market terms and does not include payment of excessive fees or other onerous terms and is a sound exercise of the Debtors' business judgment; and (iii) approval of the DIP Facility is fair and reasonable and in the best interests of the Debtors' estates.

(i) The DIP Facility is the Best Option Available to the Debtors.

26. To show that the credit required is not obtainable on an unsecured basis, the debtor need only demonstrate "by a good faith effort that credit was not available" without the protections afforded to potential DIP lenders by the Bankruptcy Code. *In re Snowshoe Co.*, 789 F.2d 1085, 1088 (4th Cir. 1986); *see 495 Cent. Park Ave.*, 136 B.R. at 630-31. Where few DIP lenders are likely to be able and willing to extend the necessary credit to a debtor, "it would

be unrealistic and unnecessary to require [the debtor] to conduct such an exhaustive search for financing." *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), *aff'd sub nom., Anchor Savings Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 120 n. 4 (N.D. Ga. 1989).

27. The Debtors' ability to obtain DIP financing from a third-party source on the same or better terms than those obtained from the DIP Lenders would have been extremely unlikely. The Debtors' balance sheet is over-leveraged, making it unlikely that third parties other than the DIP Lenders would provide further debt to the Debtors. Further, substantially all of the Debtors' assets are currently encumbered by the Pre-Petition Obligations and the Pre-Petition Subordinated Obligations. Accordingly, the Debtors could not have obtained comparable DIP financing because the Pre-Petition Secured Parties would not have consented to being primed if the other DIP financing proposals did not repay the Pre-Petition Obligations and Subordinated Obligations in full in cash, potentially requiring the Debtors to undertake a costly and challenging priming dispute, which would be uncertain at best.

28. In light of the Debtors' belief that they are unable to access capital markets, obtaining third-party financing on better terms than what the DIP Lenders are offering is not likely. Because there is little, if any, chance of obtaining better third-party financing, the Debtors believe that further searching is not a viable course of action or prudent expenditure of time and resources.

29. The Debtors therefore assert that they have made the requisite showing that post-petition credit is not available on an unsecured basis, and that the proposal offered by DIP Lenders is the best DIP financing available at this time. The DIP Facility is an essential part of an overall bankruptcy structure that will aid the Debtors in maximizing the value of their estates and the recovery to creditors and interest holders.

(ii) The DIP Facility is on Market Terms and the Debtors are Entering into the DIP Facility in their Sound Business Judgment.

30. As stated above, the Debtors submit that the DIP Facility is fair and reasonable, and represents terms better than those available from third-parties. Further, the Debtors submit that the terms and conditions of the DIP Facility reflect the Debtors' (and, as discussed herein, the DIP Lenders') exercise of prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and fair consideration.

31. A debtor's decision to enter into a DIP facility under section 364 of the Bankruptcy Code is governed by the business judgment standard. *See In re Ames Dep't Stores*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (noting that courts defer to a debtor's business judgment "so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest"). The business judgment standard is a deferential one. In the context of DIP financing, courts have held that it is appropriate to interfere with a debtor's business judgment only if a decision is clearly erroneous, or is made arbitrarily, in bad faith, with fraudulent intent, on the basis of inadequate information, in violation of fiduciary duties, or in violation of the Bankruptcy Code. *See, e.g.*, *In re Mid-State Raceway, Inc.*, 323 B.R. 40, 58 (Bankr. N.D.N.Y. 2005); *see also In re Filene's Basement, LLC.*, et al., No. 11-13511, 2014 WL 1713416, at *12 (D. Del. Apr. 29, 2014). Here, the Debtors' decision to enter into the DIP Facility is an exercise of the Debtors' sound business judgment. Before the Petition Date, the Debtors undertook a thorough review as to their projected financing needs during these Chapter 11 Cases, including the costs of administration and the necessary time to complete the Store Closing Sales and Going Concern Sale Process. The Debtors have determined that the amounts available under the DIP Facility are sufficient to fund their post-petition operations and the administration of these Chapter 11 Cases.

This, in turn, will inure to the benefit of their stakeholders, by helping to prevent the unnecessary accrual of additional claims against their estates, and will support the Debtors' sale efforts. In addition, as discussed above, financing on better (or any alternative) terms likely was not available to the Debtors and, as discussed below, the terms of the DIP Facility are fair and reasonable, especially given the circumstances surrounding these Chapter 11 Cases. The Debtors respectfully submit that the Court should approve the Debtors' business judgment and decision to accept and enter into the DIP Facility.

(iii) Approval of the DIP Facility is Fair and Reasonable and in the Best Interests of the Debtors.

32. The proposed terms of the DIP Facility are fair and reasonable. This funding will provide the Debtors with adequate financing to support their working capital needs. Further, it is a fair and reasonable transaction, both from the perspective of the DIP Lenders, who will be paid a reasonable rate of interest based on past lending practices, granted certain liens and provided superpriority claims by the Debtors, and, for the Debtors, who will receive funding—at market rates and without onerous terms—that would otherwise be unavailable from other lenders.

33. In considering whether the terms of DIP financing are fair and reasonable, courts "examine all the facts and circumstances," and will generally permit "reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process or powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest." *In re Ames Dept. Stores, Inc.*, 115 B.R. at 39-40; *see also In re Farmland Indus., Inc.*, 294 B.R. 855, 886 (Bankr. W.D. Mo. 2003) (evaluating reasonableness of terms in light of the "relative circumstances of the parties").

34. Here, the terms of the DIP Facility are fair and reasonable and the Debtors have determined to enter into this transaction in a clear exercise of their business judgment. Indeed, not only are the terms of the DIP Facility fair and reasonable, they are an integral part of the Debtors' efforts to maximize value through the Store Closing Sales and Going Concern Sale Process. Thus, in addition to approval of the DIP Facility being warranted on the basis that better financing terms are not available elsewhere, approval is warranted "also because the credit acquired is of significant benefit to the debtor's estate and [because] the terms of the proposed loan are within the bounds of reason, *irrespective of the inability of the debtor to obtain comparable credit elsewhere*." *In re Aqua Assocs.*, 123 B.R. 192, 196 (Bankr. E.D. Pa. 1991) (emphasis added).

35. Entry into the DIP Facility and securing the financing available thereunder is critical to the preservation of estate assets and is in the best interest of the Debtors' creditors and all parties in interest. Thus, the Debtors respectfully submit that entry into the DIP Facility is an exercise of the Debtors' sound business judgment.

(iv) The Roll-Up is Appropriate.

36. A roll-up occurs when a post-petition lender lends "enough post-petition to pay off the pre-petition loan, whether owing to the post-petition lender or a different lender, immediately converting all of the lender's pre-petition debt to post-petition debt." 3 ALAN N. RESNICK & HENRY J. SOMMER, COLLIER ON BANKRUPTCY ¶ 364.04[2][e] (16th ed. 2018). A roll-up should not be "controversial from the technical perspective of the priority or satisfaction of liens if the pre-petition lender is fully secured on the petition date[.]" *Id.*

37. Consistent with the prepetition revolving credit facility, the DIP Facility contemplates the application of cash, collections, and proceeds of the Pre-Petition Collateral, including any sales of Pre-Petition Collateral, to pay down the Pre-Petition Credit Obligations

upon entry of the Interim Order. Subject to entry of the Final Order, the DIP Agent will be granted the ability to repay in cash in whole or part, in the DIP Agent's discretion, any or all Pre-Petition Obligations with the proceeds of new money advances made under the DIP Facility. This structure allows the Pre-Petition Obligations to be gradually "rolled-up" into the DIP Facility over time both prior to and following the entry of a Final Order.

38. The Roll-Up of the Pre-Petition Obligations into the Post-Petition Obligations is necessary component of the DIP Facility and is appropriate under the circumstances of these cases. The approval of the roll-up of all outstanding Pre-Petition Obligations into Post-Petition Obligations, at the discretion of the DIP Lenders, is a condition of the DIP Facility, which enables the Debtors to obtain financing that they urgently need to administer these Chapter 11 Cases and fund their operations while the Debtors conduct the Store Closing Sales. Moreover, the DIP Lenders were not willing to provide the DIP Facility absent the Roll-Up and it has been a condition of the DIP Facility from the outset of negotiations. As explained in the First Day Declaration, the Pre-Petition ABL Lenders are fully secured as of the Petition Date so the Debtors do not believe that the Pre-Petition ABL Lenders will be unduly benefitted by the Roll-Up. Finally, because the Roll-Up is subject to the reservation of rights in section IX of the Interim Order, it will not prejudice the right of any party in interest as set forth therein.

39. Accordingly, the Roll-Up should be approved by the Bankruptcy Court as a necessary and appropriate component of the DIP Facility.

(v) The Debtors Will Provide Sufficient Adequate Protection to Pre-Petition Secured Parties.

40. The proposed Post-Petition Financing also meets the second requirement of section 364(d)(1) of the Bankruptcy Code. In connection with the DIP Facility, the Debtors

propose providing the Pre-Petition Secured Parties with adequate protection in accordance with sections 364(d) and 361 of the Bankruptcy Code. The Bankruptcy Code does not define "adequate protection" but rather sets forth three nonexclusive examples:

> When adequate protection is required under Section 362, 363, or 364 of this title of an interest of an entity in property, such adequate protection may be provided by –
>
> (1) requiring the trustee to make a cash payment or periodic cash payments to such entity, to the extent that the stay under Section 362 of this title, use, sale, or lease under Section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of such entity's interest in such property;
>
> (2) providing to such entity an additional or replacement lien to the extent that such stay, use, sale, lease, or grant results in a decrease in the value of such entity's interest in such property; or
>
> (3) granting such other relief, other than entitling such entity to compensation allowable under Section 503(b)(1) of this title as an administrative expense, as will result in the realization by such entity of the indubitable equivalent of such entity's interest in such property.

11 U.S.C. § 361. Thus, in the context of section 364(d), collateral only requires adequate protection to the extent that a priming lien will result in a decrease in the "value of such entity's interest in such property." *Id.; see also* 11 U.S.C. § 363(e).

41. Adequate protection is determined on a case-by-case basis. *See In re Columbia Gas Sys., Inc.*, No. 91-803, 1992 WL 79323, at *2 (Bankr. D. Del. Feb. 18, 1992). The critical purpose of adequate protection is to guard against the diminution of a secured creditor's interest in its collateral during the period when such collateral is being used by the debtor in possession. *See 495 Cent. Park*, 136 B.R. at 631 ("The goal of adequate protection is to safeguard the secured creditor from diminution in the value of its interest during the chapter 11 reorganization."); *Beker*, 58 B.R. at 736; *In re Hubbard Power & Light*, 202 B.R. 680, 685

(Bankr. E.D.N.Y. 1996). When priming of liens is sought pursuant to section 364(d), the courts also examine whether the pre-petition secured creditors are being provided adequate protection for the value of their liens. *Beker*, 58 B.R. at 737; *Utah 7000*, 2008 WL 2654919, at *3. Because all of these tests are satisfied here and the Debtors have met all of their obligations under section 364 of the Bankruptcy Code, the Motion should be granted, and the Post-Petition Financing should be approved.

42. Under the DIP Facility, the liens of the Pre-Petition Secured Parties are being primed. The Pre-Petition Secured Parties are either participating in the DIP Facility or have explicitly consented to the priming liens, including under the documents governing the Pre-Petition Subordinated Obligations. In any event, as set forth in the Proposed Orders, the Pre-Petition ABL Secured Parties and the Pre-Petition Subordinated Lender will each receive an adequate protection package, which may include replacement liens, superpriority administrative expense claims, interest, and professional fees. Section 361 of the Bankruptcy Code expressly describes cash payments and replacement liens as appropriate forms of adequate protection. Thus, the provision of these forms of adequate protection is appropriate.

B. Interim Approval of the DIP Facility Will Prevent Immediate and Irreparable Harm to the Debtors' Estates.

43. The Debtors are requesting the Court approve interim availability under the DIP Facility in the aggregate amount of $12 million. This amount is essential to the continued operation of the Debtors' business during the Store Closing Sales. The liquidity provided by the DIP Facility also will provide assurances to potential purchasers of the Going Concern Assets that the Debtors will be able to maintain the value of those assets during these Chapter 11 Cases. Without such liquidity, the Debtors have determined that they will not be able to adequately fund the Store Closing Sales or Going Concern Sale Process. Finally, as detailed

in the DIP Credit Agreement, entry of the Interim Order is a prerequisite to funding the Post-Petition Financing. Thus, entry of the Interim Order is crucial to maximizing the value of the Debtors' estates.

C. Approval of Immediate Use of Cash Collateral is Appropriate.

44. By this Motion, the Debtors also seek immediate use of Cash Collateral in a manner consistent with the terms of the DIP Credit Agreement. As set forth below, this request, which comports with Bankruptcy Rules and applicable law, is essential to the Debtors' ability to maintain and maximize the value of their businesses during the pendency of these Chapter 11 Cases.

45. Section 363(c)(2) of the Bankruptcy Code provides that a debtor in possession may not use cash collateral unless (i) each entity that has an interest in such cash collateral provides consent, or (ii) the court approves the use of cash collateral after notice and a hearing. *See* 11 U.S.C. § 363(c). As explained above, the Pre-Petition Secured Parties have consented to the Debtors' immediate use of cash collateral in connection with entry into the DIP Facility, and are receiving adequate protection on the basis set forth above. As a result, the requirements of section 363(c)(2) are satisfied.

46. Bankruptcy Rule 4001(b) permits a court to approve a debtor's request for use of cash collateral during the 14-day period following the filing of a motion requesting authorization to use cash collateral, "only . . . as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing." Bankruptcy Rule 4001(b)(2). In examining requests for interim relief under this rule, courts apply the same business judgment standard applicable to other business decisions. *See, e.g.*, *In re Simasko Prod. Co.*, 47 B.R. 444, 449 (D. Colo. 1985); *see also In re Ames Dep't Stores Inc.*, 115 B.R. 34, 38 (Bankr. S.D.N.Y. 1990). After the 14-day

period, the request for use of cash collateral is not limited to those amounts necessary to prevent harm to the debtor's business.

47. The Debtors submit that the requirements of Bankruptcy Rule 4001(b) are met. To operate and manage the Debtors' business, the Debtors require the use of Cash Collateral. Such use will provide the Debtors with the necessary funds to fully honor all obligations arising in the ordinary course of their business, maximizing the value of the estates, and allowing the Debtors to conduct the Store Closing Sales and Going Concern Sale Process while these Chapter 11 Cases are pending. Failure to grant such relief would result in an immediate cessation of the Debtors' operations, which would cause substantial and irreparable harm to the Debtors' estates. Accordingly, the Debtors' request that the Court authorize the Debtors' immediate use of Cash Collateral.

D. Modification of the Automatic Stay is Appropriate.

48. The Interim Order contemplates that the automatic stay arising under section 362 of the Bankruptcy Code shall be modified as necessary to permit the DIP Agent to effectuate all of the terms and provisions of the Interim Order and the DIP Financing Documents, including without limitation the application of collections, authorization to make payments, granting of liens, and perfection of liens.

49. Stay modification provisions of this sort are ordinary features of debtor-in-possession financing and, in the Debtors' sound business judgment, are reasonable under the circumstances. *See, e.g.*, *In Am. Apparel, Inc.*, Case No. 15-12055 (BLS) [Docket No. 248] (Bankr. D. Del. Nov. 2, 2015) (authorizing stay modifications in order to permit DIP lenders to exercise remedies upon an event of default); *In re Molycorp, Inc.*, Case No. 15-11357 (CSS) [Docket No. 278] (Bankr. D. Del. July 24, 2015) (modifying automatic stay as necessary to effectuate the terms of the order); *In re Coldwater Creek, Inc.*, Case No. 14-10867 (BLS)

[Docket No. 573] (Bankr. D. Del. June 12, 2014) (modifying stay to authorize exercise of remedies upon default); *In re Broadway 401 LLC*, Case No. 10-10070 (KJC) [Docket No. 55] (Bankr. D. Del. Feb. 16, 2010) (modifying the stay to the extent necessary to effectuate the order). Accordingly, the Debtors respectfully request that the Court authorize the modification of the automatic stay in accordance with the terms of the Proposed Orders.

E. Interim and Final Hearings Should Be Scheduled.

50. Bankruptcy Rules 4001(b)(2) and (c)(2) provide that a final hearing on the Motion may not be commenced earlier than fourteen (14) days after the service of such motion. Upon request, however, the Court is empowered to conduct a preliminary expedited hearing on the motion and to authorize the obtaining of credit to the extent necessary to avoid immediate and irreparable harm to the Debtors estates.

51. The Debtors request that the Court schedule hearings on the Motion as follows: (i) an interim hearing to be held at the Court's earliest opportunity to authorize the Debtors to obtain credit under the terms contained in the DIP Credit Agreement until the final hearing; and (ii) a final hearing to be held on a date to be determined by the Court to approve the Motion on a final basis.

52. Based upon the foregoing, the Debtors respectfully request that the Court grant interim approval of the DIP Facility in accordance with the terms set forth in the proposed Interim Order and the DIP Credit Agreement.

NOTICE

53. Notice of this Motion shall be given to (i) the United States Trustee for the District of Delaware; (ii) the Internal Revenue Service and all taxing authorities of states in which the Debtors are doing business; (iii) counsel to the Pre-Petition ABL Agent and the DIP Agent; (iv) counsel to the Pre-Petition Subordinated Lender; (v) the holders of the twenty (20)

largest unsecured claims against the Debtors' estates; (vi) all parties known to the Debtors who hold any liens or security interests in the Debtors' assets, including those parties who have filed UCC-1 financing statements against the Debtors, or who, to the Debtors' knowledge, have asserted any liens on any of the Debtors' assets; (vii) all landlords and warehouseman of the Debtors; (viii) all guarantors of the Pre-Petition Obligations or Pre-Petition Subordinated Obligations; (ix) all creditors known to the Debtors to be holding a judgment against any of the Debtors; (x) any governmental bodies holding a claim against the Debtors; (xi) any other parties claiming an interest in the Pre-Petition Collateral; and (xii) all other parties entitled to receive notice pursuant to the Bankruptcy Rules and the Local Rules. Notice of this Motion and any order entered hereon will be served in accordance with Local Rule 9013-1(m). The Debtors submit that no other or further notice need be provided.

[*Remainder of Page Intentionally Left Blank*]

CONCLUSION

WHEREFORE, the Debtors respectfully request that this Court enter the Proposed Orders, granting the relief requested herein and such other and further relief as is just and proper.

Dated: August 16, 2019
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

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Proposed Counsel to the Debtors and Debtors in Possession

EXHIBIT A

Proposed Interim Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
AVENUE STORES, LLC, *et al.*,[1]	Case No. 19-11842 (LSS)
Debtors.	(Joint Administration Requested)

ORDER (I) AUTHORIZING THE DEBTORS, ON AN INTERIM BASIS, TO (A) OBTAIN POST-PETITION FINANCING, (B) GRANT LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS TO POST-PETITION LENDERS AND (C) UTILIZE CASH COLLATERAL, (II) PROVIDING ADEQUATE PROTECTION TO THE PRE-PETITION SECURED PARTIES, (III) MODIFYING THE AUTOMATIC STAY, (IV) GRANTING RELATED RELIEF, PURSUANT TO 11 U.S.C. SECTIONS 105, 361, 362, 363, 364 AND 507, AND (V) SCHEDULING A FINAL HEARING PURSUANT TO BANKRUPTCY RULE 4001 AND LOCAL RULE 4001-2

Upon the motion ("**Motion**") of Avenue Stores, LLC ("**Avenue Stores**") and Ornatus URG Gift Cards, LLC ("**Ornatus Gift Cards**" with Avenue Stores collectively referred to as "**Borrower**"), Orantus URG Holdings, LLC ("**Ornatus Holdings**"), and Ornatus URG Real Estate, LLC ("**Ornatus RE**" collectively, with Borrowers and Ornatus Holdings, the "**Debtors**" and each, a "**Debtor**") in the above-captioned Chapter 11 cases (collectively, "**Cases**"), pursuant to Sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d), and 507(b) of Title 11 of the United States Code, 11 U.S.C. § 101 *et seq.* ("**Bankruptcy Code**") and Rules 2002, 4001, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure ("**Bankruptcy Rules**") and Rule 2002-1, 4001-2, and 9013-1 of the Local Rules of Bankruptcy Practice and Procedure ("**Local Rules**") of the United States Bankruptcy Court for the District of Delaware (this "**Court**") seeking entry of an interim order (this "**Interim Order**") and a final order (the "**Final Order**")

[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: Avenue Stores, LLC (0838); Ornatus URG Holdings, LLC (1146); Ornatus URG Real Estate, LLC (9565); and Ornatus URG Gift Cards, LLC (9203). The Debtors' headquarters are located at 365 West Passaic Street, Suite 230, Rochelle Park, New Jersey 07662.

granting the following relief to be provided on an interim basis until the date that a Final Order has been entered (such interim period being the "**Interim Period**"):

1. authorization and approval for the Debtors to obtain up to $12,000,000 in post-petition financing (the "**DIP Facility**") pursuant to and in accordance with the terms and conditions of a certain Debtor-In-Possession Credit Agreement (as it may be amended, modified, supplemented, extended, restated or replaced from time to time, the "**DIP Credit Agreement**"), substantially as filed with the Court, by and among the Debtors, as borrowers, PNC Bank, National Association, in its capacity as administrative agent and collateral agent, (in such capacity, "**DIP Agent**") and the financial institutions from time to time party thereto, as lenders, (collectively, including any financial institution that may issue letters of credit on behalf of any Debtor, "**DIP Lenders**" and together with the DIP Agent, the "**DIP Secured Parties**"), which may, inter alia, be used for the following purposes:

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

b) for making adequate protection payments and other payments as provided in this Interim Order;

c) for making payment of transaction expenses as well as fees, costs and other expenses as provided in this Interim Order; and

d) upon entry of the Final Order, in the DIP Agent's sole discretion, making payment in full of all outstanding amounts owing under the Pre-Petition ABL Credit Agreement (as defined below) (the "**Final Roll-Up**").

2. approval of and authorization and direction for Debtors to (a) enter into, execute and perform under (i) the DIP Credit Agreement and (ii) all security agreements, pledge

agreements, notes, guarantees, mortgages, deeds of trust, control agreements, Uniform Commercial Code financing statements, certificates, reports and other agreements, documents and instruments either or both executed and/or delivered with or to the DIP Agent and/or the DIP Lenders in connection with or related thereto (collectively, as amended, modified, supplemented, extended, restated or replaced from time to time, the "**DIP Financing Documents**") and (b) take and perform all other acts and steps as may be required or contemplated by or in connection with the DIP Financing Documents and this Interim Order;

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

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

5. authorizing the Debtors' use in accordance with the terms of the DIP Financing Documents and as limited by the Approved Budget of "cash collateral" ("**Cash Collateral**") as such term is defined in section 363 of the Bankruptcy Code and shall include, without limitation, all cash and cash equivalents of the Debtors, whenever or wherever acquired, and the proceeds of

all collateral pledged to the Pre-Petition ABL Agent (as defined below) and to the DIP Agent, as well as the Pre-Petition Subordinated Lender, all in accordance with the terms set forth herein;

6. granting adequate protection, including without limitation Adequate Protection Liens, First Lien Adequate Protection Claims, and First Lien Adequate Protection Payments (each as defined below) to (a) PNC Bank, National Association, in its capacity as administrative agent and collateral agent, (in such capacities, the "**Pre-Petition ABL Agent**) under that certain Revolving Credit and Security Agreement dated as of April 12, 2019 (as amended, modified, supplemented, or extended from time to time, the "**Pre-Petition ABL Credit Agreement**") by and among the Debtors, the Pre-Petition ABL Agent and the financial institutions party thereto from time to time (collectively, the "**Pre-Petition ABL Lenders**", and together with the Pre-Petition ABL Agent, sometimes collectively referred to as the "**Pre-Petition ABL Secured Parties**") and all security agreements, pledge agreements, notes, mortgages, guarantees, control agreements, collateral access agreements, subordination agreements, and related agreements and documents (collectively, with the Pre-Petition ABL Credit Agreement, as amended, modified, supplemented, extended, restated or replaced from time to time, the "**Pre-Petition ABL Financing Documents**"), (b) the Pre-Petition ABL Lenders, and (c) Ornatus URG Funding, LLC (the "**Pre-Petition Subordinated Lender**") under that certain Master Subordinated Note dated as of April 12, 2019 (as amended, modified, supplemented, or extended from time to time, the "**Pre-Petition Subordinated Note**") made by Ornatus Holdings, as Payor, Avenue Stores, Ornatus Gift Cards, and Ornatus URG Real Estate, LLC, as Obligors, and payable to Pre-Petition Subordinated Lender, as Payee, and acknowledged by the Pre-Petition ABL Agent, and all related agreements and documents, including, but not limited to the Liquidity Support Agreement dated as of April 12, 2019 by and among Avenue Stores, LLC, Ornatus Gift Cards,

Ornatus Holdings, and Pre-Petition Subordinated Lender (collectively, with the Pre-Petition Subordinated Note, as amended, modified, supplemented, extended, restated or replaced from time to time, the "**Pre-Petition Subordinated Financing Documents**"), all such adequate protection with the priority set forth in this Interim Order and otherwise in accordance with the terms set forth in this Interim Order, with respect to the use and aggregate diminution in the value of their respective interests in the Pre-Petition Collateral (as defined below), including the Cash Collateral;

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

8. solely upon entry of the Final Order, the waiver by the Debtors of (a) any right to surcharge the DIP Collateral and the Prepetition Collateral pursuant to section 506(c) of the Bankruptcy Code, (b) any rights under the "equities of the case" exception in section 552(b) of the Bankruptcy Code, and (c) the equitable doctrine of "marshaling" or any similar doctrine with respect to the DIP Collateral and the Prepetition Collateral;

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

10. waiving any applicable stay (including under Bankruptcy Rule 6004) and provision for immediate effectiveness of this Interim Order: and

11. scheduling a final hearing on the Motion ("**Final Hearing**") for entry of a Final Order authorizing the post-petition financing and use of cash collateral contemplated hereby on a

final basis and granting such other relief as is requested in the Motion and approving the form of notice with respect to the Final Hearing.

Notice of the Motion, the relief requested therein, and the Interim Hearing (as defined below) ("**Notice**") having been served by the Debtors in accordance with Bankruptcy Rule 4001(c) on: (i) the United States Trustee for the District of Delaware ("**U.S. Trustee**"); (ii) the Internal Revenue Service and all taxing authorities of states in which the Debtors are doing business; (iii) counsel to the Pre-Petition ABL Agent and the DIP Agent; (iv) counsel to the Pre-Petition Subordinated Lender; (v) the holders of the twenty (20) largest unsecured claims against the Debtors' Estates; (vi) all parties known to the Debtors who hold any liens or security interests in the Debtors' assets, including those parties who have filed UCC-1 financing statements against the Debtors, or who, to the Debtors' knowledge, have asserted any liens on any of the Debtors' assets; (vii) all landlords and warehouseman of the Debtors; (viii) all guarantors of the Pre-Petition Obligations or Pre-Petition Subordinated Obligations; (ix) all creditors known to the Debtors to be holding a judgment against any of the Debtors; (x) any governmental bodies holding a claim against the Debtors; (xi) any other parties claiming an interest in the Pre-Petition Collateral; and (xii) all other parties entitled to receive notice pursuant to the Bankruptcy Rules and the Local Rules (collectively, the "**Noticed Parties**").

The initial hearing on the Motion having been held by this Court on _____, 2019 ("**Interim Hearing**").

Based upon the record made by the Debtors at the Interim Hearing, including the Motion, the Declaration of David Rhoads filed contemporaneously with the Motion (the "**First Day Declaration**"), and the filings and pleadings in the Cases, with all objections, if any, to the entry of the Interim Order having been withdrawn, resolved or overruled, and after due deliberation

and consideration, and good and sufficient cause appearing therefor:

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[2]

A. Petition. On August 16, 2019 ("**Petition Date**"), each Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No trustee or examiner has been appointed in the Chapter 11 cases and no official committee of unsecured creditors (a "**Committee**"), or any other statutory committee has been appointed in these Chapter 11 cases.

B. Jurisdiction and Venue. The Court has jurisdiction of these Cases, the Motion, this Interim Order and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. The Motion is a "core" proceeding as defined in 28 U.S.C. §§ 157(b)(2)(A), (D) and (M). Venue of the Cases and the Motion in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

C. Notice. The Interim Hearing is being held pursuant to the authorization of Bankruptcy Rule 4001. Under the circumstances, the Notice given by the Debtors of the Motion, the Interim Hearing and the relief sought herein to the Noticed Parties in accordance with Bankruptcy Rule 4001(b) and (c) is proper, timely and sufficient and no other notice need be given.

D. Debtors' Acknowledgments and Agreements. Without prejudice to the rights of

[2] Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact pursuant to Fed. R. Bankr. P. 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. Any statements of the Court from the bench at the Interim Hearing shall constitute additional findings of fact and conclusions of law as appropriate and are expressly incorporated by reference into this Interim Order to the extent not inconsistent herewith.

certain non-Debtor parties specifically set forth in Section IX below, the Debtors admit, stipulate, acknowledge, and agree that:

(1) Pre-Petition ABL Financing Documents. Prior to the commencement of the Cases, the Pre-Petition ABL Secured Parties made loans, advances and provided other financial accommodations pursuant to the Pre-Petition ABL Financing Documents to the Borrower. Ornatus RE ("**Pre-Petition ABL Guarantor**") guaranteed the Pre-Petition Obligations (as defined below) of the Borrower under the Pre-Petition ABL Credit Agreement as provided in Article XVII of the Pre-Petition ABL Credit Agreement. The Pre-Petition Obligations (as defined below) shall be deemed to have been automatically accelerated on the Petition Date as a result of the commencement of the Cases in accordance with the terms of the Pre-Petition ABL Financing Documents and all commitments of the Pre-Petition ABL Secured Parties have been terminated.

(2) Pre-Petition Obligations.

a) As of the Petition Date, the aggregate amount of all Obligations (as defined in the Pre-Petition ABL Credit Agreement) owing by Pre-Petition Borrower to the Pre-Petition ABL Secured Parties under and in connection with the Pre-Petition ABL Financing Documents was not less than (a) $15,262,763.08, consisting of Revolving Advances outstanding under (and as defined in) the Pre-Petition ABL Credit Agreement, plus interest accrued and accruing thereon at the rate in effect on the Petition Date, plus (b) outstanding letters of credit in the aggregate amount of $1,006,246.23, plus (c) accrued and accruing fees, plus (d) all accrued and accruing costs and expenses (including attorneys' fees and legal expenses), plus (e) all accrued and accruing charges and obligations in respect of Cash Management Products and Services (as defined in the Pre-Petition ABL Credit Agreement), plus (f) any other charges and

liabilities accrued, accruing or chargeable, whether due or to become due, matured or contingent, under the Pre-Petition ABL Credit Agreement (collectively, "**Pre-Petition Obligations**"; together with the Post-Petition Obligations, the "**ABL Obligations**"). Without limiting the foregoing, the Pre-Petition Obligations shall include all indemnification obligations of Borrower and Guarantors to the Pre-Petition ABL Secured Parties arising under the Pre-Petition ABL Financing Documents, including without limitation the indemnitee and other protections provided to indemnitees under the obligations arising under the Pre-Petition ABL Credit Agreement which survive payment in full of the Pre-Petition Obligations.

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

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

a) As of the Petition Date, the Pre-Petition Obligations were secured pursuant to the Pre-Petition ABL Financing Documents by valid, binding, perfected, enforceable and non-avoidable first priority security interests and liens ("**Pre-Petition ABL Liens**") granted by Borrower to the Pre-Petition ABL Agent, for the benefit of itself and the Pre-Petition ABL Lenders, upon the Collateral (as defined in the Pre-Petition ABL Credit Agreement, hereafter "**Pre-Petition Collateral**"), subject only to any valid, perfected and unavoidable lien or security

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

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

c) The Debtors do not possess and will not assert any claim, counterclaim, setoff, deduction, or defense of any kind, nature or description which would in any way impair, reduce, or affect the validity, enforceability and non-avoidability of any of the Pre-Petition ABL Secured Parties' liens, claims or security interests in the Pre-Petition Collateral, which liens and security interests are not subject to subordination or avoidance pursuant to the Bankruptcy Code or any other applicable law.

(4) Pre-Petition Subordinated Financing Documents. Prior to the commencement of the Cases, the Pre-Petition Subordinated Lender made certain loans (the "**Pre-**

Petition Subordinated Loan") to Ornatus Holdings pursuant to the Pre-Petition Subordinated Financing Documents. Avenue Stores, Ornatus Gift Cards, and Ornatus URG Real Estate, LLC (collectively, "**Pre-Petition Subordinated Guarantors**") guaranteed the obligations of Ornatus Holdings under the Pre-Petition Subordinated Note as provided in the Pre-Petition Subordinated Note, which was executed by each of the Pre-Petition Subordinated Guarantors.

(5) Pre-Petition Subordinated Obligations.

a) As of the Petition Date, the aggregate amount of all Subordinated Obligations (as defined in the Pre-Petition Subordinated Note) owing by the Payor (as defined in the Pre-Petition Subordinated Note) to the Pre-Petition Subordinated Lender under and in connection with the Pre-Petition Subordinated Financing Documents was not less than (a) $38,903,531.80 in respect of the Pre-Petition Subordinated Note, plus interest accrued and accruing thereon at the rate in effect on the Petition Date, plus (b) accrued and accruing fees, plus (c) all accrued and accruing costs and expenses (including attorneys' fees and legal expenses), plus (d) any other charges and liabilities accrued, accruing or chargeable, whether due or to become due, matured or contingent, under the Pre-Petition Subordinated Note (collectively, "**Pre-Petition Subordinated Obligations**").

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

any of the Pre-Petition Subordinated Obligations.

(6) Pre-Petition Collateral (for Pre-Petition Subordinated Obligations).

a) As of the Petition Date, the Pre-Petition Subordinated Obligations were secured pursuant to the Pre-Petition Subordinated Financing Documents by valid, binding, perfected, enforceable and non-avoidable second priority security interests and liens granted by the Debtors to the Pre-Petition Subordinated Lender upon the Collateral (as defined in the Pre-Petition Subordinated Note and hereafter, the "**Subordinated Collateral**"), subject and junior in priority only to (i) the liens of the Pre-Petition ABL Secured Parties and (ii) the Senior Liens.

b) The Pre-Petition Subordinated Lender has a valid, binding and perfected nonavoidable and second priority security interest and lien in all of each Debtor's Cash Collateral, including all amounts on deposit in all of each Debtor's banking, checking or other deposit accounts subject and junior in priority only to the liens therein held by the Pre-Petition ABL Secured Parties.

c) The Debtors do not possess and will not assert any claim, counterclaim, setoff, deduction, or defense of any kind, nature or description which would in any way impair, reduce, or affect the validity, enforceability and non-avoidability of any of the Pre-Petition Subordinated Lender's liens, claims or security interests in the Collateral (as defined in the Pre-Petition Subordinated Note), which liens and security interests are not subject to subordination (other than as set forth in the Pre-Petition Subordinated Note and herein to the Pre-Petition ABL Secured Parties) or avoidance pursuant to the Bankruptcy Code or any other applicable law.

(7) For the purposes hereof, the Pre-Petition ABL Secured Parties and Pre-Petition Subordinated Lender are sometimes collectively referred to herein as the "**Pre-Petition**

Secured Parties."

E. Adequate Protection.

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

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

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

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

G. Findings Regarding the Post-Petition Financing.

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

(2) Need for Post-Petition Financing. The Debtors do not have sufficient available sources of working capital to operate the Debtors' businesses in the ordinary course without the DIP Facility and the ability to use Cash Collateral as described in this Interim Order. The Debtors' ability to maintain business relationships with their vendors, suppliers, and customers, to pay their employees, and to otherwise fund their operations is essential to the viability of the Cases. The ability of the Debtors to obtain sufficient working capital and liquidity through the proposed DIP Facility and the use of Cash Collateral on the terms set forth in the DIP Financing Documents and this Interim Order is vital to the preservation and maximization of the going concern value of one or more of the Debtors' currently operating businesses pending sale(s) of the Debtors' assets. Accordingly, the Debtors have an immediate need to obtain funds from the DIP Facility and authorization to use Cash Collateral for the limited purposes set forth herein in order to, among other things, permit the orderly operation and winddown of their retail business, support a process for a going concern sale of their E-Commerce Business Assets, minimize disruption of their business operations, and manage and preserve the assets of the Debtors' bankruptcy estates (as defined under Bankruptcy Code section 541, the "**Estates**") in order to maximize the recoveries to creditors of the Estates.

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

favorable than the financing offered by the DIP Agent and the DIP Lenders pursuant to the DIP Financing Documents and this Interim Order.

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

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

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

(6) No Objection. The Pre-Petition Secured Parties have no objection to the DIP Facility and the use of Cash Collateral on the terms and conditions set forth in this Interim Order. Nothing in this Interim Order, including, without limitation, any of the provisions herein with respect to adequate protection, shall constitute, or be deemed to constitute, a finding that the interests of the Pre-Petition Secured Parties are or will be adequately protected with respect to any non-consensual use of Cash Collateral.

(7) Good Cause. The relief requested in the Motion is necessary, essential and appropriate, and is in the best interest of and will benefit the Debtors and their Estates, as its implementation will, among other things, provide the Debtors with the necessary liquidity to (a) minimize disruption to the Debtors' efforts for the orderly operation and winddown of their retail business and support a process for a going concern sale of their E-Commerce Business Assets, (b) preserve and maximize the value of the Debtors' Estates, and (c) avoid immediate and irreparable harm to the Debtors, their respective businesses, employees, and assets.

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

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

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that:

I. Authorization and Terms of Financing.

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

B. Authorization to Borrow. Borrower is hereby authorized and empowered to immediately borrow and obtain Revolving Advances (and, at the discretion of the DIP Agent and the DIP Lenders, Letters of Credit (which term shall include letters of credit issued under the Pre-Petition ABL Financing Documents and which letters of credit shall be deemed to have been issued under the DIP Financing Documents) and Borrower and Guarantors are hereby authorized and empowered to incur indebtedness and obligations owing to the DIP Agent and the DIP Lenders on the terms and subject to the conditions (including without limitation borrowing formulae, sublimits and availability restrictions) set forth in the DIP Financing Documents and this Interim Order up to the maximum amount of $12,000,000, subject, as applicable, to the Approved Budget (with any variances permitted thereto under the terms and conditions of the DIP Credit Agreement) and to entry of the Final Order.

C. Financing Documents.

(1) Authorization. Borrower and Guarantors are hereby authorized and empowered to (a) enter into, execute, deliver, perform, and comply with all of the terms, conditions, and covenants of the DIP Financing Documents, including without limitation, the DIP Credit Agreement, and all security and pledge agreements, (b) execute and deliver all certificates, reports, statements and other agreements and documents required or contemplated by the DIP Financing Documents (including without limitation documents required for the Debtors' performance of their obligations under the DIP Financing Documents and creation and perfection of liens granted or contemplated therein, and (c) pay all obligations incurred under or

described in (whether principal, interest, fees, costs, expenses, indemnities or otherwise) and perform all other undertakings and acts required or contemplated by the DIP Financing Documents.

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

(3) Amendment of DIP Financing Documents. The Debtors, the DIP Agent, and the DIP Lenders are hereby authorized to approve and implement, in accordance with the terms of the DIP Financing Documents, any modification of the DIP Financing Documents; provided, however, that any material modification or amendment to the DIP Financing Documents shall be subject to providing notice of such material modification or amendment to counsel to any Committee and the U.S. Trustee each of whom shall have five (5) business days from the date of such notice within which to object in writing to such modification or amendment unless the Committee and U.S. Trustee agree in writing to a shorter period. Unless the Committee or the U.S. Trustee timely objects to any material modification or amendment to the DIP Financing Documents, then such modification or amendment shall become effective upon the expiration of the aforementioned notice period. If a timely objection is interposed, the Court shall resolve such objection prior to such modification or amendment becoming effective.

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

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

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

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

d) upon entry of a Final Order, for payment, in whole or in part, at the discretion of the DIP Agent, of the Final Roll-Up; and

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

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

D. Payments and Application of Payments. The Debtors are authorized to make all payments and transfers of the Debtors' Estates property to the DIP Agent and the DIP Lenders as provided, permitted or required under the DIP Financing Documents and this Interim Order, which payments and transfers shall not be avoidable or recoverable from the DIP Lenders under Bankruptcy Code section 547, 548, 550, 553, or any other section thereof, or be subject to any other claim, charge, assessment, or other liability, whether by application of the Bankruptcy Code, other law, or otherwise. Without limiting the generality of the foregoing, Borrower and Guarantors are authorized and directed, without further order of this Court, to (i) pay all

principal, interest, fees and indemnities, when due, under the DIP Financing Documents and (ii) pay or reimburse the DIP Agent and the DIP Lenders, in accordance with the DIP Financing Documents, for all present and future costs and expenses, including, without limitation, all reasonable and documented professional fees, consultant fees, and legal fees and expenses paid or incurred by the DIP Agent and the DIP Lenders in connection with the financing transactions as provided in the DIP Financing Documents and this Interim Order, regardless of whether such amounts are in the Budget, all of which shall be and are included as part of the principal amount of the Obligations (as defined in the DIP Credit Agreement) under the DIP Financing Documents and secured by the DIP Collateral (as defined below); provided that DIP Agent shall send a redacted summary invoice of such fees and expenses (subject in all respects to applicable privilege or work product doctrines) to Debtors, the U.S. Trustee and, if appointed, the Committee or its counsel and such invoices shall be promptly paid by Debtors if no objection has been raised within ten (10) days, and to the extent there is an objection, the Court may resolve the objection.

E. Interest and Fees. The rate(s) of interest to be charged for the Revolving Advances under the DIP Facility pursuant to the DIP Credit Agreement shall be the rates set forth in the DIP Credit Agreement and shall be calculated in the manner and payable at the times set forth in the DIP Credit Agreement. The fees charged under the DIP Facility shall be those set forth in the DIP Credit Agreement and shall be unconditionally payable in the amounts and at the times set forth in the DIP Credit Agreement, including without limitation the Closing Fee, which is absolutely and unconditionally earned upon execution of the DIP Credit Agreement, and shall be non-refundable.

F. Interim Period Application of Collections. During the Interim Period, all cash,

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

G. Continuation of Pre-petition Procedures. All pre-petition practices and procedures for the payment and collection of proceeds of Pre-Petition Collateral and DIP Collateral, as applicable, the turnover of cash, the delivery of property to the Pre-Petition ABL Secured Parties, and the funding pursuant to the Pre-Petition ABL Credit Agreement, including use of any lockbox or blocked depository bank account arrangements, will be unchanged, remain in place and be identical under the DIP Financing Documents for the benefit of the DIP Agent and the DIP Lenders and are hereby approved and shall continue without interruption after the commencement of the Cases, provided that the practices and procedures are otherwise consistent with the terms of the Order approving the *Debtors Motion for Entry of Interim and Final Orders (I) Authorizing Continued Use of Cash Management System; (II) Authorizing Use of Prepetition Bank Accounts and Certain Payment Methods; (III) Waiving the Requirements of 11 U.S.C. § 345(B) on an Interim Basis; and (IV) Granting Related Relief.*

H. Final Roll-Up. Upon entry of the Final Order, and subject to the rights of parties set forth in Section IX below, at the option of DIP Agent, the Debtors may use the proceeds of the next advance (or deemed advance) under the DIP Credit Agreement to satisfy all Pre-Petition Obligations in full in accordance with the terms of the Prepetition Credit Agreement. The Final

Roll-Up will be without prejudice to the rights of any third party, including, without limitation, any Committee, to seek any appropriate remedy from the Court in the event of a successful Challenge (as defined below).

II. Collateralization and Superpriority Administrative Claim Status.

A. Collateralization.

(1) DIP Lien Grant. To secure the prompt payment and performance of any and all Post-Petition Obligations of Borrower and Guarantors to the DIP Agent and the DIP Lenders of whatever kind, nature, or description, absolute or contingent, now existing or hereafter arising, the DIP Agent, for the benefit of itself and the DIP Lenders, shall have and is hereby granted, effective nunc pro tunc as of the Petition Date, valid, binding, enforceable, continuing, non-avoidable and perfected first priority (subject only to any Senior Liens and the Carve-Out), security interests and liens in and upon (such security interests and liens collectively, "**DIP Liens**") all property and rights and interests in property of each of the Debtors of any kind or nature whatsoever in existence as of the Petition Date as well as thereafter created or acquired, and wherever located, including without limitation, (a) all Pre-Petition Collateral, (b) all accounts and accounts receivable, inventory, chattel paper, equipment, fixtures, machinery, commercial tort claims, deposit accounts, instruments, documents, cash and cash equivalents, investment property (including without limitation all equity interests in subsidiaries), books and records, patents, trademarks, trade names, copyrights, rights under license agreements and all other intellectual property, rights, rebates, refunds and other claims under and with respect to insurance policies, tax refunds, deposits, rebates, contract rights and other general intangibles, software, letter of credit rights, money and inter-company claims or receivables (whether or not evidenced by notes) at any time owing to each Debtor, (c) all real

property, leaseholds, rents and profits and proceeds thereof; (provided, however, that as to a lien on all fee, leasehold, and other real property interests and the proceeds thereof: (i) with respect to non-residential real property leases, no liens or encumbrances shall be granted or extended to such leases under this Interim Order, except as permitted by the applicable lease or pursuant to applicable law, but if any such restriction applies, liens shall then be deemed to extend only to the economic value of proceeds of any sale or other disposition of, and any other proceeds or products of, such leasehold interests; and (ii) should any DIP Lender's internal regulatory or compliance requirements require the completion of either or both flood due diligence and obtaining evidence of applicable flood insurance with respect to any real property or leasehold interest, then until completion of such flood due diligence, the DIP Agent shall be deemed to have obtained a lien only on the economic value of, proceeds of any sale or other disposition of such real property interests), (d) if not otherwise described, all of the property or rights in property identified as Collateral (as defined in the Pre-Petition ABL Credit Agreement, and the DIP Credit Agreement), (e) all causes of action whether pursuant to federal or applicable state law, and the proceeds thereof and property received thereby whether by judgment, settlement, or otherwise, and upon entry of the Final Order, all claims and causes of action under Chapter 5 of the Bankruptcy Code or any other avoidance actions under the Bankruptcy Code (collectively, "**Avoidance Actions**") of the Debtors or their Estates, and (f) as to all of the foregoing, all rents, issues, products, proceeds (including insurance policies), and profits of, from, or generated by any of the foregoing (all of the foregoing being sometimes collectively referred to in this Interim Order as "**DIP Collateral**").

(2) Subject, in each instance, to the Carve-Out, the DIP Liens shall be:

a) Liens on Unencumbered Assets. Pursuant to Bankruptcy Code

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

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

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

d) Liens Senior to Certain Other Liens. Notwithstanding anything to the contrary contained in this Interim Order, the DIP Liens and the First Lien Adequate Protection Liens (as defined below) shall not be subject or subordinate to (i) any lien or security interest that is avoided or preserved for the benefit of the Debtors or their Estates under Bankruptcy Code section 551 or (ii) any intercompany or affiliate liens of the Debtors.

(3) Post-Petition Lien Perfection. This Interim Order shall be sufficient and

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

no defect or failure in connection with such attempt shall in any way limit, waive, or alter the validity, enforceability, attachment, priority, or perfection of the DIP Liens, the First Lien Adequate Protection Liens or the Second Lien Adequate Protection Liens granted herein by virtue of the entry of this Interim Order.

B. Subordination of Pre-Petition Subordinated Obligations. Consistent with the terms of this Interim Order and the Pre-Petition Subordinated Note, the liens and security interests granted to the Pre-Petition ABL Agent and the DIP Agent pursuant to the Pre-Petition ABL Financing Documents, the DIP Financing Documents, and this Interim Order shall have priority over any and all liens and security interests granted to the Pre-Petition Subordinated Lender to secure the Pre-Petition Subordinated Obligations or any Subordinated Adequate Protection Liens and the rights of the parties with respect to such liens and security interests shall be governed by the Pre-Petition Subordinated Note. Without the consent of the DIP Agent or Pre-Petition ABL Agent, as applicable, until the later to occur of (i) the Payment in Full (as such term is defined in the Pre-Petition Subordinated Note) of the respective Pre-Petition Obligations and Post-Petition Obligations outstanding under the Pre-Petition Financing Documents and the DIP Financing Documents, as applicable, and (ii) the expiration of the Challenge Period with no Challenge having been asserted or threatened, Pre-Petition Subordinated Lender shall (i) take no action to foreclose upon or otherwise exercise remedies against any DIP Collateral, (ii) be deemed to have consented to any release of DIP Collateral in connection with any disposition of any DIP Collateral authorized under the Pre-Petition Financing Documents or the DIP Financing Documents or otherwise consented to by the DIP Lenders and, effective upon such release, be deemed to automatically release the Pre-Petition Subordinated Lender's liens therein (but not the proceeds of such DIP Collateral that are in excess of Payment in Full (as such term is defined in

the Pre-Petition Subordinated Note) of the respective Pre-Petition Obligations and Post-Petition Obligations secured by the liens held by the Pre-Petition ABL Agent and the DIP Agent) without further notice to, consent of, or action on the part of Pre-Petition Subordinated Lender, to the same extent as the release of the liens of the Pre-Petition ABL Agent and the DIP Agent on such DIP Collateral, with any such liens of the Pre-Petition Subordinated Lender attaching to the proceeds that are in excess of Payment in Full (as such term is defined in the Pre-Petition Subordinated Note) of the respective Pre-Petition Obligations and Post-Petition Obligations secured by the liens held by the Pre-Petition ABL Agent and the DIP Agent, as applicable, of such disposition with the same validity, extent, and priority existing as immediately prior to the disposition of any such DIP Collateral.

C. Superpriority Administrative Expense.

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

(2) Other than the Carve-Out, (a) effective upon entry of the Final Order with

respect to rights preserved under Section 506(c) of the Bankruptcy Code, no costs or expenses of administration, including without limitation, professional fees allowed and payable under sections 328, 330, and 331 of the Bankruptcy Code, or otherwise, that have been or may be incurred in the Chapter 11 Cases, or in any Successor Cases, and (b) no priority claims are, or will be, senior to, prior to, or on a parity with the DIP Superpriority Claim or the Post-Petition Obligations or with any other claims of the DIP Lenders arising hereunder.

III. Authorization to Use Cash Collateral. Subject to the terms and conditions of this Interim Order, pursuant to Bankruptcy Code section 363(c)(2), the Debtors are authorized to use Cash Collateral in accordance with the DIP Financing Documents and as may be limited by the Approved Budget (subject to variances permitted under the terms and conditions of the DIP Credit Agreement). Absent entry of the Final Order by the Court, the Debtors shall no longer be authorized to use Cash Collateral at the expiration of the Interim Period without the prior written approval of the DIP Agent. Except for the sale of inventory in the ordinary course of Debtors' business or as may be otherwise expressly permitted herein, or in any agency arrangement between Debtors and a third party in connection with the liquidation of the DIP Collateral approved in writing by DIP Agent and Pre-Petition Agent, nothing in this Interim Order shall be deemed to authorize the use, sale, lease, encumbrance, or disposition of any assets of the Debtors or their Estates or the use of any Cash Collateral or other proceeds resulting therefrom. Upon the later to occur of (i) the Payment in Full (as such term is defined in the Pre-Petition Subordinated Note) of the respective Pre-Petition Obligations and Post-Petition Obligations outstanding under the Pre-Petition Financing Documents and the DIP Financing Documents, as applicable, and (ii) the expiration of the Challenge Period with no Challenge having been asserted or threatened, other than funding of the Carve-Out Account in accordance with Section VI of this Interim

Order, the Debtors shall be permitted to use Pre-Petition Collateral and Cash Collateral only pursuant to further agreement with and consent of the Pre-Petition Subordinated Lender.

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

A. First Lien Adequate Protection Liens. Until the indefeasible discharge of the Pre-Petition Obligations, the Pre-Petition ABL Agent, for itself and for the benefit of the Pre-Petition ABL Lenders, is hereby granted valid, binding, enforceable and perfected replacement and additional security interests in and liens ("**First Lien Adequate Protection Liens**") on all the Debtors' right, title, and interest in and to the DIP Collateral to the extent of the First Lien Adequate Protection Obligations, which liens shall be junior in all respects only to the DIP Liens, the Senior Liens and the Carve Out.

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

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

avoided and preserved for the benefit of any Estate pursuant to Bankruptcy Code section 551 shall be made *pari passu* with or senior to the First Lien Adequate Protection Liens.

B. First Lien Adequate Protection Claims. As further adequate protection, to the extent that the First Lien Adequate Protection Liens do not adequately protect the diminution in value of the Pre-Petition ABL Agent's interest in the Pre-Petition Collateral, the Pre-Petition ABL Agent, for the benefit of the Pre-Petition ABL Lenders, is hereby granted an allowed superpriority administrative expense claim ("**First Lien Adequate Protection Claim**") against the Debtors' Estates under Bankruptcy Code sections 503 and 507(b), which shall, subject only to the DIP Superpriority Claim and the Carve-Out, have priority over all other administrative expense claims, priority claims and unsecured claims against the Debtors or their Estates, which are now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses and priority or other claims of the kinds specified in or ordered pursuant to Bankruptcy Code sections 105, 326, 328, 330, 331, 364, 365, 503(a), 503(b), 506(c) (upon entry of the Final Order), 507(a), 507(b), 546(c), 546(d), 726, 1113 and 1114.

C. First Lien Adequate Protection Payments.

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

(2) As further adequate protection, and without limiting any rights of the Pre-Petition ABL Agent, for the benefit of the Pre-Petition ABL Lenders, under Bankruptcy Code section 506(b) which are hereby preserved, the Debtors shall pay or reimburse the Pre-Petition

ABL Agent ("**First Lien Adequate Protection Payments**") for any and all of its reasonable fees, costs, expenses and charges accrued and payable under the Pre-Petition ABL Financing Documents, including, without limitation, the fees and expenses of the Pre-Petition ABL Agent as provided in Section 16.9 of the Pre-Petition ABL Credit Agreement, whether accrued and unpaid pre-petition or accrued and unpaid post-petition, all without further notice, motion or application to, order of, or hearing before, this Court; provided that DIP Agent shall be permitted to include such fees and expenses in the Post-Petition Obligations and make a Revolving Advance for the purposes of effectuating such payment by the Debtors, following submission of a redacted summary invoice to the Debtors, the U.S. Trustee and, if appointed, a Committee or its counsel, of a written invoice (subject in all respects to applicable privilege or work product doctrines) provided no objection has been raised within ten (10) days, and to the extent there is an objection, the Court may resolve the objection. Such written invoices shall include the invoices of (i) Blank Rome LLP, counsel to the Pre-Petition ABL Agent, and (ii) any other professional, advisor, or agent reasonably retained by the Pre-Petition ABL Agent or its counsel in connection with the Pre-Petition ABL Financing Documents pursuant to the Cases; provided that none of such fees and expenses as adequate protection payments hereunder shall be subject to approval by the Court or the United States Trustee Guidelines unless an objection is interposed and cannot be resolved by the parties. No recipient of any such payment shall be required to file with respect thereto any interim or final fee application with the Court. Any and all fees charged under the Pre-Petition ABL Financing Documents shall be as set forth in the Pre-Petition ABL Financing Documents and shall be payable at the times set forth in the Pre-Petition ABL Financing Documents.

V. **Adequate Protection for Pre-Petition Subordinated Lender**. As adequate protection

for the interests of the Pre-Petition Subordinated Lender, on account of the Adequate Protection Obligations owed to the Pre-Petition Subordinated Lender, if any, under applicable bankruptcy law (the "**Second Lien Adequate Protection Obligations**"), the Pre-Petition Subordinated Lender is being provided with adequate protection (collectively, "**Second Lien Adequate Protection**").

A. Second Lien Adequate Protection Liens. Until the indefeasible discharge of the Pre-Petition Subordinated Obligations, the Pre-Petition Subordinated Lender is hereby granted valid, binding, enforceable and perfected replacement and additional security interests in and liens ("**Second Lien Adequate Protection Liens**" together with the First Lien Adequate Protection Liens, collectively, the "**Adequate Protection Liens**") on all the Debtors' right, title, and interest in and to the DIP Collateral to the extent of the Second Lien Adequate Protection Obligations, which liens shall be junior in all respects only to the DIP Liens, the Senior Liens, the Carve-Out, the First Lien Adequate Protection Liens, and the Pre-Petition ABL Liens.

B. Second Lien Adequate Protection Payments. Upon the later to occur of (i) the Payment in Full (as such term is defined in the Pre-Petition Subordinated Note) of the respective Pre-Petition Obligations and Post-Petition Obligations outstanding under the Pre-Petition Financing Documents and the DIP Financing Documents, as applicable, and (ii) the expiration of the Challenge Period with no Challenge having been asserted or threatened:

(1) As further adequate protection, the Pre-Petition Subordinated Lender shall be entitled to interest on account of the outstanding Pre-Petition Obligations as set forth in the Pre-Petition subordinated Financing Documents, which shall accrue and be payable at the times and in the manner set forth in the Pre-Petition Subordinated Financing Documents.

(2) As further adequate protection, and without limiting any rights of the Pre-

Petition Subordinated Lender under Bankruptcy Code section 506(b) which are hereby preserved, the Debtors shall pay or reimburse the Pre-Petition Subordinated Lender for any and all of its reasonable fees, costs, expenses and charges accrued and payable under the Pre-Petition Subordinated Financing Documents, including, without limitation, the fees and expenses of the Pre-Petition Subordinated Lender, whether accrued and unpaid pre-petition or accrued and unpaid post-petition, all without further notice, motion or application to, order of, or hearing before, this Court following submission of a redacted summary invoice to the Debtors, the U.S. Trustee and, if appointed, a Committee or its counsel, of a written invoice (subject in all respects to applicable privilege or work product doctrines) provided no objection has been raised within ten (10) days, and to the extent there is an objection, the Court may resolve the objection. Such written invoices shall include the invoices of (i) Landis Rath & Cobb LLP, counsel to the Pre-Petition Subordinated Lender, and (ii) any other professional, advisor, or agent reasonably retained by the Pre-Petition Subordinated Lender or its counsel in connection with the Pre-Petition Subordinated Financing Documents pursuant to the Cases; provided that none of such fees and expenses as adequate protection payments hereunder shall be subject to approval by the Court or the United States Trustee Guidelines unless an objection is interposed and cannot be resolved by the parties. No recipient of any such payment shall be required to file with respect thereto any interim or final fee application with the Court.

(3) Notwithstanding the forgoing, the Debtors and the Committee, if one is appointed, reserve their rights to assert that, to the extent that any cash payment of interest, fees and expenses as adequate protection to the Pre-Petition Subordinated Lender under this Section V.B. is not allowed under Bankruptcy Code section 506(b) and not allowed on any other basis, such payments may be recharacterized and applied as payments of principal owed under the Pre-

Petition Subordinated Financing Documents; provided, however, that the Pre-Petition Subordinated Lender reserves its rights to assert defenses to any such arguments and to otherwise oppose any such recharacterization or application.

VI. Carve Out.

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

(1) statutory fees payable to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6) with respect to the Debtors (the "**Statutory Fees**"); and

(2) the allowed fees and expenses actually incurred by persons or firms retained by the Debtors or the Committee (if appointed) on or after the Petition Date whose retention is approved by the Bankruptcy Court pursuant to section 327, 328, 363, or 1103 of the Bankruptcy Code (each a "**Professional**" and collectively, the "**Professionals**") in a cumulative, aggregate sum of (i) for the period prior to the occurrence of the delivery of a Carve-Out Trigger Notice (as defined below), an amount not to exceed the lesser of (A) the aggregate weekly amounts budgeted to be funded in advance for each such Professional for such week in accordance with the Approved Budget (to the extent a Carve-Out Trigger Notice is delivered mid-week, pro-rated for such week) and (B) the actual amount of such Allowed Professional Fees for each Professional incurred on or after the Petition Date up through and including the date a Carve-Out Trigger Notice is delivered ("**Allowed Professional Fees**"), subject in all respects to the terms of this Interim Order, the Final Order, and any other interim or other compensation order entered by the Bankruptcy Court (the "**Interim Compensation**

Procedures"). The Carve-Out shall include all Allowed Professional Fees that are incurred or earned (i) at any time before delivery of a Carve-Out Trigger Notice, whether allowed by the Bankruptcy Court prior to or after delivery of a Carve-Out Trigger Notice, subject and limited in all respects to the amounts set forth in the Approved Budget for payment of such Professionals; and (ii) beginning the first day after the delivery by the DIP Agent of written notice (which for the avoidance of doubt may be by electronic mail) of the occurrence of an Event of Default (the "**Carve-Out Trigger Notice**") to the Debtors, the Debtors' counsel, and counsel for any Committee, the fees and expenses incurred by the Professionals retained by the Debtors in an aggregate amount not to exceed $50,000 (the "**Post-EOD Carve-Out Amount**") (the aggregate amount of clauses (1) and (2), collectively, the "**Carve-Out Cap**"); *provided*, *however* the Carve-Out shall not include any bonus, sale transaction fees, success fees, completion fees, substantial contribution fees, or any other fees of similar import of any of the Professionals. Notwithstanding the foregoing, the Carve-Out Trigger Notice shall be deemed to have been delivered to the required notice parties on the Termination Date.

(3) Subject to the terms of this Interim Order, the Carve-Out Cap shall be allocated on a Professional by Professional basis based on the amounts budgeted to be funded in advance for each Professional pursuant to the Budget.

B. Excluded Professional Fees. Notwithstanding anything to the contrary in this Interim Order, neither the Carve-Out, nor the proceeds of any Revolving Advances or DIP Collateral shall be used to pay any Allowed Professional Fees or any other fees or expenses incurred by any Professional in connection with any of the following: (a) an assertion or joinder in any claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination, or similar relief: (i) challenging

the legality, validity, priority, perfection, or enforceability of the Pre-Petition Obligations, the Post-Petition Obligations or Pre-Petition Subordinated Obligations, or the Pre-Petition ABL Agent's, DIP Agent's or Pre-Petition Subordinated Lender's respective liens on and security interests in any of the Pre-Petition Collateral, DIP Collateral, or Subordinated Collateral, as applicable, (ii) seeking to invalidate, set aside, avoid, or subordinate, in whole or in part, the Pre-Petition Obligations or Pre-Petition Subordinated Obligations, or Post-Petition Obligations or the Pre-Petition ABL's, DIP Agent's or Pre-Petition Subordinated Lender's respective liens on and security interests in the Pre-Petition Collateral, the DIP Collateral, or Subordinated Collateral, as applicable, or (iii) preventing, hindering or delaying the Pre-Petition ABL Agent's, DIP Agent's or Pre-Petition Subordinated Lender's respective assertion or enforcement of any lien, claim, right, or security interest or realization upon any Pre-Petition Collateral or DIP Collateral, as applicable, in accordance with the terms and conditions of this Interim Order, (b) a request to use the Cash Collateral (as such term is defined in Bankruptcy Code section 363) without the prior written consent of the Pre-Petition ABL Agent, the DIP Agent and the Pre-Petition Subordinated Lender, except to the extent expressly permitted herein, (c) a request for authorization to obtain debtor-in-possession financing or other financial accommodations pursuant to Bankruptcy Code section 364(c) or (d), other than from the DIP Secured Parties, without the prior written consent of the DIP Agent unless such other debtor-in-possession financing or financial accommodation is used, in part, to indefeasibly pay and satisfy in full all Pre-Petition Obligations and Post-Petition Obligations owed respectively to the Pre-Petition ABL Secured Parties and DIP Secured Parties, (d) the commencement or prosecution of any action or proceeding of any claims, causes of action, or defenses against the Pre-Petition Secured Parties, the DIP Secured Parties, or the Pre-Petition Subordinated Lender or any of their respective officers, directors, employees, agents,

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

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

D. Payment of Carve-Out.

(1) The Debtors shall maintain an escrow account with Young Conaway Stargatt & Taylor ("**YCST**") for the payment of Allowed Professional Fees (the "**Carve-Out Reserve Account**") which account shall be funded by or on behalf of the Debtors, including through borrowings under the DIP Credit Agreement, in accordance with the Approved Budget

on a weekly basis, in advance, until the delivery of a Carve-Out Trigger Notice, provided that for this purpose borrowing availability must exist under the DIP Credit Agreement. Upon the occurrence and during the continuance of an Event of Default, the Carve-Out Reserve Account may continue to be funded at the DIP Agent's option, up to the Carve-Out Cap. From funds in the Carve-Out Reserve Account, YCST shall pay Allowed Professional Fees to the Professionals, as applicable, in compliance with the Interim Compensation Procedures and in the manner set forth in this Interim Order in accordance with the Budget; provided, however, that, prior to payment in full of the Pre-Petition Obligations, as applicable, and Post-Petition Obligations and termination of the Carve-Out, to the extent that Allowed Professional Fees that have accrued from the Petition Date through and including the date a Carve-Out Trigger Notice is delivered are less than the amounts funded into the Carve-Out Reserve Account, the excess amounts in the Carve-Out Reserve Account shall be applied (a) first to fund the Post EOD Carve-Out Amount, and (b) second remitted to the DIP Agent to apply to reduce either or both the Pre-Petition Obligations and the Post-Petition Obligations at DIP Agent's sole discretion. For the avoidance of doubt, (a) in making payments from the Carve-Out Reserve Account, YCST shall be entitled to conclusively rely upon written certifications of each Professional as to the amount due and owing to such Professional from the Carve-Out Reserve Account and in accordance with the Budget and shall have no liability to any party based upon its reliance on such certifications; and (b) in no circumstances shall YCST be obligated to pay any Professional other than from funds held, from time to time, in the Carve-Out Reserve Account. Provided that the amounts DIP Agent is obligated to allocate to Professionals as required in this Section VI has been funded, all obligations of the DIP Secured Parties and Pre-Petition ABL Secured Parties with respect to the Carve-Out shall be terminated. Notwithstanding anything to the contrary contained in this

Interim Order, the Carve-Out and all obligations of the DIP Secured Parties and Pre-Petition ABL Secured Parties with respect to the Carve-Out shall be terminated upon the payment in full and satisfaction of the Pre-Petition Obligations and the Post-Petition Obligations.

(2) The Carve-Out Cap shall be reduced on a dollar-for-dollar basis on a weekly basis by the amounts actually funded into the Carve-Out Reserve Account. To the extent the Carve-Out Reserve Account has not been funded in accordance with the Approved Budget prior to the delivery of a Carve-Out Trigger Notice, the DIP Agent, on behalf of the DIP Lenders, shall remit the difference to the Carve-Out Reserve Account solely from DIP Collateral proceeds. Payment of any amounts on account of the Carve-Out, whether by or on behalf of the DIP Agent or any DIP Lender, shall not and shall not be deemed to reduce the Pre-Petition Obligations or the Post-Petition Obligations, and shall not and shall not be deemed to subordinate any of the DIP Secured Parties' liens and security interests in the DIP Collateral or the DIP Superpriority Claim to any junior pre- or post-petition lien, interest or claim in favor of any other party. No DIP Secured Party shall, under any circumstance, be responsible for the direct payment or reimbursement of any fees or disbursements of any Professionals incurred in connection with the Cases or Successor Cases (as hereinafter defined) under any chapter of the Bankruptcy Code, and nothing in this Section VI shall be construed to obligate any DIP Secured Party, in any way, to pay compensation to or to reimburse expenses of any Professional, or to ensure that the Debtors have sufficient funds to pay such compensation or reimbursement.

(3) Nothing herein shall be construed as a consent to the allowance of the fees and expenses of any Professional or shall affect the right of the Pre-Petition ABL Secured Parties, the DIP Secured Parties and/or the Pre-Petition Subordinated Lender to object to the allowance and payment of such fees and expenses. So long as no Event of Default has occurred

or is continuing, the Debtors shall be permitted to pay fees and expenses allowed and payable pursuant to an Order of the Bankruptcy Court, including any Order approving Interim Compensation Procedures, under sections 330 and 331 of the Bankruptcy Code, as the same may be due and payable, solely to the extent set forth in the Approved Budget and not to exceed the amounts set forth in the Approved Budget, provided that any such payment shall be subject to entry of a final order of the Bankruptcy Court of each Professional's final application for allowance of such fees and expenses.

VII. Right to Credit Bid. Subject to entry of a Final Order, in connection with any sale of assets by any Debtor outside of the ordinary course of business, the Pre-Petition ABL Agent, on behalf of the Pre-Petition ABL Lenders, and the DIP Agent, on behalf of the DIP Lenders, as the case may be, shall be entitled to credit bid all or any part of the outstanding amount of the Pre-Petition Obligations and/or Post-Petition Obligations, as applicable, in respect of any such sale. Subject to entry of a Final Order, upon the later to occur of (i) the Payment in Full (as such term is defined in the Pre-Petition Subordinated Note) of the Pre-Petition Obligations and Post-Petition Obligations outstanding under the Pre-Petition Financing Documents and the DIP Financing Documents, as applicable, and (ii) the expiration of the Challenge Period with no Challenge having been asserted or threatened, the Pre-Petition Subordinated Lender shall be entitled to credit bid all or any part of the outstanding amount of the Pre-Petition Subordinated Obligations, as applicable, in respect of such sale.

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

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

(1) The occurrence of any Event of Default as defined and under the DIP

Credit Agreement.

(2) The failure of the Debtors to obtain entry of a Final Order on or before twenty-five (25) days from the Petition Date, unless otherwise agreed in writing by the Pre-Petition ABL Agent and the DIP Agent.

(3) The sale of all or substantially all of the Debtors' Property without indefeasible payment in full of the Pre-Petition Obligations and Post-Petition Obligations.

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

(1) Upon the occurrence of and during the continuance of an Event of Default, and without the necessity of seeking relief from the automatic stay or any further Order of the Bankruptcy Court (i) the DIP Agent and DIP Lenders shall no longer have any obligation to make any Revolving Advances (or otherwise extend credit) under the DIP Facility; (ii) all amounts outstanding under the DIP Financing Documents shall, at the option of the DIP Agent, be accelerated and become immediately due and payable; (iii) the DIP Agent and the Pre-Petition ABL Agent shall be entitled to immediately terminate the Debtors' right to use Cash Collateral, without further application or order of this Court, provided, however, that the Debtors shall have the right to use Cash Collateral to pay their weekly ordinary course payroll included in the Approved Budget through and including the date immediately following the date on which such Event of Default occurs, (iv) the Debtors shall be bound by all post-default restrictions, prohibitions, and other terms as provided in this Interim Order, the DIP Credit Agreement and the other DIP Financing Documents and the Pre-Petition ABL Financing Documents, (v) the DIP Agent shall be entitled to charge the default rate of interest under the DIP Credit Agreement and (vi) subject only to the notice requirement set forth in Section VIII(B)(2) below, both the DIP Agent and the Pre-Petition ABL Agent shall be entitled to take any other act or exercise any

other right or remedy as provided in this Interim Order, the DIP Financing Documents, the Pre-Petition ABL Financing Documents, or applicable law, including, without limitation, setting off any Post-Petition Obligations or Pre-Petition Obligations with DIP Collateral, Pre-Petition Collateral or proceeds in the possession of any Pre-Petition ABL Secured Party or DIP Lender, and enforcing any and all rights and remedies with respect to the DIP Collateral or Pre-Petition Collateral, as applicable.

(2) Without further notice, application or order of this Court, upon the occurrence and during the continuance of an Event of Default, and after providing five (5) business days' prior written notice thereof (which five (5) business day period only applies to the DIP Collateral enforcement remedies described below) to counsel for the Debtors, counsel for any Committee, the U.S. Trustee, and counsel to the Pre-Petition Subordinated Lender, the DIP Agent for the benefit of itself and the DIP Lenders, and the Pre-Petition ABL Agent, for the benefit of itself and the other Pre-Petition ABL Secured Parties, as applicable, shall be entitled to take any action and exercise all rights and remedies provided to them by this Interim Order, the DIP Financing Documents or the Pre-Petition ABL Financing Documents, or applicable law, unless otherwise ordered by this Court, as the DIP Agent or the Pre-Petition ABL Agent, as applicable, may deem appropriate in their sole discretion to, among other things, proceed against and realize upon the DIP Collateral (including the Pre-Petition Collateral) or any other assets or properties of the Debtors' Estates upon which the DIP Agent, for the benefit of itself and the DIP Lenders, and the Pre-Petition ABL Agent, for the benefit of itself and the other Pre-Petition ABL Secured Parties, has been or may hereafter be granted liens or security interests to obtain the full and indefeasible payment of all the Pre-Petition Obligations and Post-Petition Obligations. Notwithstanding the foregoing or anything in Section VIII(B)(1) above, DIP Agent may continue

to apply proceeds received into the lockbox or collection account to reduce the Pre-Petition Obligations or the Post-Petition Obligations in any order at the sole discretion of the DIP Agent during such five (5) business day period. During such five business days period, either or both the Debtors and the Committee shall be entitled to seek an emergency hearing with the Court.

Additionally, upon the occurrence and during the continuance of an Event of Default and the exercise by the DIP Agent or the Pre-Petition ABL Agent of their respective rights and remedies under this Interim Order, the DIP Financing Documents, or Pre-Petition ABL Financing Documents, provided that the Debtors and the DIP Agent agree upon a mutually acceptable wind down budget, the Debtors shall cooperate with the DIP Agent in the exercise of rights and remedies and assist the DIP Agent in effecting any sale or other disposition of the DIP Collateral required by the DIP Agent, including any sale of DIP Collateral pursuant to Bankruptcy Code section 363 or assumption and assignment of DIP Collateral consisting of contracts and leases pursuant to Bankruptcy Code section 365, in each case, upon such terms that are acceptable to the DIP Agent.

(3) Upon the occurrence and during the continuance of an Event of Default, and subject to the five business day notice provision provided above, in connection with a liquidation of any of the DIP Collateral, the DIP Agent (or any of its employees, agents, consultants, contractors, or other professionals) shall have the right, at the sole cost and expense of the Debtors, to: (i) enter upon, occupy, and use any real or personal property, fixtures, equipment, leasehold interests, or warehouse arrangements owned or leased by the Debtors; provided, however, the DIP Agent may only be permitted to do so in accordance with (a) existing rights under applicable non-bankruptcy law, including, without limitation, applicable leases, (b) any pre-petition (and, if applicable, post-petition) landlord waivers or consents, or (c)

further order of the Court on motion and notice appropriate under the circumstances; and (ii) use any and all trademarks, tradenames, copyrights, licenses, patents, equipment or any other similar assets of the Debtors, or assets which are owned by or subject to a lien of any third party and which are used by the Debtors in their businesses. The DIP Agent and the DIP Lenders will be responsible for the payment of any applicable fees, rentals, royalties, or other amounts owing to such lessor, licensor or owner of such property (other than the Debtors) for the period of time that the DIP Agent actually occupies any real property or uses the equipment or the intellectual property (but in no event for any accrued and unpaid fees, rentals, or other amounts owing for any period prior to the date that the DIP Agent actually occupies or uses such assets or properties).

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

(5) Upon the later to occur of (i) the Payment in Full (as such term is defined in the Pre-Petition Subordinated Note) of the respective Pre-Petition Obligations and Post-Petition Obligations outstanding under the Pre-Petition Financing Documents and the DIP Financing Documents, as applicable, and (ii) the expiration of the Challenge Period with no Challenge having been asserted or threatened, the Pre-Petition Subordinated Lender shall succeed to the rights of the DIP Agent and/or Pre-Petition ABL Agent, as applicable, set forth in this Paragraph VIII(B).

C. Relief from Stay. For the purpose of exercising rights, options and remedies set

forth in this Section VIII, upon expiration of the five business-day period set forth in Section VIII(B)(2), unless otherwise ordered by the Court, the Pre-Petition ABL Agent, on behalf of the other Pre-Petition ABL Secured Parties, and DIP Agent, on behalf of the other DIP Secured Parties, shall be automatically and completely relieved from the effect of any stay under Bankruptcy Code section 362, any other restriction on the enforcement of their liens upon and security interests in the DIP Collateral or any other rights granted to them, or any of them, pursuant to the terms and conditions of the DIP Financing Documents, the Pre-Petition ABL Financing Documents or this Interim Order.

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

IX. Challenges to Pre-Petition Obligations.

A. The Debtors have admitted, stipulated, and agreed to the various stipulations and admissions contained in this Interim Order, including, without limitation, the stipulations and admissions included in paragraph D of the Findings of Fact and Conclusions of Law (the "**Paragraph D Stipulations**"), which stipulations and admissions are and shall be binding upon the Debtors and any successors thereto in all circumstances. The stipulations and admissions contained in this Interim Order, including without limitation, the Paragraph D Stipulations, shall also be binding upon the Debtors' Estates and all other parties in interest, including the

Committee or any chapter 7 or chapter 11 trustee appointed or elected for any of the Debtors (a "**Trustee**"), for all purposes unless (a) (i) any party in interest other than the Committee, no later than the date that is seventy five (75) days from entry of this Interim Order, and (ii) the Committee, no later than sixty (60) days from the appointment of the Committee (as applicable for clauses (i) and (ii), the "**Initial Challenge Period**") has properly filed an adversary proceeding as required under the Bankruptcy Rules (x) challenging the amount, validity, enforceability, priority or extent of the Pre-Petition Obligations, the liens of the Pre-Petition Agent on the Pre-Petition Collateral securing the Pre-Petition Obligations, the Pre-Petition Subordinated Obligations or the liens of the Pre-Petition Subordinated Lender to secure the Pre-Petition Subordinated Obligations or (y) otherwise asserting any other claims, counterclaims, causes of action, objections, contests or defenses against the Pre-Petition ABL Agent and/or any other Pre-Petition ABL Secured Party and/or the Pre-Petition Subordinated Lender on behalf of the Debtors' Estates ((x) and (y), collectively, referred to herein as "**Challenges**"), and (b) the Court rules in favor of the plaintiff sustaining any such challenge or claim in any such duly filed adversary proceeding or contested matter; *provided that*, as to the Debtors, all such Challenges are hereby irrevocably waived and relinquished effective as of the Petition Date. If during the Initial Challenge Period, the Committee or other third party files a motion for standing with a draft complaint identifying and describing all Challenge(s) consistent with applicable law and rules of procedure, the Initial Challenge Period will be tolled for the Committee or other third party solely with respect to the Challenge(s) asserted in the draft complaint until three (3) business days from the entry of an order granting the motion for standing to prosecute such Challenge(s) described in the draft complaint and permitted by the Court (the "**Extended Challenge Period**", together with the Initial Challenge Period, the "**Challenge Period**"). If

standing is denied by the Court, the Challenge Period shall be deemed to have expired. If no such Challenge or motion for standing, as applicable, is timely filed prior to the expiration of the Initial Challenge Period, without further order of the Court: (1) the Debtors' stipulations, admissions and releases contained in this Interim Order (including the Paragraph D Stipulations and the releases set forth in Section X(B) below) shall be binding on all parties in interest, including the Debtors' Estates, the Committee, and any subsequently appointed Trustee, case fiduciary, or successors and assigns; (2) the Pre-Petition Obligations and Pre-Petition Subordinated Obligations shall constitute allowed claims, not subject to counterclaim, setoff, subordination, recharacterization, defense or avoidance, for all purposes in these Cases and any subsequent chapter 7 case; (3) the Pre-Petition ABL Agent's liens and the respective Pre-Petition Subordinated Lender's liens on the Pre-Petition Collateral shall be deemed to have been, as of the Petition Date, and to be, legal, valid, binding, perfected, and with the priority specified in the Paragraph D Stipulations, not subject to defense, counterclaim, recharacterization, subordination or avoidance; and (4) the Pre-Petition Obligations, the Pre-Petition ABL Secured Parties' liens on the Pre-Petition Collateral, the Pre-Petition Subordinated Obligations, the Pre-Petition Subordinated Lender's liens on the Pre-Petition Collateral, as applicable; and the Pre-Petition Secured Parties (and their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors) shall not be subject to any other or further challenge by any Committee or any other party in interest, and any such Committee or party in interest shall be enjoined from seeking to exercise the rights of the Debtors' Estates, including without limitation, any successor thereto (including, without limitation, any estate representative or a Trustee, whether such Trustee is appointed or elected prior to or following the expiration of the Initial Challenge Period); *provided* that if the Cases are converted to chapter 7 or a Trustee is

appointed prior to the expiration of the Initial Challenge Period, any such estate representative or Trustee shall receive the full benefit of any remaining Initial Challenge Period, subject to the limitations described herein. If any Challenge or motion for standing, as applicable, is timely and properly filed prior to the expiration of the Initial Challenge Period, the releases, stipulations and admissions contained in this Interim Order, including without limitation, in the Paragraph D Stipulations, of this Interim Order, shall nonetheless remain binding and preclusive (as provided in the second sentence of this paragraph) on any Committee and any other person, including any Trustee appointed in any Case(s) or any subsequently converted bankruptcy case(s) of any Debtors (collectively, the "**Successor Cases**"), as applicable, except as to any such findings and admissions that were expressly challenged in the original complaint initiating the adversary proceeding and excluding any amended or additional claims that may or could have been asserted thereafter through an amended complaint under FRCP 15 or otherwise. Nothing in this Interim Order vests or confers on any person, including any Committee, any Trustee, or any other party in interest, standing or authority to pursue any cause of action belonging to the Debtors or their Estates. This stipulation shall be binding upon the Debtors, their Estates, all parties in interest in the Cases and their respective successors and assigns, including any Trustee or other fiduciary appointed in the Cases or Successor Cases and shall inure to the benefit of the Pre-Petition Secured Parties and the Debtors and their respective successors and assigns. For the avoidance of doubt, Challenges may be filed against one or more of the Pre-Petition ABL Secured Parties and/or Pre-Petition Subordinated Lender without filing Challenges against each of the other parties and likewise the Challenge Period may expire as to some but not all of the Pre-Petition Secured Parties if a Challenge is filed against one or more of the Pre-Petition Secured Parties but not all of them.

Notwithstanding anything to the contrary contained in this Interim Order, this Court expressly reserves the right to unwind the discretionary roll-up of the Pre-Petition Obligations into Post-Petition Obligations that is contemplated to be approved upon entry of the Final Order or to order other appropriate relief against the Pre-Petition ABL Agent and the Pre-Petition ABL Lenders in the event there is a timely (in accordance with this Section IX) and successful Challenge by any party in interest to the validity, enforceability, extent, perfection or priority of the Pre-Petition ABL Agent's liens in the Pre-Petition Collateral, or to the amount, validity, enforceability of the Pre-Petition Obligations.

X. Debtors' Waivers and Releases.

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

B. Release.

(1) In consideration of and as a condition to the DIP Agent and the DIP

Lenders making Revolving Advances, consent to use of Cash Collateral (including the Pre-Petition Subordinated Lender's consent to use of Cash Collateral and further subordination of its rights as provided herein) and providing other credit and financial accommodations to the Debtors pursuant to the provisions of this Interim Order and the DIP Financing Documents, each Debtor, on behalf of itself, and successors and assigns and such Debtor's Estate (collectively, "**Releasors**"), subject only to Section IX above, hereby absolutely releases and forever discharges and acquits (i) each Pre-Petition ABL Secured Party, (ii) the respective successors, participants, and assigns of each Pre-Petition ABL Secured Party, (iii) the present and former shareholders, affiliates, subsidiaries, divisions, and predecessors of each Pre-Petition ABL Secured Parties, (iv) the Pre-Petition Subordinated Lender, and (v) the directors, officers, attorneys, employees, and other representatives of the parties identified in clauses (i) through (iv) but solely in their capacity as such and not in any other capacity (the parties identified in clauses (i) through (v) being hereinafter referred to collectively as "**Releasees**") of and from any and all claims, demands, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages, and any and all other claims, counterclaims, cross claims, defenses, rights of set-off, demands, and liabilities whatsoever (individually, a "**Pre-Petition Released Claim**" and collectively, "**Pre-Petition Released Claims**") of every kind, name, nature and description, known or unknown, foreseen or unforeseen, matured or contingent, liquidated or unliquidated, primary or secondary, suspected or unsuspected, both at law and in equity, which, including, without limitation, any so-called "lender liability" claims or defenses, that any Releasor may now or hereafter own, hold, have, or claim to have against Releasees, or any of them for, upon, or by reason of any nature, cause, or thing whatsoever which arose or may have arisen at any time on or prior to the date of this

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

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

XI. Other Rights and Obligations.

A. No Modification or Stay of this Interim Order. Based upon the record presented to the Court by the Debtors, notwithstanding (i) any stay, modification, amendment, supplement, vacating, revocation, or reversal of this Interim Order, the DIP Financing Documents or any term hereunder or thereunder, (ii) the failure to obtain a Final Order pursuant to Bankruptcy Rule 400l(c)(2), or (iii) the dismissal or conversion of one or more of the Cases, the DIP Agent and the DIP Lenders shall retain and be entitled to all of the rights, remedies, privileges, and benefits in favor of the DIP Agent and the DIP Lenders pursuant to Bankruptcy Code section 364(e), this Interim Order, and the DIP Financing Documents.

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

C. Disposition of Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral without an order of this Court and the

written consent of the DIP Agent, except for sales of the Debtors' inventory in the ordinary course of their business or as otherwise permitted in the DIP Credit Agreement.

D. Inventory. The Debtors shall not, without the prior written consent of the DIP Agent (and no such consent shall be implied, from any other action, inaction or acquiescence by the DIP Agent or any DIP Lender), (a) enter into any agreement to return any inventory to any of their creditors for application against any pre-petition indebtedness under any applicable provision of Bankruptcy Code section 546, or (b) consent to any creditor exercising any setoff against any of its pre-petition indebtedness based upon any such return pursuant to Bankruptcy Code section 553(b)(l) or otherwise**.**

E. Reservation of Rights. The terms, conditions and provisions of this Interim Order are in addition to and without prejudice to the rights of the Pre-Petition ABL Secured Parties or the DIP Lenders to pursue any and all rights and remedies under the Bankruptcy Code, the DIP Financing Documents, the Pre-Petition ABL Financing Documents, or any other applicable agreement or law, including, without limitation, rights to seek either or both adequate protection and additional or different adequate protection, to seek relief from the automatic stay, to seek an injunction, to oppose any request for use of cash collateral or granting of any interest in the DIP Collateral or priority in favor of any other party, to object to any sale of assets, and to object to applications for either or both allowance and payment of compensation of Professionals or other parties seeking compensation or reimbursement from the Estates.

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

liens.

G. Binding Effect.

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

(2) Any order dismissing one or more of the Cases under Bankruptcy Code section 1112 or otherwise shall be deemed to provide (in accordance with Bankruptcy Code sections 105 and 349) that (a) the DIP Agent's, the DIP Lenders', the Pre-Petition ABL Secured Parties, and Pre-Petition Subordinated Lender, respective, liens on and security interests in the DIP Collateral shall continue in full force and effect notwithstanding such dismissal until the Pre-Petition Obligations, Post-Petition Obligations, and Pre-Petition Subordinated Obligations, as applicable, owed to such parties, respectively, are indefeasibly paid and satisfied in full, and (b) this Court shall retain jurisdiction, to the extent permissible under applicable law, notwithstanding such dismissal, for the purposes of enforcing the DIP Superpriority Claim, DIP Liens, First Lien Adequate Protection Liens, Second Lien Adequate Protection Liens, and First

Lien Adequate Protection Claims of the DIP Agent and the DIP Lenders in the DIP Collateral.

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

(4) This Interim Order shall be binding upon the Debtors, their Estates, all parties in interest in the Cases and their respective successors and assigns, including any Trustee or other fiduciary appointed in the Cases or any Successor Cases of any Debtors and shall inure to the benefit of the Pre-Petition ABL Secured Parties, the Pre-Petition Subordinated Lender, the DIP Lenders, the Debtors, and their respective successors and assigns, subject to the rights of any Trustee pursuant to Section IX above.

H. Marshalling. Subject to the entry of a Final Order, in no event shall the DIP Agent, the DIP Lenders, or the Pre-Petition ABL Secured Parties be subject to the equitable doctrine of "marshalling" or any similar doctrine with respect to the Pre-Petition Collateral or the DIP Collateral.

I. Proofs of Claim. Notwithstanding the entry of an order establishing a bar date in any of these Cases, or the conversion of these Cases to a case under chapter 7 of the Bankruptcy Code, the Pre-Petition ABL Secured Parties and the Pre-Petition Subordinated Lender shall not be required to file proofs of claim in any of the Cases or Successor Cases with respect to any of the Pre-Petition Obligations, Adequate Protection Obligations, Adequate Protection Liens, Post-Petition Obligations, DIP Liens, DIP Superpriority Claim, or any other claims or liens granted hereunder or created hereby. The Pre-Petition ABL Agent, for the benefit of the other Pre-Petition ABL Secured Parties, and Pre-Petition Subordinated Lender are hereby each authorized and entitled, in its respective sole and absolute discretion, but in no event is required, to file (and

amend and/or supplement, as it sees fit) proofs of claim in each of the Cases on behalf of (x) all of the Pre-Petition ABL Secured Parties in respect of the Pre-Petition Obligations and, respectively, the Pre-Petition Subordinated Lender in respect of the Pre-Petition Subordinated Obligations. Any proof of claim so filed shall be deemed to be in addition and not in lieu of any other proof of claim that may be filed by any of the Pre-Petition ABL Secured Parties, or Pre-Petition Subordinated Lender, respectively. Any order entered by the Bankruptcy Court in relation to the establishment of a bar date in any of the Cases will so provide.

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

K. Order Controls. Unless this Interim Order specifically provides otherwise, in the event of a conflict between (a) the terms and provisions of the DIP Financing Documents or the Pre-Petition ABL Financing Documents, as applicable, or the Pre-Petition Subordinated Financing Documents, or (b) the terms and provisions of this Interim Order, then in each case the terms and provisions of this Interim Order shall govern.

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

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

XII. Final Hearing and Response Dates.

The Final Hearing on the Motion pursuant to Bankruptcy Rule 4001(c)(2) is scheduled for _____ at _____ before this Court. The Debtors shall promptly mail

copies of this Interim Order to the Noticed Parties, and to any other party that has filed a request for notices with this Court and to any Committee after the same has been appointed, or Committee counsel, if the same shall have filed a request for notice. Any party in interest objecting to the relief sought at the Final Hearing shall serve and file written objections, which objections shall be served upon (a) counsel for the Debtors, Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801; Attn: Robert S. Brady, Esq. (rbrady@ycst.com) and Ryan M. Bartley, Esq. (rbartley@ycst.com); (b) counsel for the Agent, Blank Rome LLP, 1201 Market Street, Suite 800, Wilmington, Delaware 19801; Attn: Regina Stango Kelbon, Esq. (Kelbon@BlankRome.com); (c) counsel to any Committee; (d) counsel for the Pre-Petition Subordinated Lender, Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, Wilmington, Delaware 19801; Attn: Adam G. Landis, Esq. (landis@lrclaw.com) and Matthew B. McGuire, Esq. (mcguire@lrclaw.com); and (e) the U.S. Trustee; and shall be filed with the Clerk of the United States Bankruptcy Court for the District of Delaware, by no later than _____, 2019.

EXHIBIT 1

BUDGET

Avenue Stores LLC
DIP Forecast
($ in 000's)

		Wk 1 WE 8/17	Wk 2 WE 8/24	Wk 3 WE 8/31	Wk 4 WE 9/7	Wk 5 WE 9/14	Wk 6 WE 9/21	Wk 7 WE 9/28	Wk 8 WE 10/5	Wk 9 WE 10/12	Total 9 Weeks	Transaction/ Wind Down	Subtotal
I. Cash Flows													
Receipts													
1.)	Sales Receipts	2,133	1,656	2,029	1,898	1,333	1,554	1,557	1,737	1,607	15,504	-	15,504
2.)	Proceeds from Other Assets	-	-	-	-	-	-	-	-	-	-	8,000	8,000
3.)	Agency Agreement Proceeds & Reimb.	-	12,697	1,302	1,302	1,302	1,302	1,302	1,302	1,923	22,433	-	22,433
4.)	Alliance Termination Fee Holdback	(700)	-	-	700	-	-	-	-	-	-	-	-
5.)	**Total Receipts**	**1,433**	**14,353**	**3,332**	**3,900**	**2,635**	**2,856**	**2,859**	**3,040**	**3,530**	**37,938**	**8,000**	**45,938**
Operating Disbursements													
6.)	Merchandise Disbursements	(593)	(811)	(851)	(841)	(705)	(693)	(756)	(642)	(824)	(6,717)	-	(6,717)
7.)	Payroll	(950)	(1,119)	(359)	(1,220)	(355)	(1,030)	(355)	(1,181)	(50)	(6,618)	(212)	(6,829)
8.)	Rent	(162)	-	-	(2,552)	-	-	-	(103)	-	(2,817)	(100)	(2,917)
9.)	Sales Tax	-	(806)	-	-	-	(693)	(36)	-	-	(1,536)	(317)	(1,853)
10.)	Warehouse & Logistics	-	(200)	(409)	-	-	(443)	-	(538)	-	(1,590)	(907)	(2,497)
	Inventory Taking	-	-	-	-	-	-	-	-	-	-	-	-
11.)	Other Operating Disbursements	(480)	(480)	(480)	(419)	(379)	(379)	(379)	(379)	(282)	(3,657)	(225)	(3,882)
12.)	**Total Operating Disbursements**	**(2,185)**	**(3,416)**	**(2,099)**	**(5,032)**	**(1,439)**	**(3,239)**	**(1,527)**	**(2,842)**	**(1,156)**	**(22,935)**	**(1,761)**	**(24,695)**
Non-Operating Disbursements													
13.)	DIP / Financing Fees	-	(250)	(91)	-	-	-	(64)	-	(31)	(436)	-	(436)
14.)	Professional Fees Escrow	(460)	(260)	(260)	(385)	(260)	(260)	(250)	(225)	(225)	(2,585)	(360)	(2,945)
15.)	US Trustee Fees	-	-	-	-	-	-	-	-	-	-	(500)	(500)
16.)	Wind Down Costs	-	-	-	-	-	-	-	-	-	-	(500)	(500)
17.)	IBNR Funding	-	-	-	-	-	-	-	-	-	-	(424)	(424)
17.)	Stub Rent	-	-	-	-	-	-	-	-	-	-	(1,281)	(1,281)
18.)	Warehouse & Shipping	-	(355)	(355)	(355)	(355)	(355)	-	-	-	(1,775)	-	(1,775)
19.)	Critical Vendor	-	(125)	(125)	(125)	(125)	-	-	-	-	(500)	-	(500)
20.)	KEIP/KERP	-	-	-	-	-	-	-	-	-	-	(150)	(150)
21.)	Credit Card Holdback	(182)	(75)	(75)	-	-	-	-	-	-	(332)	332	-
22.)	Utility & Other Deposits	-	(243)	-	-	-	-	-	-	-	(243)	243	-
23.)	**Total Non-Operating Disbursements**	**(642)**	**(1,308)**	**(906)**	**(865)**	**(740)**	**(615)**	**(314)**	**(225)**	**(256)**	**(5,871)**	**(2,640)**	**(8,511)**
24.)	**Net Cash Flow**	**(1,394)**	**9,629**	**327**	**(1,997)**	**456**	**(997)**	**1,018**	**(28)**	**2,118**	**9,132**	**3,600**	**12,731**
II. Financing													
25.)	Beginning Book Cash	(1,004)	-	-	-	-	-	-	-	-	(1,004)	-	(1,004)
26.)	Cancelled Checks	500	-	-	-	-	-	-	-	-	500	-	500
27.)	Net Cash Flow	(1,394)	9,629	327	(1,997)	456	(997)	1,018	(28)	2,118	9,132	3,600	12,731
28.)	Borrowings / (Paydown)	1,899	(9,629)	(327)	1,997	(456)	997	(1,018)	28	(2,118)	(8,627)	(2,564)	(11,191)
29.)	L/Cs Cash Collateralized	-	-	-	-	-	-	-	-	-	-	(1,036)	(1,036)
30.)	**Ending Book Cash**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
III. Availability													
31.)	Pre-Petition FILO	4,567	-	-	-	-	-	-	-	-	-	-	-
32.)	Pre-Petition ABL	12,810	3,024	-	-	-	-	-	-	-	-	-	-
33.)	**Total Pre-Petition Debt**	**17,376**	**3,024**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
34.)	Post-Petition FILO	-	4,724	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000	4,287	4,287
35.)	Post-Petition ABL	-	-	1,420	3,418	2,961	3,959	2,940	2,968	850	850	-	-
36.)	**Total Pre-Petition Debt**	**-**	**4,724**	**7,420**	**9,418**	**8,961**	**9,959**	**8,940**	**8,968**	**6,850**	**6,850**	**4,287**	**4,287**
37.)	Letters of Credit	1,006	1,006	1,006	1,006	1,006	1,006	1,006	1,006	1,006	1,006	-	-
38.)	**Total Debt Balance**	**18,382**	**8,753**	**8,426**	**10,424**	**9,967**	**10,965**	**9,946**	**9,974**	**7,856**	**7,856**	**4,287**	**4,287**
39.)	**Gross Borrowing base**	**21,513**	**10,698**	**11,728**	**11,643**	**11,580**	**11,787**	**11,919**	**11,890**	**11,995**	**11,995**		
40.)	**Total Availability**	**3,131**	**1,945**	**3,301**	**1,220**	**1,613**	**823**	**1,972**	**1,916**	**4,139**	**4,139**		
IV. Availability													
Pre-Petition FILO													
41.)	Beginning Balance	6,000	4,567	-	-	-	-	-	-	-	6,000	-	6,000
42.)	Draw	-	-	-	-	-	-	-	-	-	-		-
43.)	(Paydown)	(1,433)	(4,567)	-	-	-	-	-	-	-	(6,000)		(6,000)
44.)	**Ending Balance**	**4,567**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Pre-Petition ABL													
45.)	Beginning Balance	9,477	12,810	3,024	-	-	-	-	-	-	9,477	-	9,477
46.)	Draw	3,332	-	-	-	-	-	-	-	-	3,332		3,332
47.)	(Paydown)	-	(9,786)	(3,024)	-	-	-	-	-	-	(12,810)		(12,810)
48.)	**Ending Balance**	**12,810**	**3,024**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Post Petition FILO													
49.)	Beginning Balance	-	-	4,724	6,000	6,000	6,000	6,000	6,000	6,000	-	6,000	-
50.)	Draw	-	4,724	1,276	-	-	-	-	-	-	6,000	-	6,000
51.)	(Paydown)	-	-	-	-	-	-	-	-	-	-	(1,713)	(1,713)
52.)	**Ending Balance**	**-**	**4,724**	**6,000**	**6,000**	**6,000**	**6,000**	**6,000**	**6,000**	**6,000**	**6,000**	**4,287**	**4,287**
Post-Petition ABL													
53.)	Beginning Balance	-	-	-	1,420	3,418	2,961	3,959	2,940	2,968	-	850	-
54.)	Draw	-	-	1,729	5,897	2,179	3,854	1,841	3,067	1,412	19,978	5,436	25,415
55.)	(Paydown)	-	-	(308)	(3,900)	(2,635)	(2,856)	(2,859)	(3,040)	(3,530)	(19,128)	(6,287)	(25,415)
56.)	**Ending Balance**	**-**	**-**	**1,420**	**3,418**	**2,961**	**3,959**	**2,940**	**2,968**	**850**	**850**	**-**	**-**
Total Debt													
57.)	Beginning Balance	15,477	17,376	7,747	7,420	9,418	8,961	9,959	8,940	8,968	15,477	6,850	15,477
58.)	Draw	3,332	4,724	3,005	5,897	2,179	3,854	1,841	3,067	1,412	29,311	5,436	34,747
59.)	(Paydown)	(1,433)	(14,353)	(3,332)	(3,900)	(2,635)	(2,856)	(2,859)	(3,040)	(3,530)	(37,938)	(8,000)	(45,938)
60.)	**Ending Balance**	**17,376**	**7,747**	**7,420**	**9,418**	**8,961**	**9,959**	**8,940**	**8,968**	**6,850**	**6,850**	**4,287**	**4,287**
61.)	Letters of Credit	1,006	1,006	1,006	1,006	1,006	1,006	1,006	1,006	1,006	1,006	-	-
62.)	**Total Loan Balance**	**18,382**	**8,753**	**8,426**	**10,424**	**9,967**	**10,965**	**9,946**	**9,974**	**7,856**	**7,856**	**4,287**	**4,287**
62.)	**Gross Borrowing Base (Including FILO)**	21,513	10,698	11,728	11,643	11,580	11,787	11,919	11,890	11,995	11,995		
63.)	**Total Availability**	**3,131**	**1,945**	**3,301**	**1,220**	**1,613**	**823**	**1,972**	**1,916**	**4,139**	**4,139**		

EXHIBIT 2

DIP CREDIT AGREEMENT

DEBTOR-IN-POSSESSION REVOLVING CREDIT
AND
SECURITY AGREEMENT

PNC BANK, NATIONAL ASSOCIATION
(AS LENDER AND AS AGENT)

WITH

ORNATUS URG HOLDINGS, LLC
(PARENT)

AVENUE STORES, LLC,
ORNATUS URG GIFT CARDS, LLC,
(BORROWERS)

AND

EACH OTHER PERSON JOINED HERETO

(DEBTOR GUARANTORS)

August [__], 2019

TABLE OF CONTENTS

Page

LIST OF EXHIBITS AND SCHEDULES

Exhibits

Schedules

DEBTOR-IN-POSSESSION REVOLVING CREDIT

AND

SECURITY AGREEMENT

Pursuant to Section 364(c) and (d) of the Bankruptcy Code, this DEBTOR-IN-POSSESSION REVOLVING CREDIT AND SECURITY AGREEMENT dated as of August [_], 2019 among ORNATUS URG HOLDINGS, LLC, a limited liability company formed under the laws of the State of Delaware ("Parent"), AVENUE STORES, LLC, a limited liability company formed under the laws of the State of Delaware ("Avenue"), ORNATUS URG GIFT CARDS, LLC, a limited liability company formed under the laws of the State of Virginia ("Ornatus GC"; together with Avenue and each Person joined hereto as a borrower from time to time, collectively, the "Borrowers" and each a "Borrower"), ORNATUS URG REAL ESTATE, LLC, a limited liability company formed under the laws of the State of Delaware ("Ornatus RE"; together with Parent and each other Person joined hereto as a guarantor from time to time, collectively, the "Debtor Guarantors", and each a "Debtor Guarantor" and together with Borrowers, collectively the "Debtors" and each a "Debtor"), the financial institutions which are now or which hereafter become a party hereto (collectively, the "Lenders" and each individually a "Lender") and PNC BANK, NATIONAL ASSOCIATION ("PNC"), as agent for Lenders (PNC, in such capacity, the "Agent").

A. On August 16, 2019 (the "Petition Date"), Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code, which petition is identified as Bankruptcy Case No. [_____] (jointly administered) (collectively, the "Case") before the United States Bankruptcy Court for the District of Delaware (together any other court having jurisdiction over the Case, the "Bankruptcy Court"). Debtors remain in possession of their assets and are operating their businesses as a debtors-in-possession under Chapter 11 of the Bankruptcy Code.

B. Pursuant to that certain Revolving Credit and Security Agreement dated as of April 12, 2019 (as has been amended, supplemented and modified through the date hereof, the "Pre-Petition Credit Agreement"), by and among the Parent, Borrowers, the other Debtor Guarantors, the financial institutions party thereto as lenders as of the Petition Date (collectively, in such capacity, the "Pre-Petition Lenders") and PNC, as agent for Pre-Petition Lenders (in such capacity, "Pre-Petition Agent"), Pre-Petition Agent and Pre-Petition Lenders made certain credit facilities and advances of credit available to Borrowers prior to the Petition Date on the terms and conditions set forth therein, which credit facilities and advances of credit and all other Pre-Petition Obligations (as defined below) thereunder are unconditionally guaranteed by the Debtor Guarantors and secured by Liens on substantially all the assets of the Borrowers and the Debtor Guarantors.

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

D. Agent and the Lenders are willing to provide advances and other financial accommodations to Borrowers on a senior secured, superpriority basis on the terms and subject to the conditions of this Agreement, so long as such post-petition credit obligations are (i) secured by Liens on all of the assets, property and interests, real and personal, tangible and intangible, of the Debtors, whether now owned or hereafter acquired, which Liens are superior to all other Liens pursuant to Sections 364(c) and (d) of the Bankruptcy Code (other than the Senior Liens (as defined in the Interim Order) and the Carve-Out); (ii) given priority over any administrative expenses of the kind specified in the Bankruptcy Code, including without limitation, under Sections 105, 326, 328, 330, 331, 364(c)(1), 365, 503, 506(c) (upon entry of the Final Order), 507, 546(c), 726, 1113 or 1114 of the Bankruptcy Code, subject, as to priority, only to the Carve-Out, as provided in the Interim Order; (iii) secured by Liens on all of the assets, property and interests, real and personal, tangible and intangible, of each Debtor, whether now owned or hereafter acquired, which Liens are superior to all other Liens (other than Senior Liens and subject to the Carve-Out); and (iv) guaranteed by each Debtor Guarantor pursuant to the terms set forth in this Agreement.

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

I. DEFINITIONS.

1.1. Accounting Terms. As used in this Agreement, the Other Documents or any certificate, report or Other Document made or delivered pursuant to this Agreement, accounting terms not defined in Section 1.2 or elsewhere in this Agreement and accounting terms partly defined in Section 1.2 to the extent not defined shall have the respective meanings given to them under GAAP; provided, however that, whenever such accounting terms are used for the purposes of determining compliance with financial covenants in this Agreement, such accounting terms shall be defined in accordance with GAAP consistently applied. If there occurs after the Closing Date any change in GAAP that affects in any respect a calculation that is part of any covenant contained in this Agreement, Agent, Lenders and the Debtors shall negotiate in good faith to amend the provisions of this Agreement that relate to such calculation so as to equitably reflect such change with the desired result that the criteria for evaluating Borrowers' financial condition shall be the same after such change as if such change had not occurred, provided, that, until any such amendments have been agreed upon, the calculations in covenants in this Agreement shall be made as if no such change in GAAP had occurred and Debtors shall provide additional financial statements or supplements thereto, attachments to Compliance Certificates and/or calculations regarding financial covenants as Agent may reasonably require in order to provide the appropriate financial information required hereunder with respect to Debtors both reflecting any applicable changes in GAAP and as necessary to demonstrate compliance with the financial covenants before giving effect to the applicable changes in GAAP.

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

"Account Control Agreement" shall mean an agreement in writing, in form and substance reasonably satisfactory to Agent, by and among Agent, Subordinated Lender, if any, and any applicable Debtor and any bank or securities intermediary at which any deposit account, securities account or commodities account of such Debtor is at any time maintained which is sufficient to give each of Agent and Subordinated Lender "control" (for purposes of Article 8 and 9 of the Uniform Commercial Code) over such account.

"Advance Rates" shall mean the advance rates in respect of Eligible Credit Card Receivables, Eligible Inventory and Eligible In-Transit Inventory set forth in Section 2.1(a)(y) hereof and in the definition of FILO Borrowing Base, as applicable.

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

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

"Affiliate" of any Person shall mean any Person which, directly or indirectly, is in control of, is controlled by, or is under common control with such Person. For purposes of this definition, control of a Person shall mean the power, directly or indirectly, (x) to vote 15% or more of the Equity Interests having ordinary voting power for the election of directors of such Person or other Persons performing similar functions for any such Person, or (y) to direct or cause the direction of the management and policies of such Person whether by ownership of Equity Interests, contract or otherwise.

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

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

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

"Alternate Base Rate" shall mean, for any day, a rate per annum equal to the highest of (a) the Base Rate in effect on such day, (b) the sum of the Overnight Bank Funding Rate in effect on such day plus one half of one percent (0.5%), and (c) the sum of the Daily LIBOR Rate in effect on such day plus one percent (1.0%), so long as a Daily LIBOR Rate is offered, ascertainable and not unlawful. Any change in the Alternate Base Rate (or any component thereof) shall take effect at the opening of business on the day such change occurs.

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

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

"Applicable Law" shall mean all laws, rules and regulations applicable to the Person, conduct, transaction, covenant, Other Document or contract in question, including all applicable common law and equitable principles, all provisions of all applicable state, federal and foreign constitutions, statutes, rules, regulations, treaties, directives and orders of any Governmental Body, and all orders, judgments and decrees of all courts and arbitrators.

"Applicable Margin" shall mean for Revolving Advances (other than FILO Amount) and Swing Loans, the applicable percentage specified below:

APPLICABLE MARGINS FOR DOMESTIC RATE LOANS (Revolving Advances and Swing Loans)	APPLICABLE MARGINS FOR LIBOR RATE LOANS (Revolving Advances)
3.50%	4.50%

"Application Date" shall have the meaning set forth in Section 2.8(b) hereof.

"Approved 363 Sale" shall mean any sale of any Debtor's assets or business pursuant to Section 363 of the Bankruptcy Code approved by the Agent pursuant to appropriate orders of the Bankruptcy Court that are approved by and acceptable to Agent, but shall not include any Approved GOB Sale.

"Approved Bankruptcy Sale" shall mean, collectively, any Approved 363 Sale and Approved GOB Sales.

"Approved Electronic Communication" shall mean each notice, demand, communication, information, document and other material transmitted, posted or otherwise made or communicated by e-mail, e-fax, the Credit Management Module of PNC's PINACLE® system, or any other equivalent electronic service agreed to by Agent, whether owned, operated or hosted by Agent, any Lender, any of their Affiliates or any other Person, that any party is obligated to, or otherwise chooses to, provide to Agent pursuant to this Agreement or any Other Document, including any financial statement, financial and other report, notice, request, certificate and other information material; provided that Approved Electronic Communications shall not include any notice, demand, communication, information, document or other material that Agent specifically instructs a Person to deliver in physical form.

"Approved GOB Sale" shall mean each and any of the following: (a) the Planned GOB Sales, and (y) any other similar "going out of business" sale as to any store location(s) of any Debtor pursuant to Section 363 of the Bankruptcy Code approved by Agent pursuant to appropriate orders of the Bankruptcy Court that are approved by and acceptable to Agent.

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

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

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

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

"Bail-In Legislation" shall mean, with respect to any EEA Member Country implementing Article 44 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the Bail-In Legislation Schedule.

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

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

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

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

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

"Benefited Lender" shall have the meaning set forth in Section 2.6(e) hereof.

"Bidding Procedures" shall have the meaning set forth in Section 10.7(p) hereof.

"Bidding Procedures Order" shall have the meaning set forth in Section 10.7(p) hereof.

"Blocked Account Bank" shall have the meaning set forth in Section 4.8(j) hereof.

"Blocked Accounts" shall have the meaning set forth in Section 4.8(j) hereof.

"Borrower" or "Borrowers" shall have the meaning set forth in the preamble to this Agreement and shall extend to all permitted successors and assigns of such Persons.

"Borrowers' Account" shall have the meaning set forth in Section 2.10 hereof.

"Borrowing Agent" shall mean Avenue and its permitted successors and assigns.

"Borrowing Base Amount" shall mean an amount equal to the sum of:

(i) 90% of the net amount of Eligible Credit Card Receivables, plus

(ii) 90% of the appraised net orderly liquidation value (as evidenced by an Inventory appraisal satisfactory to Agent in its Permitted Discretion) of Eligible Inventory, plus

(iii) 90% of the aggregate appraised net orderly liquidation value (as evidenced by an Inventory appraisal satisfactory to Agent in its Permitted Discretion) of Eligible In-Transit Inventory which consists of an E-Commerce Business Asset, plus

(iv) after Agent's receipt of the Initial Guaranty Payment and the issuance of the Letter of Credit (as each term is defined in the GOB Agency Agreement) naming Agent as co-beneficiary, 100% of the Residual GOB Amount, minus

(v) Reserves.

"Borrowing Base Certificate" shall mean a certificate in substantially the form of Exhibit 1.2 hereto or otherwise reasonably acceptable to Agent duly executed by the President, Chief Financial Officer, VP of Finance or Controller or any other officer regularly executing and delivering Borrowing Base Certificates in the Ordinary Course of Business of Borrowing Agent and delivered to Agent, completed in a manner reasonably acceptable to Agent, by which such officer shall certify to Agent the Formula Amount and Borrowing Base Amount and calculation thereof as of the immediately preceding Saturday.

"Budget" shall mean the nine-week budget for the Debtors delivered to and approved by Agent on or before the Closing Date and attached hereto as Exhibit A, (the "Initial Budget") setting forth Debtors' cash flow forecast in reasonable detail satisfactory to Agent with line item detail approved by Agent on or before the Closing Date, including receipts, and disbursements, as well as projected borrowings hereunder for the nine-week period commencing with the week in which the Closing Date shall occur, as such budget shall be updated from time to time in accordance with and subject to approval of Agent as set forth in Section 9.6 hereof.

"Business Day" shall mean any day other than Saturday or Sunday or a legal holiday on which commercial banks are authorized or required by law to be closed for business in East Brunswick, New Jersey and, if the applicable Business Day relates to any LIBOR Rate Loans, such day must also be a day on which dealings are carried on for U.S. dollar deposits in the London interbank market.

"Capital Expenditures" shall mean for any period, the aggregate of all expenditures (whether paid in cash and not theretofore accrued subsequent to the date of this Agreement or accrued as liabilities during such period and including that portion of Capital Leases which is capitalized on the consolidated balance sheet of Parent and its Subsidiaries in accordance with GAAP) by Debtors during such period that, in conformity with GAAP, are required to be

included in or reflected by the property, plant, equipment or intangibles or similar fixed asset accounts reflected in the consolidated balance sheet of Parent and its Subsidiaries.

"Capital Lease" shall mean, as applied to any Person, any lease of (or any agreement conveying the right to use) any property (whether real, personal or mixed) by such Person as lessee which in accordance with GAAP (as in effect on the Closing Date, whether or not such Capital Lease is in effect on the Closing Date) is required to be reflected as a liability on the balance sheet of such person; provided that, notwithstanding the foregoing, in no event will any lease that would have been categorized as an operating lease as determined in accordance with GAAP prior to giving effect to the Accounting Standards Codification Topic 842. Leases, or any other changes in GAAP subsequent to the Closing Date, be considered a capital lease for purposes of this Agreement.

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

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

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

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

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

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

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

"Cash Management Products and Services" shall mean agreements or other arrangements under which Agent or any Lender or any Affiliate of Agent or a Lender provides any of the following products or services to any Debtor: (a) credit cards; (b) credit card processing services; (c) debit cards and stored value cards; (d) commercial cards; (e) ACH transactions; and (f) cash management and treasury management services and products, including controlled disbursement accounts or services, lockboxes, automated clearinghouse transactions, overdrafts, interstate depository network services. The indebtedness, obligations and liabilities of any Debtor to the provider of any Cash Management Products and Services in respect of Cash Management Products and Services (including all obligations and liabilities owing to such provider in respect of any returned items deposited with such provider) (the "Cash Management Liabilities") shall be "Obligations" hereunder, guaranteed obligations under the Guaranty and secured obligations under any Debtor Guarantor Security Agreement, as applicable, and otherwise treated as Obligations for purposes of each of the Other Documents. The Liens securing the Cash Management Products and Services shall be pari passu with the Liens securing

all other Obligations under this Agreement and the Other Documents, subject to the express provisions of Section 11.5.

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

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

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

"CFTC" shall mean the Commodity Futures Trading Commission.

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

"Change in Law" shall mean the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any Applicable Law; (b) any change in any Applicable Law or in the administration, implementation, interpretation or application thereof by any Governmental Body; or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Body; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines, interpretations or directives thereunder or issued in connection therewith (whether or not having the force of Applicable Law) and (y) all requests, rules, regulations, guidelines, interpretations or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities (whether or not having the force of law), in each case pursuant to Basel III, shall in each case be deemed to be a Change in Law regardless of the date enacted, adopted, issued, promulgated or implemented.

"Change of Control" shall mean: (a) the occurrence of any event (whether in one or more transactions) which results in Sponsor failing to directly or indirectly own more than fifty-one percent (51%) of the outstanding voting Equity Interests (on a fully diluted basis) of Parent, (b) the occurrence of any event (whether in one or more transactions) which results in Parent failing to directly or indirectly own one hundred percent (100%) of the each class of outstanding Equity Interests (on a fully diluted basis) of each other Debtor, or (c) any merger, consolidation, sale or sale of substantially all of the property or assets of any Debtor.

"Charges" shall mean all taxes, charges, fees, imposts, levies or other assessments, including all net income, gross income, gross receipts, sales, use, ad valorem, value added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, stamp, occupation and property taxes, custom duties, fees, assessments, liens, claims and charges of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts, imposed by any taxing or other

authority, domestic or foreign (including PBGC or any environmental agency or superfund), upon the Collateral, any Debtor or, to the extent any such matters may result in liability to any Debtor, any Subsidiary thereof.

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

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

"Closing Date" shall mean August [_], 2019.

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

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

(a) all Receivables (including Credit Card Receivables) and all supporting obligations relating thereto;

(b) all equipment and fixtures;

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

(d) all Inventory;

(e) all real property, fixtures, leaseholds, rents and profits and proceeds thereof; provided, however, that as to a Lien on all fee, leasehold, and other real property interests and the proceeds thereof: (i) with respect to non-residential real property leases, no Liens or encumbrances shall be granted or extended to such leases under this Agreement, except as permitted by the applicable lease or pursuant to Applicable Law, but if any such restriction applies, Liens shall then be deemed to extend only to the economic value of proceeds of any sale or other disposition of, and any other proceeds or products of, such leasehold interests; and (ii) should Agent's or any Lender's internal regulatory or compliance requirements require the completion of either or both flood due diligence and obtaining evidence of applicable flood insurance with respect to any real property or leasehold interest, then until completion of such flood due diligence, the Agent shall be deemed to have obtained a Lien only on the economic value of, proceeds of any sale or other disposition of such real property interests;

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

(g) all Exempt Accounts and proceeds on deposit therein but solely to the extent any excess proceeds in such accounts are not used for their intended purposes;

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

(i) all Leasehold Interests;

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

(k) all contract rights or rights of payment of money, chattel paper (including electronic chattel paper and tangible chattel paper), commercial tort claims (whether now existing or hereafter arising), documents (including all warehouse receipts and bills of lading), deposit accounts, goods, instruments (including promissory notes), letters of credit (whether or not the respective letter of credit is evidenced by a writing) and letter-of-credit rights (including, without limitation, the Letter of Credit (as defined in the GOB Agency Agreement)), cash, certificates of deposit, insurance claims and proceeds (including hazard, flood and credit insurance), security agreements, eminent domain proceeds, condemnation proceeds, tort claims, tort claim proceeds and all supporting obligations;

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

(m) all proceeds and products of the property described in clauses (a) through (l) of this definition, in whatever form. It is the intention of the parties that if Agent shall fail to have a perfected Lien in any particular property or assets of any Debtor that is intended to be Collateral for any reason whatsoever, but the provisions of this Agreement and/or of the Other Documents, together with all financing statements and other public filings relating to Liens filed or recorded by Agent against Debtors, would be sufficient to create a perfected Lien in any property or assets that such Debtor may receive upon the sale, lease, license, exchange, transfer or disposition of such particular property or assets, then all such "proceeds" of such particular property or assets shall be included in the Collateral as original collateral that is the subject of a direct and original grant of a security interest as provided for herein and in the Other Documents (and not merely as proceeds (as defined in Article 9 of the Uniform Commercial Code) in which a security interest is created or arises solely pursuant to Section 9-315 of the Uniform Commercial Code); and

(n) without limitation of any of the foregoing, all of the Pre-Petition Collateral that is owned by a Debtor.

"Collateral Access Agreement" shall mean an agreement in writing, in form and substance reasonably satisfactory to Agent, from any lessor of premises to any Borrower, or any other person to whom any Collateral is consigned or who has custody, control or possession of any such Collateral or is otherwise the owner or operator of any premises on which any of such Collateral is located, in favor of Agent with respect to the Collateral at such premises or otherwise in the custody, control or possession of such lessor, consignee or other person.

"Commitment Transfer Supplement" shall mean a document substantially in the form of Exhibit 16.3 hereto, in form and substance reasonably satisfactory to Agent by which the

Purchasing Lender purchases and assumes a portion of the obligation of Lenders to make Advances under this Agreement.

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

"Compliance Certificate" shall mean a compliance certificate substantially in the form of Exhibit 1.2(a) hereto or otherwise in a form reasonably acceptable to Agent to be signed by the Chief Financial Officer, VP of Finance or Controller or any other officer regularly executing and delivering Compliance Certificates in the Ordinary Course of Business of Borrowing Agent.

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

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

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

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

"Credit Card Agreements" shall mean an agreement now or hereafter entered into by any Borrower with any Credit Card Issuer or any Credit Card Processor, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

"Credit Card Issuer" shall mean any person (other than Borrowers or their Affiliates) who issues or whose members issue credit cards, including MasterCard or VISA bank credit or debit cards or other bank credit or debit cards issued through MasterCard International, Inc., Visa, U.S.A., Inc. or Visa International and American Express, Discover, Diners Club, Carte Blanche and other non-bank credit or debit cards, including credit or debit cards issued by or through American Express Travel Related Services Company, Inc. and Novus Services, Inc.

"Credit Card Notification" shall mean each notice (substantially in the form of Exhibit 4.8(f) hereto or otherwise reasonably satisfactory to Agent) to a Credit Card Issuer or

Credit Card Processor who is party to a Credit Card Agreement notifying such Credit Card Issuer or Credit Card Processor of Agent's first-priority security interest in the monies due and to become due to any Borrower (including credits and reserves) under the Credit Card Agreement, and directing such Credit Card Issuer or Credit Card Processor, as applicable, to transfer all such amounts to the Blocked Accounts.

"Credit Card Processor" shall mean any servicing or processing agent or any factor or financial intermediary who services, processes or manages the credit authorization, billing transfer and/or payment procedures with respect to Borrowers' sales transactions involving credit card or debit card purchases by customers using credit cards or debit cards issued by any Credit Card Issuer.

"Credit Card Receivables" shall mean, collectively, (a) all present and future rights of any Borrower to payment from any Credit Card Issuer, Credit Card Processor or other third party arising from sales of goods or rendition of services to customers who have purchased such goods or services using a credit or debit card and (b) all present and future rights of any Borrower to payment from any Credit Card Issuer, Credit Card Processor or other third party in connection with the sale or transfer of Receivables arising pursuant to the sale of goods or rendition of services to customers who have purchased such goods or services using a credit card or a debit card, including all amounts at any time due or to become due from any Credit Card Issuer or Credit Card Processor under the Credit Card Agreements or otherwise.

"Creditors' Committee**"** means the official unsecured creditors' committee appointed in the Case.

"Customer" shall mean and include the account debtor with respect to any Receivable and/or the prospective purchaser of goods, services or both with respect to any contract or contract right, and/or any party who enters into or proposes to enter into any contract or other arrangement with any Debtor, pursuant to which such Debtor is to deliver any personal property or perform any services.

"Customs" shall have the meaning set forth in Section 2.13(b) hereof.

"Daily LIBOR Rate" shall mean, for any day, the rate per annum determined by Agent by dividing (x) the Published Rate by (y) a number equal to 1.00 minus the Reserve Percentage; provided, however, that if the Daily LIBOR Rate determined as provided above would be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

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

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

"Debtor Guarantor Security Agreement" shall mean any security agreement executed by any Debtor Guarantor in favor of Agent securing the Obligations or the Guaranty of such Debtor Guarantor, in form and substance reasonably satisfactory to Agent.

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

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

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

"Defaulting Lender" shall mean any Lender that: (a) has failed, within two (2) Business Days of the date required to be funded or paid, to (i) fund any portion of its Revolving Commitment Percentage, (ii) if applicable, fund any portion of its Participation Commitment in Letters of Credit or Swing Loans or (iii) pay over to Agent, Issuer, Swing Loan Lender or any Lender any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including a particular Default or Event of Default, if any) has not been satisfied; (b) has notified Debtors or Agent in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender's good faith determination that a condition precedent (specifically identified and including a particular Default or Event of Default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit; (c) has failed, within two (2) Business Days after request by Agent, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Advances and, if applicable, participations in then outstanding Letters of Credit and Swing Loans under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon Agent's receipt of such certification in form and substance satisfactory to Agent; (d) has become the subject of an Insolvency Event; or (e) has failed at any time to comply with the provisions of Section 2.6(e) with respect to purchasing participations from the other Lenders, whereby such Lender's share of any payment received, whether by setoff or otherwise, is in excess of its pro rata share of such payments due and payable to all of the Lenders.

"Depository Accounts" shall have the meaning set forth in Section 4.8(j) hereof.

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

"Disqualified Institutions" shall mean those Persons that are (a) the Persons identified in writing by Borrowing Agent to Agent on or prior to the Closing Date, and (b) Affiliates of any such Persons referred to in clause (a) to the extent (x) such Affiliate's legal name contains the same name of a Person referred to in clause (a) or is otherwise readily identifiable as an Affiliate of such Person on the basis of such Affiliate's name or (y) identified in writing by Borrowing Agent to Agent from time to time.

"Disqualified Stock" shall mean capital stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder thereof), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is ninety-one (91) days after the date on which the Revolving Advances or Swing Loans mature, provided that (x) any capital stock that would not constitute Disqualified Stock but for provisions thereof giving holders thereof (or the holders of any security into or for which such capital stock is convertible, exchangeable or exercisable) the right to require the issuer thereof to redeem such capital stock upon the occurrence of a change in control or a sale or other disposition of property or assets shall not constitute Disqualified Stock and (y) any capital stock which by its terms authorizes the issuer thereof to satisfy its obligations thereunder by delivery of capital stock that is not Disqualified Stock shall not be deemed to be Disqualified Stock. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of this Agreement will be the maximum amount that Debtors may become obligated to pay upon maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock or portion thereof, plus accrued dividends. Notwithstanding the preceding sentence, any capital stock that would constitute Disqualified Stock solely because the holders of the capital stock have the right to be paid upon liquidation, dissolution, or winding up of the issuer of such capital stock will not constitute Disqualified Stock if the terms of such capital stock provide that such payments may not be made with respect to such capital stock unless such payments are made in accordance with Section 7.7 hereof.

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

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

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

"E-Commerce Business Assets" shall mean the Debtors' inventory stored at its Texas distribution center and previously designated to fulfill online orders, the Debtors' intellectual property, and any contracts and leases related thereto.

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

"EEA Member Country" shall mean any of the member states of the European Union, Iceland, Liechtenstein and Norway.

"EEA Resolution Authority" shall mean any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

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

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

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

"Eligible Credit Card Receivables" shall mean the Credit Card Receivables of each Borrower which are and continue to be acceptable to Agent based on the criteria set forth below as determined by Agent in its Permitted Discretion. Credit Card Receivables of Borrowers shall be Eligible Credit Card Receivables if:

(a) such Credit Card Receivables arise from the actual and bona fide sale and delivery of goods or rendition of services by such Borrower in the ordinary course of the business of such Borrower which transactions are completed in accordance with the terms and provisions contained in any agreements binding on Borrowers or the other party or parties related thereto;

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

(c) such Credit Card Receivables are paid within six (6) days after the date of the sale of Inventory giving rise to such Credit Card Receivables;

(d) all procedures required by the Credit Card Issuer or the Credit Card Processor of the credit card or debit card used in the purchase which gave rise to such Credit Card Receivables shall have been followed in all material respects by such Borrower and all documents required for the authorization and approval by such Credit Card Issuer or Credit Card Processor shall have been obtained in connection with the sale giving rise to such Credit Card Receivables;

(e) the required authorization and approval by such Credit Card Issuer or Credit Card Processor shall have been obtained for the sale giving rise to such Credit Card Receivables;

(f) such Borrower shall have submitted all sales slips, drafts, charges and other reports and other materials required by the Credit Card Issuer or Credit Card Processor

obligated in respect of such Credit Card Receivables in order for such Borrower to be entitled to payment in respect thereof;

(g) such Credit Card Receivables comply in all material respects with the applicable terms and conditions contained in Section 4.8 of this Agreement;

(h) the Credit Card Issuer or Credit Card Processor with respect to such Credit Card Receivables has not asserted a counterclaim, defense or dispute and does not have any right of setoff against such Credit Card Receivables (other than transactions in the ordinary course of the business of such Borrower) and, except to the extent set forth on Schedule 5.30 hereto, such Credit Card Issuer or Credit Card Processor has not set off against amounts otherwise payable by such Credit Card Issuer or Credit Card Processor to such Borrower for the purpose of establishing a reserve or collateral for obligations of such Borrower to such Credit Card Issuer or Credit Card Processor (notwithstanding that the Credit Card Issuer or Credit Card Processor may have setoffs for fees and chargebacks consistent with the practices of such Credit Card Issuer or Credit Card Processor with such Borrower as of the date hereof or as such practices may hereafter change as a result of changes to the policies of such Credit Card Issuer or Credit Card Processor applicable to its customers generally and unrelated to the circumstances of such Borrower);

(i) there are no facts, events or occurrences which would impair in any material respect the validity, enforceability or collectability of such Credit Card Receivables or reduce the amount payable or delay payment thereunder (other than for setoffs for fees and chargebacks consistent with the practices of such Credit Card Issuer or Credit Card Processor with such Borrower as of the date hereof or as such practices may hereafter change as a result of changes to the policies of such Credit Card Issuer or Credit Card Processor applicable to its customers generally and unrelated to the specific circumstances of such Borrower);

(j) such Credit Card Receivables are subject to the superpriority, valid and perfected security interest and Lien of Agent superior to all other Liens pursuant to Section 364(c) and (d) of the Bankruptcy Code and subject to no other Liens (other than a Senior Lien (as defined in the Interim Order) and the Carve-out) and any goods giving rise thereto are not, and were not at the time of the sale thereof, subject to any Liens not permitted under the terms hereof;

(k) the Credit Card Processor shall be Alliance Data Systems or such other third party reasonably acceptable to Agent;

(l) Agent shall have received, in form and substance reasonably satisfactory to Agent, a Credit Card Notification duly authorized, executed and delivered by Borrowers and delivered to the Credit Card Issuer or Credit Card Processor for the credit card or debit card used in the sale which gave rise to such Credit Card Receivable;

(m) there are no proceedings or actions which are pending or, to such Borrower's knowledge, threatened against the Credit Card Issuers or Credit Card Processors with respect to such Credit Card Receivables which could reasonably be expected to result in any

material adverse change in the continued collectability of the Credit Card Receivables with respect to the Credit Card Issuers or Credit Card Processors;

(n) such Credit Card Receivables are owed by Credit Card Issuers or Credit Card Processors deemed creditworthy at all times by Agent in its Permitted Discretion;

(o) no default or event of default (other than any cross-default to the Other Documents) has occurred and is continuing under the Credit Card Agreement of such Borrower with the Credit Card Issuer or Credit Card Processor who has issued the credit card or debit card or handles payments under the credit card or debit card used in the sale which gave rise to such Credit Card Receivables which default gives such Credit Card Issuer or Credit Card Processor the right to cease or suspend payments to such Borrower and no default or event of default shall have occurred which gives such Credit Card Issuer or Credit Card Processor the right to set off against amounts otherwise payable to such Borrower (other than for then current fees and chargebacks consistent with the current practices of such Credit Card Issuer or Credit Card Processor as of the date hereof or as such practices may hereafter change as a result of changes to the policies of such Credit Card Issuer or Credit Card Processor applicable to its customers generally and unrelated to the specific circumstances of such Borrower) or the right to establish reserves or establish or demand collateral and such Credit Card Agreement is otherwise in full force and effect and constitute the legal, valid, binding and enforceable obligations of the parties thereto;

(p) the terms of the sale giving rise to such Credit Card Receivables and all practices of such Borrower with respect to such Credit Card Receivables comply in all material respects with applicable Federal, State, and local laws and regulations; and

(q) the Credit Card Issuer or Credit Card Processor has not sent any notice of default and/or notice of its intention to cease or suspend payments to such Borrower in respect of such Credit Card Receivables or to establish reserves or collateral for obligations of such Borrower to such Credit Card Issuer or Credit Card Processor (other than for then current fees and chargebacks consistent with the current practices of such Credit Card Issuer or Credit Card Processor as of the date hereof or as such practices may hereafter change as a result of changes to the policies of such Credit Card Issuer or Credit Card Processor applicable to its customers generally and unrelated to the circumstances of such Borrower).

Notwithstanding the foregoing, in no event shall any rebates, incentive payments or other similar payments earned by, or paid to, any Borrower from a Credit Card Processor or Credit Card Issuer be deemed Eligible Credit Card Receivables.

The criteria for Eligible Credit Card Receivables set forth above may only be changed and any new criteria for Eligible Credit Card Receivables may only be established by Agent in its Permitted Discretion.

"Eligible In-Transit Inventory" shall mean Inventory owned by each Borrower that otherwise satisfies the criteria for Eligible Inventory set forth herein but which is either (i) in transit by vessel or land to either the premises of a Freight Forwarder in the United States of America or the premises of such Borrower in the United States of America which are either

owned and controlled by such Borrower or leased by such Borrower, or (ii) is in-transit within the United States, provided, that the following conditions shall also be satisfied:

(a) Agent has a superpriority perfected security interest in and Lien upon such Inventory and all documents of title with respect thereto superior to all other Liens pursuant to Section 364(c) and (d) of the Bankruptcy Code and subject to no other Liens (other than a Senior Lien (as defined in the Interim Order) and the Carve-out),

(b) such Inventory either (i) is in transit from a location outside the United States to any location within the United States of such Borrower or a Customer of such Borrower and is the subject of a tangible negotiable bill of lading governed by the laws of a state within the United States (x) that is consigned to Agent or one of its agents (either directly or by means of endorsements) naming a vendor of a Borrower as the shipper of the goods; provided that at any time after receipt of written notice from Agent to Borrowers and the Freight Forwarder, such documents of title shall only name a Borrower as the shipper of the Collateral, (y) that was issued by the carrier respecting the subject Inventory, and (z) is in the possession of Agent or a Freight Forwarder (in the continental United States), or (ii) is Inventory in-transit within the United States and for which (x) title has passed to a Borrower, (y) such Inventory is insured to the full value thereof and (y) Agent shall have received evidence that such inventory is subject to no document of title other than a non-negotiable bill of lading naming Borrower as consignee or a similar document acceptable to Agent.

(c) such Borrower has title to such Inventory, and Agent shall have received such evidence thereof as it may from time to time reasonably require,

(d) Agent shall have received, (x) a Collateral Access Agreement, duly authorized, executed and delivered by the Freight Forwarder located in the United States of America handling the importing, shipping and delivery of such Inventory in transit from outside of the United States and (y) bailee agreements (in form and substance reasonably satisfactory to Agent), with respect to shippers, freight cargo carriers or such other Persons in possession of such Inventory in transit from outside of the United States, to the extent Agent shall reasonably request,

(e) such Inventory is insured against types of loss, damage, hazards, and risks, and in amounts, reasonably satisfactory to Agent in its Permitted Discretion, and Agent shall have received a copy of the certificate of marine cargo insurance in connection therewith in which it has been named as an additional insured and loss payee in a manner reasonably acceptable to Agent, upon Agent's request, Agent shall have received (i) a certificate duly executed and delivered by an officer of the applicable Borrower certifying to Agent that, to the knowledge of such Borrower, such Inventory meets all of such Borrower's representations and warranties contained herein concerning Eligible Inventory and that the shipment as evidenced by the documents conforms to the related order documents, and (ii) upon Agent's request, a copy of the invoice, packing slip and manifest with respect thereto,

(f) such Inventory is not subject to a letter of credit, other than a Letter of Credit issued pursuant to this Agreement,

(g) such Inventory shall not have been in transit for more than sixty (60) days (in the case of Inventory located outside of the United States of America) or fifteen (15) days (in the case of Inventory located within the United States of America); and

(h) Agent shall have received reasonably satisfactory evidence that such Borrower has implemented a system designed to report inventory in-transit in a manner reasonably satisfactory to Agent, as determined following a field review conducted in accordance with Section 4.6 hereof.

"Eligible Inventory" shall mean and include Inventory of a Borrower consisting of finished goods, valued at the lower of cost or market value, determined on an average cost basis. In addition, Eligible Inventory shall not include any Inventory:

(a) which is not subject to a superpriority (subject only to any Senior Lien (as defined in the Interim Order) and the Carve-Out) and perfected security interest and Lien in favor of Agent superior to all other Liens pursuant to Section 364(c) and (d) of the Bankruptcy Code;

(b) which is, in Agent's Permitted Discretion, obsolete, unmerchantable, defective, used, unfit for sale, not saleable at prices approximating at least the cost of such Inventory in the ordinary course of business or unacceptable due to age, type, category and/or quantity;

(c) with respect to which any covenant, representation, or warranty contained in this Agreement or any of the Other Documents has been breached or is not true, in each case, in any material respect or which does not conform to all standards imposed by any Governmental Body if such non-conformity causes such Inventory to be non-saleable in the ordinary course;

(d) in which any Person other than a Borrower shall (i) have any direct or indirect ownership, interest or title to such Inventory or (ii) be indicated on any purchase order or invoice with respect to such Inventory as having or purporting to have an interest therein;

(e) which constitutes spare or replacement parts, subassemblies, packaging and shipping material, manufacturing supplies, samples, prototypes, displays or display items, advertising items, shoe mismatches, bill-and-hold goods, goods that are returned or marked for return (other than unused goods which are returned and held for sale in the ordinary course of business), repossessed goods, defective or damaged goods, goods held on consignment, or goods which are not of a type held for sale in the ordinary course of business;

(f) which is in-transit (except for Inventory in transit between locations owned or leased and controlled by Borrowers in the continental United States and as to which Agent's Liens have been perfected at origin and destination) or not located at premises owned or leased and controlled by such Borrower, except as set forth in clause (h) or (i) below;

(g) which is located in any location leased by a Borrower unless (i) the lessor has delivered to Agent a Collateral Access Agreement that Agent has acknowledged in writing is

reasonably acceptable to it or (ii) either (x) a Rent and Charges Reserve has been established with respect thereto or (y) a Rent and Charge Reserve is not applicable;

(h) which is located in any third party warehouse or is in the possession of a bailee or is being processed offsite at a third party location or outside processor and, in any such case, is not evidenced by a Document, unless (i) such warehouseman or bailee or the owner of such third party location or such outside processor has delivered to Agent a Collateral Access Agreement that Agent has acknowledged in writing is reasonably acceptable to it and such other documentation as Agent may reasonably require or (ii) a Rent and Charges Reserve has been established with respect thereto;

(i) which is the subject of a consignment by such Person as consignor;

(j) which contains or bears any Intellectual Property licensed to a Debtor unless (A) Agent is satisfied that it may sell or otherwise dispose of such Inventory without (i) infringing or otherwise violating the rights of such Licensor, (ii) violating any contract with such Licensor or (iii) incurring any liability with respect to payment of royalties other than royalties incurred pursuant to sale of such Inventory under the current licensing agreement, or (B) if the Licensor of such Intellectual Property rights is not a Borrower (or, solely to the extent a primary Licensor, another Debtor), a Licensor/Agent Agreement has been entered into between Agent and such Licensor;

(k) which is not reflected in a current perpetual inventory report of such Person; or

(l) for which reclamation rights or stoppage in-transit have been asserted by the seller.

The criteria for Eligible Inventory set forth above may only be changed and any new criteria for Eligible Inventory may only be established by Agent in its Permitted Discretion.

"Environmental Complaint" shall have the meaning set forth in Section 9.1(f) hereof.

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

"Equipment" shall mean, as to each Debtor, all of such Debtor's now owned and hereafter acquired equipment, wherever located, including machinery, data processing and computer equipment (whether owned or licensed and including embedded software), vehicles, tools, furniture, fixtures, all attachments, accessions and property now or hereafter affixed thereto or used in connection therewith, and substitutions and replacements thereof, wherever located.

"Equity Interests" shall mean, with respect to any Person, (a) all of the shares, interests, participations or other equivalents (however designated) of such Person's capital stock or partnership, limited liability company or other equity, ownership or profit interests at any time outstanding, (b) all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other interests in) such Person, (c) all of the securities convertible into or exchangeable for shares of capital stock of (or other interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and including any interests in phantom equity plans and any debt security that is convertible into or exchangeable for such shares, and (d) all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

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

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

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

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

"Excluded Taxes" shall mean, with respect to Agent, any Lender, Participant, Swing Loan Lender Issuer or any other recipient of any payment to be made by or on account of any

Obligations, (a) taxes imposed on or measured by its overall net income (however denominated), franchise taxes and any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction, in each case (i) that are imposed by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, Participant, Swing Loan Lender or Issuer, in which its applicable lending office is located or (ii) that are Other Connection Taxes, (b) any U.S. withholding tax that is imposed on amounts payable to a Lender at the time such Lender becomes a party hereto (or designates a new lending office) (other than pursuant to an assignment request by Borrowers under Section 3.11) or is attributable to such Lender's failure (other than as a result of a Change in Law) to comply with Section 3.10(e), except to the extent that such Lender or Participant (or its assignor or seller of a participation, if any) was entitled, at the time of designation of a new lending office (or assignment or sale of a participation), to receive additional amounts from Debtors with respect to such withholding tax pursuant to Section 3.10(a), or (c) any Taxes imposed on any "withholding payment" payable to such recipient pursuant to FATCA.

"Exempt Accounts" shall mean any deposit accounts specifically and exclusively used (a) for payroll, payroll taxes, workers' compensation or unemployment compensation, pension benefits and other similar expenses to or for the benefit of any Debtor's employees and accrued and unpaid employee compensation (including salaries, wages, benefits and expense reimbursements), (b) for escrow, trust or fiduciary purposes in the ordinary course of business and (c) for all taxes required to be collected or withheld (including sales taxes) for which any Debtor may become liable.

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

"FATCA" shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations thereunder or official interpretations thereof, applicable intergovernmental agreements and related legislation or official administrative rules or practices in connection therewith, and any agreement entered into pursuant to Section 1471(b)(1) of the Code.

"Federal Funds Effective Rate" shall mean for any day the rate per annum (based on a year of 360 days and actual days elapsed and rounded upward to the nearest 1/100 of 1%) announced by the Federal Reserve Bank of New York (or any successor) on such day as being the weighted average of the rates on overnight federal funds transactions arranged by federal funds brokers on the previous trading day, as computed and announced by such Federal Reserve Bank (or any successor) in substantially the same manner as such Federal Reserve Bank computes and announces the weighted average it refers to as the "Federal Funds Effective Rate" as of the date of this Agreement; provided, if such Federal Reserve Bank (or its successor) does not announce such rate on any day, the "Federal Funds Effective Rate" for such day shall be the Federal Funds Effective Rate for the last day on which such rate was announced.

"Fee Letter" shall mean the fee letter dated the Closing Date among Borrowers and PNC.

"FILO Advance" shall mean a Revolving Advance in the amount of $6,000,000 made to Borrowers pursuant to Section 2.1 based on the FILO Borrowing Base. The FILO Advance shall, except to the extent voluntarily prepaid and permanently reduced as permitted hereunder, be deemed to be the first Revolving Advances made to Borrowers and the last Revolving Advances repaid. Once repaid, the FILO Advance may not be reborrowed.

"FILO Advance Interest Rate" shall mean (a) with respect to FILO Advances that are Domestic Rate Loans, an interest rate per annum equal to the sum of 5.50% plus the Alternate Base Rate and (b) with respect to FILO Advances that are LIBOR Rate Loans, an interest rate per annum equal to the sum of 6.50% plus the LIBOR Rate.

"FILO Borrowing Base" shall mean an amount equal to the sum of:

(i) 10% of the Eligible Credit Card Receivables of Borrowers, plus

(ii) 20% of the appraised net orderly liquidation value of Eligible Inventory of Borrowers (as evidenced by an Inventory appraisal satisfactory to Agent in its Permitted Discretion), plus

(iii) 20% of the appraised net orderly liquidation value of Eligible In-Transit Inventory which consists of an E-Commerce Business Asset of Borrowers (as evidenced by an Inventory appraisal satisfactory to Agent in its Permitted Discretion), minus

(iv) without duplication, Reserves; plus

(v) the Sponsor Amount.

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

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

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

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

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

(e) provide for payment in full in cash of all Pre-Petition Obligations with the proceeds of Advances hereunder and reimbursement in full in cash of all professional fees, costs and expenses of the Pre-Petition Agent and the Pre-Petition Lenders, in each case upon entry of such Final Order; and

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

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

"Foreign Currency Hedge" shall mean any foreign exchange transaction, including spot and forward foreign currency purchases and sales, listed or over-the-counter options on foreign currencies, non-deliverable forwards and options, foreign currency swap agreements, currency exchange rate price hedging arrangements, and any other similar transaction providing for the purchase of one currency in exchange for the sale of another currency entered into by any Debtor or any of their respective Subsidiaries.

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

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

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

"Formula Amount" shall have the meaning set forth in Section 2.1(a) hereof.

"Freight and Duty Reserve" shall mean on any date, a reserve equal to Agent's good faith estimate of the costs and expenses associated with the importation of Inventory that is in transit from a location outside the United States to any location within the United States of a Borrower or a Customer of a Borrower as of such date, including an estimate for all duties and all customs broker fees then due or to become due with respect to such Inventory.

"Freight Forwarders" shall mean the persons listed on Schedule 2 hereto or such other person or persons as may be selected by a Borrower after the date hereof and after written notice by a Borrower to Agent to handle the receipt of Inventory within the United States of America and/or to clear Inventory through the Bureau of Customs and Border Protection (formerly the Customs Service) or other domestic or foreign export control authorities or otherwise perform

port of entry services to process Inventory imported by such Borrower from outside the United States of America (such persons sometimes being referred to herein individually as a "Freight Forwarder"), provided, that, as to each such person selected to clear Inventory through the Bureau of Customs and Border Protection, (a) Agent shall have received a Collateral Access Agreement by such person in favor of Agent (in form and substance reasonably satisfactory to Agent) duly authorized, executed and delivered by such person, (b) such agreement shall be in full force and effect and (c) such person shall be in compliance in all material respects with the terms thereof.

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

"GOB Agency Agreement" shall mean that certain Agency Agreement dated as of August 9, 2019, by and among Avenue Stores, LLC and its affiliates, on the one hand, and a joint venture composed of Hilco Merchant Resources, LLC and Gordon Brothers Retail Partners, LLC, on the other hand.

"GOB Liquidator" shall mean a joint venture composed of Hilco Merchant Resources, LLC and Gordon Brothers Retail Partners, LLC.

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

"Governmental Body" shall mean any nation or government, any state or other political subdivision thereof or any entity, authority, agency, division or department exercising the executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to a government (including any supra-national bodies such as the European Union or the European Central Bank) and, for purposes of Section 16.15 only, any group or body charged with setting financial accounting or regulatory capital rules or standards (including the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

"Guaranty" shall mean any guaranty of the Obligations (other than the Pre-Petition Obligations subject to entry of the Final Order) executed by a Debtor Guarantor in favor of Agent for its benefit and for the ratable benefit of Lenders, in form and substance reasonably satisfactory to Agent, including Article XVII hereof.

"Guaranty Obligations" shall mean, with respect to any Person, without duplication, any obligations of such Person (other than endorsements in the ordinary course of business of negotiable instruments for deposit or collection) guaranteeing or intended to guarantee any Indebtedness of any other Person in any manner, whether direct or indirect, and including any obligation, whether or not contingent, (a) to purchase any such Indebtedness or any property constituting security therefor, (b) to advance or provide funds or other support for the payment or purchase of any such Indebtedness or to maintain working capital, solvency or other balance sheet condition of such other Person (including keep-well agreements, maintenance agreements, comfort letters or similar agreements or arrangements) for the benefit of any holder of Indebtedness of such other Person, (c) to lease or purchase property, securities or services

primarily for the purpose of assuring the holder of such Indebtedness, or (d) to otherwise assure or hold harmless the holder of such Indebtedness against loss in respect thereof. The amount of any Guaranty Obligation hereunder shall (subject to any limitations set forth therein) be deemed to be an amount equal to the outstanding principal amount (or maximum reasonably anticipated liability in respect thereof, if larger) of the Indebtedness in respect of which such Guaranty Obligation is made. Guaranty Obligations shall not include Excluded Hedge Liabilities.

"Hazardous Discharge" shall have the meaning set forth in Section 9.1(f) hereof.

"Hazardous Materials" shall mean any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum products, methane, Hazardous Wastes, hazardous or Toxic Substances or related materials as defined in or subject to regulation under Environmental Laws.

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

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

"Indebtedness" shall mean, as to any Person at any time, any and all indebtedness, obligations or liabilities (whether direct or indirect, absolute or contingent) of such Person for or in respect of: (a) borrowed money; (b) amounts received under or liabilities in respect of any note purchase or acceptance credit facility, and all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments; (c) all obligations as a lessee under Capital Leases; (d) reimbursement obligations under any letter of credit agreement, banker's acceptance agreement or similar arrangement (but excluding any undrawn or cash collateralized letters of credit); (e) obligations under any Interest Rate Hedge, Foreign Currency Hedge, or other interest rate management device, foreign currency exchange agreement, currency swap agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging arrangement; (f) any other advances of credit made to or on behalf of such Person or other transaction (including forward sale or purchase agreements, capitalized leases and conditional sales agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements including to finance the purchase price of property or services and all obligations of such Person to pay the deferred purchase price of property or services (but not including trade payables and accrued expenses incurred in the Ordinary Course of Business which are not represented by a promissory note); (g) all Equity Interests of such Person subject to repurchase or redemption rights or obligations (excluding repurchases or redemptions at the sole option of such Person); (h) all indebtedness, obligations or liabilities secured by a Lien (other than Senior Liens pursuant to clauses (b), (c), (d), (g), (h), (i), (j), (m), (n), (o), (p) and (t) of the definition thereof) on any asset of such Person, whether or not such indebtedness, obligations or liabilities are otherwise an obligation of such Person; (i) all obligations of such Person for "earnouts", purchase price adjustments, profit sharing arrangements, deferred purchase money amounts and similar payment obligations or continuing obligations of any nature of such Person arising out of purchase and sale contracts to

the extent required to be reflected as a liability on a balance sheet prepared in accordance with GAAP; (j) off-balance sheet liabilities and/or pension plan liabilities of such Person; (k) obligations arising under bonus, deferred compensation, incentive compensation or similar arrangements, other than those arising in the Ordinary Course of Business; and (l) any guaranty of any indebtedness, obligations or liabilities of a type described in the foregoing clauses (a) through (k). Notwithstanding the foregoing, Indebtedness shall be deemed not to include: (i) deferred or prepaid revenues, tax liabilities, and customary obligations under employment agreements and deferred compensation, (ii) customary and reasonable purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller; or (iii) any obligations attributable to the exercise of appraisal rights in connection with mergers and acquisitions and the settlement of any claims or actions (whether actual, contingent or potential) with respect thereto.

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

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

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

"Insolvency Event" shall mean, with respect to any Lender, such Lender or such Lender's direct or indirect parent company (a) becomes the subject of a bankruptcy or insolvency proceeding (including any proceeding under Title 11 of the United States Code), (b) has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it or has called a meeting of its creditors, (c) admits in writing its inability, or be generally unable, to pay its debts as they become due or cease operations of its present business, (d) such Lender is unable to perform hereunder due to the application of Applicable Law, or (e) in the good faith determination of Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment of a type described in clauses (a) or (b), provided that an Insolvency Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Lender or such Lender's direct or indirect parent company by a Governmental Body or instrumentality thereof if, and only if, such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Body or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

"Intellectual Property" shall mean property constituting a patent, copyright, trademark, service mark (or any application in respect of the foregoing), service mark, trade name, mask work, trade secrets, design right, assumed name or license or other right to use any of the foregoing under Applicable Law.

"Interest Expense" shall mean, for any period, as to Parent and its Subsidiaries, as determined in accordance with GAAP, the amount of all interest, premium payments, debt discount, fees, charges and related expenses of such Person and its Subsidiaries on a consolidated

basis, in each case to the extent treated as interest in accordance with GAAP, whether paid or accrued (including the interest component of any Capital Lease for such period), excluding (1) costs associated with obtaining, or breakage costs in respect of, Hedge Liabilities and (2) amortization of deferred financing costs.

"Interest Period" shall mean the period provided for any LIBOR Rate Loan pursuant to Section 2.2(b) hereof.

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

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

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

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

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

"Inventory Reserves" means such reserves as may be established from time to time by Agent, in its Permitted Discretion, with respect to the saleability of the Eligible Inventory and Eligible In-Transit Inventory, or which reflect such other factors as negatively affect the market value of the Inventory or Eligible In-Transit Inventory, or which reflect a cost with respect to the salability of such Inventory or Eligible In-Transit Inventory. Without limiting the generality of the foregoing, (but, without duplication of any other Reserves or items that are otherwise addressed or excluded through eligibility criteria set forth in the applicable definitions thereof), in Agent's Permitted Discretion, Inventory Reserves may include (but are not limited to) reserves based on (i) shrink; (ii) capitalized freight and internal profit reserves used in Borrowers' calculation of cost of goods sold; (iii) obsolescence; (iv) seasonality; (v) imbalance; (vi) change in Inventory character or composition; (vii) change in Inventory mix; (viii) reasonably anticipated changes in appraised value of Inventory between appraisals; (ix) retail markdowns and markups inconsistent with prior period practice and performance; (x) industry standards; current business plans; or advertising calendar and planned advertising events; (xi) variances between the perpetual inventory records of Borrowers and the results of the test counts of

Inventory conducted by Agent with respect thereto in excess of a percentage acceptable to Agent; (xii) reserves for in-transit Inventory, including freight, taxes, duty and other amounts that must be paid (or estimated to be paid) in connection with such Inventory upon arrival and for delivery to one of Borrowers' locations for Eligible Inventory within the United States of America and (xiii) amounts due or to become due to owners and licensors of trademarks and other Intellectual Property used by Borrowers.

"Investment" shall have the meaning set forth in Section 7.4 hereof.

"IP Security Agreement" shall mean the Intellectual Property Security Agreement, dated as of the Closing Date, between Debtors and Agent.

"Issuer" shall mean (i) Agent in its capacity as the issuer of Letters of Credit under this Agreement and (ii) any other Person which Agent in its discretion shall designate as the issuer of and cause to issue any particular Letter of Credit under this Agreement in place of Agent as issuer.

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

"Leasehold Interests" shall mean all of each Debtor's right, title and interest in and to, and as lessee of, the premises identified as leased Real Property on Schedule 4.4(b)(iv) hereto.

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

"Lender-Provided Foreign Currency Hedge" shall mean a Foreign Currency Hedge which is provided by any Lender and for which such Lender confirms to Agent in writing prior to the execution thereof that it: (a) is documented in a standard International Swap Dealers Association, Inc. Master Agreement or another reasonable manner; (b) provides for the method of calculating the reimbursable amount of the provider's credit exposure in a reasonable manner; and (c) is entered into for hedging (rather than speculative) purposes. The liabilities owing to the provider of any Lender-Provided Foreign Currency Hedge in respect of such Lender-Provided Foreign Currency Hedge (the "Foreign Currency Hedge Liabilities") by any Borrower, Debtor Guarantor, or any of their respective Subsidiaries that is party to such Lender-Provided Foreign Currency Hedge shall, for purposes of this Agreement and all Other Documents be "Obligations" of such Person and of each other Borrower and Debtor Guarantor, be guaranteed obligations under any Guaranty and secured obligations under any Debtor Guarantor Security Agreement, as applicable, and otherwise treated as Obligations for purposes of the Other Documents, except to

the extent constituting Excluded Hedge Liabilities of such Person. The Liens securing the Foreign Currency Hedge Liabilities shall be pari passu with the Liens securing all other Obligations under this Agreement and the Other Documents, subject to the express provisions of Section 11.5 hereof.

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

"Letter of Credit Application" shall have the meaning set forth in Section 2.12(a) hereof.

"Letter of Credit Borrowing" shall have the meaning set forth in Section 2.14(d) hereof.

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

"Letter of Credit Sublimit" shall equal the Maximum Undrawn Amount.

"Letters of Credit" shall have the meaning set forth in Section 2.11 hereof, including Letter of Credit #608322061 and Letter of Credit #608353083 issued by PNC and in existence as of the Closing Date.

"LIBOR Alternate Source" shall have the meaning set forth in the definition of LIBOR Rate.

"LIBOR Rate" shall mean for any LIBOR Rate Loan for the then current Interest Period relating thereto, the interest rate per annum determined by Agent by dividing (the resulting quotient rounded upwards, if necessary, to the nearest 1/100th of 1% per annum) (a) the rate which appears on the Bloomberg Page BBAM1 (or on such other substitute Bloomberg page that displays rates at which U.S. dollar deposits are offered by leading banks in the London interbank deposit market), or the rate which is quoted by another source selected by Agent as an authorized information vendor for the purpose of displaying rates at which U.S. dollar deposits are offered by leading banks in the London interbank deposit market (a "LIBOR Alternate Source"), at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period as the London interbank offered rate for U.S. Dollars for an amount

comparable to such LIBOR Rate Loan and having a borrowing date and a maturity comparable to such Interest Period (or (x) if there shall at any time, for any reason, no longer exist a Bloomberg Page BBAM1 (or any substitute page) or any LIBOR Alternate Source, a comparable replacement rate determined by Agent at such time (which determination shall be conclusive absent manifest error), (y) if the LIBOR Rate is unascertainable as set forth in Section 3.8.2(i) hereof, a comparable replacement rate determined in accordance with Section 3.8.2 hereof), by (b) a number equal to 1.00 minus the Reserve Percentage; provided, however, that if the LIBOR Rate determined as provided above would be less than zero, such rate shall be deemed to be zero for purposes of this Agreement. The LIBOR Rate shall be adjusted with respect to any LIBOR Rate Loan that is outstanding on the effective date of any change in the Reserve Percentage as of such effective date. Agent shall give reasonably prompt notice to Borrowing Agent of the LIBOR Rate as determined or adjusted in accordance herewith, which determination shall be conclusive absent manifest error.

"LIBOR Rate Loan" shall mean any Advance that bears interest based on the LIBOR Rate.

"LIBOR Termination Date" shall have the meaning set forth in Section 3.8.2(a) hereof.

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

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

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

"Management Agreement" shall mean the Management Services and Advisory Agreement, dated as of April 11, 2019, among Parent, Avenue and Manager.

"Management Fee Subordination Agreement" shall mean that certain Management Fee Subordination Agreement dated as of the Closing Date among Agent and Manager.

"Management Fees" shall mean all management fees, costs, expenses, indemnities and other amounts payable by any Debtor to Manager or any Affiliate of Manager pursuant to the Management Agreement.

"Manager" shall mean Versa Capital Management, LLC.

"Material Adverse Effect" shall mean a material adverse effect on (a) the financial condition, results of operations or business, in each case, of the Parent and its Subsidiaries taken as a whole, but excluding the effect of the filing of the Case, (b) the ability of the Parent and its Subsidiaries, taken as a whole, to perform their payment obligations hereunder, (c) the value of the Collateral, or Agent's Liens on the Collateral or the priority of any such Lien, taken as a whole or (d) the legality, binding effect or enforceability of this Agreement and the Other Documents, taken as a whole.

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

"Maturity Date" shall mean September 30, 2019 unless Agent shall have received a fully executed agreement (in form and substance reasonably satisfactory to Agent) and a corresponding deposit in cash (in an amount reasonably satisfactory to Agent) from a stalking-horse bidder to purchase Borrowers' On-Line Merchandise in Sale through the E-Commerce Platform (as each term is defined in the GOB Agency Agreement), in which case the "Maturity Date" shall mean October 14, 2019.

"Maximum Revolving Advance Amount" shall mean $12,000,000.

"Maximum Swing Loan Advance Amount" shall mean $0.

"Maximum Undrawn Amount" shall mean the Maximum Undrawn Amount under (and as defined in) the Pre-Petition Credit Agreement.

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

"Mortgage" shall mean any mortgage on the Real Property securing the Obligations.

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

"Multiple Employer Plan" shall mean a Plan which has two or more contributing sponsors (including any Debtor or any member of the Controlled Group) at least two of whom are not under common control, as such a plan is described in Sections 4063 or 4064 of ERISA.

"Net Cash Proceeds" shall mean the aggregate cash proceeds received by Debtors or any of their Subsidiaries in respect of any sale, lease, transfer or other disposition of any assets or properties, or interest in assets and properties or as proceeds of any loans or other financial accommodations provided to it or as proceeds from the issuance and/or sale of any Indebtedness, in each case net of the reasonable and customary direct costs relating to such sale, lease, transfer or other disposition or loans or other financial accommodation or issuance and/or sale (including

legal, accounting and investment banking fees, and sales commissions) and taxes paid or payable as a result thereof and in the case of a sale of any assets or properties or interest in assets and properties, amounts applied to the repayment of Indebtedness secured by a valid and enforceable Permitted Encumbrance (other than a Lien created under this Agreement or the Other Documents) on the asset or assets that are the subject of such sale or other disposition required to be repaid in connection with such transaction.

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

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

"Note" shall mean the Revolving Credit Note and the Swing Loan Note.

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

"Obligations" shall mean and include (a) all Pre-Petition Obligations, and (b) to the extent arising under or in connection with this Agreement or any Other Document, any loans (including all Advances and Swing Loans), advances, debts, liabilities, obligations (including all reimbursement obligations and cash collateralization obligations with respect to Letters of Credit issued hereunder) owing by any Debtor to Issuer, Swing Loan Lender, Lenders or Agent (or to any other direct or indirect subsidiary or affiliate of Issuer, Swing Loan Lender, any Lender or Agent) of any kind or nature, present or future (including any interest or other amounts accruing thereon, any fees accruing under or in connection therewith, any costs and expenses of any Person payable by any Debtor and any indemnification obligations payable by any Debtor arising or payable after maturity, or after the conversion of the Case to a chapter 7 case as to any Debtor, whether or not a claim for post-filing or post-petition interest, fees or other amounts is allowable or allowed in such proceeding), whether or not for the payment of money, whether arising by reason of an extension of credit, opening or issuance of a letter of credit, loan, equipment lease, establishment of any commercial card or similar facility or guarantee, under any interest or currency swap, future, option or other similar agreement, or in any other manner, whether arising out of overdrafts or deposit or other accounts or electronic funds transfers (whether through automated clearing houses or otherwise) or out of Agent's or any Lender's non-receipt of or inability to collect funds or otherwise not being made whole in connection with depository transfer check or other similar arrangements, whether direct or indirect (including those acquired by assignment or participation), absolute or contingent, joint or several, due or to become due, now existing or hereafter arising, contractual or tortious, liquidated or unliquidated, regardless of how such indebtedness or liabilities arise or by what agreement or instrument they may be evidenced or whether evidenced by any agreement or instrument, including all costs and expenses of Agent, Issuer, Swing Loan Lender and any Lender incurred in the documentation, negotiation, modification, enforcement, collection or otherwise in connection with any of the foregoing, including reasonable attorneys' fees and expenses, in each case, arising out of (i) this Agreement and the Other Documents (and any amendments, extensions, renewals or increases thereto), (ii) the Interim Order or Final Order, (iii) all Hedge Liabilities and (iv) all Cash

Management Liabilities. Notwithstanding anything to the contrary contained in the foregoing, the Obligations shall not include any Excluded Hedge Liabilities.

"Operations Team Agreement" shall mean the Consulting Agreement, dated April 11, 2019, by and among VCM Operations, LLC, a Delaware limited liability company, Parent and Avenue, as may be amended, restated or otherwise modified from time to time.

"Order" shall have the meaning set forth in Section 2.19(b) hereof.

"Ordinary Course of Business" shall mean, with respect to any Debtor, the ordinary course of such Debtor's business, as conducted on the Closing Date and reasonable extensions thereof, and undertaken by such Debtor in good faith and not for the purpose of evading any covenant or restriction in this Agreement or any Other Document, and after taking into account any limitations on the conduct of the Debtors' business resulting from the commencement of the Case and each Debtor's status as debtor in possession under chapter 11 of the Bankruptcy Code.

"Organizational Documents" shall mean, with respect to any Person, any charter, articles or certificate of incorporation, certificate of organization, registration or formation, certificate of partnership or limited partnership, bylaws, operating agreement, limited liability company agreement, or partnership agreement of such Person and any and all other applicable documents relating to such Person's formation, organization or entity governance matters (including any shareholders' or equity holders' agreement or voting trust agreement) and specifically includes any certificates of designation for preferred stock or other forms of preferred equity.

"Ornatus GC" shall have the meaning set forth in the preamble to this Agreement.

"Ornatus RE" shall have the meaning set forth in the preamble to this Agreement.

"Other Connection Taxes" shall mean, with respect to any Person, Taxes imposed as a result of a present or former connection between such Person and the jurisdiction imposing such Taxes (other than a connection solely arising from such Person having executed, delivered, enforced, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, or engaged in any other transaction pursuant to, or enforced, this Agreement or any Other Document).

"Other Documents" shall mean any Mortgage, the Note, the Fee Letter, the Sponsor Guaranty, any Certificate of Beneficial Ownership, any Guaranty, any Debtor Guarantor Security Agreement, any Pledge Agreement, the IP Security Agreement, the Intercreditor Agreement, the Management Fee Subordination Agreement, the Subordination Agreement and any and all other agreements, instruments and documents, including intercreditor agreements, guaranties, pledges, powers of attorney, consents, interest or currency swap agreements or other similar agreements and all other writings heretofore, now or hereafter executed by any Debtor and/or delivered to Agent or any Lender in respect of the transactions contemplated by this Agreement, in each case together with all extensions, renewals, amendments, supplements, modifications, substitutions and replacements thereto and thereof.

"Other Taxes" shall mean all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any Other Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any Other Document.

"Out-of-Formula Loans" shall have the meaning set forth in Section 16.2(e) hereof.

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

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

"Liquidation Agreement Assumption Order" shall have the meaning set forth in Section 10.7(o).

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

"Participation Advance" shall have the meaning set forth in Section 2.14(d) hereof.

"Participation Commitment" shall mean the obligation hereunder of each Lender holding a Revolving Commitment to buy a participation equal to its Revolving Commitment Percentage (subject to any reallocation pursuant to Section 2.22(b)(iii) hereof) in the Swing Loans made by Swing Loan Lender hereunder as provided for in Section 2.4(c) hereof and in the Letters of Credit issued hereunder as provided for in Section 2.14(a) hereof.

"Payment in Full" shall mean, (a) the termination of Lenders' obligations to make Advances hereunder, (b) payment in full in cash and performance of all outstanding and unpaid Obligations, other than (i) contingent indemnification obligations for which claims have not been asserted (including any contingent disgorgement or reimbursement claims owing by Agent and Lenders to the GOB Liquidator pursuant to the GOB Agency Agreement), (ii) Hedge Liabilities that have been novated or collateralized, and (iii) Cash Management Liabilities to the extent that the provider of such Cash Management Liabilities allows such Obligations to remain outstanding

without being repaid or cash collateralized, and (c) expiration of all Letters of Credit, other than Letters of Credit that have been cash collateralized in an amount equal to one hundred and five percent (105%) of the Maximum Undrawn Amount of such Letters of Credit in accordance with the terms of this Agreement or that have otherwise been backstopped in a manner reasonably satisfactory to Issuer of such Letter of Credit.

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

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

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

"Permit" shall have the meaning set forth in Section 5.10 hereof.

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

"Permitted Dispositions" shall mean each of the following:

(a) sales of Inventory in the Ordinary Course of Business; and

(b) any other sales or dispositions expressly permitted by this Agreement, the Interim Order or the Final Order; provided, that the Debtors may consummate any and all Approved Bankruptcy Sales provided that the net cash proceeds therefrom are remitted to a Blocked Account.

"Permitted Encumbrances" shall mean:

(a) the Liens of Agent and the Lenders and the rights of setoff of Agent and the Lenders provided for herein or under applicable law (including Liens securing Cash Management Liabilities and Hedge Liabilities);

(b) Liens (other than environmental liens and liens arising under ERISA) securing the payment of taxes, assessments or other governmental charges or levies either not yet delinquent or the validity of which are being Properly Contested by Debtor Guarantors, Borrowers and Borrowers' Subsidiaries;

(c) non-consensual statutory liens (other than environmental liens and liens arising under ERISA or securing the payment of taxes) arising in the Ordinary Course of Business that do not secure Indebtedness for borrowed money, such as carriers', warehousemen's, materialmen's, landlords', workmen's suppliers', repairmen's and mechanics' liens, to the extent: (i) such liens do not in the aggregate materially detract from the value of the property of the Parent and its Subsidiaries taken as a whole and do not materially impair the use thereof in the operation of the Parent and its Subsidiaries taken as a whole, and (ii) such liens secure Indebtedness which is not past due or is adequately insured and being defended at the sole cost and expense and at the sole risk of the insurer or being Properly Contested by the Parent and its Subsidiaries, in each case prior to the commencement of foreclosure or other similar proceedings;

(d) Liens (other than any lien arising under ERISA) on cash or deposits of cash made (including surety, bonds and appeal bonds) in connection with workers' compensation, unemployment insurance and other types of social security benefits, and deposits of cash securing liabilities to insurance companies or to secure the performance of tenders, bids, leases, contracts (other than for the repayment of Indebtedness), statutory obligations, surety and appeal bonds, performance bonds and other similar obligations incurred in the Ordinary Course of Business;

(e) easements (including reciprocal easement agreements and utility agreements), rights-of-way, covenants, consents, reservations, encroachments, variations and zoning and other restrictions and minor defects or irregularities in title, charges or encumbrances (whether or not recorded) and interest of ground lessors, which do not materially detract from the value of the property to which they attach or materially impair the use thereof to Borrowers or Debtor Guarantors;

(f) any obligations or duties affecting any of the property of Borrowers to any municipality or public authority with respect to any franchise, grant, license, or permit which do not materially impair the use of such property for the purposes for which it is held;

(g) any interest or title of a lessor or sublessor under any lease permitted by this Agreement;

(h) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of custom duties in connection with the importation of goods so long as (i) such liens attach only to the imported goods, (ii) such customs duties are not delinquent, (iii) the customs and revenue authorities have no right to enforce or take any actions with respect to such Liens and (iv) adequate reserves have been set aside on the books of Borrowers or Debtor Guarantors (as applicable) in accordance with GAAP with respect to such Liens;

(i) Liens arising out of consignment or similar arrangements for the sale of goods entered into by Borrowers in the Ordinary Course of Business and in compliance with the terms of the Agreement;

(j) [reserved];

(k) Liens arising from (i) operating leases and the precautionary Uniform Commercial Code financing statement filings in respect thereof and (ii) equipment or other materials which are not owned by any Borrower or any Debtor Guarantor located on the premises of such Borrower or such Debtor Guarantor (but not in connection with, or as part of, the financing thereof) from time to time in the Ordinary Course of Business and consistent with current practices of such Borrower or such Debtor Guarantor and the precautionary Uniform Commercial Code financing statement filings in respect thereof;

(l) statutory or common law liens or rights of setoff of depository banks with respect to funds of any Borrower or any Debtor Guarantor at such banks to secure fees and charges in connection with returned items or the standard fees and charges of such banks in connection with the deposit accounts maintained by such Borrower or such Debtor Guarantor at such banks (but not any other Indebtedness or obligations);

(m) [reserved];

(n) leases or subleases of Real Property granted by any Borrower or any Debtor Guarantor in the Ordinary Course of Business and consistent with past practice to any Person so long as any such leases or subleases do not interfere in any material respect with the ordinary conduct of the business of such Borrower or such Debtor Guarantor as presently conducted thereon;

(o) Liens on, or rights of setoff against, credit balances of Borrowers with Credit Card Issuers or Credit Card Processors or amounts owing by such Credit Card Issuers or Credit Card Processors to Borrowers in the Ordinary Course of Business, but not Liens on or rights of setoff against any other property or assets of Borrowers, pursuant to the Credit Card Agreements (in each case, as in effect on the date hereof) to secure the obligations of Borrowers to the Credit Card Issuers or Credit Card Processors arising as a result of fees and chargebacks;

(p) the Liens set forth on Schedule 1.2(e) which are not otherwise permitted under the other clauses of this definition;

(q) [reserved];

(r) Liens existing on the Closing Date in favor of Subordinated Lender securing Indebtedness permitted under Section 7.8(g) hereof to the extent permitted by and subject to the Subordination Agreement and provided such Liens and Indebtedness are Subordinated Debt;

(s) licenses of, covenants not to sue under, and similar rights granted with respect to Intellectual Property;

(t) Liens solely on any cash earnest money deposits made by a Debtor or any of its Subsidiaries in connection with any letter of intent or purchase agreement with respect to a transaction permitted under this Agreement and Liens in connection with escrow arrangements for the proceeds of Indebtedness intended to finance an acquisition permitted hereunder (or refinance, replace, modify, repay, redeem, refund, renew or extend Indebtedness in connection

therewith) and related costs and expenses (including any refinancing, replacement, modification, repayment, redemption, refunding, renewal or extension thereof); and

(u) Liens on debt for financing insurance premiums in the Ordinary Course of Business.

"Permitted Investments" shall mean Investments existing on the Closing Date.

"Permitted Variance" shall have the meaning set forth in Section 6.15(a).

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

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

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

"Planned GOB Sales" shall mean, (a) the sales conducted by the GOB Liquidator at the Debtors' two hundred and twenty-two (222) store locations under the GOB Agency Agreement, and (b) upon the occurrence of the E-Commerce Option under (and as defined in) the GOB Agency Agreement, the sales conducted by the GOB Liquidator in respect of the E-Commerce Business Assets (as defined therein).

"Pledge Agreement" shall mean that certain Pledge and Security Agreement executed by Parent in favor of Agent, and acknowledged by Debtors (other than Parent), dated as of the Closing Date and any other pledge agreements executed subsequent to the Closing Date by any Person to secure the Obligations.

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

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

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

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

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

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

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

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

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

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

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

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

"Pre-Petition Subordinated Lender" shall mean Subordinated Lender under (and as defined in) the Pre-Petition Credit Agreement.

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

"Protective Advances" shall have the meaning set forth in Section 16.2(f) hereof.

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

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

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

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

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

"Real Property" shall mean all of the owned and leased premises identified on Schedule 4.4(b)(iv) hereto or in and to any other premises or real property that are hereafter owned or leased by any Debtor.

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

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

"Reimbursement Date" shall have the meaning set forth in Section 2.14(b) hereof.

"Reimbursement Obligation" shall have the meaning set forth in Section 2.14(b) hereof.

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

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

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

"Rent Reserve" shall mean reserves against the Maximum Revolving Advance Amount, the Formula Amount or the FILO Borrowing Base in an amount not in excess of three (3) months base rent for each warehouse or leased location that (i) is located in the State of Washington or the Commonwealths of Pennsylvania or Virginia or in any other jurisdiction in which a landlord has, by operation of law, a Lien on the Collateral that would have priority over the Agent's lien, (ii) constitutes a distribution center, (iii) is a headquarter location for any Debtor, or (iv) contains the books and records for any Debtor, in each case to the extent no Collateral Access Agreement has been received by Agent.

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

"Reportable Compliance Event" shall mean that any Covered Entity becomes a Sanctioned Person, or is charged by indictment, criminal complaint or similar charging instrument, arraigned, or custodially detained in connection with any Anti-Terrorism Law or any predicate crime to any Anti-Terrorism Law, or has knowledge of facts or circumstances to the effect that it is reasonably likely that any aspect of its operations is in actual or probable violation of any Anti-Terrorism Law.

"Reportable ERISA Event" shall mean a reportable event described in Section 4043 of ERISA or the regulations promulgated thereunder, other than an event for which the 30-day notice is waived.

"Required Lenders" shall mean Lenders (not including Swing Loan Lender (in its capacity as such Swing Loan Lender) or any Defaulting Lender) holding at least fifty percent (50%) of either (a) the aggregate of the Revolving Commitment Amounts of all Lenders (excluding any Defaulting Lender), or (b) after the termination of all commitments of Lenders hereunder, the sum of (x) the outstanding Revolving Advances, Swing Loans, plus the Maximum Undrawn Amount of all outstanding Letters of Credit; provided, however, if there are fewer than three (3) Lenders, Required Lenders shall mean all Lenders (excluding any Defaulting Lender).

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

"Reserves" shall mean reserves against the applicable Formula Amount, Borrowing Base Amount or the FILO Borrowing Base, including without limitation and without duplication, Freight and Duty Reserves, any and all tax reserves, gift card reserves, Rent Reserves, Inventory Reserves, reserves in respect of deposits paid or layaway goods and as Agent may, in its Permitted Discretion, reasonably deem proper and necessary from time to time.

"Residual GOB Amount" shall mean the amounts payable under section 3.3(c) of the GOB Agency Agreement, other than any Initial Guaranty Payment and any Initial E-Commerce Guaranty Payment (as each of those terms are defined in the GOB Agency Agreement).

"Restricted Payment" shall mean any (a) dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests of any Debtor or any of their Subsidiaries (other than Disqualified Stock), or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests or on account of any return of capital to Borrowers or such Subsidiary's stockholders, partners or members (or the equivalent Person thereof), or payment made to redeem, purchase, repurchase or retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire any Equity Interests of Borrowers or any of their Subsidiaries, or any setting apart of funds or property for any of the foregoing, and (b) payment by any Debtor or any of their Subsidiaries of any management, advisory or consulting fee to the Sponsor or its Affiliates or the payment of any extraordinary salary, bonus or other form of compensation that is not included in the corporate overhead of the Debtors or such Subsidiary to any Person (other than any officer, director or employee of the Debtors or their Subsidiaries who is not, other than in his/her capacity as such, affiliated with the Sponsor), in each case, to the extent such Person is directly or indirectly a significant shareholder or owner of any of Debtor or any of their Subsidiaries.

"Revolving Advances" shall mean Advances (including any FILO Advances) made other than Letters of Credit and the Swing Loans.

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

"Revolving Commitment Amount" shall mean as to any Lender, the Revolving Commitment amount (if any) set forth opposite such Lender's name on Schedule 1.1 hereto (or, in the case of any Lender that became party to this Agreement after the Closing Date pursuant to Section 16.3(c) or (d) hereof, the Revolving Commitment amount (if any) of such Lender as set forth in the applicable Commitment Transfer Supplement), as the same may be adjusted upon assignment by or to such Lender pursuant to Section 16.3(c) or (d) hereof.

"Revolving Commitment Percentage" shall mean, as to any Lender, the Revolving Commitment Percentage (if any) set forth opposite such Lender's name on Schedule 1.1 hereto (or, in the case of any Lender that became party to this Agreement after the Closing Date pursuant to Section 16.3(c) or (d) hereof, the Revolving Commitment Percentage (if any) of such Lender as set forth in the applicable Commitment Transfer Supplement), as the same may be adjusted upon any assignment by or to such Lender pursuant to Section 16.3(c) or (d) hereof.

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

"Revolving Interest Rate" shall mean (a) with respect to Revolving Advances (other than FILO Advances) that are Domestic Rate Loans and Swing Loans, an interest rate per annum equal to the sum of the Applicable Margin plus the Alternate Base Rate and (b) with respect to LIBOR Rate Loans (other than FILO Advances), the sum of the Applicable Margin plus the greater of (i) the LIBOR Rate and 0%.

"Sale Order" shall have the meaning set forth in Section 10.7(p) hereof.

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

"Sanctioned Person" shall mean any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person, group, regime, entity or thing, or subject to any limitations or prohibitions (including the blocking of property or rejection of transactions), under any Anti-Terrorism Law.

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

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

"Secured Parties" shall mean, with respect to the Obligations, collectively, Agent, Issuer, Swing Loan Lender and Lenders, together with any Affiliates of Agent or any Lender to whom any Hedge Liabilities or Cash Management Liabilities are owed and each other holder of any of the Obligations.

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

"Settlement" shall have the meaning set forth in Section 2.6(d) hereof.

"Settlement Date" shall have the meaning set forth in Section 2.6(d) hereof.

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

"Sponsor" shall mean Versa Capital Fund II, L.P., a Delaware limited partnership and Versa Capital Fund II-A, L.P., a Delaware limited partnership.

"Sponsor Amount" shall mean, an amount equal to (a) the FILO Advance in effect on any date of determination minus (b) the sum of clauses (i) through (iv) of the definition of FILO Borrowing Base as of such date.

"Sponsor Guaranty" shall mean the Amended and Restated Guaranty dated as of the Closing Date by Sponsor in favor of the Agent and Lenders, as amended, restated, supplemented, and modified from time to time.

"Subordinated Closing Date Loan" means subordinated loan consisting of a rollover of the Subordinated Lender's existing subordinated loan to Parent and a new cash advance of $3,700,000, made by Subordinated Lender to Borrowers on the Closing Date (as defined in the Pre-Petition Credit Agreement) pursuant to the Subordinated Loan Document.

"Subordinated Debt" shall mean the Subordinated Closing Date Loan and any other Indebtedness of the Debtors under the Subordinated Loan Document, as such agreement is in existence on the Closing Date or as permitted to be amended pursuant to the Subordination Agreement.

"Subordinated Lender" shall mean Ornatus URG Funding, LLC, an Affiliate of Sponsor.

"Subordinated Loan Document" shall mean that certain Master Subordinated Note dated as of the Closing Date in the original principal amount set forth therein between the Debtors and Subordinated Lender and acknowledged by the Agent and all other instruments, agreements and documents executed in connection therewith, each as amended, restated or otherwise modified in accordance with this Agreement.

"Subordination Agreement" shall mean the subordination provisions contained in Section 5 of the Subordinated Loan Document.

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

"Subsidiary Stock" shall mean with respect to the Equity Interests issued to a Debtor by any Subsidiary, 100% of such issued and outstanding Equity Interests.

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

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

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

"Swing Loan Lender" shall mean PNC, in its capacity as lender of the Swing Loans.

"Swing Loan Note" shall mean the promissory note described in Section 2.4(a) hereof.

"Swing Loans" shall mean the Advances made pursuant to Section 2.4 hereof.

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

"Termination Event" shall mean: (a) a Reportable ERISA Event with respect to any Pension Benefit Plan; (b) the withdrawal of any Debtor or any member of the Controlled Group from a Plan during a plan year in which such entity was a "substantial employer" as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) the providing of notice of intent to terminate a Pension Benefit Plan in a distress termination described in Section 4041(c) of ERISA; (d) the commencement of proceedings by the PBGC to terminate a Plan; (e) any event or condition (i) which could reasonably constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or (ii) that could reasonably result in the termination of a Multiemployer Plan pursuant to Section 4041A of ERISA; (f) the partial or complete withdrawal, within the meaning of Section 4203 or 4205 of ERISA, of any Debtor or any member of the Controlled Group from a Multiemployer Plan; (g) notice that a Multiemployer Plan is subject to Section 4245 of ERISA; or (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent, upon any Debtor or any member of the Controlled Group.

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

"Transactions" shall mean the transactions contemplated by the Subordinated Loan Document and under this Agreement and the Other Documents.

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

"Unfunded Capital Expenditures" shall mean, as to any Debtor, without duplication, a Capital Expenditure funded (a) from such Debtor's internally generated cash flow or (b) with the proceeds of a Revolving Advance or Swing Loan other than (i) through equity contributed subsequent to the Closing Date or purchase money or other financing or lease transactions permitted hereunder, and (ii) expenditures made in connection with the replacement, substitution

or restoration of assets to the extent financed (x) from insurance proceeds (or other similar recoveries) paid on account of the loss of or damage to the assets being replaced or restored, (y) with cash awards of compensation arising from the taking by eminent domain or condemnation of the assets being replaced, and (z) with cash proceeds of dispositions that are reinvested in the Debtors' business.

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

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

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

"Weighted Average Life to Maturity" shall mean, when applied to any Indebtedness at any date, the number of years obtained by dividing (a) the then outstanding principal amount of such Indebtedness into (b) the total of the product obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment.

"Wholly-Owned Subsidiary" shall mean, with respect to any Person, a Subsidiary of such Person all of the outstanding capital stock or other ownership interests of which will at the time be owned by such Person and/or by one or more Wholly-Owned Subsidiaries of such Person.

"Write-Down and Conversion Powers" shall mean, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the Bail-In Legislation Schedule.

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

1.4. Certain Matters of Construction. The terms "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular

section, paragraph or subdivision. All references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement. Any pronoun used shall be deemed to cover all genders. Wherever appropriate in the context, terms used herein in the singular also include the plural and vice versa. All references to statutes and related regulations shall include any amendments of same and any successor statutes and regulations. Unless otherwise provided, all references to any instruments or agreements to which Agent is a party, including references to any of the Other Documents, shall include any and all modifications, supplements or amendments thereto, any and all restatements or replacements thereof and any and all extensions or renewals thereof. Except as otherwise expressly provided for herein, all references herein to the time of day shall mean the time in New York, New York. Unless otherwise provided, all financial calculations shall be performed with Inventory valued using the retail inventory method. For the purposes of the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each means "to and including". Unless otherwise indicated herein, each reference to one or more months, quarters or years shall refer to one or more calendar months, calendar quarters or calendar years, respectively. Whenever the words "including" or "include" shall be used, such words shall be understood to mean "including, without limitation" or "include, without limitation" and the word "will" when used shall be construed to have the meaning and effect as the word "shall". Any Lien referred to in this Agreement or any of the Other Documents as having been created in favor of Agent, any agreement entered into by Agent pursuant to this Agreement or any of the Other Documents, any payment made by or to or funds received by Agent pursuant to or as contemplated by this Agreement or any of the Other Documents, or any act taken or omitted to be taken by Agent, shall, unless otherwise expressly provided, be created, entered into, made or received, or taken or omitted, for the benefit or account of Agent and Lenders. Wherever the phrase "to the best of Borrower' knowledge" or "to the best of Debtors' knowledge" or words of similar import relating to the knowledge or the awareness of any Borrower or any Debtor are used in this Agreement or Other Documents, such phrase shall mean and refer to (i) the actual knowledge of an executive officer of the applicable Debtor or (ii) the knowledge that a senior officer would have obtained if he had engaged in good faith and diligent performance of his duties. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or otherwise within the limitations of, another covenant shall not avoid the occurrence of a default if such action is taken or condition exists. In addition, all representations and warranties hereunder shall be given independent effect so that if a particular representation or warranty proves to be incorrect or is breached, the fact that another representation or warranty concerning the same or similar subject matter is correct or is not breached will not affect the incorrectness of a breach of a representation or warranty hereunder.

1.5. Acknowledgment.

(a) As of the Petition Date, the aggregate amount of all Pre-Petition Obligations owing by the Borrower to the Pre-Petition Secured Parties under and in connection with the Pre-Petition Credit Agreement and the Pre-Petition Other Documents was not less than (a) $15,262,763.08, consisting of Revolving Advances outstanding under (and as defined in) the Pre-Petition Credit Agreement, plus interest accrued and accruing thereon at the rate in effect on

the Petition Date, plus (b) outstanding letters of credit in the aggregate amount of $1,006,246.23, plus (c) accrued and accruing fees, plus (d) all accrued and accruing costs and expenses (including attorneys' fees and legal expenses), plus (e) all accrued and accruing charges and obligations in respect of Cash Management Products and Services (as defined in the Pre-Petition Credit Agreement), plus (f) any other charges and liabilities accrued, accruing or chargeable, whether due or to become due, matured or contingent, under the Pre-Petition Credit Agreement (collectively, "Pre-Petition Obligations"). Without limiting the foregoing, the Pre-Petition Obligations shall include all indemnification obligations of Borrower and Guarantors to the Pre-Petition Secured Parties arising under the Pre-Petition Financing Documents, including without limitation the indemnitee and other protections provided to indemnitees under the obligations arising under the Pre-Petition Credit Agreement which survive payment in full of the Pre-Petition Obligations.

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

1.6. Release.

(a) In consideration of and as a condition to the Agent and the Lenders making Advances, consent to use of Cash Collateral (including the Pre-Petition Subordinated Lender's consent to use of Cash Collateral and further subordination of its rights as provided in the Interim Order, or, after the entry of the Final Order, in the Final Order) and providing other credit and financial accommodations to the Debtors pursuant to the provisions of this Agreement, the Interim Order, the Final Order and the Other Documents, each Debtor, on behalf of itself, and successors and assigns and such Debtor's estate (collectively, "Releasors"), subject only to Section IX of the Interim Order, hereby absolutely releases and forever discharges and acquits each Pre-Petition Secured Party, the Pre-Petition Subordinated Lender, and each of their respective successors, participants, and assigns, and their present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, and other representatives (the Pre-Petition Agent, each Pre-Petition Lender, the Pre-Petition Subordinated Lender, and all such other parties being hereinafter referred to collectively as "Releasees") of and from any and all claims, demands, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages, and any and all other claims, counterclaims, cross claims, defenses, rights of set-off, demands, and liabilities whatsoever (individually, a "Pre-Petition Released Claim" and collectively, "Pre-Petition Released Claims") of every kind, name, nature and description, known or unknown, foreseen or unforeseen, matured or contingent, liquidated or unliquidated, primary or secondary, suspected or unsuspected, both at law and in equity, which, including, without limitation, any so-called "lender liability" claims or defenses, that any Releasor may now or

hereafter own, hold, have, or claim to have against Releasees, or any of them for, upon, or by reason of any nature, cause, or thing whatsoever which arose or may have arisen at any time on or prior to the date of this Agreement, in respect of the Pre-Petition Obligations, the Pre-Petition Other Documents, and any Revolving Advances, Letters of Credit, or other financial accommodations under the Pre-Petition Other Documents; provided that such release shall not be effective with respect to the Debtors until entry of the Final Order, and with respect to the Debtors' estates, until the expiration of the Challenge Period. In addition, upon entry of the Final Order and the indefeasible payment in full of all Obligations owed to the Agent and the Lenders by the Debtors and termination of the rights and obligations arising under this Agreement, the Interim Order and the Other Documents (which payment and termination shall be on terms and conditions acceptable to the Agent), the Agent and the Lenders shall be automatically deemed absolutely and forever released and discharged from any and all obligations, liabilities, actions, duties, responsibilities, commitments, claims and causes of action arising or occurring in connection with or related to this Agreement, the Other Documents, the Interim Order or the Final Order (whether known or unknown, direct or indirect, matured or contingent, foreseen or unforeseen, due or not due, primary or secondary, liquidated or unliquidated).

(b) Upon the entry of the Interim Order, each Debtor, on behalf of itself and the Releasors, hereby, absolutely, unconditionally and irrevocably, covenants and agrees, and will cause each other Debtor to absolutely, unconditionally and irrevocably, covenant and agree, with each Releasee that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Pre-Petition Released Claim released, remised and discharged by each Releasee pursuant to this Section 1.6. If any Releasor violates the foregoing covenant, the Debtors agree to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by any Releasee as a result of such violation.

(c) For the avoidance of doubt, nothing in this Section 1.6 shall release any claims, counterclaims, cross claims, defenses, rights of set-off, demands, and liabilities whatsoever, that any Pre-Petition Secured Party or any Secured Party may now or hereafter own, hold, have, or claim to have against Pre-Petition Subordinated Lender, whether arising before or after the Petition Date.

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

II. ADVANCES, PAYMENTS.

2.1. Revolving Advances.

(a) Amount of Revolving Advances. Subject to the terms and conditions set forth in this Agreement specifically including Sections 2.1(b) and (c), each Lender, severally and not jointly, will make Revolving Advances to Borrowers in aggregate amounts outstanding at any time equal to such Lender's Revolving Commitment Percentage of the lesser of (x) the Maximum Revolving Advance Amount, less the outstanding amount of Swing Loans, less the aggregate Maximum Undrawn Amount of all outstanding Letters of Credit or (y) an amount equal to the sum of:

(i) 90% of the net amount of Eligible Credit Card Receivables, plus

(ii) 90% of the appraised net orderly liquidation value (as evidenced by an Inventory appraisal satisfactory to Agent in its Permitted Discretion) of Eligible Inventory, plus

(iii) 90% of the aggregate appraised net orderly liquidation value (as evidenced by an Inventory appraisal satisfactory to Agent in its Permitted Discretion) of Eligible In-Transit Inventory which consists of an E-Commerce Business Asset, plus

(iv) After Agent's receipt of the Initial Guaranty Payment and the issuance of the Letter of Credit (as each term is defined in the GOB Agency Agreement) naming Agent as co-beneficiary, 100% of the Residual GOB Amount, plus

(v) the FILO Borrowing Base, minus

(vi) the aggregate Maximum Undrawn Amount of all outstanding Letters of Credit, minus

(vii) all outstanding Revolving Advances under (and as defined in) the Pre-Petition Credit Agreement, minus

(viii) Reserves.

; provided however that the amount of Revolving Advances made by Lenders in any week shall not exceed the aggregate "expenses and disbursements" for such week set forth in the Budget unless Agent otherwise agrees in its sole discretion (subject to the Permitted Variance other than with respect to any Carve-Out), except that Revolving Advances used solely for the purchase of Inventory on a "cash on delivery" or "cash in advance" basis may exceed the weekly amount in the Budget to pay for Inventory that is required earlier than the time contemplated by the Budget.

The amount derived from the sum of (x) Sections 2.1(a)(y)(i)-(iv) minus (y) Sections 2.1(a)(y)(v) and (vi) at any time and from time to time shall be referred to as the "Formula Amount". The Revolving Advances shall be evidenced by one or more secured promissory notes (collectively, the "Revolving Credit Note") substantially in the form attached hereto as Exhibit 2.1(a). Notwithstanding anything to the contrary contained in the foregoing or otherwise in this Agreement, the outstanding aggregate principal amount of Swing Loans and the Revolving Advances at any one time outstanding shall not exceed an amount equal to the lesser of (i) the Maximum Revolving Advance Amount less the Maximum Undrawn Amount of all

outstanding Letters of Credit or (ii) the Formula Amount. For purposes hereof and for the definition of Borrowing Base, the net amount of Eligible Credit Card Receivables at any time shall be the face amount of such Eligible Credit Card Receivables less any and all returns, rebates, discounts (which may, at Agent's option, be calculated on shortest terms), credits, allowances, chargebacks or taxes of any nature at any time issued, owing, claimed by account debtors, or granted, outstanding or payable in connection with such accounts at such time, all as determined by Agent in its Permitted Discretion.

(b) Sublimits. Notwithstanding anything to the contrary contained herein, the aggregate amount of Revolving Advances made to Borrowers against Eligible In-Transit Inventory shall not exceed in the aggregate, at any time outstanding, $1,000,000.

(c) Discretionary Rights. The Advance Rates may be increased or decreased by Agent at any time and from time to time in the exercise of its Permitted Discretion based on Agent's review of updated Inventory appraisals, field examinations or other Collateral evaluations. Each Borrower consents to any such increases or decreases and acknowledges that decreasing the Advance Rates or increasing or imposing reserves may limit or restrict Advances requested by Borrowing Agent. Prior to the occurrence of an Event of Default or Default, Agent shall give Borrowing Agent five (5) Business Days' prior written notice of its intention to decrease the Advance Rates. The rights of Agent under this subsection are subject to the provisions of Section 16.2(b).

2.2. Procedures for Requesting Revolving Advances; Procedures for Selection of Applicable Interest Rates for All Advances.

(a) Borrowing Agent on behalf of any Borrower may notify Agent prior to 1:00 p.m. on a Business Day of a Borrower's request to incur, on that day, a Revolving Advance hereunder. Should any amount required to be paid as interest hereunder, or as fees or other charges under this Agreement or any other related agreement with Agent or Lenders, or with respect to any other Obligation under this Agreement, become due, same shall be deemed a request for a Revolving Advance maintained as a Domestic Rate Loan as of the date such payment is due, in the amount required to pay in full such interest, fee, charge or Obligation, and such request shall be irrevocable. If Borrowers enter into a separate written agreement with Agent regarding Agent's auto-advance service, then each Advance made pursuant to such service (including Advances made for the payment of interest, fees, charges or Obligations) shall be deemed an irrevocable request for a Revolving Advance maintained as a Domestic Rate Loan as of the date such auto-advance is made. Furthermore, each Debtor hereby agrees, directs and authorizes that, upon and at any time following the entry of the Final Order, Agent may, in its sole and absolute discretion, at any time and from time to time elect to pay any and/or all of the Pre-Petition Obligations, in whole or in part, in cash, and/or elect to reimburse any and/or all of the professional fees, costs and expenses of the Pre-Petition Agent and the Pre-Petition Lenders (to the extent such professional fees, costs and expenses are payable by the Debtors under the Pre-Petition Credit Agreement), in whole or in part, in each case with the proceeds of Advances hereunder, and upon any such election (which may be made by Agent at any time and from time to time without any notice of any kind to Borrowing Agent or any other Borrower), then (x) Borrowers shall be deemed to have irrevocably requested Revolving Advance(s) hereunder in the

aggregate amount necessary for all such payments and reimbursements elected by Agent, (y) upon any such deemed request, notwithstanding anything to the contrary provided for herein, Lenders shall fund their respective Commitment Percentages of such Revolving Advance(s) in accordance with Section 2.8 and the other relevant provision of this Agreement, whether or not the conditions specified in Section 8.2 are then satisfied, and (z) upon any such funding, Agent shall disburse the proceeds of such Revolving Advance(s) in satisfaction and payment of such Pre-Petition Obligations and reimbursement for such professional fees, costs and expenses of the Pre-Petition Agent and the Pre-Petition Lenders (to the extent such professional fees, costs and expenses are payable by the Debtors under the Pre-Petition Credit Agreement) as so elected by Agent.

(b) Notwithstanding the provisions of subsection (a) above, in the event any Borrower desires to obtain a LIBOR Rate Loan for any Advance (other than a Swing Loan), Borrowing Agent shall give Agent written notice by no later than 1:00 p.m. on the day which is three (3) Business Days prior to the date such LIBOR Rate Loan is to be borrowed, specifying (i) the date of the proposed borrowing (which shall be a Business Day), (ii) the type of borrowing and the amount of such Advance to be borrowed, which amount shall be in a minimum amount of $1,000,000 and in integral multiples of $100,000 thereafter, and (iii) the duration of the first Interest Period therefor. Interest Periods for LIBOR Rate Loans shall be for one, two or three months; provided that, if an Interest Period would end on a day that is not a Business Day, it shall end on the next succeeding Business Day unless such day falls in the next succeeding calendar month in which case the Interest Period shall end on the next preceding Business Day. Any Interest Period that begins on the last Business Day of a calendar month (or a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. Upon and after the occurrence of an Event of Default, and during the continuation thereof, at the option of Agent or at the direction of Required Lenders, no LIBOR Rate Loan shall be made available to any Borrower. After giving effect to each requested LIBOR Rate Loan, including those which are converted from a Domestic Rate Loan under Section 2.2(e) below, there shall not be outstanding more than six (6) LIBOR Rate Loans, in the aggregate at any time. NOTWITHSTANDING THE INCLUSION OF THE LIBOR RATE OR ANY PROVISIONS IN THIS AGREEMENT RELATED TO BORROWING LIBOR RATE LOANS HEREUNDER, BORROWERS ACKNOWLEDGE AND AGREE THAT BORROWER MAY NOT REQUEST, AND AGENT WILL NOT PERMIT, ANY ADVANCE TO BE BOOKED AS A LIBOR RATE LOAN.

(c) Each Interest Period of a LIBOR Rate Loan shall commence on the date such LIBOR Rate Loan is made and shall end on such date as Borrowing Agent may elect as set forth in subsection (b)(iii) above, provided that the exact length of each Interest Period shall be determined in accordance with the practice of the interbank market for offshore Dollar deposits and no Interest Period shall end after the Maturity Date.

(d) Borrowing Agent shall elect the initial Interest Period applicable to a LIBOR Rate Loan by its notice of borrowing given to Agent pursuant to Section 2.2(b) or by its notice of conversion given to Agent pursuant to Section 2.2(e), as the case may be. Borrowing Agent shall elect the duration of each succeeding Interest Period by giving irrevocable written

notice to Agent of such duration not later than 1:00 p.m. on the day which is three (3) Business Days prior to the last day of the then current Interest Period applicable to such LIBOR Rate Loan. If Agent does not receive timely notice of the Interest Period elected by Borrowing Agent, Borrowing Agent shall be deemed to have elected to convert such LIBOR Rate Loan to a Domestic Rate Loan subject to Section 2.2(e) below.

(e) Provided that no Default or Event of Default shall have occurred and be continuing, Borrowing Agent may, on the last Business Day of the then current Interest Period applicable to any outstanding LIBOR Rate Loan, or on any Business Day with respect to Domestic Rate Loans, convert any such loan into a loan of another type in the same aggregate principal amount, provided that any conversion of a LIBOR Rate Loan shall be made only on the last Business Day of the then current Interest Period applicable to such LIBOR Rate Loan. If Borrowing Agent desires to convert a loan, Borrowing Agent shall give Agent written notice by no later than 1:00 p.m. (i) on the day which is three (3) Business Days prior to the date on which such conversion is to occur with respect to a conversion from a Domestic Rate Loan to a LIBOR Rate Loan, or (ii) on the day which is one (1) Business Day prior to the date on which such conversion is to occur (which date shall be the last Business Day of the Interest Period for the applicable LIBOR Rate Loan) with respect to a conversion from a LIBOR Rate Loan to a Domestic Rate Loan, specifying, in each case, the date of such conversion, the loans to be converted and if the conversion is to a LIBOR Rate Loan, the duration of the first Interest Period therefor.

(f) At its option and upon written notice given prior to 1:00 p.m. at least three (3) Business Days prior to the date of such prepayment, any Borrower may, subject to Section 2.2(g) hereof, prepay the LIBOR Rate Loans in whole at any time or in part from time to time with accrued interest on the principal being prepaid to the date of such repayment. Such Borrower shall specify the date of prepayment of Advances which are LIBOR Rate Loans and the amount of such prepayment. In the event that any prepayment of a LIBOR Rate Loan is required or permitted on a date other than the last Business Day of the then current Interest Period with respect thereto, such Borrower shall indemnify Agent and Lenders therefor in accordance with Section 2.2(g) hereof.

(g) Each Debtor shall indemnify Agent and Lenders and hold Agent and Lenders harmless from and against any and all losses or expenses that Agent and Lenders may sustain or incur as a consequence of any prepayment (other than a prepayment made in respect of Section 2.9 hereof), conversion of or any default by any Borrower in the payment of the principal of or interest on any LIBOR Rate Loan or failure by any Borrower to complete a borrowing of, a prepayment of or conversion of or to a LIBOR Rate Loan after notice thereof has been given, including, any interest payable by Agent or Lenders to lenders of funds obtained by it in order to make or maintain its LIBOR Rate Loans hereunder. A certificate as to any additional amounts payable pursuant to the foregoing sentence submitted by Agent or any Lender to Borrowing Agent shall be conclusive absent manifest error.

(h) Notwithstanding any other provision hereof, if any Applicable Law, treaty, regulation or directive, or any change therein or in the interpretation or application thereof, including any Change in Law, shall make it unlawful for Lenders or any Lender (for purposes of

this subsection (h), the term "Lender" shall include any Lender and the office or branch where any Lender or any Person controlling such Lender makes or maintains any LIBOR Rate Loans) to make or maintain its LIBOR Rate Loans, the obligation of Lenders (or such affected Lender) to make LIBOR Rate Loans hereunder shall forthwith be cancelled and Borrowers shall, if any affected LIBOR Rate Loans are then outstanding, promptly upon request from Agent, either pay all such affected LIBOR Rate Loans or convert such affected LIBOR Rate Loans into loans of another type. If any such payment or conversion of any LIBOR Rate Loan is made on a day that is not the last day of the Interest Period applicable to such LIBOR Rate Loan, Borrowers shall pay Agent, upon Agent's request, such amount or amounts set forth in clause (g) above. A certificate as to any additional amounts payable pursuant to the foregoing sentence submitted by Lenders to Borrowing Agent shall be conclusive absent manifest error.

(i) Anything to the contrary contained herein notwithstanding, neither any Agent nor any Lender, nor any of their participants, is required actually to acquire LIBOR deposits to fund or otherwise match fund any Obligation as to which interest accrues based on the LIBOR Rate. The provisions set forth herein shall apply as if each Lender or its participants had match funded any Obligation as to which interest is accruing based on the LIBOR Rate by acquiring LIBOR deposits for each Interest Period in the amount of the LIBOR Rate Loans.

2.3. [Reserved].

2.4. Swing Loans.

(a) Subject to the terms and conditions set forth in this Agreement, and in order to minimize the transfer of funds between Lenders and Agent for administrative convenience, Agent, Lenders holding Revolving Commitments and Swing Loan Lender agree that in order to facilitate the administration of this Agreement, Swing Loan Lender may, at its election and option made in its sole discretion cancelable at any time for any reason whatsoever, make swing loan advances ("Swing Loans") available to Borrowers as provided for in this Section 2.4 at any time or from time to time after the date hereof to, but not including, the Maturity Date, in an aggregate principal amount up to but not in excess of the Maximum Swing Loan Advance Amount, provided that the outstanding aggregate principal amount of Swing Loans and the Revolving Advances at any one time outstanding shall not exceed an amount equal to the lesser of (i) the Maximum Revolving Advance Amount less the Maximum Undrawn Amount of all outstanding Letters of Credit or (ii) the Formula Amount. All Swing Loans shall be Domestic Rate Loans only. Borrowers may borrow (at the option and election of Swing Loan Lender), repay and reborrow (at the option and election of Swing Loan Lender) Swing Loans and Swing Loan Lender may make Swing Loans as provided in this Section 2.4 during the period between Settlement Dates. All Swing Loans shall be evidenced by a secured promissory note (the "Swing Loan Note") substantially in the form attached hereto as Exhibit 2.4(a). Swing Loan Lender's agreement to make Swing Loans under this Agreement is cancelable at any time for any reason whatsoever and the making of Swing Loans by Swing Loan Lender from time to time shall not create any duty or obligation, or establish any course of conduct, pursuant to which Swing Loan Lender shall thereafter be obligated to make Swing Loans in the future

(b) Upon either (i) any request by Borrowing Agent for a Revolving Advance made pursuant to Section 2.2(a) hereof or (ii) the occurrence of any deemed request by Borrowers for a Revolving Advance pursuant to the provisions of the last sentence of Section 2.2(a) hereof, Swing Loan Lender may elect, in its sole discretion, to have such request or deemed request treated as a request for a Swing Loan, and may advance same day funds to Borrowers as a Swing Loan; provided that notwithstanding anything to the contrary provided for herein, Swing Loan Lender may not make Swing Loans if Swing Loan Lender has been notified by Agent or by Required Lenders that one or more of the applicable conditions set forth in Section 8.2 of this Agreement have not been satisfied or the Revolving Commitments have been terminated for any reason.

(c) Upon the making of a Swing Loan (whether before or after the occurrence of a Default or an Event of Default and regardless of whether a Settlement has been requested with respect to such Swing Loan), each Lender holding a Revolving Commitment shall be deemed, without further action by any party hereto, to have unconditionally and irrevocably purchased from Swing Loan Lender, without recourse or warranty, an undivided interest and participation in such Swing Loan in proportion to its Revolving Commitment Percentage. Swing Loan Lender or Agent may, at any time, require the Lenders holding Revolving Commitments to fund such participations by means of a Settlement as provided for in Section 2.6(d) below. From and after the date, if any, on which any Lender holding a Revolving Commitment is required to fund, and funds, its participation in any Swing Loans purchased hereunder, Agent shall promptly distribute to such Lender its Revolving Commitment Percentage of all payments of principal and interest and all proceeds of Collateral received by Agent in respect of such Swing Loan; provided that no Lender holding a Revolving Commitment shall be obligated in any event to make Revolving Advances in an amount in excess of its Revolving Commitment Amount minus its Participation Commitment (taking into account any reallocations under Section 2.22) of the Maximum Undrawn Amount of all outstanding Letters of Credit.

2.5. Disbursement of Advance Proceeds. All Advances shall be disbursed from whichever office or other place Agent may designate from time to time and, together with any and all other Obligations of Debtors to Agent or Lenders, shall be charged to Borrowers' Account on Agent's books. The proceeds of each Revolving Advance or Swing Loan requested by Borrowing Agent on behalf of any Borrower or deemed to have been requested by any Borrower under Sections 2.2(a), 2.6(b) or 2.14 hereof shall, (i) with respect to requested Revolving Advances, to the extent Lenders make such Revolving Advances in accordance with Section 2.2(a), 2.6(b) or 2.14 hereof, and with respect to Swing Loans made upon any request by Borrowing Agent for a Revolving Advance to the extent Swing Loan Lender makes such Swing Loan in accordance with Section 2.4(b) hereof, be made available to the applicable Borrower on the day so requested by way of credit to such Borrower's operating account at PNC, or such other bank as Borrowing Agent may designate following notification to Agent, in immediately available federal funds or other immediately available funds or, (ii) with respect to Revolving Advances deemed to have been requested by any Borrower or Swing Loans made upon any deemed request for a Revolving Advance by any Borrower, be disbursed to Agent to be applied to the outstanding Obligations giving rise to such deemed request. Prior to the Maturity Date, Borrowers may use the Revolving Advances (with the exception of the FILO Advances) and

Swing Loans by borrowing, prepaying and reborrowing, all in accordance with the terms and conditions hereof.

2.6. Making and Settlement of Advances.

(a) Each borrowing of Revolving Advances shall be advanced according to the applicable Revolving Commitment Percentages of Lenders holding the Revolving Commitments (subject to any contrary terms of Section 2.22). Each borrowing of Swing Loans shall be advanced by Swing Loan Lender alone.

(b) Promptly after receipt by Agent of a request or a deemed request for a Revolving Advance pursuant to Section 2.2(a) and, with respect to Revolving Advances, to the extent Agent elects not to provide a Swing Loan or the making of a Swing Loan would result in the aggregate amount of all outstanding Swing Loans exceeding the maximum amount permitted in Section 2.4(a), Agent shall notify Lenders holding the Revolving Commitments of its receipt of such request specifying the information provided by Borrowing Agent and the apportionment among Lenders of the requested Revolving Advance as determined by Agent in accordance with the terms hereof. Each Lender shall remit the principal amount of each Revolving Advance to Agent such that Agent is able to, and Agent shall, to the extent the applicable Lenders have made funds available to it for such purpose and subject to Section 8.2, fund such Revolving Advance to Borrowers in U.S. Dollars and immediately available funds at the Payment Office prior to the close of business, on the applicable borrowing date; provided that if any applicable Lender fails to remit such funds to Agent in a timely manner, Agent may elect in its sole discretion to fund with its own funds the Revolving Advance of such Lender on such borrowing date, and such Lender shall be subject to the repayment obligation in Section 2.6(c) hereof.

(c) Unless Agent shall have been notified by telephone, confirmed in writing, by any Lender holding a Revolving Commitment that such Lender will not make the amount which would constitute its applicable Revolving Commitment Percentage of the requested Revolving Advance available to Agent, Agent may (but shall not be obligated to) assume that such Lender has made such amount available to Agent on such date in accordance with Section 2.6(b) and may, in reliance upon such assumption, make available to Borrowers a corresponding amount. Agent will promptly notify Borrowing Agent of its receipt of any such notice from a Lender. In such event, if a Lender has not in fact made its applicable Revolving Commitment Percentage of the requested Revolving Advance available to Agent, then the applicable Lender and Borrowers severally agree to pay to Agent on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to Borrowers through but excluding the date of payment to Agent, at (i) in the case of a payment to be made by such Lender, the greater of (A) (x) the daily average Federal Funds Effective Rate (computed on the basis of a year of 360 days) during such period as quoted by Agent, times (y) such amount or (B) a rate determined by Agent in accordance with banking industry rules on interbank compensation, and (ii) in the case of a payment to be made by Borrowers, the Revolving Interest Rate for Revolving Advances (other than FILO Advances) that are Domestic Rate Loans or the FILO Advance Interest Rate for the portion of FILO Advances consisting of Domestic Rate Loans, as applicable. If such Lender pays its share of the applicable Revolving Advance to Agent, then the amount so paid shall constitute such Lender's Revolving Advance.

Any payment by Borrowers shall be without prejudice to any claim Borrowers may have against a Lender holding a Revolving Commitment that shall have failed to make such payment to Agent. A certificate of Agent submitted to any Lender or Borrowers with respect to any amounts owing under this paragraph (c) shall be conclusive, in the absence of manifest error.

(d) Agent, on behalf of Swing Loan Lender, shall demand settlement (a "Settlement") of all or any Swing Loans with Lenders holding the Revolving Commitments on at least a weekly basis, or on any more frequent date that Agent elects or that Swing Loan Lender at its option exercisable for any reason whatsoever may request, by notifying Lenders holding the Revolving Commitments of such requested Settlement by facsimile, telephonic or electronic transmission no later than 3:00 p.m. on the date of such requested Settlement (the "Settlement Date"). Subject to any contrary provisions of Section 2.22, each Lender holding a Revolving Commitment shall transfer the amount of such Lender's Revolving Commitment Percentage of the outstanding principal amount (plus interest accrued thereon to the extent requested by Agent) of the applicable Swing Loan with respect to which Settlement is requested by Agent, to such account of Agent as Agent may designate not later than 5:00 p.m. on such Settlement Date if requested by Agent by 3:00 p.m., otherwise not later than 5:00 p.m. on the next Business Day. Settlements may occur at any time notwithstanding that the conditions precedent to making Revolving Advances set forth in Section 8.2 have not been satisfied or the Revolving Commitments shall have otherwise been terminated at such time. All amounts so transferred to Agent shall be applied against the amount of outstanding Swing Loans and, when so applied shall constitute Revolving Advances of such Lenders accruing interest as Domestic Rate Loans. If any such amount is not transferred to Agent by any Lender holding a Revolving Commitment on such Settlement Date, Agent shall be entitled to recover such amount on demand from such Lender together with interest thereon as specified in Section 2.6(c).

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

in respect of such participation and such purchased portion of any other Lender's Advances shall be part of the Obligations secured by the Collateral.

2.7. Maximum Advances. The aggregate balance of Revolving Advances plus Swing Loans outstanding at any time shall not exceed the lesser of (a) the Maximum Revolving Advance Amount less the aggregate Maximum Undrawn Amount of all issued and outstanding Letters of Credit and (b) the Formula Amount.

2.8. Manner and Repayment of Advances.

(a) The Revolving Advances and Swing Loans shall be due and payable in full on the Maturity Date subject to earlier prepayment as herein provided. Notwithstanding the foregoing, all Advances shall be subject to earlier repayment upon acceleration upon the occurrence of an Event of Default under this Agreement. Each payment (including each prepayment) by any Borrower on account of the principal of and interest on the Advances shall be applied, first to the outstanding Swing Loans and next, pro rata according to the applicable Revolving Commitment Percentages of Lenders, to the outstanding Revolving Advances, other than FILO Advances (subject to any contrary provisions of Section 2.22) and next to FILO Advances.

(b) Each Borrower recognizes that the amounts evidenced by checks, notes, drafts or any other items of payment relating to and/or proceeds of Collateral may not be collectible by Agent on the date received by Agent. Agent shall conditionally credit Borrowers' Account for each item of payment on the next Business Day after the Business Day on which such item of payment is received by Agent (and the Business Day on which each such item of payment is so credited shall be referred to, with respect to such item, as the "Application Date"). Agent is not, however, required to credit Borrowers' Account for the amount of any item of payment which is unsatisfactory to Agent and Agent may charge Borrowers' Account for the amount of any item of payment which is returned, for any reason whatsoever, to Agent unpaid. Subject to the foregoing, Borrowers agree that for purposes of computing the interest charges under this Agreement, each item of payment received by Agent shall be deemed applied by Agent on account of the Obligations on its respective Application Date. Debtors further agree that there is a monthly float charge payable to Agent for Agent's sole benefit, in an amount equal to (y) the face amount of all items of payment received during the prior month (including items of payment received by Agent as a wire transfer or electronic depository check) multiplied by (z) the Revolving Interest Rate with respect to Domestic Rate Loans for one (1) Business Day. All proceeds received by Agent shall be applied to the Obligations in accordance with Section 4.8(j).

(c) All payments of principal, interest and other amounts payable hereunder, or under any of the Other Documents shall be made to Agent at the Payment Office not later than 1:00 p.m. on the due date therefor in Dollars in federal funds or other funds immediately available to Agent. Agent shall have the right to effectuate payment of any and all Obligations due and owing hereunder by charging Borrowers' Account or by making Advances as provided in Section 2.2 hereof.

(d) Except as expressly provided herein, all payments (including prepayments) to be made by any Borrower on account of principal, interest, fees and other

amounts payable hereunder shall be made without deduction, setoff or counterclaim and shall be made to Agent on behalf of Lenders to the Payment Office, in each case on or prior to 1:00 p.m., in Dollars and in immediately available funds.

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

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

2.11. Letters of Credit.

(a) Subject to the terms and conditions hereof, Issuer shall issue or cause the issuance of standby and/or trade letters of credit denominated in Dollars ("Letters of Credit") for the account of any Borrower except to the extent that the issuance thereof would then cause the sum of (i) the outstanding Revolving Advances plus (ii) the outstanding Swing Loans, plus (iii) the Maximum Undrawn Amount of all outstanding Letters of Credit, plus (iv) the Maximum Undrawn Amount of the Letter of Credit to be issued to exceed the lesser of (x) the Maximum Revolving Advance Amount and (y) the Formula Amount (calculated without giving effect to the deductions provided for in Section 2.1(a)(y)(v)). The Maximum Undrawn Amount of all outstanding Letters of Credit shall not exceed in the aggregate at any time the Letter of Credit Sublimit. All disbursements or payments related to Letters of Credit shall be deemed to be Domestic Rate Loans consisting of Revolving Advances and shall bear interest at the Revolving Interest Rate for Domestic Rate Loans. Letters of Credit that have not been drawn upon shall not bear interest (but fees shall accrue in respect of outstanding Letters of Credit as provided in Section 3.2 hereof).

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

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

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

2.12. Issuance of Letters of Credit.

(a) Borrowing Agent, on behalf of any Borrower, may request Issuer to issue or cause the issuance of a Letter of Credit by delivering to Issuer, with a copy to Agent at the Payment Office, prior to 10:00 a.m., at least five (5) Business Days (or such shorter time as Issuer may agree) prior to the proposed date of issuance, such Issuer's form of Letter of Credit Application (the "Letter of Credit Application") completed to the satisfaction of Agent and Issuer; and, such other certificates, documents and other papers and information as Agent or Issuer may reasonably request. Issuer shall not issue any requested Letter of Credit if such Issuer has received notice from Agent or any Lender that one or more of the applicable conditions set forth in Section 8.2 of this Agreement have not been satisfied or the commitments of Lenders to make Revolving Advances hereunder have been terminated for any reason.

(b) Each Letter of Credit shall, among other things, (i) provide for the payment of sight drafts, other written demands for payment, or acceptances of usance drafts when presented for honor thereunder in accordance with the terms thereof and when accompanied by the documents described therein and (ii) have an expiry date not later than twelve (12) months after such Letter of Credit's date of issuance and in no event later than the Maturity Date. If Borrowing Agent so requests in an applicable Letter of Credit Application, Issuer may in its discretion, agree to issue a Letter of Credit that has automatic extension provisions. Borrowers shall not be required to make a specific request to Issuer for any such extension. Each standby Letter of Credit shall be subject either to the Uniform Customs and Practice for Documentary Credits as most recently published by the International Chamber of Commerce at the time a Letter of Credit is issued (the "UCP") or the International Standby Practices (International Chamber of Commerce Publication Number 590), or any subsequent revision thereof at the time a standby Letter of Credit is issued, as determined by Issuer, and each trade Letter of Credit shall be subject to the UCP. In addition, no trade Letter of Credit may permit the presentation of an ocean bill of lading that includes a condition that the original bill of lading is not required to claim the goods shipped thereunder.

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

2.13. Requirements for Issuance of Letters of Credit.

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

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

2.14. Disbursements, Reimbursement.

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

(b) In the event of any request for a drawing under a Letter of Credit by the beneficiary or transferee thereof, Issuer will promptly notify Agent and Borrowing Agent. Borrowers shall reimburse (such obligation to reimburse Issuer shall sometimes be referred to as a "Reimbursement Obligation") Issuer (i) if such notice is received prior to 12:00 Noon, on such Business Day or (ii) if such notice is received after 12:00 Noon, on the Business Day following receipt of such notice (such Business Day, a "Reimbursement Date") in an amount equal to the amount so paid by Issuer. In the event Borrowers fail to reimburse Issuer for the full amount of any drawing under any Letter of Credit by 12:00 Noon, on the Reimbursement Date, Issuer will promptly notify Agent and each Lender holding a Revolving Commitment thereof, and Borrowers shall be automatically deemed to have requested that a Revolving Advance maintained as a Domestic Rate Loan be made by Lenders to be disbursed on the Reimbursement

Date under such Letter of Credit, and Lenders holding the Revolving Commitments shall be unconditionally obligated to fund such Revolving Advance (all whether or not the conditions specified in Section 8.2 are then satisfied or the commitments of Lenders to make Revolving Advances hereunder have been terminated for any reason) as provided for in Section 2.14(c) immediately below. Any notice given by Issuer pursuant to this Section 2.14(b) may be oral if promptly confirmed in writing; provided that the lack of such a confirmation shall not affect the conclusiveness or binding effect of such notice.

(c) Each Lender holding a Revolving Commitment shall upon any notice pursuant to Section 2.14(b) make available to Issuer through Agent at the Payment Office an amount in immediately available funds equal to its Revolving Commitment Percentage (subject to any contrary provisions of Section 2.22) of the amount of the drawing, whereupon the participating Lenders shall (subject to Section 2.14(d)) each be deemed to have made a Revolving Advance maintained as a Domestic Rate Loan to Borrowers in that amount. If any Lender holding a Revolving Commitment so notified fails to make available to Agent, for the benefit of Issuer, the amount of such Lender's Revolving Commitment Percentage of such amount by 2:00 p.m. on the Reimbursement Date, then interest shall accrue on such Lender's obligation to make such payment, from the Reimbursement Date to the date on which such Lender makes such payment (i) at a rate per annum equal to the Federal Funds Effective Rate during the first three (3) days following the Reimbursement Date and (ii) at a rate per annum equal to the rate applicable to Revolving Advances maintained as a Domestic Rate Loan on and after the fourth day following the Reimbursement Date. Agent and Issuer will promptly give notice of the occurrence of the Reimbursement Date, but failure of Agent or Issuer to give any such notice on the Reimbursement Date or in sufficient time to enable any Lender holding a Revolving Commitment to effect such payment on such date shall not relieve such Lender from its obligations under this Section 2.14(c), provided that such Lender shall not be obligated to pay interest as provided in Section 2.14(c)(i) and (ii) until and commencing from the date of receipt of notice from Agent or Issuer of a drawing.

(d) With respect to any unreimbursed drawing that is not converted into a Revolving Advance maintained as a Domestic Rate Loan to Borrowers in whole or in part as contemplated by Section 2.14(b), because of Borrowers' failure to satisfy the conditions set forth in Section 8.2 hereof (other than any notice requirements) or for any other reason, Borrowers shall be deemed to have incurred from Agent a borrowing (each a "Letter of Credit Borrowing") in the amount of such drawing. Such Letter of Credit Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the rate per annum applicable to a Revolving Advance maintained as a Domestic Rate Loan. Each applicable Lender's payment to Agent pursuant to Section 2.14(c) shall be deemed to be a payment in respect of its participation in such Letter of Credit Borrowing and shall constitute a "Participation Advance" from such Lender in satisfaction of its Participation Commitment in respect of the applicable Letter of Credit under this Section 2.14.

(e) Each applicable Lender's Participation Commitment in respect of the Letters of Credit shall continue until the last to occur of any of the following events: (x) Issuer ceases to be obligated to issue or cause to be issued Letters of Credit hereunder; (y) no Letter of Credit issued or created hereunder remains outstanding and uncancelled; and (z) all Persons

(other than Borrowers) have been fully reimbursed for all payments made under or relating to Letters of Credit.

2.15. Repayment of Participation Advances.

(a) Upon (and only upon) receipt by Agent for the account of Issuer of immediately available funds from Borrowers (i) in reimbursement of any payment made by Issuer or Agent under the Letter of Credit with respect to which any Lender has made a Participation Advance to Agent, or (ii) in payment of interest on such a payment made by Issuer or Agent under such a Letter of Credit, Agent will pay to each Lender holding a Revolving Commitment, in the same funds as those received by Agent, the amount of such Lender's Revolving Commitment Percentage of such funds, except Agent shall retain the amount of the Revolving Commitment Percentage of such funds of any Lender holding a Revolving Commitment that did not make a Participation Advance in respect of such payment by Agent (and, to the extent that any of the other Lender(s) holding the Revolving Commitment have funded any portion such Defaulting Lender's Participation Advance in accordance with the provisions of Section 2.22, Agent will pay over to such Non-Defaulting Lenders a pro rata portion of the funds so withheld from such Defaulting Lender).

(b) If Issuer or Agent is required at any time to return to any Borrower, or to a trustee, receiver, liquidator, custodian, or any official in any insolvency proceeding, any portion of the payments made by Borrowers to Issuer or Agent pursuant to Section 2.15(a) in reimbursement of a payment made under the Letter of Credit or interest or fee thereon, each applicable Lender shall, on demand of Agent, forthwith return to Issuer or Agent the amount of its Revolving Commitment Percentage of any amounts so returned by Issuer or Agent plus interest at the Federal Funds Effective Rate.

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

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

2.18. Nature of Participation and Reimbursement Obligations. The obligation of each Lender holding a Revolving Commitment in accordance with this Agreement to make the Revolving Advances or Participation Advances as a result of a drawing under a Letter of Credit, and the obligations of Borrowers to reimburse Issuer upon a draw under a Letter of Credit, shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Section 2.18 under all circumstances, including the following circumstances:

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

(ii) the failure of any Borrower or any other Person to comply, in connection with a Letter of Credit Borrowing, with the conditions set forth in this Agreement for the making of a Revolving Advance, it being acknowledged that such conditions are not required for the making of a Letter of Credit Borrowing and the obligation of Lenders to make Participation Advances under Section 2.14;

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

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

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

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

(vii) the solvency of, or any acts or omissions by, any beneficiary of any Letter of Credit, or any other Person having a role in any transaction or obligation relating to a

Letter of Credit, or the existence, nature, quality, quantity, condition, value or other characteristic of any property or services relating to a Letter of Credit;

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

(ix) the occurrence of any Material Adverse Effect;

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

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

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

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

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

2.19. Liability for Acts and Omissions.

(a) As between Borrowers and Issuer, Swing Loan Lender, Agent and Lenders, each Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit by, the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, Issuer shall not be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for an issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged (even if Issuer or any of its Affiliates shall have been notified thereof); (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) the failure of the beneficiary of any such Letter of Credit, or any other party to which such Letter of Credit may be transferred, to comply fully with any conditions required in order to draw upon such Letter of Credit or any other claim of any Borrower against any beneficiary of such Letter of Credit, or any such transferee, or any dispute between or among any Borrower and any beneficiary of any Letter of Credit or any such transferee; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, facsimile, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit

or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of Issuer, including any Governmental Acts, and none of the above shall affect or impair, or prevent the vesting of, any of Issuer's rights or powers hereunder. Nothing in the preceding sentence shall relieve Issuer from liability for Issuer's gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment) in connection with actions or omissions described in such clauses (i) through (viii) of such sentence. In no event shall Issuer or Issuer's Affiliates be liable to any Borrower for any indirect, consequential, incidental, punitive, exemplary or special damages or expenses (including attorneys' fees), or for any damages resulting from any change in the value of any property relating to a Letter of Credit.

(b) Without limiting the generality of the foregoing, Issuer and each of its Affiliates: (i) may rely on any oral or other communication believed in good faith by Issuer or such Affiliate to have been authorized or given by or on behalf of the applicant for a Letter of Credit; (ii) may honor any presentation if the documents presented appear on their face substantially to comply with the terms and conditions of the relevant Letter of Credit; (iii) may honor a previously dishonored presentation under a Letter of Credit, whether such dishonor was pursuant to a court order, to settle or compromise any claim of wrongful dishonor, or otherwise, and shall be entitled to reimbursement to the same extent as if such presentation had initially been honored, together with any interest paid by Issuer or its Affiliates; (iv) may honor any drawing that is payable upon presentation of a statement advising negotiation or payment, upon receipt of such statement (even if such statement indicates that a draft or Other Document is being delivered separately), and shall not be liable for any failure of any such draft or Other Document to arrive, or to conform in any way with the relevant Letter of Credit; (v) may pay any paying or negotiating bank claiming that it rightfully honored under the laws or practices of the place where such bank is located; and (vi) may settle or adjust any claim or demand made on Issuer or its Affiliate in any way related to any order issued at the applicant's request to an air carrier, a letter of guarantee or of indemnity issued to a steamship agent or carrier or any document or instrument of like import (each an "Order") and honor any drawing in connection with any Letter of Credit that is the subject of such Order, notwithstanding that any drafts or Other Documents presented in connection with such Letter of Credit fail to conform in any way with such Letter of Credit. Nothing in the preceding sentence shall relieve Issuer from liability for Issuer's gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment) in connection with actions or omissions described in such clauses (i) through (vi) of such sentence.

(c) In furtherance and extension and not in limitation of the specific provisions set forth above, any action taken or omitted by Issuer under or in connection with the Letters of Credit issued by it or any documents and certificates delivered thereunder, if taken or omitted in good faith and without gross negligence (as determined by a court of competent jurisdiction in a final non-appealable judgment), shall not put Issuer under any resulting liability to any Borrower, Agent or any Lender.

2.20. Mandatory Prepayments.

(a) Subject to the last sentence of this Section 2.20(a), when any Debtor sells or otherwise disposes of any Collateral, Debtors shall repay the Pre-Petition Obligations or the Post-Petition Obligations, as Agent may elect in its sole and absolute discretion, in an amount equal to the Net Cash Proceeds of such sale or disposition, such repayments to be made by wire transfer no later than one (1) business day after receipt of such Net Cash Proceeds by a Debtor, and until the date of payment, such proceeds shall be held in trust for Agent. The foregoing shall not be deemed to be implied consent to any such sale otherwise prohibited by the terms and conditions hereof. Such repayments shall be applied to either the Pre-Petition Obligations or the Post-Petition Obligations, as Agent may elect in its sole and absolute discretion only to the extent permitted in accordance with the Interim Order and, once entered, the Final Order, subject to Borrower's ability to reborrow Revolving Advances in accordance with the terms hereof.

(b) Subject to the last sentence of this Section 2.20(b), in the event of any issuance or other incurrence of Indebtedness (other than Indebtedness permitted hereunder) by Debtor or the issuance of Equity Interests by any Debtor, Debtors shall, no later than one (1) Business Day after the receipt by such Debtor of (i) the cash proceeds from any such issuance or incurrence of Indebtedness, or (ii) the Net Cash Proceeds of any such issuance of Equity Interests, as applicable, repay the Pre-Petition Obligations or the Post-Petition Obligations in an amount equal to (x) one hundred percent (100%) of such cash proceeds in the case of such incurrence or issuance of Indebtedness and (y) one hundred percent (100%) of such Net Cash Proceeds in the case of an issuance of Equity Interests. Such repayments shall be applied to either the Pre-Petition Obligations or the Post-Petition Obligations, as Agent may elect in its sole and absolute discretion only to the extent permitted in accordance with the Interim Order and, once entered, the Final Order, subject to Borrower's ability to reborrow Revolving Advances in accordance with the terms hereof.

(c) Subject to the last sentence of this Section 2.20(c), proceeds received by Debtor or Agent (i) under any insurance policy on account of damage or destruction of any assets or property of any Debtor, or (ii) as a result of any taking or condemnation of any assets or property shall, in each case, be applied in accordance with Section 6.6 hereof. Such repayments shall be applied to either the Pre-Petition Obligations or the Post-Petition Obligations, as Agent may elect in its sole and absolute discretion only to the extent permitted in accordance with the Interim Order and, once entered, the Final Order, subject to Borrower's ability to reborrow Revolving Advances in accordance with the terms hereof.

2.21. Use of Proceeds.

(a) Borrowers shall apply the proceeds of Advances to (i) repay any and/or all of the Pre-Petition Obligations, in whole or in part, in cash, and/or to reimburse any and/or all of the professional fees, costs and expenses of the Pre-Petition Agent and the Pre-Petition Lenders, in whole or in part, in cash, in each case as elected by Agent in its sole and absolute discretion from time to time as provided for herein, (ii) pay fees and expenses payable under this Agreement or any of the Other Documents to the Post-Petition Secured Parties, (iii) reimburse drawings under Letters of Credit and provide for their working capital needs in accordance with the Budget subject to the Permitted Variance, (iv) to fund the Carve-Out strictly in accordance with the Budget subject to the Permitted Variance, and (v) to pay for Allowed Professional Fees

and Statutory Fees allocated to the Debtors during the Case in accordance with the Budget subject to the Permitted Variance; in each case, to the extent such use of proceeds is not otherwise prohibited under the terms of this Agreement and is otherwise consistent with the terms of the Interim Order and the Final Order, as applicable.

(b) Without limiting the generality of Section 2.21(a) above, neither Debtors nor any other Person which may in the future become party to this Agreement or the Other Documents as a Debtor, intends to use nor shall they use any portion of the proceeds of the Advances, directly or indirectly, for any purpose in violation of Applicable Law.

2.22. Defaulting Lender.

(a) Notwithstanding anything to the contrary contained herein, in the event any Lender is a Defaulting Lender, all rights and obligations hereunder of such Defaulting Lender and of the other parties hereto shall be modified to the extent of the express provisions of this Section 2.22 so long as such Lender is a Defaulting Lender.

(b) (1) except as otherwise expressly provided for in this Section 2.22, Revolving Advances shall be made pro rata from Lenders holding Revolving Commitments which are not Defaulting Lenders based on their respective Revolving Commitment Percentages, and no Revolving Commitment Percentage of any Lender or any pro rata share of any Revolving Advances required to be advanced by any Lender shall be increased as a result of any Lender being a Defaulting Lender. Amounts received in respect of principal of any type of Revolving Advances shall be applied to reduce such type of Revolving Advances of each Lender (other than any Defaulting Lender) holding a Revolving Commitment in accordance with their Revolving Commitment Percentages; provided, that, Agent shall not be obligated to transfer to a Defaulting Lender any payments received by Agent for Defaulting Lender's benefit, nor shall a Defaulting Lender be entitled to the sharing of any payments hereunder (including any principal, interest or fees). Amounts payable to a Defaulting Lender shall instead be paid to or retained by Agent. Agent may hold and, in its discretion, re-lend to a Borrower the amount of such payments received or retained by it for the account of such Defaulting Lender.

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

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

(A) Defaulting Lender's Participation Commitment in the outstanding Swing Loans and of the Maximum Undrawn Amount of all outstanding Letters of Credit shall be reallocated among Non-Defaulting Lenders holding Revolving Commitments in proportion to the respective Revolving Commitment Percentages of such Non-Defaulting Lenders to the extent (but only to the extent) that (x) such reallocation does not cause the aggregate sum of outstanding Revolving Advances made by any such Non-Defaulting Lender holding a Revolving Commitment plus such Lender's reallocated Participation Commitment in

the outstanding Swing Loans plus such Lender's reallocated Participation Commitment in the aggregate Maximum Undrawn Amount of all outstanding Letters of Credit to exceed the Revolving Commitment Amount of any such Non-Defaulting Lender and (y) no Default or Event of Default has occurred and is continuing at such time;

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

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

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

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

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

be allocated among Non-Defaulting Lenders in a manner consistent with Section 2.22(b)(iii)(A) above (and such Defaulting Lender shall not participate therein).

(c) A Defaulting Lender shall not be entitled to give instructions to Agent or to approve, disapprove, consent to or vote on any matters relating to this Agreement and the Other Documents, and all amendments, waivers and other modifications of this Agreement and the Other Documents may be made without regard to a Defaulting Lender and, for purposes of the definition of "Required Lenders", a Defaulting Lender shall not be deemed to be a Lender, to have any outstanding Advances or a Revolving Commitment Percentage provided, that this clause (c) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification described in clauses (i) or (ii) of Section 16.2(b).

(d) Other than as expressly set forth in this Section 2.22, the rights and obligations of a Defaulting Lender (including the obligation to indemnify Agent) and the other parties hereto shall remain unchanged. Nothing in this Section 2.22 shall be deemed to release any Defaulting Lender from its obligations under this Agreement and the Other Documents, shall alter such obligations, shall operate as a waiver of any default by such Defaulting Lender hereunder, or shall prejudice any rights which any Borrower, Agent or any Lender may have against any Defaulting Lender as a result of any default by such Defaulting Lender hereunder.

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

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

2.23. Payment of Obligations. Agent may charge to Borrowers' Account as a Revolving Advance or, at the discretion of Swing Loan Lender, as a Swing Loan (i) all payments with respect to any of the Obligations required hereunder (including principal payments, payments of interest, payments of Letter of Credit Fees and all other fees provided for hereunder and payments under Sections 16.5 and 16.9) as and when each such payment shall become due and payable (whether as regularly scheduled, upon or after acceleration, upon maturity or otherwise), (ii) without limiting the generality of the foregoing clause (i), (a) all amounts

expended by Agent or any Lender pursuant to Sections 4.2 or 4.3 hereof and (b) all expenses which Agent incurs in connection with the forwarding of Advance proceeds and the establishment and maintenance of any Blocked Accounts or Depository Accounts as provided for in Section 4.8(j), and (iii) any sums expended by Agent or any Lender due to any Borrower's failure to perform or comply with its obligations under this Agreement or any Other Document including any Borrower's obligations under Sections 3.3, 3.4, 4.4, 4.7, 6.4, 6.6, 6.7 and 6.8 hereof, and all amounts so charged shall be added to the Obligations and shall be secured by the Collateral. To the extent Revolving Advances are not actually funded by the other Lenders in respect of any such amounts so charged, all such amounts so charged shall be deemed to be Revolving Advances made by and owing to Agent and Agent shall be entitled to all rights (including accrual of interest) and remedies of a Lender under this Agreement and the Other Documents with respect to such Revolving Advances.

III. INTEREST AND FEES.

3.1. Interest. Interest on Advances shall be payable in arrears on the first day of each month with respect to Domestic Rate Loans and, with respect to LIBOR Rate Loans, at (a) the end of each Interest Period, and (b) for LIBOR Rate Loans with an Interest Period in excess of three months, at the end of each three-month period during such Interest Period, provided that all accrued and unpaid interest shall be due and payable on the Maturity Date. Interest charges shall be computed on the actual principal amount of Advances outstanding during the month at a rate per annum equal to (i) with respect to Revolving Advances (other than FILO Advances), the applicable Revolving Interest Rate, (ii) with respect to Swing Loans, the Revolving Interest Rate for Domestic Rate Loans and (iii) with respect to the FILO Advances, the applicable FILO Advance Interest Rate (as applicable, the "Contract Rate"). Except as expressly provided otherwise in this Agreement, any Obligations, other than the Advances, that are not paid when due, shall accrue interest at the Revolving Interest Rate for Domestic Rate Loans, subject to the provision of the final sentence of this Section 3.1 regarding the Default Rate. Whenever, subsequent to the date of this Agreement, the Alternate Base Rate is increased or decreased, the applicable Contract Rate shall be similarly changed without notice or demand of any kind by an amount equal to the amount of such change in the Alternate Base Rate during the time such change or changes remain in effect. The LIBOR Rate shall be adjusted with respect to LIBOR Rate Loans without notice or demand of any kind on the effective date of any change in the Reserve Percentage as of such effective date. Upon and after the occurrence of an Event of Default, and during the continuation thereof, at the option of Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of any such Event of Default without the requirement of any affirmative action by any party), the Obligations other than the Pre-Petition Obligations (which are governed by the Pre-Petition Credit Agreement and the Pre-Petition Other Documents) shall bear interest at the applicable Contract Rate plus two percent (2%) per annum (the "Default Rate").

3.2. Letter of Credit Fees.

(a) Borrowers shall pay (x) to Agent, for the ratable benefit of Lenders holding Revolving Commitments, fees for each Letter of Credit for the period from and

excluding the date of issuance of same to and including the date of expiration or termination, equal to the aggregate daily face amount of each outstanding Letter of Credit multiplied by the Applicable Margin for Revolving Advances consisting of LIBOR Rate Loans, such fees to be calculated on the basis of a 360-day year for the actual number of days elapsed and to be payable quarterly in arrears on the first day of each calendar quarter and on the Maturity Date, and (y) to Issuer, a fronting fee of one quarter of one percent (0.25%) per annum times the aggregate daily face amount of each outstanding Letter of Credit for the period from and excluding the date of issuance of same to and including the date of expiration or termination, to be payable quarterly in arrears on the first day of each calendar quarter and on the Maturity Date. (all of the foregoing fees, the "Letter of Credit Fees"). In addition, Borrowers shall pay to Agent, for the benefit of Issuer, any and all administrative, issuance, amendment, payment and negotiation charges with respect to Letters of Credit and all fees and expenses as agreed upon by Issuer and Borrowing Agent in connection with any Letter of Credit, including in connection with the opening, amendment or renewal of any such Letter of Credit and any acceptances created thereunder, all such charges, fees and expenses, if any, to be payable on demand. All such charges shall be deemed earned in full on the date when the same are due and payable hereunder and shall not be subject to rebate or pro-ration upon the termination of this Agreement for any reason. Any such charge in effect at the time of a particular transaction shall be the charge for that transaction, notwithstanding any subsequent change in Issuer's prevailing charges for that type of transaction. Upon and after the occurrence of an Event of Default, and during the continuation thereof, at the option of Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of any such Event of Default without the requirement of any affirmative action by any party), the Letter of Credit Fees described in clause (x) of this Section 3.2(a) shall be increased by an additional two percent (2.0%) per annum.

(b) At any time following the occurrence of an Event of Default which is continuing, at the option of Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of such Event of Default, without the requirement of any affirmative action by any party), or upon the Maturity Date or any other termination of this Agreement (and also, if applicable, in connection with any mandatory prepayment under Section 2.20), Borrowers will cause cash to be deposited and maintained in an account with Agent, as cash collateral, in an amount equal to one hundred and five percent (105%) of the Maximum Undrawn Amount of all outstanding Letters of Credit, and each Borrower hereby irrevocably authorizes Agent, in its discretion, on such Borrower's behalf and in such Borrower's name, to open such an account and to make and maintain deposits therein, or in an account opened by such Borrower, in the amounts required to be made by such Borrower, out of the proceeds of Receivables or other Collateral or out of any other funds of such Borrower coming into any Lender's possession at any time. Agent may, in its Permitted Discretion, invest such cash collateral (less applicable reserves) in such short-term money-market items as to which Agent and such Borrower mutually agree (or, in the absence of such agreement, as Agent may reasonably select) and the net return on such investments shall be credited to such account and constitute additional cash collateral, or Agent may (notwithstanding the foregoing) establish the account provided for under this Section 3.2(b) as a non-interest bearing account and in such case Agent shall have no obligation (and Borrowers hereby waive any claim) under Article 9 of the Uniform Commercial Code or under any other Applicable Law

to pay interest on such cash collateral being held by Agent. If no Default or Event of Default has occurred and is continuing, amounts credited to any such account may be released at the request of Borrowing Agent and applied in accordance with Section 4.8. If a Default or Event of Default has occurred and is continuing, no Borrower may withdraw amounts credited to any such account except upon the Payment in Full. Borrowers hereby assign, pledge and grant to Agent, for its benefit and the ratable benefit of Issuer, Lenders and each other Secured Party, a continuing security interest in and to and Lien on any such cash collateral and any right, title and interest of Borrowers in any deposit account, securities account or investment account into which such cash collateral may be deposited from time to time to secure the Obligations, specifically including all Obligations with respect to any Letters of Credit. Borrowers agree that upon the coming due of any Reimbursement Obligations (or any other Obligations, including Obligations for Letter of Credit Fees) with respect to the Letters of Credit, Agent may use such cash collateral to pay and satisfy such Obligations.

3.3. Facility Fee.

(a) [Reserved].

(b) If, for any day in each calendar quarter during prior to the Maturity Date, the daily unpaid balance of the sum of Revolving Advances plus Swing Loans plus the Maximum Undrawn Amount of all outstanding Letters of Credit (the "Usage Amount") for each day of such calendar quarter does not equal the Maximum Revolving Advance Amount, then Borrowers shall pay to Agent, for the ratable benefit of Revolving Lenders based on their Revolving Commitment Percentages, a fee at a rate equal to .375% per annum on the amount by which the Maximum Revolving Advance Amount on such day exceeds such Usage Amount (the "Facility Fee"). Such Facility Fee shall be payable to Agent in arrears on the first day of each calendar quarter with respect to the previous calendar quarter.

3.4. Fee Letter.

(a) Borrowers shall pay the amounts required to be paid in the Fee Letter in the manner and at the times required by the Fee Letter.

(b) All of the fees and out-of-pocket costs and expenses of any (i) field examination conducted pursuant to Section 4.6 hereof and (ii) appraisals conducted pursuant to Section 4.7 hereof shall be paid for when due, in full and without deduction, off-set or counterclaim by Borrowers.

3.5. Computation of Interest and Fees. Interest and fees hereunder shall be computed on the basis of a year of 360 days and for the actual number of days elapsed. If any payment to be made hereunder becomes due and payable on a day other than a Business Day, the due date thereof shall be extended to the next succeeding Business Day and interest thereon shall be payable at the applicable Contract Rate during such extension.

3.6. Maximum Charges. In no event whatsoever shall interest and other charges charged hereunder exceed the highest rate permissible under Applicable Law. In the event interest and other charges as computed hereunder would otherwise exceed the highest rate

permitted under Applicable Law: (i) the interest rates hereunder will be reduced to the maximum rate permitted under Applicable Law; (ii) such excess amount shall be first applied to any unpaid principal balance owed by Borrowers; and (iii) if the then remaining excess amount is greater than the previously unpaid principal balance, Lenders shall promptly refund such excess amount to Borrowers and the provisions hereof shall be deemed amended to provide for such permissible rate.

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

(a) subject Agent, Swing Loan Lender, any Lender or Issuer to any Tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any LIBOR Rate Loan, or change the basis of taxation of payments to Agent, Swing Loan Lender, such Lender or Issuer in respect thereof (except for Taxes covered by Section 3.10 (including Indemnified Taxes imposed on or with respect to any payment made by or on account of any Obligations, Excluded Taxes and Other Taxes));

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

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

(d) and the result of any of the foregoing is to increase the cost to Agent, Swing Loan Lender, any Lender or Issuer of making, converting to, continuing, renewing or maintaining its Advances hereunder by an amount that Agent, Swing Loan Lender, such Lender or Issuer deems to be material or to reduce the amount of any payment (whether of principal, interest or otherwise) in respect of any of the Advances by an amount that Agent, Swing Loan Lender or such Lender or Issuer deems to be material, then, in any case Borrowers shall promptly pay Agent, Swing Loan Lender, such Lender or Issuer, upon its demand, such additional amount as will compensate Agent, Swing Loan Lender or such Lender or Issuer for such additional cost or such reduction, as the case may be, provided that (i) before making any such demand, such Agent, Swing Loan Lender, Lender or Issuer shall use reasonable best efforts to designate a different office or branch where it may make or maintain LIBOR Rate Loans if the making of such a designation would avoid the need for, or reduce the amount of such additional cost or reduction, (ii) such Agent, Swing Loan Lender, Lender or Issuer is imposing applicable

costs similar to those described in this Section 3.7 generally on other borrowers of comparable loans under revolving credit facilities under credit agreements having similar reimbursement provisions and (iii) the foregoing shall not apply to increased costs which are reflected in the LIBOR Rate, as the case may be. Agent, Swing Loan Lender, such Lender or Issuer shall certify the amount of such additional cost or reduced amount to Borrowing Agent, and such certification shall be conclusive absent manifest error.

3.8. Alternative Rate of Interest.

3.8.1 Basis for Determining Interest Rate Inadequate or Unfair. In the event that Agent or any Lender shall have determined that:

(a) reasonable means do not exist for ascertaining the LIBOR Rate applicable pursuant to Section 2.2 hereof for any Interest Period;

(b) Dollar deposits in the relevant amount and for the relevant maturity are not available in the London interbank market, with respect to an outstanding LIBOR Rate Loan, a proposed LIBOR Rate Loan, or a proposed conversion of a Domestic Rate Loan into a LIBOR Rate Loan;

(c) the making, maintenance or funding of any LIBOR Rate Loan has been made impracticable or unlawful by compliance by Agent or such Lender in good faith with any Applicable Law or any interpretation or application thereof by any Governmental Body or with any request or directive of any such Governmental Body (whether or not having the force of law); or

(d) the LIBOR Rate will not adequately and fairly reflect the cost to such Lender of the establishment or maintenance of any LIBOR Rate Loan,

then Agent shall give Borrowing Agent prompt written or telephonic notice of such determination. If such notice is given prior to a LIBOR Termination Date (as defined below) or prior to the date on which Section 3.8.2(a)(ii) hereof applies, (i) any such requested LIBOR Rate Loan shall be made as a Domestic Rate Loan, unless Borrowing Agent shall notify Agent no later than 10:00 a.m. two (2) Business Days prior to the date of such proposed borrowing, that its request for such borrowing shall be cancelled or made as an unaffected type of LIBOR Rate Loan, (ii) any Domestic Rate Loan or LIBOR Rate Loan which was to have been converted to an affected type of LIBOR Rate Loan shall be continued as or converted into a Domestic Rate Loan, or, if Borrowing Agent shall notify Agent, no later than 10:00 a.m. two (2) Business Days prior to the proposed conversion, shall be maintained as an unaffected type of LIBOR Rate Loan, and (iii) any outstanding affected LIBOR Rate Loans shall be converted into a Domestic Rate Loan, or, if Borrowing Agent shall notify Agent, no later than 10:00 a.m. two (2) Business Days prior to the last Business Day of the then current Interest Period applicable to such affected LIBOR Rate Loan, shall be converted into an unaffected type of LIBOR Rate Loan, on the last Business Day of the then current Interest Period for such affected LIBOR Rate Loans (or sooner, if any Lender cannot continue to lawfully maintain such affected LIBOR Rate Loan). Until such notice has been withdrawn, Lenders shall have no obligation to make an affected type of LIBOR Rate Loan or maintain outstanding affected LIBOR Rate Loans and no Borrower shall have the

right to convert a Domestic Rate Loan or an unaffected type of LIBOR Rate Loan into an affected type of LIBOR Rate Loan.

3.8.2 Successor LIBOR Rate Index.

(a) If Agent determines (which determination shall be final and conclusive, absent manifest error) that either (i) (A) the circumstances set forth in Section 3.8.1(a) hereof have arisen and are unlikely to be temporary, or (B) the circumstances set forth in Section 3.8.1(a) hereof have not arisen but the applicable supervisor or administrator (if any) of the LIBOR Rate or a Governmental Body having jurisdiction over Agent has made a public statement identifying the specific date after which the LIBOR Rate shall no longer be used for determining interest rates for loans (either such date, a "LIBOR Termination Date"), or (ii) a rate other than the LIBOR Rate has become a widely recognized benchmark rate for newly originated loans in Dollars in the U.S. market, then Agent may (in consultation with Borrowers) choose a replacement index for the LIBOR Rate and make adjustments to applicable margins and related amendments to this Agreement as referred to below such that, to the extent practicable, the all-in interest rate based on the replacement index will be substantially equivalent to the all-in LIBOR Rate-based interest rate in effect prior to its replacement.

(b) Agent and Debtors shall enter into an amendment to this Agreement to reflect the replacement index, the adjusted margins and such other related amendments as may be appropriate, in the discretion of Agent, for the implementation and administration of the replacement index-based rate. Notwithstanding anything to the contrary in this Agreement or the Other Documents (including, without limitation, Section 16.2), such amendment shall become effective without any further action or consent of any other party to this Agreement at 5:00 p.m. on the tenth (10^{th}) Business Day after the date a draft of the amendment is provided to the Lenders, unless Agent receives, on or before such tenth (10^{th}) Business Day, a written notice from the Required Lenders stating that such Lenders object to such amendment.

(c) Selection of the replacement index, adjustments to the applicable margins, and amendments to this Agreement (i) will be determined with due consideration to the then-current market practices for determining and implementing a rate of interest for newly originated loans in the United States and loans converted from a LIBOR Rate-based rate to a replacement index-based rate, and (ii) may also reflect adjustments to account for (x) the effects of the transition from the LIBOR Rate to the replacement index and (y) yield- or risk-based differences between the LIBOR Rate and the replacement index.

(d) Until an amendment reflecting a new replacement index in accordance with this Section 3.8.2 is effective, each advance, conversion and renewal of a LIBOR Rate Loan will continue to bear interest with reference to the LIBOR Rate; provided however, that if the Agent determines (which determination shall be final and conclusive, absent manifest error) that a LIBOR Termination Date has occurred, then following the LIBOR Termination Date, all LIBOR Rate Loans shall automatically be converted to Domestic Rate Loans until such time as an amendment reflecting a replacement index and related matters as described above is implemented.

(e) Notwithstanding anything to the contrary contained herein, if at any time the replacement index is less than zero, at such times, such index shall be deemed to be zero for purposes of this Agreement.

3.9. Capital Adequacy.

(a) In the event that Agent, Swing Loan Lender or any Lender shall have determined that any Applicable Law or guideline regarding capital adequacy or liquidity, or any Change in Law or any change in the interpretation or administration thereof by any Governmental Body, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by Agent, Swing Loan Lender, Issuer or any Lender (for purposes of this Section 3.9, the term "Lender" shall include Agent, Swing Loan Lender, Issuer or any Lender and any corporation or bank controlling Agent, Swing Loan Lender or any Lender and the office or branch where Agent, Swing Loan Lender or any Lender (as so defined) makes or maintains any LIBOR Rate Loans) with any request or directive regarding capital adequacy or liquidity (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on Agent, Swing Loan Lender or any Lender's capital as a consequence of its obligations hereunder (including the making of any Swing Loans) to a level below that which Agent, Swing Loan Lender or such Lender could have achieved but for such adoption, change or compliance (taking into consideration Agent's, Swing Loan Lender's and each Lender's policies with respect to capital adequacy and liquidity) by an amount deemed by Agent, Swing Loan Lender or any Lender to be material, then, from time to time, Borrowers shall pay upon demand to Agent, Swing Loan Lender or such Lender such additional amount or amounts as will compensate Agent, Swing Loan Lender or such Lender for such reduction, provided, however, that (i) before making any such demand, such Agent, Swing Loan Lender, Lender or Issuer shall use reasonable best efforts to designate a different office or branch where it may make or maintain LIBOR Rate Loans if the making of such a designation would avoid the need for, or reduce the amount of such reduction and (ii) such Agent, Swing Loan Lender, Lender or Issuer is making such demand generally of all other borrowers of comparable loans under revolving credit facilities under credit agreements having similar capital adequacy provisions. In determining such amount or amounts, Agent, Swing Loan Lender or such Lender may use any reasonable averaging or attribution methods. The protection of this Section 3.9 shall be available to Agent, Swing Loan Lender and each Lender regardless of any possible contention of invalidity or inapplicability with respect to the Applicable Law, guideline or condition.

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

3.10. Taxes.

(a) Any and all payments by or on account of any Obligations hereunder or under any Other Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes; provided that if Borrowers shall be required by

Applicable Law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) Agent, Swing Loan Lender, Lender, Issuer or Participant, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) Borrowers shall make such deductions and (iii) Borrowers shall timely pay the full amount deducted to the relevant Governmental Body in accordance with Applicable Law.

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

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

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

(e) Any Lender that is entitled to an exemption from or reduction of withholding tax with respect to payments hereunder or under any Other Document shall deliver to Borrowers (with a copy to Agent), at the time or times prescribed by Applicable Law or reasonably requested by Borrowers or Agent, such properly completed and executed documentation prescribed by Applicable Law as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if requested by Borrowers or Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by Borrowers or Agent as will enable Borrowers or 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 paragraphs (e)(i) – (e)(iii) and (e)(v) of this Section) 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, in the event that any Borrower is resident for tax purposes in the United States of America, any Lender

(or other Lender) shall deliver to Borrowers and Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of Borrowers or Agent, but only if such Lender is legally entitled to do so), whichever of the following is applicable:

(i) two (2) duly completed valid originals of IRS Form W-8BEN or W-8BEN-E, as applicable, claiming eligibility for benefits of an income tax treaty to which the United States of America is a party,

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

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

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

(v) two (2) originals of an IRS Form W-9 or any other form prescribed by Applicable Law demonstrating that such Lender is not a Foreign Lender.

(f) If a payment made to a Lender, Swing Loan Lender, Participant, Issuer, or Agent under this Agreement or any Other Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Person fails to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender, Swing Loan Lender, Participant, Issuer, or Agent shall deliver to Agent (in the case of Swing Loan Lender, a Lender, Participant or Issuer) and Borrowers (A) such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and (B) other documentation reasonably requested by Agent or any Borrower sufficient for Agent and Borrowers to comply with their obligations under FATCA, to determine that Swing Loan Lender, such Lender, Participant, Issuer, or Agent has complied with such applicable reporting requirements or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 3.10(f), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(g) If Agent, Swing Loan Lender, a Lender, a Participant or Issuer determines, in its sole discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by Borrowers or with respect to which Borrowers have paid additional amounts pursuant to this Section, it shall pay to Borrowers an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by Borrowers under this Section with respect to the Indemnified Taxes or Other Taxes giving rise to such refund); net of all out-of-pocket expenses (including Taxes incurred as a result of the

receipt of such refund) of Agent, Swing Loan Lender, such Lender, Participant, or the Issuer, as the case may be, and without interest (other than any interest paid by the relevant Governmental Body with respect to such refund), provided that Borrowers, upon the request of Agent, Swing Loan Lender, such Lender, Participant, or Issuer, agrees to repay the amount paid over to Borrowers (plus any penalties, interest or other charges imposed by the relevant Governmental Body) to Agent, Swing Loan Lender, such Lender, Participant or the Issuer in the event Agent, Swing Loan Lender, such Lender, Participant or the Issuer is required to repay such refund to such Governmental Body. This Section shall not be construed to require Agent, Swing Loan Lender, any Lender, Participant, or Issuer to make available its tax returns (or any other information relating to its taxes that it deems confidential) to Borrowers or any other Person.

3.11. Replacement of Lenders. If any Lender (an "Affected Lender") (a) makes demand upon Borrowers for (or if Borrowers are otherwise required to pay) amounts pursuant to Section 3.7, 3.9 or 3.10 hereof, (b) is unable to make or maintain LIBOR Rate Loans as a result of a condition described in Section 2.2(h) hereof, (c) is a Defaulting Lender, or (d) denies any consent requested by Agent pursuant to Section 16.2(b) hereof, Borrowers may, within ninety (90) days of receipt of such demand, notice (or the occurrence of such other event causing Borrowers to be required to pay such compensation or causing Section 2.2(h) hereof to be applicable), or such Lender becoming a Defaulting Lender or denial of a request by Agent pursuant to Section 16.2(b) hereof, as the case may be, by notice in writing to Agent and such Affected Lender (i) request the Affected Lender to cooperate with Borrowers in obtaining a replacement Lender satisfactory to Agent and Borrowers (the "Replacement Lender"); (ii) request the non-Affected Lenders to acquire and assume all of the Affected Lender's Advances and its Revolving Commitment Percentage as provided herein, but none of such Lenders shall be under any obligation to do so; or (iii) propose a Replacement Lender subject to approval by Agent in its good faith business judgment. If any satisfactory Replacement Lender shall be obtained, and/or if any one or more of the non-Affected Lenders shall agree to acquire and assume all of the Affected Lender's Advances and its Revolving Commitment Percentage, then such Affected Lender shall assign, in accordance with Section 16.3 hereof, all of its Advances and its Revolving Commitment Percentage, and other rights and obligations under this Agreement and the Other Documents to such Replacement Lender or non-Affected Lenders, as the case may be, in exchange for payment of the principal amount so assigned and all interest and fees accrued on the amount so assigned, plus all other Obligations then due and payable to the Affected Lender. Agent is authorized to execute one or more of such assignments as attorney-in-fact for any Affected Lender failing to execute and deliver the same within two (2) Business Days after the date of such demand.

IV. COLLATERAL: GENERAL TERMS

4.1. Security Interest in the Collateral. To secure the prompt payment and performance to the Post-Petition Secured Parties of the Post-Petition Obligations (and, upon entry of the Final Order, any and all Obligations, including without limitation, all Pre-Petition Obligations and Post-Petition Obligations) of whatever kind, nature or description, absolute or contingent, now existing or hereafter arising, the Agent, for the benefit of itself and the other Secured Parties, shall have and is hereby granted by each Debtor, effective as of the Petition Date, valid and perfected first priority (subject to the Senior Liens (as defined in the Interim

Order) and the Carve-Out), security interests and liens in and upon all pre- and post- petition property of each Debtor, whether existing on the Petition Date or thereafter acquired including a continuing security interest in and to and Lien on all of its Collateral, whether now owned or existing or hereafter acquired or arising and wheresoever located. Each Debtor shall mark its books and records as may be necessary or appropriate to evidence, protect and perfect Agent's security interest and shall cause its financial statements to reflect such security interest. Each Debtor shall promptly provide Agent with written notice of all commercial tort claims, such notice to contain the case title together with applicable court and a brief description of the claim(s), the events out of which such claim(s) arose, the parties against which such claims may be asserted and, if applicable in any case where legal proceedings regarding such claim(s) have been commenced, the case title together with the applicable court and docket number and the express grant by such Debtor to Agent of a security interest and lien in and to such commercial tort claim and the proceeds thereof. In the event that such notice does not include such grant of a security interest, the sending thereof by such Debtor to Agent shall be deemed to thereby grant to Agent a security interest and lien in and to such commercial tort claims described therein and all proceeds thereof. Each Debtor shall provide Agent with written notice promptly upon becoming the beneficiary under any letter of credit or otherwise obtaining any right, title or interest in any letter of credit rights, and at Agent's request shall take such actions as Agent may reasonably request for the perfection of Agent's security interest therein. As adequate protection and as consideration to Pre-Petition Secured Parties for their agreement to the terms hereof and as replacement collateral for the Pre-Petition Collateral used, consumed or sold by the Debtors in the Case, the Collateral shall secure the Pre-Petition Obligations to the extent of the diminution in value of the Pre-Petition Collateral.

4.2. Perfection of Security Interest. Each Debtor shall take all action that Agent may reasonably request from time to time, so as at all times to maintain the attachment, perfection and first priority of, and the ability of Agent to enforce, the security interest of Agent in any and all of the Collateral, including (i) executing, delivering and, where appropriate, filing financing statements and amendments relating thereto under the Uniform Commercial Code or other Applicable Law, to the extent, if any, that such Debtor's signature thereon is required therefor, (ii) executing, delivering and, where appropriate, filing such amendments, updates, instructions or other documents with the United States Patent and Trademark Office and the United States Copyright Office as necessary to create, maintain and perfect or renew the security interest granted with respect to any Collateral consisting of Intellectual Property that is registered with, issued by, or the subject of a pending application before the United States Patent and Trademark Office or the United States Copyright Office, as applicable and (iii) complying with any provision of any statute, regulation or treaty of the United States as to any Collateral if compliance with such provision is a condition to attachment, perfection or priority of, or ability of Agent to enforce, the security interest of Agent in such Collateral. For the avoidance of doubt, no perfection steps shall be required under the laws of any jurisdiction outside the United States, any state thereof or the District of Columbia with respect to any Intellectual Property. By its signature hereto, each Debtor hereby authorizes Agent to file against such Debtor, one or more financing, continuation or amendment statements pursuant to the Uniform Commercial Code in form and substance satisfactory to Agent (which statements may have a description of collateral which is broader than that set forth herein, including a description of Collateral as "all assets"

and/or "all personal property" of any Debtor) and ratifies and authorizes any such filings made by Agent prior to the Closing Date.

4.3. Preservation of Collateral. Following the occurrence of and during the continuation of an Event of Default and the demand by Agent for payment of all Obligations due and owing, in addition to the rights and remedies set forth in Section 11.1 hereof, Agent: (a) may at any time take such steps as Agent deems necessary to protect Agent's interest in and to preserve the Collateral, including the hiring of security guards or the placing of other security protection measures as Agent may deem appropriate; (b) may employ and maintain at any of any Debtor's premises a custodian who shall have full authority to do all acts necessary to protect Agent's interests in the Collateral; (c) may lease warehouse facilities to which Agent may move all or part of the Collateral; (d) may use any Debtor's owned or leased lifts, hoists, trucks and other facilities or equipment for handling or removing the Collateral; and (e) shall have, and is hereby granted, a right of ingress and egress to the places where the Collateral is located, and may proceed over and through any of Debtors' owned or leased property. Each Debtor shall cooperate fully with all of Agent's efforts to preserve the Collateral and will take such actions to preserve the Collateral as Agent may direct.

4.4. Ownership and Location of Collateral.

(a) With respect to the Collateral, at the time the Collateral becomes subject to Agent's security interest: (i) each Debtor shall be the sole owner of and fully authorized and able to sell, transfer, pledge and/or grant a first priority security interest in each and every item of its respective Collateral to Agent; and, except for Permitted Encumbrances the Collateral shall be free and clear of all Liens whatsoever; (ii) all signatures and endorsements of each Debtor that appear on such documents and agreements shall be genuine and each Debtor shall have full capacity to execute same; and (iii) each Debtor's equipment and Inventory shall be located as set forth on Schedule 4.4 (as may be updated by the Debtor from time to time) and shall not be removed from such location(s) without the prior written consent of Agent except (i) with respect to the sale of Inventory in the Ordinary Course of Business, (ii) to move Inventory directly from one location set forth on Schedule 4.4 to another such location set forth on Schedule 4.4, (iii) for Inventory shipped from the manufacturer thereof to any Debtor which is in transit to the locations set forth or permitted herein and (iv) equipment to the extent permitted in Section 7.1(b) hereof.

(b) (i) There is no location at which any Debtor has any Inventory constituting Eligible Inventory (except for Inventory in transit between such locations) and Inventory with a value at any time not in excess of $100,000 other than those locations listed on Schedule 4.4(b)(i); (ii) Schedule 4.4(b)(ii) hereto contains a correct and complete list as of the Closing Date of the legal names and addresses of each warehouse at which Inventory of any Debtor is stored; none of the receipts received by any Debtor from any warehouse states that the goods covered thereby are to be delivered to bearer or to the order of a named Person or to a named Person and such named Person's assigns; (iii) Schedule 4.4(b)(iii) hereto sets forth a correct and complete list as of the Closing Date of (A) each place of business of each Debtor and (B) the chief executive office of each Debtor; and (iv) Schedule 4.4(b)(iv) hereto sets forth a correct and complete list as of the Closing Date of the location, by state and street address, of all Real

Property owned or leased by each Debtor, identifying which properties are owned and which are leased, together with the names and addresses of any landlords.

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

4.6. Inspection of Premises. From time to time as requested by Agent, at the cost and expense of Debtor, Agent or its designee shall have reasonable access to any premises of any Debtor at any time during business hours for the purpose of inspecting the Collateral and auditing, checking, inspecting and making abstracts and copies from each Debtor's books, records, audits, correspondence and all other papers relating to the Collateral and the operation of such Debtor's business other than any such books, records, audited, correspondence or other papers subject to attorney client privilege or constituting attorney work product. The foregoing shall not limit the right of Agent to conduct additional field examinations, at the expense of Agent, as Agent may require. At Agent's discretion, and concurrently with the aforementioned field examinations, Agent shall be permitted to observe the annual warehouse facility cycle count and the store counts.

4.7. Appraisals. Agent may, in its Permitted Discretion, exercised in a commercially reasonable manner, at any time after the Closing Date and from time to time, engage the services of an independent appraisal firm or firms of reputable standing, reasonably satisfactory to Agent, for the purpose of appraising the then current values of Debtors' assets. In the event the value of Debtors' assets, as so determined pursuant to such appraisal, is less than provided in the most recent Borrowing Base Certificate, such that the Revolving Advances are in excess of such Advances permitted hereunder, then, promptly upon Agent's written demand for same,

Borrowers shall make mandatory prepayments of the then outstanding Revolving Advances so as to eliminate the excess Advances. All of the reasonable and documented out-of-pocket fees, costs and expenses of any appraisals conducted pursuant to this Section 4.7 shall be paid for when due, in full and without deduction, off-set or counterclaim by Borrowers.

4.8. Receivables; Deposit Accounts and Securities Accounts.

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

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

(c) Debtors shall notify Agent promptly of: (i) any material delay in Debtors' performance of any of their obligations to any Customer or the assertion of any material claims, offsets, defenses or counterclaims by any Customer, or any material disputes with account debtors, or any material settlement, adjustment or compromise thereof, and (ii) any event or circumstance which, to Debtors' knowledge, could be reasonably expected to cause Agent to consider any then-existing Receivables or Credit Card Receivables as no longer constituting Eligible Credit Card Receivables.

(d) Each Debtor's chief executive office is located as set forth on Schedule 4.4(b)(iii). Until written notice is given to Agent by Borrowing Agent of any other office at which any Debtor keeps its records pertaining to Receivables, all such records shall be kept at such executive office.

(e) Borrowers shall direct their Credit Card Processors to make all ACH or wire transfer payments due from such Credit Card Processors to a Blocked Account and/or Depository Accounts (and any associated lockboxes that are subject to Agent's "control") as Agent shall designate from time to time as contemplated by Section 4.8(j) or as otherwise agreed to from time to time by Agent. Notwithstanding the foregoing, to the extent any Debtor directly receives any remittances upon Receivables (including Credit Card Receivables), such Debtor shall, at such Debtor's sole cost and expense, but on Agent's behalf and for Agent's account, collect as Agent's property and in trust for Agent all amounts received on Receivables (including Credit Card Receivables), and shall not commingle such collections with any Debtor's funds or use the same except to pay Obligations, and shall promptly after the receipt thereof, but in no event later than one (1) Business Day after the receipt thereof, (i) in the case of remittances paid

by check, deposit all such remittances in their original form (after supplying any necessary endorsements) and (ii) in the case of remittances paid by wire transfer of funds, transfer all such remittances, in each case, into such Blocked Accounts(s) and/or Depository Account(s). Each Debtor shall deposit in the Blocked Account and/or, subject to the Intercreditor Agreement, Depository Account or, upon request by Agent, deliver to Agent, in original form and on the date of receipt thereof, all checks, drafts, notes, money orders, acceptances, cash and other evidences of Indebtedness.

(f) Borrowers shall deliver to Agent Credit Card Notifications substantially in the form attached hereto as Exhibit 4.8(f) which have been executed on behalf of such Borrower and delivered to such Borrower's credit card clearinghouses and Credit Card Processors listed on Schedule 5.30. Neither Borrower nor any Subsidiary thereof may change (except to direct such funds to another Blocked Account or Depository Account) any direction or designation as to payments on Credit Card Receivables set forth in the Credit Card Notices without the prior written consent of Agent.

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

(h) Agent shall have the right to receive, endorse, assign and/or deliver in the name of Agent or any Debtor any and all checks, drafts and other instruments for the payment of money relating to the Receivables, as well as for the Letter of Credit (as defined in the GOB Agency Agreement) and each Debtor hereby waives notice of presentment, protest and non-payment of any instrument so endorsed. Debtor hereby constitutes Agent or Agent's designee as such Debtor's attorney-in-fact with power (i) at any time: (A) to endorse such Debtor's name upon any notes, acceptances, checks, drafts, money orders or other evidences of payment in respect of Collateral that are received by Agent; (B) to sign such Debtor's name on any invoice or bill of lading relating to any of the Receivables, drafts against Customers, assignments and verifications of Receivables; (C) to send verifications of Receivables to any Customer; (D) to sign such Debtor's name on any documents or instruments deemed necessary or appropriate by Agent to preserve, protect, or perfect Agent's interest in the Collateral and to file same; and (E) to receive, open and dispose of all mail addressed to any Debtor at any post office box/lockbox maintained by Agent for Debtor or at any other business premises of Agent into which remittances from Customers or other obligors in respect of Collateral are sent or received; and (F) to make draws under the Letter of Credit (as defined in the GOB Agency Agreement); and (ii) at any time following the occurrence and during the continuation of an Event of Default: (A) to demand payment of the Receivables; (B) to enforce payment of the Receivables by legal proceedings or otherwise; (C) to exercise all of such Debtor's rights and remedies with respect to the collection of the Receivables and any other Collateral; (D) to sue upon or otherwise collect,

extend the time of payment of, settle, adjust, compromise, extend or renew the Receivables; (E) to settle, adjust or compromise any legal proceedings brought to collect Receivables; (F) to prepare, file and sign such Debtor's name on a proof of claim in bankruptcy or similar document against any Customer; (G) to prepare, file and sign such Debtor's name on any notice of Lien, assignment or satisfaction of Lien or similar document in connection with the Receivables; (H) to accept the return of goods represented by any of the Receivables; (I) to change the address for delivery of mail addressed to any Debtor to such address as Agent may designate; and (J) to do all other acts and things necessary in Agent's reasonable determination, to fulfill Debtors' obligations under this Agreement. All acts of said attorney-in-fact or designee are hereby ratified and approved, and said attorney-in-fact or designee shall not be liable for any acts of omission or commission nor for any error of judgment or mistake of fact or of law, unless such acts or omissions are done with gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment); this power being coupled with an interest is irrevocable while any of the Obligations remain unpaid.

(i) Neither Agent nor any Lender shall, under any circumstances or in any event whatsoever, have any liability for any error or omission or delay of any kind occurring in the settlement, collection or payment of any of the Receivables or any instrument received in payment thereof, or for any damage resulting therefrom, except to the extent that any of the foregoing arises out of the gross negligence or willful misconduct of Agent or such Lender as determined by a court of competent jurisdiction in a final non-appealable judgment.

(j) All Credit Card Receivables, all amounts payable to each Borrower from Credit Card Issuers and Credit Card Processors, all payments from all non-retail Customers and all other proceeds of all Collateral in excess of $375,000 shall be deposited by Debtor into (i) a lockbox account, dominion account or such other "blocked account" ("Blocked Accounts") established at a bank or banks (each such bank, a "Blocked Account Bank") pursuant to an arrangement with such Blocked Account Bank as may be selected by Borrowing Agent and reasonably acceptable to Agent, or (ii) a lockbox account, dominion account or such other "blocked account" ("Depository Accounts") established at Agent for the deposit of such proceeds. Each applicable Debtor, Agent and each Blocked Account Bank shall enter into a deposit account control agreement in form and substance reasonably satisfactory to Agent that is sufficient to give Agent "control" (for purposes of Articles 8 and 9 of the Uniform Commercial Code) over such Blocked Accounts. Agent shall have the sole and exclusive right to direct, and is hereby authorized to give instructions pursuant to such deposit account control agreements directing, the disposition of funds in the Blocked Accounts and Depository Accounts (any such instructions, an "Activation Notice") to Agent on a daily basis, either to a deposit account maintained by Agent at PNC or by wire transfer to a deposit account at PNC, which such funds may be applied by Agent to repay the Obligations, and, if an Event of Default has occurred and is continuing, to cash collateralize outstanding Letters of Credit in accordance with Section 3.2(b) hereof. All funds deposited in such Blocked Accounts or Depository Accounts shall immediately become subject to the security interest of Agent, for its own benefit and the ratable benefit of the other Secured Parties, and Borrowing Agent shall obtain the agreement by such Blocked Account Bank to waive any offset rights against the funds so deposited other than customary offset rights with respect to fees and charge backs. Neither Agent nor any Lender assumes any responsibility for such blocked account arrangement, including any claim of accord

and satisfaction or release with respect to deposits accepted by any Blocked Account Bank thereunder. Agent shall apply all funds received by it from the Blocked Accounts and/or Depository Accounts to the satisfaction of the Obligations (including the cash collateralization of all Obligations relating to any outstanding Letters of Credit in accordance with the provisions of Section 3.2(b) hereof) in such order as Agent shall determine in its sole discretion, subject to Borrowers' ability to re-borrow Revolving Advances in accordance with the terms hereof; provided that, in the absence of any Event of Default, Agent shall apply all such funds representing collection of Receivables first to the prepayment of the principal amount of the Swing Loans, if any, and then to the Revolving Advances.

(k) Borrowers shall cause all funds retained in registers at the retail stores as cash on hand or in the local store deposit accounts to be transferred to a Blocked Account or Depository Account promptly, in any event within one (1) Business Day, to the extent the aggregate amount of such funds exceeds $375,000.

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

(m) All deposit accounts (including all Blocked Accounts and Depository Accounts), securities accounts and investment accounts of each Debtor and its Subsidiaries as of the Closing Date are set forth on Schedule 4.8(m) (as may be updated by the Debtor from time to time). No Debtor shall open any new deposit account, securities account or investment account unless (i) established pursuant to the Cash Management Order, and (ii) if such account is to be maintained with a bank, depository institution or securities intermediary that is not Agent, such bank, depository institution or securities intermediary, each applicable Debtor and Agent shall first have entered into an Account Control Agreement over such account.

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

4.10. Maintenance of Equipment. The equipment shall be maintained in good operating condition and repair (reasonable wear and tear excepted) and all necessary replacements of and repairs thereto shall be made so that the value and operating efficiency of the equipment shall be maintained and preserved, in each case in all material respects. No Debtor shall use or operate the equipment in violation of any law, statute, ordinance, code, rule or regulation in any material respect. Each Debtor shall have the right to sell Equipment to the extent set forth in Section 7.1(b) hereof.

4.11. Exculpation of Liability. Nothing herein contained shall be construed to constitute Agent or any Lender as any Debtor's agent for any purpose whatsoever, nor shall Agent or any Lender be responsible or liable for any shortage, discrepancy, damage, loss or destruction of any part of the Collateral wherever the same may be located and regardless of the

cause thereof, except to the extent that any of the foregoing arises out of the gross negligence or willful misconduct of Agent or such Lender (as determined in a nonappealable judgment of a court of competent jurisdiction). Neither Agent nor any Lender, whether by anything herein or in any assignment or otherwise, assume any of any Debtor's obligations under any contract or agreement assigned to Agent or such Lender, and neither Agent nor any Lender shall be responsible in any way for the performance by any Debtor of any of the terms and conditions thereof.

4.12. Investment Property Collateral.

(a) Each Debtor has the right to transfer all Investment Property owned by such Debtor free of any Liens other than Permitted Encumbrances and will use commercially reasonable efforts to defend its title to the Investment Property against the claims of all Persons. Each Debtor shall (i) ensure that each operating agreement, limited partnership agreement and any other similar agreement permits Agent's Lien on the Equity Interests of wholly-owned Subsidiaries (other than Foreign Subsidiaries) arising thereunder, foreclosure of Agent's Lien and admission of any transferee as a member, limited partner or other applicable equity holder thereunder and (ii) use commercially reasonable efforts to provide that each operating agreement, limited partnership agreement and any other similar agreement with respect to any other Person permits Agent's Lien on the Investment Property of such Debtor arising thereunder, foreclosure of Agent's Lien and admission of any transferee as a member, limited partner or other applicable equity holder thereunder.

(b) Each Debtor shall, if the Investment Property includes securities or any other financial or other asset maintained in a securities account constituting Collateral, uses its commercially reasonable efforts to cause the custodian with respect thereto to execute and deliver a notification and control agreement or other applicable agreement satisfactory to Agent in order to perfect and protect Agent's Lien in such Investment Property.

(c) Except as set forth in Article XI hereof, (i) the Debtor will have the right to exercise all voting rights with respect to the Investment Property and (ii) the Debtor will have the right to receive all cash dividends and distributions, interest and premiums declared and paid on the Investment Property to the extent otherwise permitted under this Agreement. In the event any additional Equity Interests are issued to any Debtor as a stock dividend or distribution or in lieu of interest on any of the Investment Property, as a result of any split of any of the Investment Property, by reclassification or otherwise, any certificates evidencing any such additional shares will be delivered to Agent within ten (10) Business Days and such shares will be subject to this Agreement and a part of the Investment Property to the same extent as the original Investment Property.

4.13. Provisions Regarding Certain Investment Property Collateral. The operating agreement or limited partnership agreement (as applicable) of any Subsidiary (other than a Foreign Subsidiary) of any Debtor hereafter formed or acquired that is a limited liability company or a limited partnership, shall contain the following language (or language to the same effect): "Notwithstanding anything to the contrary set forth herein, no restriction upon any transfer of [membership interests] [partnership interests] set forth herein shall apply, in any way,

to the pledge by any [member] [partner] of a security interest in and to its [membership interests] [partnership interests] to PNC Bank, National Association, as agent for certain lenders, or its successors and assigns in such capacity (any such person, "Agent"), or to any foreclosure upon or subsequent disposition of such [membership interests] [partnership interests] by Agent. Any transferee or assignee with respect to such foreclosure or disposition shall automatically be admitted as a [member] [partner] of the Company and shall have all of the rights of the [member] [partner] that previously owned such [membership interests] [partnership interests]."

4.14. Superpriority Claims and Collateral Security. The Debtors hereby represent, warrant and covenant that, upon the entry by the Bankruptcy Court of the Interim Order and/or the Final Order, as applicable:

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

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

4.15. No Filings Required. The Liens securing the Obligations shall be deemed valid and perfected and duly recorded by entry of the Interim Order. Agent shall not be required to file any financing statements, mortgages, notices of Lien or similar instruments in any

jurisdiction or filing office or to cause any account control agreements to be entered into by any otherwise applicable parties with respect to any deposit account or securities account or to take any other action in order to validate or perfect the Lien granted by or pursuant to the Interim Order, the Final Order, this Agreement or any Other Document.

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

V. REPRESENTATIONS AND WARRANTIES.

Each Debtor represents and warrants as follows:

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

5.2. Formation and Qualification.

(a) Each Debtor is duly incorporated or formed, as applicable, and in good standing under the laws of the state listed on Schedule 5.2(a) (or any other subsequent jurisdiction of incorporation or formation, in compliance with Section 7.15) and is qualified to do business and is in good standing in all other states or other jurisdictions where the nature and extent of the business transacted by it or the ownership of assets makes such qualification necessary, except for those jurisdictions in which the failure to so qualify has not had or would not reasonably be expected to have a Material Adverse Effect.

(b) As of the Closing Date, the only Subsidiaries of Parent and each Debtor are listed on Schedule 5.2(b).

5.3. Survival of Representations and Warranties. All representations and warranties of such Debtor contained in this Agreement and the Other Documents to which it is a party shall be true at the time of such Debtor's execution of this Agreement and such Other Documents, and shall survive the execution and delivery of this Agreement.

5.4. Tax Returns. As of the date hereof, each Debtor's federal tax identification number is set forth on Schedule 5.4. Each Debtor has filed, or caused to be filed, all federal, state and material local tax returns and other reports it is required by law to file and has paid, or caused to be paid, all taxes, assessments, fees and other governmental charges that are due and payable unless being Properly Contested. The provision for taxes on the books of each Debtor is adequate for all years not closed by applicable statutes and for its current fiscal year, and no Debtor has any knowledge of any deficiency or additional assessment in connection therewith not provided for on its books.

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

5.6. Entity Names. Except as set forth on Schedule 5.6, (a) no Debtor has been known by any other company or corporate name, as applicable, in the five (5) years prior to the Closing Date, and (b) no Debtor has been the surviving corporation or company, as applicable, of a merger or consolidation or acquired all or substantially all of the assets of any Person during the five (5) years prior to the Closing Date.

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

(a) Except as set forth on Schedule 5.7 hereto or any such failure to comply that has not had or would not reasonably be expected to have a Material Adverse Effect, each Debtor and each Subsidiary is in compliance with the requirements of all applicable laws, rules, regulations and orders of any Governmental Body relating to their business, including, those set forth in or promulgated pursuant to the Occupational Safety and Health Act of 1970, as amended, the Fair Labor Standards Act of 1938, as amended, ERISA, the Code, as amended, and the rules and regulations thereunder, and all and Environmental Laws.

(b) Except for such Permits the failure of which to obtain or file has not had or would not reasonably be expected to have a Material Adverse Effect, Debtor and their Subsidiaries have all Permits required to be obtained or filed in connection with the operations of Borrowers under any Environmental Law and all of such licenses, certificates, approvals or similar authorizations and other Permits are valid and in full force and effect.

(c) Except as set forth on Schedule 5.7 hereto, Debtor and their Subsidiaries have not generated, used, stored, treated, transported, manufactured, handled, produced or disposed of any Hazardous Materials, on or off their premises (whether or not owned by a Debtor) in any manner which at any time violates any applicable Environmental Law or Permit, and the operations of Debtor and their Subsidiaries comply in all material respects with all Environmental Laws and all Permits where any such violation or non-compliance has or could reasonably be expected to have a Material Adverse Effect.

(d) Except as set forth on Schedule 5.7 hereto, there has been no investigation by any Governmental Body or any proceeding, complaint, order, directive, claim, citation or notice by any Governmental Body or any other person nor is any pending or to Borrowers' knowledge threatened, with respect to any non-compliance with or violation of the requirements of any Environmental Law by Debtor or their Subsidiaries or with respect to the release, spill or discharge, threatened or actual, of any Hazardous Material or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Materials or any other environmental, health or safety matter, which has or could reasonably be expected to have a Material Adverse Effect.

(e) Except as set forth on Schedule 5.7 hereto, Debtor and their Subsidiaries have no liability (contingent or otherwise) in connection with a release, spill or discharge, threatened or actual, of any Hazardous Materials or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Materials which in each case above has or could reasonably be expected to have a Material Adverse Effect.

(f) Each Debtor and each Subsidiary has taken all actions required under the Flood Laws and/or requested by Agent to assist in ensuring that each Lender is in compliance with the Flood Laws applicable to the Collateral, including providing Agent with the address and/or GPS coordinates of each structure located upon any Real Property that will be subject to a Mortgage in favor of Agent, for the benefit of Lenders, and, to the extent required, obtaining flood insurance for such property, structures and contents prior to such property, structures and contents becoming Collateral.

5.8. No Litigation, Violation, Indebtedness or Default; ERISA Compliance.

(a) Except as disclosed in Schedule 5.8(a) hereto, there is no pending or (to the knowledge of Debtor) threatened litigation, arbitration, actions or proceedings against any Debtor, which if adversely determined against a Debtor or any Subsidiary thereof has or would reasonably be expected to result in an Event of Default.

(b) No Debtor has any outstanding Indebtedness other than the Obligations, except for Indebtedness otherwise permitted under Section 7.8 hereof.

(c) No Debtor is in violation of any applicable statute, law, rule, regulation or ordinance in any respect which could reasonably be expected to have a Material Adverse Effect, nor is any Debtor in violation of any order of any court, Governmental Body or arbitration board or tribunal. Each Plan, other than each Multiemployer Plan, and to the knowledge of Debtor, each Multiemployer Plan, is in compliance with the applicable provisions of ERISA, the Code and other Applicable Laws in any respect which could not reasonably be expected to have a Material Adverse Effect.

(d) No Debtor or any member of the Controlled Group maintains or is required to contribute to any Plan other than those listed on Schedule 5.8(d) hereto. (i) Each Debtor and each member of the Controlled Group has met all applicable minimum funding requirements under Section 302 of ERISA and Section 412 of the Code in respect of each Pension Benefit Plan, and each Plan is in compliance with Sections 412, 430 and 436 of the Code and Sections 206(g), 302 and 303 of ERISA, without regard to waivers and variances; (ii) each Plan which is intended to be a qualified plan under Section 401(a) of the Code as currently in effect has been determined by the Internal Revenue Service to be qualified under Section 401(a) of the Code and the trust related thereto is exempt from federal income tax under Section 501(a) of the Code or an application for such a determination is currently being processed by the Internal Revenue Service; (iii) neither any Debtor nor any member of the Controlled Group has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due which are unpaid; (iv) no Pension Benefit Plan or, to the knowledge of Debtor, Multiemployer Plan has been terminated by the plan administrator thereof nor by the PBGC, and there is no occurrence which would cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Benefit Plan or Multiemployer Plan; (v) the current value of the assets of each Pension Benefit Plan exceeds the present value of the accrued benefits and other liabilities of such Pension Benefit Plan and neither any Debtor nor any member of the Controlled Group knows of any facts or circumstances which would materially change the value of such assets and accrued benefits and other liabilities; (vi) neither any Debtor nor any member of the Controlled Group has breached any of the responsibilities, obligations or duties imposed on it by ERISA with respect to any Plan; (vii) neither any Debtor nor any member of a Controlled Group has incurred any liability for any excise tax arising under Section 4971, 4972 or 4980B of the Code, and, to the knowledge of Debtor, no fact exists which could give rise to any such liability; (viii) neither any Debtor nor any member of the Controlled Group nor, to the knowledge of Debtor, any fiduciary of, nor any trustee to, any Plan, has engaged in a "prohibited transaction" described in Section 406 of the ERISA or Section 4975 of the Code nor taken any action which would constitute or result in a Termination Event with respect to any such Plan which is subject to ERISA; (ix) no Termination Event has occurred or is reasonably expected to occur; (x) there

exists no event described in Section 4043 of ERISA, for which the thirty (30) day notice period has not been waived; (xi) neither any Debtor nor any member of the Controlled Group has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA; (xii) neither any Debtor nor any member of the Controlled Group maintains or is required to contribute to any Plan which provides health, accident or life insurance benefits to former employees, their spouses or dependents, other than in accordance with Section 4980B of the Code; (xiii) neither any Debtor nor any member of the Controlled Group has withdrawn, completely or partially, within the meaning of Section 4203 or 4205 of ERISA, from any Multiemployer Plan so as to incur liability under the Multiemployer Pension Plan Amendments Act of 1980 that has not been satisfied and there exists no fact which would reasonably be expected to result in any such liability; and (xiv) to the knowledge of Debtor no Plan fiduciary (as defined in Section 3(21) of ERISA) has any liability for breach of fiduciary duty or for any failure in connection with the administration or investment of the assets of a Plan. No Pension Benefit Plan is in "at risk" status under Section 430(i)(4) of the Code of Section 303(i) (4) of ERISA.

5.9. Patents, Trademarks, Copyrights and Exclusive Copyright Licenses. Except as would not reasonably be expected to have a Material Adverse Effect, Debtor and their Subsidiaries own or license or otherwise have the right to use all Intellectual Property used in the operation of their businesses as presently conducted. As of the date hereof, Debtor and their Subsidiaries do not have any Intellectual Property registered, or subject to pending applications, in the United States Patent and Trademark Office or any similar office or agency in the United States, any State thereof, any political subdivision thereof or in any other country, other than those described in Exhibit A to the IP Security Agreement (all such Intellectual Property, "Debtor Registered IP") and has not received any exclusive licenses with respect to copyrights other than as set forth in Exhibit B to the IP Security Agreement. Except as would not reasonably be expected to have a Material Adverse Effect, except as otherwise indicated in Exhibit A of the IP Security Agreement, (a) the Debtor Registered IP (other than those which constitute applications) are subsisting and in full force and effect and, to the Debtor knowledge, valid; (b) one or more of the Debtor own sole, full and clear title thereto subject to any Permitted Encumbrances, including the right and power to grant a security interest therein, and (c) no event has occurred which permits or would reasonably be expected to permit after notice or passage of time or both, the revocation, suspension or termination of Debtor Registered IP, other than expiration pursuant to the applicable statutory term of Debtor Registered IP. To Debtors' knowledge, Debtors' and their Subsidiaries' respective businesses as presently conducted do not infringe any Intellectual Property owned by any other Person presently, and no claim or litigation is pending or threatened against Debtor or any Subsidiary thereof contesting its right to operate their respective businesses as presently conducted.

5.10. Licenses and Permits. Debtor and their Subsidiaries have obtained all material permits, licenses, approvals, consents, certificates, orders or authorizations of any Governmental Body required for the lawful conduct of their business (the "Permits") where the failure to have such Permit has or could reasonably be expected to have a Material Adverse Effect. All of the Permits are valid and subsisting and in full force and effect.

5.11. [Reserved].

5.12. [Reserved].

5.13. No Burdensome Restrictions. No Debtor or any Subsidiary thereof is party to any contract or agreement the performance of which could reasonably be expected to have a Material Adverse Effect. No Debtor has agreed or consented to cause or permit in the future (upon the happening of a contingency or otherwise) any of its property, whether now owned or hereafter acquired, to be subject to a Lien which is not a Permitted Encumbrance.

5.14. No Labor Disputes. No strike, labor dispute, slowdown or stoppage is pending against any Debtor or any Subsidiary thereof or, to Borrowers' knowledge, threatened against any Debtor or any Subsidiary thereof which has or would reasonably be expected to have a Material Adverse Effect. No labor contract to which any of Debtor or any member of the Controlled Group are a party is scheduled to expire before the Maturity Date other than as set forth on Schedule 5.14 hereto.

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

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

5.17. Disclosure. All information (other than any such information that Agent, in its Permitted Discretion, does not consider to be material) furnished by or on behalf of any Debtor in writing to Agent in connection with this Agreement or any of the Other Documents or any transaction contemplated hereby or thereby, is true and correct in all material respects on the date as of which such information is dated or certified and does not, taken as a whole, omit any material fact necessary in order to make such information not materially misleading. Any financial projections delivered by Debtors hereunder have been prepared in good faith based on assumptions believed by management of Debtor to be accurate and reasonable at the time made, it being recognized by Agent that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results and that such differences may be material.

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

Effect; provided, however, that with respect to projections and other information of a general economic or industry-specific nature contained in the materials referenced above, the Debtor represents only that the same were prepared in good faith and are based upon estimates and assumptions believed by management of the Debtor to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount.

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

5.19. [Reserved].

5.20. [Reserved].

5.21. Business and Property of Debtor. Upon and after the Closing Date, the Debtors do not propose to engage in any business other than the business of the Debtors on the Closing Date and any business reasonably related, ancillary or complementary to the business in which the Debtors are engaged on the Closing Date. On the Closing Date, each Debtor will own or possess rights to all the material property and possess all of the material rights and material Consents necessary for the conduct of the business of such Debtor. For the avoidance of doubt, the foregoing is not a representation or warranty with respect to non-infringement of Intellectual Property, which representation and warranty is solely set forth in Section 5.9.

5.22. Ineligible Securities. Debtor and their Subsidiaries do not intend to use and shall not use any portion of the proceeds of the Advances, directly or indirectly, to purchase during the underwriting period, or for thirty (30) days thereafter, Ineligible Securities being underwritten by a securities Affiliate of Agent or any Lender.

5.23. Federal Securities Laws. As of the date hereof, none of the Debtor or any of their Subsidiaries (i) is required to file periodic reports under the Exchange Act, (ii) has any securities registered under the Exchange Act or (iii) has filed a registration statement that has not yet become effective under the Securities Act.

5.24. Equity Interests. The authorized and outstanding Equity Interests of each Debtor and its Subsidiaries, and each legal and beneficial holder thereof as of the Closing Date, are as set forth on Schedule 5.24(a) hereto. All of the Equity Interests of each Debtor and its Subsidiaries have been duly and validly authorized and issued and are fully paid and non-assessable and have been sold and delivered to the holders hereof in compliance with, or under valid exemption from, all federal and state laws and the rules and regulations of each Governmental Body governing the sale and delivery of securities. As of the Closing Date, except for the rights and obligations set forth on Schedule 5.24(b), there are no subscriptions, warrants, options, calls, commitments, rights or agreement by which any Debtor or any Subsidiary thereof or any of the shareholders of any Debtor or any Subsidiary thereof is bound relating to the issuance, transfer, voting or redemption of shares of its Equity Interests or any pre-

emptive rights held by any Person with respect to the Equity Interests of Debtor and their Subsidiaries. As of the Closing Date, except as set forth on Schedule 5.24(c), Debtor and their Subsidiaries have not issued any securities convertible into or exchangeable for shares of its Equity Interests or any options, warrants or other rights to acquire such shares or securities convertible into or exchangeable for such shares.

5.25. Commercial Tort Claims. As of the Closing Date, no Debtor has any commercial tort claims in an individual amount in excess of $100,000 except as set forth on Schedule 5.25 hereto.

5.26. Letter of Credit Rights. As of the Closing Date, no Debtor has any letter of credit rights except as set forth on Schedule 5.26 hereto.

5.27. Material Contracts. Schedule 5.27 hereto sets forth all Material Contracts of Debtor as of the Closing Date. Each Debtor has heretofore delivered to Agent true and complete copies of all Material Contracts to which it is a party. Debtor are not in breach or in default in any material respect of or under any Material Contract and have not received any notice of the intention of any other party thereto to terminate any Material Contract.

5.28. Certificate of Beneficial Ownership. The Certificate of Beneficial Ownership executed and delivered to Agent and Lenders for each Debtor on or prior to the Closing Date, as updated from time to time in accordance with this Agreement, is accurate, complete and correct in all material respects as of the date hereof and as of the date any such update is delivered.

5.29. Investment Property Collateral. (a) There are no restrictions on the pledge or transfer of any of the Subsidiary Stock other than restrictions referenced on the face of any certificates evidencing such Subsidiary Stock, restrictions under Applicable Law or restrictions stated in the Organizational Documents of such Debtor with respect thereto, as applicable; (b) each Debtor is the legal owner of the Investment Property pledged by it hereunder, which is registered in the name of such Debtor, a custodian or a nominee; (c) the Investment Property is free and clear of any Liens except for Permitted Encumbrances which, in the case of any Investment Property constituting certificated securities, do not have priority over the Liens of Agent thereon; (d) the pledge of and grant of the security interest in the Investment Property is effective to vest in Agent a valid security interest therein; and (e) none of the Organizational Documents or other agreements governing any Investment Property provide that such Investment Property governed thereby are securities governed by Article 8 of the Uniform Commercial Code as in effect in any relevant jurisdiction.

5.30. Credit Card Agreements. Set forth in Schedule 5.30 hereto is a correct and complete list of (a) all of the Credit Card Agreements existing as of the Closing Date between or among Borrowers, the Credit Card Issuers, the Credit Card Processors and any of their affiliates, and (b) the term of such Credit Card Agreements.

5.31. Certificate of Beneficial Ownership. The Certificate of Beneficial Ownership executed and delivered to Agent and Lenders for each Debtor on or prior to the Closing Date, as updated from time to time in accordance with this Agreement, is accurate, complete and correct as of the date hereof and as of the date any such update is delivered.

VI. AFFIRMATIVE COVENANTS.

Each Debtor shall, and shall cause each Subsidiary to, until Payment in Full:

6.1. Compliance with Laws. Comply in all material respects with all Applicable Laws the non-compliance with which would reasonably be expected to have a Material Adverse Effect. Each Debtor may, however, contest or dispute any Applicable Laws in any reasonable manner, provided that any related Lien is inchoate or stayed and sufficient reserves are established to the reasonable satisfaction of Agent to protect Agent's Lien on or security interest in the Collateral.

6.2. Conduct of Business and Maintenance of Existence and Assets. (a) Conduct continuously and operate actively its business in the Ordinary Course of Business and take commercially reasonable actions in its reasonable business judgment to maintain and enforce any material Debtor Registered IP included in the Collateral; (b) keep in full force and effect its existence and comply in all material respects with the laws and regulations governing the conduct of its business except as otherwise permitted in accordance with the terms of this Agreement and where the failure to do so could reasonably be expected to have a Material Adverse Effect; and (c) make all such reports and pay all such franchise and other taxes and license fees and do all such other acts and things as may be lawfully required to maintain its rights, licenses, leases, powers and franchises under the laws of the United States or any political subdivision thereof where the failure to do so could reasonably be expected to have a Material Adverse Effect.

6.3. Books and Records. Keep proper books and records in which true and complete entries shall be made of all dealings or transactions of or in relation to the Collateral and the business of the Parent and its Subsidiaries in accordance with GAAP, in each case in all material respects. Debtors shall furnish to Agent all such financial and other information as Agent shall reasonably request relating to the Collateral and the assets, business and operations of the Parent and its Subsidiaries, and Debtors shall notify the auditors and accountants of Debtor that Agent is authorized to obtain such information directly from them (other than materials protected by the attorney-client or accountant-client privileges and materials which Borrowers may not disclose without violation of a confidentiality obligation binding upon it) at any reasonable time.

6.4. Payment of Taxes. Subject to the terms of any Budget, except where not permitted to do so as a result of the commencement of the Case, pay, when due, except to the extent Properly Contested, all taxes, assessments and other Charges lawfully levied or assessed upon such Debtor or any of the Collateral, including real and personal property taxes, assessments and charges and all franchise, income, employment, social security benefits, withholding, and sales taxes. If any tax by any Governmental Body is or may be imposed on or as a result of any transaction between any Debtor and Agent or any Lender which Agent or any Lender may be required to withhold or pay or if any taxes, assessments, or other Charges remain unpaid after the date fixed for their payment, or if any claim shall be made which, in Agent's or any Lender's opinion, may possibly create a valid Lien on the Collateral, Agent may without prior notice to Debtor pay the taxes, assessments or other Charges and each Debtor hereby indemnifies and holds Agent and each Lender harmless in respect thereof. The amount of any payment by Agent under this Section 6.4 shall be promptly notified to Debtor and charged to

Borrowers' Account as a Revolving Advance maintained as a Domestic Rate Loan and added to the Obligations and, until such payment has been made or Debtors shall furnish Agent with an indemnity therefor (or supply Agent with evidence satisfactory to Agent that due provision for the payment thereof has been made), Agent may hold without interest any balance standing to Debtors' credit, up to the amount of any such payment, and Agent shall retain its security interest in and Lien on any and all Collateral held by Agent.

6.5. Insurance.

(a) At all times, maintain with financially sound and reputable insurers insurance with respect to the Collateral against loss or damage and all other insurance of the kinds and in the amounts customarily insured against or carried by corporations of established reputation engaged in the same or similar businesses and similarly situated and in a manner consistent with past practice. Said policies of insurance shall be reasonably satisfactory to Agent as to form, amount, scope and insurer. Borrowers shall furnish certificates, policies or endorsements to Agent as Agent shall reasonably require as proof of such insurance, and, Agent is authorized, following notice to Borrowers, but not required, to obtain such insurance at the expense of Borrowers if Borrowers fail at any time to do so. Debtors shall promptly provide Agent with written notice after becoming aware of any reduction (except to the extent in any immaterial respect) of coverage in connection any of its insurance policies. At any time an Event of Default exists or has occurred and is continuing, Agent may act as attorney for Debtor in obtaining, adjusting, settling, amending and canceling such insurance. Debtors shall cause Agent to be named as a loss payee as its interests may appear and an additional insured (but without any liability for any premiums) under such insurance policies and Debtors shall obtain non-contributory lender's loss payable endorsements to all insurance policies in form and substance reasonably satisfactory to Agent. Such lender's loss payable endorsements shall specify that the proceeds of such insurance shall be payable to Agent as its interests may appear and further specify that Agent shall be paid regardless of any act or omission by Debtor or any of their Affiliates.

(b) Each Debtor shall take all actions required under the Flood Laws and/or reasonably requested by Agent to assist in ensuring that each Lender is in compliance in all material respects with the Flood Laws applicable to the Collateral, including providing Agent with the address and/or GPS coordinates of each structure on any real property that will be subject to a mortgage in favor of Agent, for the benefit of Lenders, and, to the extent required, obtaining flood insurance for such property, structures and contents prior to such property, structures and contents becoming Collateral, and thereafter maintaining such flood insurance in full force and effect for so long as required by the Flood Laws.

(c) Following and during the continuation of an Event of Default, Agent is hereby authorized to adjust and compromise claims under insurance coverage referred to in Sections 6.6(a) and 6.6(b) above. All loss recoveries received by Agent under any such insurance shall be applied as set forth in Section 6.6(a) above. Any surplus shall be paid by Agent to Debtor or applied as may be otherwise required by law. Any deficiency thereon shall be paid by Debtor to Agent, on demand. If any Debtor fails to obtain insurance as hereinabove provided, or to keep the same in force, Agent, if Agent so elects, may obtain such insurance and

pay the premium therefor on behalf of such Debtor, which payments shall be charged to Borrowers' Account and constitute part of the Obligations.

6.6. Payment of Indebtedness and Leasehold Obligations. Except where not permitted to do so as a result of the commencement of the Case, pay, discharge or otherwise satisfy, subject to specified grace periods, when due its rental obligations under all material leases of Real Property under which it is a tenant, except when the amount or validity thereof is currently being Properly Contested or a Reserve is included in the determination of the Formula Amount and the Borrowing Base Amount (in an amount equal to the amount at dispute), and shall otherwise comply with all other terms of such leases, except to the extent such non-compliance would not reasonably be expected to have a Material Adverse Effect.

6.7. Environmental Matters.

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

(b) Establish and maintain an environmental management and compliance system designed to assure and monitor continued compliance with all applicable Environmental Laws. All potential violations and violations of Environmental Laws shall, to the extent the Borrowers determine advisable in their reasonable business judgment, be reviewed with legal counsel to determine any required reporting to applicable Governmental Bodies and any required corrective actions to address such potential violations or violations.

(c) Respond promptly to any Hazardous Discharge or Environmental Complaint and take all necessary action in order to safeguard the health of any Person and to avoid subjecting the Collateral or Real Property to any Lien (other than Permitted Encumbrances) on account thereof. If any Debtor shall fail to respond promptly to any Hazardous Discharge or Environmental Complaint or any Debtor shall fail to comply with any of the requirements of any Environmental Laws, Agent on behalf of Lenders may, but without the obligation to do so, for the sole purpose of protecting Agent's interest in the Collateral: (i) give such notices or (ii) enter onto the Real Property (or authorize third parties to enter onto the Real Property) and take such actions as Agent (or such third parties as directed by Agent) deem reasonably necessary or advisable, to remediate, remove, mitigate or otherwise manage with any such Hazardous Discharge or Environmental Complaint. All reasonable costs and expenses incurred by Agent and Lenders (or such third parties) in the exercise of any such rights, including any sums paid in connection with any judicial or administrative investigation or proceedings, fines and penalties, together with interest thereon from the date expended at the Default Rate for Revolving Advances shall be paid upon demand by Debtor, and until paid shall be added to and become a part of the Obligations secured by the Liens created by the terms of this Agreement or any other agreement between Agent, any Lender and any Debtor.

(d) Promptly upon the reasonable written request of Agent describing the reasonable belief that a material violation of Environmental Laws or Hazardous Discharge, Debtors shall provide Agent, at Debtors' expense, with an environmental site assessment or

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

6.8. Standards of Financial Statements. Cause all financial statements referred to in Sections 9.1, 9.2 and 9.5 to be prepared in accordance with GAAP in all material respects (except as disclosed therein and agreed to by such reporting accountants or officer, as applicable).

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

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

6.11. Intellectual Property. Except as otherwise permitted under this Agreement, Debtors shall, at the Debtors' expense, use their commercially reasonable efforts, including by executing documents necessary and reasonable for such purpose (including the filing of any applicable renewal affidavits and applications), to maintain any Debtor Registered IP consisting of issued or registered trademarks, patents and/or copyrights that are material to their respective operations.

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

6.13. Keepwell. If it is a Qualified ECP Debtor, then jointly and severally, together with each other Qualified ECP Debtor, hereby absolutely unconditionally and irrevocably (a) guarantees the prompt payment and performance of all Swap Obligations owing by each Non-Qualifying Party (it being understood and agreed that this guarantee is a guaranty of

payment and not of collection), and (b) undertakes to provide such funds or other support as may be needed from time to time by any Non-Qualifying Party to honor all of such Non-Qualifying Party's obligations under this Agreement or any Other Document in respect of Swap Obligations (provided, however, that each Qualified ECP Debtor shall only be liable under this Section 6.13 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 6.13, or otherwise under this Agreement or any Other Document, voidable under applicable law, including applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Debtor under this Section 6.13 shall remain in full force and effect until Payment in Full. Each Qualified ECP Debtor intends that this Section 6.13 constitute, and this Section 6.13 shall be deemed to constitute, a guarantee of the obligations of, and a "keepwell, support, or other agreement" for the benefit of each other Debtor and Debtor Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the CEA.

6.14. Credit Card Agreements. Borrowers shall (a) observe and perform all material terms, covenants, conditions and provisions of the Credit Card Agreements to be observed and performed by Borrowers at the times set forth therein; (b) not do, permit, suffer or refrain from doing anything, as a result of which there could be a material default under or material breach of any of the terms of any of the Credit Card Agreements; (c) at all times maintain in full force and effect the Credit Card Agreements and not terminate, cancel, surrender, modify, amend, waive or release any of the Credit Card Agreements, or consent to or permit to occur any of the foregoing; except, that, (i) Borrowers may terminate, cancel, surrender, modify, amend, waive or release any of the Credit Card Agreements in the Ordinary Course of Business of Borrowers; provided, that, Borrowers shall give Agent not less than fifteen (15) days' (or at such later time as Agent may agree in its sole discretion, exercised in a commercially reasonable manner) prior written notice of Borrowers' intention to so terminate or cancel any of the Credit Card Agreements; (d) not, and shall not permit any other Debtor or any Subsidiary thereof to, enter into any new Credit Card Agreements with any new Credit Card Issuer or Credit Card Processor unless (i) Agent shall have received not less than fifteen (15) days' (or at such later time as Agent may agree in its sole discretion, exercised in a commercially reasonable manner) prior written notice of the intention of Borrowers to enter into such agreement (together with such other information with respect thereto as Agent may reasonably request) and (ii) Borrowers deliver, or cause to be delivered to Agent, a Credit Card Notification duly authorized, executed and delivered by Borrowers and delivered to the new Credit Card Issuer or Credit Card Processor; (e) give Agent prompt written notice of any Credit Card Agreement entered into by Borrowers after the date hereof, together with a true, correct and complete copy thereof and such other information with respect thereto as Agent may reasonably request; and (f) furnish to Agent, promptly upon the reasonable request of Agent, such information and evidence as Agent may reasonably require from time to time concerning the observance, performance and compliance by Borrowers or the other party or parties thereto with the terms, covenants or provisions of the Credit Card Agreements.

6.15. Budget Compliance.

(a) Disbursements Covenant. Commencing with the weekly period ending August 31, 2019 reflected in the Initial Budget delivered as of the Closing Date, cause Debtors'

disbursements, on an aggregate basis, to be not more than one hundred ten percent (110%) (provided, however, that in Agent's sole and absolute discretion and without court order, approval of, or notice to, any other Persons, Agent may increase such percentage up to one hundred fifteen percent (115%)) of forecasted disbursements set forth in the Budget for the applicable period (the "Permitted Variance"), such covenant to be tested on a rolling four week period provided that for the initial three weekly tests such covenant shall be tested against the Budget as follows: (i) for the second week based on two weeks forecast and two weeks actual; and (ii) for the third week based on three weeks forecast and three weeks actual, in each case, on a cumulative basis.

(b) Minimum Receipt Covenant. Commencing with the weekly period ending August 31, 2019 reflected in the Initial Budget delivered as of the Closing Date, cause Debtors' receipts, on an aggregate basis but excluding payments received from the GOB Liquidator under the GOB Agency Agreement, to be at least 90% (provided, however, that in Agent's sole and absolute discretion and without court order, approval of, or notice to, any other Persons, Agent may decrease such percentage down to eighty-five percent (85%)) of the forecasted receipts as set forth in the Budget for the applicable period, such covenant to be tested on a rolling 4-week basis; provided that for the initial three weekly tests such covenant shall be tested against the Budget as follows: (i) for the second week based on two weeks forecast and two weeks actual; and (ii) for the third week based on three weeks forecast and three weeks actual, in each case, on a cumulative basis.

6.16. Bankruptcy Schedules and Covenants.

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

(b) Serve all:

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

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

VII. NEGATIVE COVENANTS.

Until Payment in Full:

7.1. Merger, Consolidation, Acquisition and Sale of Assets.

Debtors shall not, and shall not permit any Subsidiary to, directly or indirectly,

(a) merge into or with or consolidate with any other Person or permit any other Person to merge into or with or consolidate with it;

(b) sell, issue, assign, lease, license, transfer, abandon or otherwise dispose of any Equity Interests or any of its assets to any other Person, except for Permitted Dispositions; provided, that, to the extent that any Collateral is sold as permitted by this Section 7.1(b), other than to any Debtor, concurrently with, and subject to the satisfaction of the conditions to such sale (including the receipt of the Net Cash Proceeds related thereto), upon the written request of Borrowers and effective upon the transfer of the title of the assets sold and the satisfaction of the applicable conditions to such Permitted Disposition, Agent shall, at Borrowers' expense, cause to be filed a Uniform Commercial Code financing statement amendment providing for the release by Agent of the assets so sold from its security interest granted hereunder; or

(c) suspend operations, wind up, liquidate or dissolve, except in connection with the Approved Bankruptcy Sales.

7.2. Creation of Liens. Debtors shall not, and shall not permit any Subsidiary to, create or suffer to exist any Lien or transfer upon or against any of its property or assets now owned or hereafter created or acquired, except Permitted Encumbrances.

7.3. [Reserved].

7.4. Investments. Debtors shall not, and shall not permit any Subsidiary to, purchase or acquire obligations or Equity Interests of, evidences of indebtedness or other securities of, make any loans, extensions of credit or advances to, or make any capital contribution or other investment, extensions of credit or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person constituting a business unit or all or a substantial part of the assets or property of any other Person, or form or acquire any Subsidiaries, or agree to do any of the foregoing (each of the foregoing an "Investment"), except for Permitted Investments.

7.5. [Reserved].

7.6. Capital Expenditures. Debtors shall not, and shall not permit any Subsidiary to, contract for, purchase or make any expenditure or commitments for Capital Expenditures unless and except to the extent expressly provided for in the Budget.

7.7. Restricted Payments. Debtors shall not, and shall not permit any Subsidiary to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment unless and except to the extent expressly provided for in the Budget:

7.8. Indebtedness. Debtors shall not, and shall not permit any Subsidiary to, incur, create, assume, become or be liable in any manner with respect to, or permit to exist, any Indebtedness, except:

(a) the Obligations;

(b) the Subordinated Debt;

(c) Indebtedness in respect of netting services, overdraft protections and otherwise in connection with deposit accounts and Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the Ordinary Course of Business; provided, that, such Indebtedness is extinguished within five (5) Business Days of incurrence;

(d) Guaranty Obligations in respect of Indebtedness of Debtors or Debtors' Subsidiaries to the extent that such Indebtedness is otherwise permitted pursuant to this Section 7.8;

(e) Indebtedness consisting of insurance premium financings in the Ordinary Course of Business;

(f) [reserved]; and

(g) Indebtedness incurred by any Debtor or Subsidiary of a Debtor in the Ordinary Course of Business under a commercial credit card or purchasing card program to the extent such program is in existence on the Closing Date.

7.9. Nature of Business. Each Debtor shall not, and shall not permit any Subsidiary to, engage in any business other than the business of such Debtor (or in the case of any new Subsidiary, any other Debtor) on the date hereof and any business reasonably related, ancillary or complementary to the business in which such Debtor is engaged (or in the case of any new Subsidiary, any other Debtor) on the date hereof.

7.10. Transactions with Affiliates. Each Debtor shall not, and shall not permit any Subsidiary to, directly or indirectly, purchase, acquire or lease any property from, or sell, transfer or lease any property to, any Affiliate, except for:

(a) compensation and reimbursement of officers and directors to the extent set forth in the Budget;

(b) Permitted Investments; and

(c) any employee benefit plan available to employees of Debtors or such Subsidiary generally.

7.11. [Reserved].

7.12. Subsidiaries. No Debtor shall form any Subsidiary or enter into any partnership, joint venture or similar arrangement.

7.13. Fiscal Year and Accounting Changes. Each Debtor shall not, and shall not permit any Subsidiary to, change its fiscal year, which is a retail fiscal year in accordance with the calendar promulgated by the National Retail Federation, or make any significant change in accounting treatment and reporting practices except as required or permitted by GAAP.

7.14. Pledge of Credit. Without affecting any Letters of Credit issued pursuant to this Agreement, no Debtor shall now or hereafter pledge Agent's or any Lender's credit on any purchases, commitments or contracts or for any purpose whatsoever or use any portion of any Advance in or for any business.

7.15. Amendment of Organizational Documents. No Debtor shall change its form of legal entity (e.g., converting from a corporation to a limited liability company or vice versa), change its jurisdiction of organization or become (or attempt or purport to become) organized in more than one jurisdiction or otherwise amend, modify or waive any material term or provision of its Organizational Documents in a manner that is adverse to the Agent or the Lenders, except that a Debtor may convert (either directly or by way of merger) into a corporation or limited partnership or other form of legal entity reasonably acceptable to Agent or make such other change if each of the following conditions is satisfied: (i) it shall be organized under the laws of a jurisdiction in the United States of America, (ii) Agent shall have received not less than ten (10) days' (or at such later time as Agent may agree in its sole discretion, exercised in a commercially reasonable manner) prior written notice from such Debtor of such proposed change, which notice shall, if applicable, accurately set forth a description of the new form, (iii) Agent shall have received the Organizational Documents of such entity (certified by the appropriate Governmental Body, where available to be so certified), together with such other agreements, documents, and instruments related to such change as Agent may reasonably request, (iv) such change shall not adversely affect the security interests and liens of Agent in the assets of such Debtor or the ability of Agent to enforce any of its rights or remedies with respect to such Debtor, in the determination of Agent and (v) as of the date of such change, and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing.

7.16. Compliance with ERISA. Each Debtor shall not, and shall not permit any Subsidiary to, (i) (x) maintain, or permit any member of the Controlled Group to maintain, or (y) become obligated to contribute, or permit any member of the Controlled Group to become obligated to contribute, to any Pension Benefit Plan or Multiemployer Plan, other than those Plans disclosed on Schedule 5.8(d) hereto, (ii) engage, or permit any member of the Controlled Group to engage, in any non-exempt "prohibited transaction", as that term is defined in Section 406 of ERISA or Section 4975 of the Code, (iii) terminate, or permit any member of the Controlled Group to terminate, any Pension Benefit Plan where such event could result in any liability of any Debtor or any member of the Controlled Group or the imposition of a lien on the property of any Debtor or any member of the Controlled Group pursuant to Section 4068 of ERISA, (iv) incur, or permit any member of the Controlled Group to incur, any withdrawal liability to any Multiemployer Plan; (v) fail promptly to notify Agent of the occurrence of any Termination Event, (vi) fail to comply, or permit any member of the Controlled Group to fail to comply, with the requirements of ERISA or the Code or other Applicable Laws in respect of any Plan, (vii) fail to meet, permit any member of the Controlled Group to fail to meet, or permit any

Pension Benefit Plan to fail to meet all minimum funding requirements under ERISA and the Code, without regard to any waivers or variances, or postpone or delay or allow any member of the Controlled Group to postpone or delay any Debtor's or any Debtor's Affiliate's funding requirement with respect to any Pension Benefit Plan or Multiemployer Plan, or (viii) cause, or permit any member of the Controlled Group to cause, a representation or warranty in Section 5.8(d) to cease to be true and correct.

7.17. Prepayment of Indebtedness. Each Debtor shall not, and shall not permit any Subsidiary to, make or agree to make any payment, prepayment, redemption, retirement, defeasance, purchase or sinking fund payment or other acquisition for value of any of its Indebtedness for borrowed money other than the Indebtedness under this Agreement or the Other Documents (including by way of depositing money or securities with the trustee therefor before the date required for the purpose of paying any portion of such Indebtedness when due), or otherwise set aside or deposit or invest any sums for such purpose.

7.18. Bankruptcy Matters.

(a) Directly or indirectly, seek, consent or suffer to exist: (i) any modification, stay, vacation or amendment to the Interim Order or Final Order, unless the Agent has consented to such modification, stay, vacation or amendment in writing; (ii) entry of any order that could adversely affect Agent's liens on the Collateral or its recovery in the Case that is not, in form and substance, satisfactory to Agent in its Permitted Discretion; (iii) a priority claim for any administrative expense or unsecured claim (now existing or hereafter arising of any kind or nature whatsoever, including any administrative expenses of the kind specified in the Bankruptcy Code, including without limitation Sections 105, 326, 328, 330, 331, 364(c)(1), 365, 503, 506(c) (upon entry of the Final Order), 507, 546, 726, 1113 or 1114 of the Bankruptcy Code) equal or superior to the Superpriority Claim of the Secured Parties in respect of the Obligations, except for the Carve-Out; or (iv) any Lien on any Collateral, having a priority equal or superior to the Lien in favor of the Agent in respect of the Obligations (subject to the Senior Liens (as defined in the Interim Order) and the Carve-Out);

(b) Prior to the date on which the Obligations have been indefeasibly paid in full in cash and Lenders' commitment to make Advances has been terminated, the Debtors shall not pay any administrative expense claims not provided for in the Budget, subject to the Permitted Variances other than with respect to the Carve-Out which shall not be subject to a Permitted Variance; provided however that Debtors may pay administrative expense claims with respect to (i) any Obligations due and payable hereunder and (ii) Statutory Fees;

(c) Make any material expenditure except of the type and for the purposes provided for in the Budget; and

(d) Amend, modify or supplement the Liquidation Agreement Assumption Order, the Sale Order or any final order of the Bankruptcy Court relating to or any agreement providing for an Approved Bankruptcy Sale without the prior written consent of Agent.

VIII. CONDITIONS PRECEDENT.

8.1. Conditions to Initial Advances. The agreement of Lenders to make the initial Advances requested to be made on the Closing Date is subject to the satisfaction, or waiver by Agent, immediately prior to or concurrently with the making of such Advances, of the following conditions precedent:

(a) Credit Agreement. Agent shall have received this Agreement duly executed and delivered by an authorized officer of each Debtor;

(b) Other Documents. Agent shall have received each of the Other Documents to which a Debtor is a party, duly executed and delivered by an authorized officer of each Debtor, as applicable;

(c) Bankruptcy Case. The Case shall have been commenced in the Bankruptcy Court and all of the first day orders entered at the time of commencement of the Case shall be reasonably satisfactory, in form and substance, to Agent and no trustee or examiner shall have been appointed with respect to the Debtors, or any of them, or any property of or any estate of any Debtor;

(d) Interim Order. The Interim Order shall have been entered by the Bankruptcy Court on or before the second (2^{nd}) Business Day after the Petition Date, which Interim Order (i) shall have been entered upon an application or motion of the Debtors reasonably satisfactory in form and substance to Agent and upon prior notice to such parties required to receive such notice and such other parties as may be reasonably requested by Agent; (ii) shall be in full force and effect and shall not have been amended, modified or stayed, or reversed; and, if the Interim Order is the subject of a pending objection, appeal or motion for reconsideration in any respect, neither the Interim Order, nor the making of the Advances, the issuance, extension or renewal of any Letters of Credit, or the performance by the Debtors of any of the Obligations shall be the subject of a presently effective stay, and (iii) shall otherwise satisfy the requirements of the definition of Interim Order set forth herein. The Debtors and the Secured Parties shall be entitled to rely in good faith upon the Interim Order notwithstanding any such objection, appeal or motion for reconsideration.

(e) Budget. Agent shall have received and approved the Budget;

(f) Cash Management Order. The Bankruptcy Court shall have entered a customary "cash management order" adopting and implementing cash management arrangements for the Debtors, which shall be in form and substance and on terms and conditions satisfactory to Agent in its sole and absolute discretion (any such order, the "Cash Management Order").

(g) Sponsor Guaranty. Sponsor and Agent shall have entered into the Sponsor Guaranty.

(h) Filings, Registrations and Recordings. Each document (including any Uniform Commercial Code financing statement) required by this Agreement, any related agreement or under law or reasonably requested by Agent pursuant to this Agreement or any Other Document to be filed, registered or recorded in order to create, in favor of Agent, a

perfected security interest in or lien upon the Collateral shall have been properly filed, registered or recorded in each jurisdiction in which the filing, registration or recordation thereof is so required or requested, and Agent shall have received an acknowledgment copy, or other evidence reasonably satisfactory to it, of each such filing, registration or recordation and of the payment of any necessary fee, tax or expense relating thereto;

(i) Closing Certificate. Agent shall have received a closing certificate signed by the Chief Financial Officer of (or any officer performing comparable duties generally associated with the foregoing title) of each Debtor dated as of the Closing Date, stating that (i) all representations and warranties set forth in this Agreement and the Other Documents are true and correct on and as of such date, and (ii) on such date no Default or Event of Default has occurred or is continuing;

(j) Secretary's Certificates, Authorizing Resolutions and Good Standings of Borrowers. Agent shall have received a certificate of the Secretary or Assistant Secretary (or other equivalent officer, partner or manager) of each Borrower in form and substance reasonably satisfactory to Agent dated as of the Closing Date which shall certify (i) copies of resolutions in form and substance reasonably satisfactory to Agent, of the board of directors (or other equivalent governing body, member or partner) of such Borrower authorizing (x) the execution, delivery and performance of this Agreement and each Other Document to which such Borrower is a party (including authorization of the incurrence of indebtedness, borrowing of Revolving Advances and requesting of Letters of Credit on a joint and several basis with all Borrowers as provided for herein), and (y) the granting by such Borrower of the security interests in and liens upon the Collateral to secure all of the joint and several Obligations of Borrowers (and such certificate shall state that such resolutions have not been amended, modified, revoked or rescinded as of the date of such certificate except as otherwise provided in the certificate), (ii) the incumbency and signature of the officers of such Borrower authorized to execute this Agreement and the Other Documents, and (iii) copies of the Organizational Documents of such Borrower as in effect on such date, complete with all amendments thereto;

(k) Secretary's Certificates, Authorizing Resolutions and Good Standings of Debtor Guarantors. Agent shall have received a certificate of the Secretary or Assistant Secretary (or other equivalent officer, partner or manager) of each Debtor Guarantor in form and substance reasonably satisfactory to Agent dated as of the Closing Date which shall certify (i) copies of resolutions in form and substance reasonably satisfactory to Agent, of the board of directors (or other equivalent governing body, member or partner) of each Debtor Guarantor authorizing (x) the execution, delivery and performance of such Debtor Guarantor's Guaranty, this Agreement and each Other Document to which such Debtor Guarantor is a party and (y) the granting by such Debtor Guarantor of the security interests in and liens upon the Collateral to secure its obligations under its Guaranty (and such certificate shall state that such resolutions have not been amended, modified, revoked or rescinded as of the date of such certificate except as otherwise provided in the certificate), (ii) the incumbency and signature of the officers of such Debtor Guarantor authorized to execute this Agreement and the Other Documents, and (iii) copies of the Organizational Documents of such Debtor Guarantor as in effect on such date, complete with all amendments thereto;

(l) No Litigation. Other than the Case: (i) no action, suit, investigation, litigation or proceeding shall be pending or threatened against any Debtor or against the officers or directors of any Debtor in any court or before any arbitrator or Governmental Body (A) in connection with this Agreement, the Other Documents, the Subordinated Loan Document or any of the transactions contemplated hereby and thereby and which, in the reasonable opinion of Agent, is deemed material or (B) which could, in the reasonable opinion of Agent, have a Material Adverse Effect; and (ii) no injunction, writ, restraining order or other order of any nature materially adverse to any Debtor or the conduct of its business or inconsistent with the due consummation of the Transactions shall have been issued by any Governmental Body;

(m) Fees. All fees and expenses required to be paid or reimbursed hereunder, including pursuant to the Fee Letter, on the Closing Date to Agent and the Lenders shall have been paid, in each case, at Borrowers' option, from the proceeds of the initial Revolving Advances under this Agreement;

(n) Insurance. Agent shall have received reasonable evidence that insurance required to be maintained by Section 6.6(a) is in full force and effect, including insurance certificates;

(o) Payment Instructions. Agent shall have received written instructions from Borrowing Agent directing the application of proceeds of the initial Advances made pursuant to this Agreement;

(p) Consents. Agent shall have received any and all Consents necessary to permit the effectuation of the transactions contemplated by this Agreement and the Other Documents; and, Agent shall have received such Consents and waivers of such third parties as might assert claims with respect to the Collateral, as Agent and its counsel shall deem reasonably necessary;

(q) Compliance with Laws. Agent shall be reasonably satisfied that each Loan Party is in compliance with all pertinent federal, state, local or territorial regulations, including those with respect to the Federal Occupational Safety and Health Act, the Environmental Protection Act, ERISA and the Anti-Terrorism Laws;

(r) Certificate of Beneficial Ownership; USA Patriot Act Diligence. Agent and each Lender shall have received, in form and substance acceptable to Agent, a Certificate of Beneficial Ownership duly authorized, executed and delivered by each Debtor and such other documentation and other information requested in connection with applicable "know your customer" and anti-money laundering rules and regulations, including the USA Patriot Act; and

(s) Other. Debtors shall use their commercially reasonable efforts to ensure that all corporate and other proceedings, and all documents, instruments and other legal matters in connection with the Transactions are satisfactory in form and substance to Agent and its counsel.

8.2. Conditions to Each Advance. The agreement of Lenders to make any Advance requested to be made on any date (including the initial Advance), is subject to the satisfaction of the following conditions precedent as of the date such Advance is made:

(a) Representations and Warranties. Each of the representations and warranties made by any Debtor in this Agreement and in, the Other Documents that are qualified as to materiality or Material Adverse Effect shall be true and correct (after giving effect to such qualifications therein) and the representations and warranties that are not so qualified shall be true and correct in all material respects, in each case with the same effect as though such representations and warranties had been made on and as of the date of the making of each such Advance and after giving effect thereto, except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and correct to the extent required hereunder or under the Other Documents on and as of such earlier date);

(b) No Default. No Event of Default or Default shall have occurred and be continuing on such date, or would exist after giving effect to the Advances requested to be made, on such date and, in the case of the initial Advance, after giving effect to the consummation of the Transactions; provided, however that Agent, in its sole discretion, may continue to make Advances notwithstanding the existence of an Event of Default or Default and that any Advances so made shall not be deemed a waiver of any such Event of Default or Default;

(c) Maximum Advances. In the case of any type of Advance requested to be made, after giving effect thereto, the aggregate amount of such type of Advance shall not exceed the maximum amount of such type of Advance permitted under this Agreement;

(d) Budget. In connection with each request of an Advance pursuant to Section 2.1 hereof, Borrower shall deliver to agent a written notice identifying the line-items on the applicable Budget that Borrowers intend to pay with the proceeds of such Advance; and

(e) Interim Order/Final Order. The Interim Order, or, after the entry of the Final Order, the Final Order, shall be in full force and effect and shall not be the subject of any appeal, motion for reconsideration, stay, order of reversal, amendment or modification.

Each request for an Advance by any Debtor hereunder shall constitute a representation and warranty by each Debtor as of the date of such Advance that the conditions contained in this subsection shall have been satisfied.

IX. INFORMATION AS TO DEBTORS.

Each Debtor shall, or shall cause Borrowing Agent on its behalf to, until Payment in Full:

9.1. Financial Statements and Other Information.

(a) Debtors shall furnish or cause to be furnished to Agent the following:

(i) as soon as available, but in any event within thirty (30) days after the end of each fiscal month, (A) monthly unaudited consolidated financial statements and unaudited consolidating financial statements (including in each case balance sheets, statements of income and loss, and statements of cash flow) of Parent and its Subsidiaries all in reasonable detail (but without footnotes), and (B) a monthly statement of income and loss for each retail store (excluding overhead allocations), in each case, which fairly present in all material respects the financial position and the results of the operations of Parent and its Subsidiaries as of the end of and through such fiscal month and year to date, subject to normal year-end adjustments; and

(ii) within ninety (90) days after the end of each fiscal year, audited (without qualification other than solely with respect to, or resulting from the occurrence of, an upcoming maturity date of the revolving facility provided for under this Agreement or any other material Indebtedness within one year) consolidated financial statements of Parent and its Subsidiaries (including in each case a balance sheet, a statement of income and loss and a statement of cash flow prepared on a consolidated basis, and the accompanying notes thereto, all in reasonable detail, fairly presenting in all material respects the financial position and the results of the operations of Parent and its Subsidiaries on a consolidated basis as of the end of and for such fiscal year.

(b) Debtors shall promptly notify Agent in writing of the details of (i) any loss, damage, investigation, action, suit, proceeding or written claim, in each case, of which the Debtor become aware, relating to Collateral or any Debtor having a value of more than $100,000 or which if adversely determined could reasonably be expected to have a Material Adverse Effect, (ii) any material provision of a Material Contract being terminated or amended in a manner adverse to the Agent or the Lenders or any new Material Contract entered into (in which event Debtors shall provide Agent with a copy of such Material Contract), (iii) any post-petition order, judgment or decree in excess of $250,000 shall have been entered against Debtor or any of their properties or assets, (iv) any notification of a material violation of laws or regulations received by Debtors, (v) any Termination Event, (vi) the occurrence of any Default or Event of Default (including the occurrence of any default or event of default under the Subordinated Loan Document) and (vii) any other development in the business or affairs of any Debtor, which could reasonably be expected to have a Material Adverse Effect; in each case describing the nature thereof and the action Debtors propose to take with respect thereto.

(c) Debtors shall furnish to Agent not less than ten (10) days (or at such later time as Agent may agree in its sole discretion, exercised in a commercially reasonable manner) prior written notice of (i) the merger or consolidation of any Debtor as permitted under Section 7.1 hereof, together with such other information with respect thereto as Agent may reasonably request, and (ii) the winding up, liquidation or dissolution of any Debtor as permitted under Section 7.1 hereof.

(d) Debtors shall furnish to Agent:

(i) concurrently with the delivery of the financial statements referred to in Section 9.1(a)(ii), the opinion (without qualification other than solely with respect to, or resulting from the occurrence of, an upcoming maturity date of the revolving facility provided

for under this Agreement or any other material Indebtedness within one year or prospective default of any financial covenant herein or therein) of independent certified public accountants with respect to the audited consolidated financial statements, which independent accounting firm shall be a "big four" accounting firm or otherwise reasonably acceptable to Agent, that such audited consolidated financial statements have been prepared in accordance with GAAP, and present fairly in all material respects the results of operations and financial condition of Parent and its Subsidiaries as of the end of and for the fiscal year then ended and stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default insofar as they relate to accounting matters, or if any such Default or Event of Default shall exist, stating the nature and status of such event;

(ii) [reserved];

(iii) promptly after the same are available, copies of each annual report, proxy or annual or quarterly financial statement or other report or communication, if any, sent to the equity holders of any Debtor which are of a type and nature typically sent to shareholders of a public company;

(iv) promptly after any request by Agent, copies of any detailed final audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of any Debtor by independent accountants in connection with the accounts or books of any Debtor, or any audit of any of them; provided that Debtor shall not be required to disclose any report, letter or other document that (A) is prohibited by any law or any binding agreement with a third party from being disclosed (provided, that, with respect to any such binding agreement with a third party, the relevant Debtor shall upon request from Agent have used commercially reasonable efforts to obtain a waiver of any such prohibition) or (B) is subject to attorney client or similar privilege or constitutes attorney work product; and

(v) promptly, and in any event within five (5) Business Days after receipt thereof by any Debtor or any Subsidiary thereof, copies of each notice or other 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 Debtors thereof; and concurrently with the delivery of the financial statements referred to in Section 9.1(a)(ii), a certificate by the Chief Executive Officer, Chief Financial Officer, VP of Finance or Controller of Borrowing Agent attaching the insurance binder or other evidence of insurance for any insurance coverage of any Debtor that was renewed, replaced or materially modified during the period covered by such financial statements.

(e) Debtors shall (i) furnish or cause to be furnished to Agent (1) copies of all notices, reports, financial statements and other materials sent pursuant to the Subordinated Loan Document and (2) such other information respecting the Collateral and the business of Debtors, as Agent may, from time to time, reasonably request and (ii) execute and deliver to Agent, upon request, such documents and agreements as Agent may, from time to time, request in its Permitted Discretion to carry out the purposes, terms or conditions of this Agreement.

(f) In the event any Debtor obtains, gives or receives notice of any release or threat of release of a reportable quantity of any Hazardous Materials at the Real Property (any such event being hereinafter referred to as a "Hazardous Discharge") or receives any material notice of violation, request for information or notification that it is potentially responsible for investigation or cleanup of environmental conditions at the Real Property, demand letter or complaint, order, citation, or other written notice with regard to any Hazardous Discharge or violation of Environmental Laws materially affecting the Real Property or any Debtor's interest therein or the operations or the business (any of the foregoing is referred to herein as an "Environmental Complaint") from any Person, including any Governmental Body, then Borrowing Agent shall, within five (5) Business Days, give written notice of same to Agent detailing facts and circumstances of which any Debtor is aware giving rise to the Hazardous Discharge or Environmental Complaint. Such information is to be provided to allow Agent to protect its security interest in and Lien on the Collateral and is not intended to create nor shall it create any obligation upon Agent or any Lender with respect thereto.

(g) Borrowing Agent shall promptly forward to Agent copies of any request for information, notification of potential liability, demand letter relating to any potentially material responsibility with respect to the investigation or cleanup of Hazardous Materials at any other site owned, operated or used by any Debtor to manage of Hazardous Materials and shall continue to forward copies of correspondence between any Debtor and the Governmental Body regarding such claims to Agent until the claim is settled. Borrowing Agent shall promptly forward to Agent copies of all documents and reports concerning a Hazardous Discharge or Environmental Complaint at the Real Property, operations or business that any Debtor is required to file under any Environmental Laws. Such information is to be provided solely to allow Agent to protect Agent's security interest in and Lien on the Collateral.

(h) Furnish Agent with prompt written notice in the event, except such events that would not reasonably be expected to result in a Material Adverse Effect, that (i) any Debtor or any member of the Controlled Group knows or has reason to know that a Termination Event has occurred, together with a written statement describing such Termination Event and the action, if any, which such Debtor or any member of the Controlled Group has taken, is taking, or proposes to take with respect thereto and, when known, any action taken or threatened by the Internal Revenue Service, Department of Labor or PBGC with respect thereto, (ii) any Debtor or any member of the Controlled Group knows or has reason to know that a prohibited transaction (as defined in Sections 406 of ERISA or 4975 of the Code) has occurred together with a written statement describing such transaction and the action which such Debtor or any member of the Controlled Group has taken, is taking or proposes to take with respect thereto, (iii) a funding waiver request has been filed with respect to any Plan together with all communications received by any Debtor or any member of the Controlled Group with respect to such request, (iv) any material increase in the benefits of any existing Plan or the establishment of any new Plan or the commencement of contributions to any Plan to which any Debtor or any member of the Controlled Group was not previously contributing shall occur, (v) any Debtor or any member of the Controlled Group shall receive from the PBGC a notice of intention to terminate a Plan or to have a trustee appointed to administer a Plan, together with copies of each such notice, (vi) any Debtor or any member of the Controlled Group shall receive any favorable or unfavorable determination letter from the Internal Revenue Service regarding the qualification of a Plan

under Section 401(a) of the Code, together with copies of each such letter; (vii) any Debtor or any member of the Controlled Group shall receive a notice regarding the imposition of withdrawal liability, together with copies of each such notice; (viii) any Debtor or any member of the Controlled Group shall fail to make a required installment or any other required payment under the Code or ERISA on or before the due date for such installment or payment; or (ix) any Debtor or any member of the Controlled Group knows that (a) a Multiemployer Plan has been terminated, (b) the administrator or plan sponsor of a Multiemployer Plan intends to terminate a Multiemployer Plan, (c) the PBGC has instituted or will institute proceedings under Section 4042 of ERISA to terminate a Multiemployer Plan or (d) a Multiemployer Plan is subject to Section 432 of the Code or Section 305 of ERISA.

Any documents, schedules, invoices or other papers delivered to Agent may be destroyed or otherwise disposed of by Agent one (1) year after the same are delivered to Agent, except as otherwise designated by Debtors to Agent in writing.

9.2. Collateral Reporting. Borrowers shall provide Agent with the following documents in a form reasonably satisfactory to Agent:

(a) on or before Tuesday of each week, (A) a Borrowing Base Certificate setting forth the calculation of the Formula Amount and Borrowing Base Amount as of the immediately preceding Saturday, duly completed and executed by the Chief Financial Officer, VP of Finance or Controller or any other officer regularly executing and delivering Borrowing Base Certificates in the Ordinary Course of Business of Borrowing Agent, together with all schedules required pursuant to the terms of Borrowing Base Certificate duly completed (provided that Borrowing Agent may elect to deliver to Agent more frequently a high level accounts receivable roll forward report to reflect sales and collections since the last Borrowing Base Certificate), (B) agings of accounts receivable (together with a reconciliation to the previous period's aging and the general ledger) and a report of credit card sales during such period, including the amount of chargebacks and credits with respect thereto, (C) a detailed breakdown of the calculations of Inventory to be returned to vendors, (D) a detailed breakdown of all outstanding merchandise gift certificates or gift cards (it being understood and agreed that the form report provided to Agent prior to the Closing Date shall be satisfactory), (E) a report setting forth the merchandise credits, merchandise refunds and loyalty rewards (it being understood and agreed that, in each case, the form reports provided to Agent prior to the Closing Date shall be satisfactory), (F) a week-end calculation of the Formula Amount and Borrowing Base Amount reflecting the "stock ledger" activity for such week (such information to be delivered through an Approved Electronic Communication) and (G) reports of Inventory and the value thereof at any leased locations and at premises of Freight Forwarders, warehouses, processors or other third parties or consignees and the amount of Eligible In-Transit Inventory;

(b) on or before Tuesday of each week, in each case certified by an authorized officer of such Borrower as true and correct: (A) the addresses of all new retail store locations of such Borrower opened and existing retail store locations closed or sold, in each case since the date of the most recent certificate delivered to Agent containing the information required under this clause, and (B) a report of any new deposit account, securities account or commodities accounts established or used by any Debtor with any bank or other financial institution, including

the name of the account, the account number, the name and address of the financial institution at which such account is maintained, the purpose of such account and, if any, the amount held in such account on or about the date of such report;

(c) upon Agent's reasonable request, (A) reports of sales for each category of Inventory, (B) summary reports on sales and use tax collections, deposits and payments, including monthly sales and use tax accruals, (C) true, correct and complete copies of all agreements, documents or instruments evidencing or otherwise related to Indebtedness that Agent has not otherwise received and (D) a certificate of the Chief Financial Officer, VP of Finance or Controller of Borrowing Agent listing (1) all applications, if any, for Intellectual Property made since the date of the prior certificate (or, in the case of the first such certificate, the date hereof), (2) all issuances of registrations or letters on existing applications for Intellectual Property received since the date of the prior certificate (or, in the case of the first such certificate, the date hereof), (3) all material License Agreements entered into since the date of the prior certificate (or, in the case of the first such certificate, the date hereof), (4) the statements received by Borrowers from any Credit Card Issuers and Credit Card Processors, together with such additional information with respect thereto as reasonably requested by Lender to enable Agent to monitor the transactions pursuant to the Credit Card Agreements, and (5) a report of the outstanding principal amount of the term loans under the Subordinated Loan Document;

(d) on or before Tuesday of each week, (A) inventory reports by category (and including the amounts of Inventory and the value thereof at any leased locations and at premises of freight forwarders, warehouses, processors or other third parties or consignees and the amount of Eligible In-Transit Inventory) together with a reconciliation to the relevant source document of Borrowers, (B) agings of outstanding accounts payable (and including information indicating the amounts owing to owners and lessors of leased premises, freight forwarders, warehouses, processors, and other third parties from time to time in possession of any Collateral) and accounts receivable, (C) a report, if applicable, setting forth the total amount of any purchase price paid by any customers to each Borrower in respect of layaway goods, if any, (D) a report summarizing closed retail store locations and results by class of Inventory of any going-out-of-business sales and identifying the proceeds of any other asset sales of such Borrower sold in connection with such store closures, (E) a report, if applicable, setting forth the Inventory acquired or accepted by each Borrower on consignment or approval, if any and (F) an inventory roll-forward report by product class and which reflects a computation of the inventory at retail price as of the last Business Day of the immediately preceding period, plus inventory purchased during such period, minus the inventory sold during such period, minus markdowns (other than point of sale markdowns) of the inventory sold during such period, minus point of sale markdowns of the inventory sold during such period;

(e) on or before Tuesday of each week) for the immediately preceding fiscal month (or week, as applicable), certified by an authorized officer of each Borrower as true and correct, a statement of store activity, including comparative store sales data on an aggregate basis for each Borrower, in a form reasonably acceptable to Agent; and

(f) such other reports as to the Collateral as Agent shall reasonably request from time to time.

9.3. Reporting of Name and Other Changes.

(a) A Debtor shall not change its name or federal tax identification number unless each of the following conditions is satisfied: (i) Agent shall have received not less than ten (10) days' (or at such later time as Agent may agree) prior written notice from such Debtor of such proposed change in its name federal tax identification number, which notice shall accurately set forth the new name or federal tax identification number; and (ii) Agent shall have received a copy of the amendment to the certificate of incorporation, certificate of formation or other organizational document or other applicable document of such Debtor providing for the name change certified by the Secretary of State of the jurisdiction of incorporation or organization of Debtor promptly when it is available.

(b) A Debtor shall not change its chief executive office or its mailing address or organizational identification number (or if it does not have one, shall not acquire one) unless Agent shall have received not less than ten (10) days' prior written notice from such Debtor of such proposed change, which notice shall set forth such information with respect thereto as Agent may reasonably require and Agent shall have received such agreements as Agent may reasonably require in connection therewith. A Debtor shall not change its type of organization, jurisdiction of organization or other legal structure, except that a Debtor may convert (either directly or by way of merger) into a corporation or limited partnership or other form of legal entity reasonably acceptable to Agent, provided, that, each of the following conditions is satisfied: (i) such corporation, partnership or other legal entity is organized under the laws of a jurisdiction in the United States of America, (ii) Agent shall have received not less than ten (10) days' prior written notice from Borrowers of such proposed change, which notice shall accurately set forth a description of the new form, (iii) Agent shall have received the organizational documents of such entity (certified by the appropriate Governmental Body, where available to be so certified), together with such other agreements, documents, and instruments related thereto as Agent may reasonably request, (iv) such change shall not adversely affect the security interests and liens of Agent in the assets of such Debtor or the ability of Agent to enforce any of its rights or remedies with respect to such Debtor, in the determination of Agent and (v) as of the date of such conversion, and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing.

9.4. Updates to Certain Schedules. Debtor shall be permitted to deliver to Agent updates to Schedules 4.4 (Locations of Equipment and Inventory), 4.8(m) (Deposit and Investment Accounts), 5.2(b) (Subsidiaries), 5.8(a) (Litigation), 5.8(d) (Plans), 5.24 (Equity Interests), 5.25 (Commercial Tort Claims), 5.26 (Letter-of-Credit Rights) and Exhibit A to the IP Security Agreement. Any such updated Schedules delivered by Debtors to Agent in accordance with this Section 9.4 shall automatically and immediately be deemed to amend and restate the prior version of such Schedule previously delivered to Agent and attached to and made part of this Agreement.

9.5. Financial Disclosure. Each Debtor hereby irrevocably authorizes and directs all accountants and auditors employed by such Debtor at any time on or prior to the Maturity Date to exhibit and deliver to Agent and each Lender copies of any of such Debtor's financial statements, trial balances or other accounting records of any sort in the accountant's or auditor's possession, and to disclose to Agent and each Lender any information such accountants may have concerning such Debtor's financial status and business operations (other than materials protected by the attorney-client or accountant-client privileges and materials which a Debtor may not disclose without violation of a confidentiality obligation binding upon it). Upon the occurrence of and during the continuation of an Event of Default, each Debtor hereby authorizes all Governmental Bodies to furnish to Agent and each Lender copies of reports or examinations relating to such Debtor, whether made by such Debtor or otherwise; however, Agent and each Lender will attempt to obtain such information or materials directly from such Debtor prior to obtaining such information or materials from such accountants or Governmental Bodies.

9.6. Budget. Furnish Agent and Lenders, no less frequently than every four weeks commencing on the Closing Date, a proposed updated budget for the nine-week period following the date of delivery, which shall be in substantially the same form and detail of the Initial Budget, and accompanied by a certificate signed by an Authorized Officer of the Borrowers to the effect that such Budget has been prepared in good faith based upon assumptions which the Borrowers believe to be reasonable at the time made and in light of the conditions existing at the time of delivery thereof and that such officer has no reason to question the reasonableness of any material assumptions on which such projections were prepared (it being understood and agreed that the Borrowers may (but are not required to) furnish one or more proposed updated 9-week budgets more frequently than every four weeks); provided that, such proposed budget shall become the "Budget" as defined and for all purposes hereunder and under the Interim Order and (upon entry of the Final Order) the Final Order upon written approval thereof by Agent in its sole discretion following a reasonable opportunity to review and comment thereon.

9.7. Variances From Budget. Deliver to Agent on or before Tuesday of each week, a comparison of actual receipts and disbursements and actual Advances outstanding hereunder and under the Pre-Petition Credit Agreement to projected receipts and disbursements and projected Advances outstanding hereunder and under the Pre-Petition Credit Agreement of the prior week in a form substantially similar to that attached as Exhibit C hereto. In addition, Debtors shall, and shall cause their financial consultant to attend calls no less than once a week to discuss the Borrowers' businesses and the status of the Case with Agent, Lenders and Agent's advisors.

9.8. Other Bankruptcy Documents. Deliver to Agent: (a) substantially contemporaneous with the filing thereof, copies of all pleadings, motions, applications, financial information and other papers and documents filed by the Debtors in the Case, with copies of such papers and documents also provided to or served on Agent's counsel; (b) substantially contemporaneous with the receipt and/or execution thereof, copies of all letters of intent, expressions of interest, and offers to purchase with respect to any of the Collateral; (c) substantially contemporaneously with delivery thereof to the Committee or any other official or unofficial committee in the Case, copies of all material written reports and all term sheets for a Reorganization Plan or any sale under Section 363 of the Bankruptcy Code given by the Debtors to the Committee or any other official or unofficial committee in the Case, with copies of such

reports and term sheets also provided to or served on Agent's counsel; and (d) projections, operating plans and other financial information and information, reports or statements regarding the Debtors, their business and the Collateral as Agent may from time to time reasonably request.

X. EVENTS OF DEFAULT.

The occurrence of any one or more of the following events shall constitute an "Event of Default":

10.1. Nonpayment. Failure by any Debtor to pay when due (a) any principal or interest on the Obligations (including pursuant to Section 2.9), or (b) any other fee, charge, amount or liability provided for herein or in any Other Document, in each case whether at maturity, by reason of acceleration pursuant to the terms of this Agreement, by notice of intention to prepay or by required prepayment;

10.2. Breach of Representation. Except as provided in Section 10.18 hereof, any representation or warranty made or deemed made by any Debtor in this Agreement, any Other Document or any related agreement or in any certificate, document or financial or other statement furnished at any time in connection herewith or therewith shall prove to have been incorrect or misleading in any material respect on the date when made or deemed to have been made;

10.3. [Reserved].

10.4. Judicial Actions. Any (a) levy, injunction or attachment (i) against any Debtor's Eligible Inventory or Eligible Credit Card Receivables or (ii) against a portion of any Debtor's other property, in each case in an aggregate amount in excess of $50,000 and (b) such levy, injunction or attachment shall remain in effect for a period of sixty (60) consecutive days during which a stay of enforcement thereof, by reason of a pending appeal or otherwise, shall not be in effect;

10.5. Noncompliance. (i) Failure of any Debtor or any Subsidiary to perform, keep or observe any term, provision, condition or covenant contained in Sections 2.1, 2.4, 4.2, 4.6, 4.7, 4.8, 6.2, 6.16, 9.1, 9.2, 9.3, 10.18 and Article VII hereof, or (ii) failure of any Debtor or any Subsidiary to perform and of the terms, covenants, conditions or provisions contained in this Agreement or any Other Document other than those described in Section 10.1 above and clauses (i) thorough (ii) of this Section 10.5 which is not cured within ten (10) Business Days from the occurrence of such failure (provided that such ten (10) Business Day period shall not apply in the case of any failure to observe any such covenant which is not capable of being cured at all or within such ten (10) Business Day period);

10.6. Judgments. Any (a) judgment or judgments, writ(s), order(s) or decree(s) for the payment of money, that is enforceable on a post-petition basis, is rendered against any Debtor or any Subsidiary thereof for an aggregate amount in excess of $50,000 or against all Debtor and their Subsidiaries for an aggregate amount in excess of $50,000 (to the extent not covered by independent third party insurance where the insurer has not declined coverage) and (b) (i) action shall be legally taken by any judgment creditor to levy upon assets or properties of any Debtor or

any Subsidiary thereof to enforce any such judgment and (ii) such judgment shall remain undischarged for a period of sixty (60) consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, shall not be in effect;

10.7. Bankruptcy Defaults.

(a) the Bankruptcy Court shall enter any order, that has not been consented to by Agent (i) revoking, reversing, staying, vacating, rescinding, modifying, supplementing or amending (x) the Interim Order, the Final Order, the Cash Management Order, the Liquidation Agreement Assumption Order, Bidding Procedures Order, Sale Order, the GOB Agency Agreement, this Agreement, the Pre-Petition Other Documents or any Other Document, or (y) any other "first day" orders to the extent such revocation, reversal, stay, vacation, rescission, modification, supplement or amendment is materially adverse to the interests of Secured Parties, or (ii) permitting any administrative expense or any claim (now existing or hereafter arising, of any kind or nature whatsoever) to have administrative priority as to any Debtor equal or superior to the priority of the Agent and Lenders in respect of the Obligations, or there shall arise any such Superpriority Claim, or (iii) to grant or permit the grant of a Lien on the Collateral superior to, or pari passu with, the Liens of Agent on the Pre-Petition Collateral or the Collateral (other than the Senior Liens (as defined in the Interim Order), and the Carve-Out);

(b) the Bankruptcy Court shall enter any order (i) appointing a Chapter 11 trustee under Section 1104 of the Bankruptcy Code in the Case, (ii) appointing an examiner with enlarged powers relating to the operation of the business (powers beyond those set forth in Section 1106(a)(3) and (4) of the Bankruptcy Code) under Section 1106(b) of the Bankruptcy Code in the Case, (iii) appointing a fiduciary or representative of the estate with decision-making or other management authority over some or all of any Debtor's senior management other than the Debtors' Chief Restructuring Officer, (iv) substantively consolidating the estate of any Debtor with the estate of any other Person, (v) dismissing the Case or converting the Case to a Chapter 7 case; or (vi) approving a sale of substantially all of the assets of the Borrowers and/or of the Debtors which order does not provide that upon consummation of such sale, all of the Obligations shall be indefeasibly paid and satisfied in full and which shall otherwise be reasonable satisfactory to Agent, and in connection with such sale order, Secured Parties shall not have received a release (on terms and conditions and in form and substance satisfactory to Agent in its sole discretion) of Secured Parties in full from all claims of the Debtors and their estates on or before the entry of such sale order;

(c) this Agreement, any of the Other Documents, the Interim Order or the Final Order for any reason ceases to be in full force and effect or is declared to be null and void by a court of competent jurisdiction, or any of the Debtors shall seek to, or shall support (in any such case by way of any motion or other pleading filed with the Bankruptcy Court or any other writing to another party-in-interest executed by or on behalf of such Debtor) any other Person's motion to, disallow in whole or in part the Secured Parties' claim in respect of the Obligations or to challenge the validity and enforceability of the Liens in favor of any Secured Party;

(d) any Debtor files a motion with the Bankruptcy Court asserting that the Secured Parties do not have a right to, or supports a motion filed with the Bankruptcy Court that

asserts the Secured Parties do not have the right to, credit bid for any assets of the Debtors in connection with any sale pursuant to Section 363(k) of the Bankruptcy Code;

(e) the Bankruptcy Court shall enter any order granting relief from the automatic stay to any creditor holding or asserting a Lien, reclamation claim or other rights on the assets of any Debtor in excess of $20,000;

(f) any application for any of the orders described in clauses (a), (b), (c), (d) or (e) above shall be made and, if made by a Person other than a Debtor, such application is not being diligently contested by such Debtor in good faith;

(g) except (i) as permitted by the Interim Order or Final Order and set forth in the Budget, or (ii) as otherwise agreed to by Agent in writing, and approved by all necessary Bankruptcy Court orders/approvals, any Debtor shall make any Pre-Petition Payment (including, without limitation, related to any reclamation claims) following the Closing Date;

(h) any Debtor shall be unable to pay its post-petition debts as they mature, shall fail to comply with any order of the Bankruptcy Court in any material respect, or shall fail to make, as and when such payments become due or otherwise;

(i) the period covered by the Budget shall expire without the Budget being updated pursuant to Section 9.12 prior to such expiration;

(j) any Debtor shall file a motion in the Case (i) to use cash Collateral under Section 363(c) of the Bankruptcy Code without Agent's prior written consent except to the extent expressly permitted in the Interim Order or, once entered, the Final Order, (ii) to sell a material portion of the assets of any Debtor without Agent's prior written consent, (iii) to recover from any portions of the Collateral any costs or expenses of preserving or disposing of such Collateral under Section 506(c) of the Bankruptcy Code, or to cut off rights in the Collateral under Section 552(b) of the Bankruptcy Code, (iv) to obtain additional financing under Sections 364(c) or (d) of the Bankruptcy Code not otherwise permitted under this Agreement, unless such motion and additional financing shall provide that upon initial closing and consummation of such financing, that upon consummation of such sale, all of the Obligations shall be indefeasibly paid and satisfied in full and Secured Parties receive a release (on terms and conditions and in form and substance satisfactory to Agent in its sole discretion) of Secured Parties in full from all claims of the Debtors and their estates, or (v) to take any other action or actions adverse to Secured Parties or their rights and remedies hereunder or under any of the Other Documents or Secured Parties interest in any of the Collateral;

(k) (i) a Reorganization Plan is filed in the Case by one or more of the Debtors which does not contain provisions for termination of Agent's and Lenders' commitment to make Advances hereunder and indefeasible Payment in Full and the release of the Secured Parties (on terms and conditions and in form and substance satisfactory to Agent) in full from all claims of the Debtors and their estates, in each case, on or before, and the continuation of the Liens and security interests granted to Agent until, the effective date of such Reorganization Plan, or (ii) an order shall be entered by the Bankruptcy Court confirming a Reorganization Plan in the Case which does not contain provisions for termination of Agent's and Lenders

commitment to make Advances hereunder and indefeasible Payment in Full and the release of the Secured Parties (on terms and conditions and in form and substance satisfactory to Agent) in full from all claims of the Debtors and their estates on or before, and the continuation of the Liens and security interests granted to Agent until, the effective date of such Reorganization Plan upon entry thereof;

(l) the expiration or termination of the "exclusive period" of the Debtors under Section 1121 of the Bankruptcy Code for the filing of a plan of reorganization;

(m) (i) any Debtor engages in or supports any challenge to the validity, perfection, priority, extent or enforceability of the credit facility provided hereunder or the Pre-Petition Other Documents or the liens on or security interest in the assets of the Debtors securing the Obligations or (ii) any Debtor engages in or supports any investigation or asserts any claims or causes of action (or directly or indirectly support assertion of the same) against Secured Parties; *provided, however*, that it shall not constitute an Event of Default if any Debtor provides information with respect to the Pre-Petition Credit Agreement and the Pre-Petition Other Documents to (x) the Creditors' Committee and (y) with prior written notice to the Agent and the Lenders of any requirement to do so, any other party in interest;

(n) the termination or rejection of any contract of any Debtor which would reasonably be expected to result in a Material Adverse Effect;

(o) any of the following (i) the Debtors shall fail to obtain all necessary Bankruptcy Court order(s) (each such order to be on terms and conditions and in form and substance acceptable to Agent) (collectively, the "Liquidation Agreement Assumption Order") to allow Debtors to assume the GOB Agency Agreement, or (ii) the Debtors shall fail to file a motion on the Petition Date requesting authority to assume the GOB Agency Agreement, (iii) the Debtors shall fail to obtain an interim Liquidation Agreement Assumption Order on terms and conditions and in form and substance reasonably acceptable to Agent on or before the second (2^{nd}) Business Day after the Petition Date, or (iv) the Debtors shall fail to obtain a final Liquidation Agreement Assumption Order on terms and conditions and in form and substance reasonably acceptable to Agent on or before September 13, 2019;

(p) any of the following (i) the Debtors shall fail to file a motion under section 363 of the Bankruptcy Code seeking authority to sell the Debtors' E-Commerce Business Assets, subject to the receipt of "higher and better" bids (the "Approved Sale"), together with bidding procedures ("Bidding Procedures"), in form and substance reasonably satisfactory to the Agent, on or before August 20, 2019; (ii) the Debtors shall fail to obtain one or more Bankruptcy Court orders approving the Bidding Procedures (the "Bidding Procedures Order") on or before September 13, 2029, such Bidding Procedures Order to be in form and substance acceptable to Agent; (iii) the Debtors fail to obtain a letter of intent for the purchase of the Ecommerce Business assets ("LOI") on or before September 14, 2019, such LOI in form and substance reasonably acceptable to Agent; (iv) the Debtors fail to obtain an executed asset purchase agreement for the purchase of the E-Commerce Business assets ("APA") and deposit on or before September 24, 2019, such APA and deposit in form and substance reasonably acceptable to Agent; (v) the Debtors fail to exercise the E-Commerce Option (as defined in the GOB

Agency Agreement) either (A) on September 15, 2019, if Debtors fail to obtain an LOI in accordance with subparagraph (iii) above, or (B) on September 25, 2019, if Debtors fail to obtain an APA and deposit in accordance with subparagraph (iv) above; (vi) if the Debtors do not exercise the E-Commerce Option, the Debtors fail to conduct an auction in accordance with the Bidding Procedures ("Auction") on or before October 3, 2019; (vii) if the Debtors do not exercise the E-Commerce Option, the Debtors shall (A) fail to obtain a court order of the Approved Sale (the "Sale Order") of the E-Commerce Business Assets to the successful bidder on or before October 7, 2019, such Sale Order to be in form and substance satisfactory to Agent or (B) seek to approve any Sale Order that does not provide for the indefeasible payment in full of the Obligations (after giving effect to any payments received by Agent and made by Sponsor pursuant to the Sponsor Guaranty)without Agent's prior written consent; (viii) if the Debtors do not exercise the E-Commerce Option, the Approved Sale has not been consummated on or before October 14, 2019;

(q) the Case is converted to a case under Chapter 7 of the Bankruptcy Code;

(r) the Case is dismissed;

(s) a breach or default occurs under the GOB Agency Agreement, or such agreement is terminated for any reason, in each case, except as consented to by Agent;

(t) the Final Order is not entered, following an application or motion of the Debtors reasonably satisfactory, in form and substance, to Agent and upon prior notice to such parties required to receive such notice and such other parties as may be reasonably requested by Agent, immediately following the expiration of the Interim Order, and in any case, not later than September 13, 2019;

(u) a breach of the terms or provisions of the Interim Order or Final Order;

(v) solely upon entry of the Final Order, any Person shall be permitted to surcharge the Collateral or the Pre-Petition Collateral under Section 506(c) of the Bankruptcy Code, or any costs or expenses whatsoever shall be imposed against the Collateral or the Pre-Petition Collateral, other than the Carve-Out; or

(w) solely upon entry of the Final Order, the Agent shall be made subject to any equitable remedy of marshalling or any similar doctrine with respect to the Collateral and the Prepetition Collateral.

10.8. [Reserved];

10.9. Lien Priority. Any Lien created hereunder or provided for hereby or under any related agreement for any reason ceases to be or is not a valid and perfected Lien having a first priority interest (subject, in each case, only to Senior Liens (as defined in the Interim Order) and the Carve-Out);

10.10. [Reserved].

10.11. Cross Default. (a) a default of the obligations of any Debtor or any Subsidiary thereof under any other agreement to which it is a party shall occur which has or is reasonably likely to have a Material Adverse Effect, (b) any Credit Card Issuer or Credit Card Processor withholds payment of amounts otherwise payable to a Borrower or any Debtor Guarantor to fund a reserve account or otherwise hold as collateral, or shall require a Borrower or any Debtor Guarantor to pay funds into a reserve account or for such Credit Card Issuer or Credit Card Processor to otherwise hold as collateral, or a Borrower or any Debtor Guarantor shall provide a letter of credit, guarantee, indemnity or similar instrument to or in favor of such Credit Card Issuer or Credit Card Processor such that in the aggregate all of such funds in the reserve account, other amounts held as collateral and the amount of such letters of credit, guarantees, indemnities or similar instruments shall exceed $250,000 or (c) any Credit Card Issuer or Credit Card Processor shall debit or deduct any amounts in excess of $250,000 in the aggregate in any fiscal year of Borrowers and Debtor Guarantors from any amounts or proceeds otherwise payable to any Borrower or any Debtor Guarantor;

10.12. Breach of Guaranty or Pledge Agreement. Any material provision of any Guaranty, Debtor Guarantor Security Agreement, Pledge Agreement or similar agreement executed and delivered to Agent in connection with the Obligations or the Pre-Petition Obligations of any Debtor ceases to be valid, binding or enforceable with respect to any party hereto or thereto (other than Agent, Swing Loan Lender, any Lender or Issuer) in accordance with its terms, or if any Debtor or pledgor attempts to terminate, challenges the validity of, or its liability under, any such provision of any such Guaranty, Debtor Guarantor Security Agreement, Pledge Agreement or similar agreement (except as otherwise permitted herein or therein);

10.13. Change of Control. Any Change of Control shall occur;

10.14. Invalidity. (a) Any material provision of this Agreement or any Other Document shall, for any reason, cease to be valid and binding on any Debtor, or any Debtor shall so claim in writing to Agent or any Lender or any Debtor challenges the validity of or its liability under this Agreement or any Other Document or (b) any payment, remedy blockage or turnover provision in favor of Agent and Lenders in respect of any Subordinated Debt ceases to be in full force and effect;

10.15. Seizures. Any material portion of the Collateral shall be seized, subject to garnishment or taken by a Governmental Body;

10.16. [Reserved];

10.17. Pension Plans. An event or condition specified in Section 7.16 or 9.1(h) hereof shall occur or exist with respect to any Plan and, as a result of such event or condition, together with all other such events or conditions, any Debtor or any member of the Controlled Group shall incur, or in the opinion of Agent be reasonably likely to incur, a liability to a Plan or the PBGC (or both) which, in the reasonable judgment of Agent, would have a Material Adverse Effect;

10.18. Anti-Money Laundering/International Trade Law Compliance. Any representation or warranty contained in Section 16.18 is or becomes false or misleading at any time; or

10.19. Credit Cards. Any Credit Card Issuer or Credit Card Processor shall send notice to any Borrower or any Debtor Guarantor that it is ceasing to make or suspending payments to such Borrower or any Debtor Guarantor of amounts due or to become due to such Borrower or such Debtor Guarantor or shall cease or suspend such payments, or shall send notice to a Borrower or any Debtor Guarantor that it is terminating its arrangements with such Borrower or such Debtor Guarantor or such arrangements shall terminate as a result of any event of default under such arrangements, which continues for more than the applicable cure period, if any, with respect thereto and, in each case, such event would reasonably be likely to cause a Material Adverse Effect, unless such Borrower or such Debtor Guarantor shall have entered into arrangements with another Credit Card Issuer or Credit Card Processor, as the case may be, within thirty (30) days after the date of any such notice.

XI. LENDERS' RIGHTS AND REMEDIES AFTER DEFAULT.

11.1. Rights and Remedies.

(a) Upon the occurrence of and during the continuance of an Event of Default, and without the necessity of seeking relief from the automatic stay or any further Order of the Bankruptcy Court (i) the Agent and Lenders shall no longer have any obligation to make any Advances (or otherwise extend credit); (ii) all amounts outstanding under the Credit Agreement and the Other Documents shall, at the option of the Agent, be accelerated and become immediately due and payable; (iii) the Agent and the Pre-Petition Agent shall be entitled to immediately terminate the Debtors' right to use Cash Collateral, without further application or order of the Bankruptcy Court, provided, however, that the Debtors shall have the right to use Cash Collateral to pay their weekly ordinary course payroll included in the Approved Budget through and including the date immediately following the date on which such Event of Default occurs, (iv) the Debtors shall be bound by all post-default restrictions, prohibitions, and other terms as provided in the Interim Order, the Credit Agreement, the Other Documents, the Pre-Petition Credit Agreement and the Pre-Petition Other Documents, (v) the Agent shall be entitled to charge the default rate of interest under the Credit Agreement and (vi) subject only to the notice requirement set forth in Section 11.1(b) below, both the Agent and the Pre-Petition Agent shall be entitled to take any other act or exercise any other right or remedy as provided in this Interim Order, the Credit Agreement, the Other Documents, the Pre-Petition Credit Agreement, the Pre-Petition Other Documents, or applicable law, including, without limitation, setting off any Obligations or Pre-Petition Obligations with Collateral, Pre-Petition Collateral or proceeds in the possession of any Pre-Petition Secured Party or Lender, and enforcing any and all rights and remedies with respect to the Collateral or Pre-Petition Collateral, as applicable.

(b) Without further notice, application or order of the Bankruptcy Court, upon the occurrence and during the continuance of an Event of Default, and after providing five (5) Business Days' prior written notice thereof (which five (5) Business Day period only applies to the Collateral enforcement remedies described below) to counsel for the Debtors, counsel for any

Committee, the US Trustee, and counsel to the Pre-Petition Subordinated Lender, the Agent for the benefit of itself and the Lenders, and the Pre-Petition Agent, for the benefit of itself and the other Pre-Petition Secured Parties, as applicable, shall be entitled to take any action and exercise all rights and remedies provided to them by the Interim Order, this Agreement, the Other Loan Documents or the Pre-Petition Other Documents, or applicable law, unless otherwise ordered by the Bankruptcy Court, as the Agent or the Pre-Petition Agent, as applicable, may deem appropriate in their sole discretion to, among other things, proceed against and realize upon the Collateral (including the Pre-Petition Collateral) or any other assets or properties of the Debtors' Estates upon which the Agent, for the benefit of itself and the Lenders, and the Pre-Petition Agent, for the benefit of itself and the other Pre-Petition Secured Parties, has been or may hereafter be granted liens or security interests to obtain the full and indefeasible payment of all the Pre-Petition Obligations and Post-Petition Obligations. Notwithstanding the foregoing or anything in Section 11.1(a) above, Agent may continue to apply proceeds received into the lockbox or collection account to reduce the Pre-Petition Obligations or the Post-Petition Obligations in any order at the sole discretion of the Agent during such five (5) Business Day period. During such five (5) Business Day period, either or both the Debtors and the Committee shall be entitled to seek an emergency hearing with the Bankruptcy Court.

(c) Additionally, upon the occurrence and during the continuance of an Event of Default and the exercise by Agent or the Pre-Petition Agent of their respective rights and remedies under the Interim Order, the Credit Agreement, the Other Documents, the Pre-Petition Credit Agreement or the Pre-Petition Other Documents, provided that the Debtors and the Agent agree upon a mutually acceptable wind down budget, the Debtors shall cooperate with the Agent in the exercise of rights and remedies and assist the Agent in effecting any sale or other disposition of the Collateral required by the Agent, including any sale of Collateral pursuant to Bankruptcy Code section 363 or assumption and assignment of Collateral consisting of contracts and leases pursuant to Bankruptcy Code section 365, in each case, upon such terms that are acceptable to the Agent.

(d) Upon the occurrence and during the continuance of an Event of Default, and subject to the five (5) Business Day notice provision provided above, in connection with a liquidation of any of the Collateral, the Agent (or any of its employees, agents, consultants, contractors, or other professionals) shall have the right, at the sole cost and expense of the Debtors, to: (i) enter upon, occupy, and use any real or personal property, fixtures, equipment, leasehold interests, or warehouse arrangements owned or leased by the Debtors; provided, however, the Agent may only be permitted to do so in accordance with (a) existing rights under applicable non-bankruptcy law, including, without limitation, applicable leases, (b) any pre-petition (and, if applicable, post-petition) landlord waivers or consents, or (c) further order of the Bankruptcy Court on motion and notice appropriate under the circumstances; and (ii) use any and all trademarks, tradenames, copyrights, licenses, patents, equipment or any other similar assets of the Debtors, or assets which are owned by or subject to a lien of any third party and which are used by the Debtors in their businesses. The Agent and Lenders will be responsible for the payment of any applicable fees, rentals, royalties, or other amounts owing to such lessor, licensor or owner of such property (other than the Debtors) for the period of time that the Agent actually occupies any real property or uses the equipment or the intellectual property (but in no

event for any accrued and unpaid fees, rentals, or other amounts owing for any period prior to the date that the Agent actually occupies or uses such assets or properties).

(e) To the extent that Applicable Law imposes duties on Agent to exercise remedies in a commercially reasonable manner, each Debtor acknowledges and agrees that it is not commercially unreasonable for Agent (i) to fail to incur expenses reasonably deemed significant by Agent to prepare Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (ii) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, (iii) to fail to exercise collection remedies against Customers or other Persons obligated on Collateral or to remove Liens on or any adverse claims against Collateral, (iv) to exercise collection remedies against Customers and other Persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (v) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (vi) to contact other Persons, whether or not in the same business as any Debtor, for expressions of interest in acquiring all or any portion of such Collateral, (vii) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the Collateral is of a specialized nature, (viii) to dispose of Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (ix) to dispose of assets in wholesale rather than retail markets, (x) to disclaim disposition warranties, such as title, possession or quiet enjoyment, (xi) to purchase insurance or credit enhancements to insure Agent against risks of loss, collection or disposition of Collateral or to provide to Agent a guaranteed return from the collection or disposition of Collateral, or (xii) to the extent deemed appropriate by Agent, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist Agent in the collection or disposition of any of the Collateral. Each Debtor acknowledges that the purpose of this Section 11.1(b) is to provide non-exhaustive indications of what actions or omissions by Agent would not be commercially unreasonable in Agent's exercise of remedies against the Collateral and that other actions or omissions by Agent shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 11.1(b). Without limitation upon the foregoing, nothing contained in this Section 11.1(b) shall be construed to grant any rights to any Debtor or to impose any duties on Agent that would not have been granted or imposed by this Agreement or by Applicable Law in the absence of this Section 11.1(b).

(f) A Default or an Event of Default shall be deemed to exist at all times during the period commencing on the date that such Default or Event of Default occurs to the date on which such Default or Event of Default is waived in writing pursuant to this Agreement or, in the case of a Default, is cured within any period of cure expressly provided for in this Agreement or in a manner reasonably satisfactory to Agent, if such Default or Event of Default is capable of being cured.

11.2. Agent's Discretion. Agent shall have the right in its sole discretion to determine which rights, Liens or remedies Agent may at any time pursue, relinquish, subordinate, or

modify, which procedures, timing and methodologies to employ, and what any other action to take with respect to any or all of the Collateral and in what order, thereto and such determination will not in any way modify or affect any of Agent's or Lenders' rights hereunder as against Debtor or each other.

11.3. Setoff. Subject to Section 14.12, in addition to any other rights which Agent or any Lender may have under Applicable Law, upon the occurrence of an Event of Default hereunder, Agent and such Lender shall have a right, immediately and without notice of any kind, to apply any Debtor's property held by Agent and such Lender or any of their Affiliates to reduce the Obligations and to exercise any and all rights of setoff which may be available to Agent and such Lender with respect to any deposits held by Agent or such Lender.

11.4. Rights and Remedies not Exclusive. The enumeration of the foregoing rights and remedies is not intended to be exhaustive and the exercise of any rights or remedy shall not preclude the exercise of any other right or remedies provided for herein or otherwise provided by law, all of which shall be cumulative and not alternative. The fourteen-day stay provisions of Bankruptcy Rules 6004(h) and 4001(a)(3) are hereby waived.

11.5. Allocation of Payments After Event of Default. Notwithstanding any other provisions of this Agreement to the contrary, after the occurrence and during the continuance of an Event of Default, all amounts collected or received by Agent on account of the Obligations (including any amounts on account of any of Cash Management Liabilities or Hedge Liabilities) or any other amounts outstanding under any of the Other Documents or in respect of the Collateral may, at Agent's discretion, be applied either to the Pre-Petition Obligations or the Post-Petition Obligations as Agent may elect in its sole and absolute discretion, so long as such application is in accordance with the authorizations set forth in the Interim Order and (once entered) the Final Order; provided that (x) at any such time following an Event of Default, all such amounts applied to the Pre-Petition Obligations in accordance with Agent's election under this sentence shall be applied in accordance with the provisions of Section 11.5 of the Pre-Petition Credit Agreement, and (y) at any such time following an Event of Default, all such amounts applied to the Post-Petition Obligations in accordance with Agent's election under this sentence shall be applied as follows:

FIRST, to the payment of all reasonable and documented out-of-pocket costs and expenses (including reasonable and documented attorneys' fees) of Agent in connection with enforcing its rights and the rights of Lenders under this Agreement and the Other Documents, and any Out-of-Formula Loans and Protective Advances funded by Agent with respect to the Collateral under or pursuant to the terms of this Agreement;

SECOND, to the payment of any fees owed to Agent;

THIRD, to the payment of all reasonable and documented out-of-pocket costs and expenses (including reasonable and documented attorneys' fees) of each of the Lenders to the extent owing to such Lender pursuant to the terms of this Agreement;

FOURTH, to the payment of all of the Post-Petition Obligations consisting of accrued interest on account of the Swing Loans;

FIFTH, to the payment of the outstanding principal amount of the Post-Petition Obligations consisting of Swing Loans;

SIXTH, to the payment of all Post-Petition Obligations arising under this Agreement and the Other Documents consisting of accrued fees and interest (other than (i) interest in respect of Swing Loans paid pursuant to clause FOURTH above and (ii) interest in respect of the FILO Advances paid pursuant to clause EIGHTH below);

SEVENTH, to the payment of the outstanding principal amount of the Post-Petition Obligations (other than (i) principal in respect of Swing Loans paid pursuant to clause FIFTH above and (ii) principal in respect of the FILO Advance which is paid pursuant to clause NINTH below) arising under this Agreement (including Cash Management Liabilities and Hedge Liabilities) (including the payment or cash collateralization of any outstanding Letters of Credit in accordance with Section 3.2(b) hereof).

EIGHTH, to the payment of all of the Post-Petition Obligations consisting of accrued fees and interest on account of the FILO Advances;

NINTH, to the payment of the outstanding principal amount of the Post-Petition Obligations consisting of the FILO Advances;

TENTH, to all other Obligations arising under this Agreement (other than Cash Management Liabilities and Hedge Liabilities) which shall have become due and payable (hereunder, under the Other Documents or otherwise) and not repaid pursuant to clauses "FIRST" through "NINTH" above;

ELEVENTH, to all other Obligations which shall have become due and payable and not repaid pursuant to clauses "FIRST" through "TENTH"; and

TWELFTH, to the payment of the surplus, if any, to whoever may be lawfully entitled to receive such surplus.

In carrying out the foregoing, (i) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category; (ii) each of the Lenders shall receive (so long as it is not a Defaulting Lender) an amount equal to its pro rata share (based on the proportion that the then outstanding Advances, Cash Management Liabilities and Hedge Liabilities held by such Lender bears to the aggregate then outstanding Advances, Cash Management Liabilities and Hedge Liabilities) of amounts available to be applied pursuant to clauses "SIXTH" through and "TWELFTH" above; and (iii) notwithstanding anything to the contrary in this Section 11.5, no Swap Obligations of any Non-Qualifying Party shall be paid with amounts received from such Non-Qualifying Party under its Guaranty (including sums received as a result of the exercise of remedies with respect to such Guaranty) or from the proceeds of such Non-Qualifying Party's Collateral if such Swap Obligations would constitute Excluded Hedge Liabilities, provided, however, that to the extent possible appropriate adjustments shall be made with respect to payments and/or the proceeds of Collateral from other Debtors that are Eligible Contract Participants with respect to such Swap Obligations to preserve the allocation to Obligations otherwise set forth above in this Section 11.5; and (iv) to the extent

that any amounts available for distribution pursuant to clause "SEVENTH" above are attributable to the issued but undrawn amount of outstanding Letters of Credit, such amounts shall be held by Agent as cash collateral for the Letters of Credit pursuant to Section 3.2(b) hereof and applied (A) first, to reimburse Issuer from time to time for any drawings under such Letters of Credit and (B) then, following the expiration of all Letters of Credit, to all other obligations of the types described in clauses "SEVENTH," "NINTH" and "ELEVENTH" above in the manner provided in this Section 11.5.

Notwithstanding anything to the contrary contained in this Agreement, unless so directed by Borrowers, or unless a Default or an Event of Default shall exist or have occurred and be continuing, Agent and the Lenders shall not apply any payments which they receive to any LIBOR Rate Loans, except (A) on the expiration date of the Interest Period applicable to any such LIBOR Rate Loans or (B) in the event that there are no outstanding Domestic Rate Loans.

XII. WAIVERS AND JUDICIAL PROCEEDINGS.

12.1. Waiver of Notice. Each Debtor hereby waives notice of non-payment of any of the Receivables, demand, presentment, protest and notice thereof with respect to any and all instruments, notice of acceptance hereof, notice of loans or advances made, credit extended, Collateral received or delivered, or any other action taken in reliance hereon, and all other demands and notices of any description, except such as are expressly provided for herein.

12.2. Delay. No delay or omission on Agent's or any Lender's part in exercising any right, remedy or option shall operate as a waiver of such or any other right, remedy or option or of any Default or Event of Default.

12.3. Jury Waiver. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, COUNTERCLAIM, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING UNDER THIS AGREEMENT, ANY OTHER DOCUMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR (B) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT, ANY OTHER DOCUMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE AND EACH PARTY HEREBY CONSENTS THAT ANY SUCH CLAIM, COUNTERCLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENTS OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

XIII. EFFECTIVE DATE AND TERMINATION.

13.1. Term. This Agreement, which shall inure to the benefit of and shall be binding upon the respective successors and permitted assigns of the Debtors signatory hereto and the Secured Parties, shall become effective on the date hereof and shall, unless sooner terminated as herein provided (including by acceleration by Agent), continue in full force and effect for a period ending on the earliest to occur of (the date of such earliest occurrence, the "Termination Date"): (a) the Maturity Date; (b) the effective date or substantial consummation of a Reorganization Plan that has been confirmed by an order of the Bankruptcy Court; (c) the closing of an Approved 363 Sale with respect to all or substantially all of the Debtor's assets; (d) the date of the conversion of the Case to a case under Chapter 7 of the Bankruptcy Code; (e) the date of the dismissal of the Case; and (f) September 30, 2019, if the Final Order has not been entered as of such date (such period from of the date hereof through and ending on the Termination Date, the "Term"). Borrowers may terminate this Agreement at any time, subject to providing seven (7) Business Days' prior written notice to Agent, upon Payment in Full as provided in Section 13.2 hereof.

13.2. Termination.

(a) The termination of the Agreement shall not affect Agent's or any Lender's rights, or any of the Obligations having their inception prior to the effective date of such termination or any Obligations which pursuant to the terms hereof continue to accrue after such date, and the provisions hereof shall continue to be fully operative until all transactions entered into and rights or interests created hereunder have been concluded or liquidated and Payment in Full. Each Guaranty and the Liens and rights granted to Agent and Lenders hereunder and the financing statements filed hereunder shall continue in full force and effect, notwithstanding the termination of this Agreement or the fact that Borrowers' Account may, from time to time be temporarily in a zero or credit position, until Payment in Full or each Debtor has furnished Agent and Lenders with an indemnification satisfactory to Agent and Lenders with respect thereto. Accordingly, each Debtor waives any rights which it may have under the Uniform Commercial Code to demand the filing of termination statements with respect to the Collateral, and Agent shall not be required to send such termination statements to each Debtor, or to file them with any filing office, until Payment in Full and the Secured Parties have received a full release from the Debtors from all claims of the Debtors and their estates for any matters arising out of, relating to or in connection, with the Pre-Petition Other Documents, this Agreement and the Other Documents. Furthermore, Debtors hereby agree that upon payment of all Obligations consisting of principal, interest, fees and expenses, in each case owing pursuant to this Agreement, Borrowers will cause cash to be deposited and maintained in an account with Agent in an amount equal to the sum of (x) cash collateral in an amount to be determined by Agent in its Permitted Discretion for Cash Management Liabilities, professional and legal fees and expenses and any contingent disgorgement or reimbursement claims that may be owed by Agent and Lenders to the GOB Liquidator pursuant to the GOB Agency Agreement, plus (y) an amount to be determined by Agent in its Permitted Discretion for legal fees and other costs and expenses Agent reasonably believes it may incur as a result of any claims, actions or challenges in the Case in connection with the Obligations, the Pre-Petition Obligations, the Liens thereon, this Agreement or any other matter related thereto. The cash collateral referenced in clause (x) above shall be released to Borrowers or to such other Person(s) directed by the Bankruptcy Court upon termination and satisfaction of all Cash Management Liabilities and Hedge Liabilities

(including any potential contingent claims) and expiration of any period set forth in the GOB Agency Agreement during which GOB Liquidator can make a demand for reimbursement or payment from Agent or Lenders The cash collateral referenced in clause (y) above, to the extent any such amounts are deposited with Agent, will be released to Borrowers or to such other Person(s) directed by the Bankruptcy Court upon expiration of the Challenge Period with no Objection (as defined in the Interim Order and Final Order) having been threatened or filed against Agent and/or Lenders.

(b) All representations, warranties, covenants, waivers and agreements contained herein shall survive termination hereof until Payment in Full and the Secured Parties have received a full release from the Debtors from all claims of the Debtors and their estates for any matters arising out of, relating to or in connection, with the Pre-Petition Other Documents, this Agreement and the Other Documents.

XIV. REGARDING AGENT.

14.1. Appointment. Each Lender hereby designates PNC to act as Agent for such Lender under this Agreement and the Other Documents. Each Lender hereby irrevocably authorizes Agent to take such action on its behalf under the provisions of this Agreement and the Other Documents and to exercise such powers and to perform such duties hereunder and thereunder as are specifically delegated to or required of Agent by the terms hereof and thereof and such other powers as are reasonably incidental thereto and Agent shall hold all Collateral, payments of principal and interest, fees (except the fees set forth in the Fee Letter), charges and collections received pursuant to this Agreement, for the ratable benefit of Lenders. Agent may perform any of its duties hereunder by or through its agents or employees. As to any matters not expressly provided for by this Agreement (including collection of the Note) Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of Required Lenders, and such instructions shall be binding; provided, however, that Agent shall not be required to take any action which, in Agent's discretion, exposes Agent to liability or which is contrary to this Agreement or the Other Documents or Applicable Law unless Agent is furnished with an indemnification reasonably satisfactory to Agent with respect thereto.

14.2. Nature of Duties. Agent shall have no duties or responsibilities except those expressly set forth in this Agreement and the Other Documents. Neither Agent nor any of its officers, directors, employees or agents shall be (i) liable for any action taken or omitted by them as such hereunder or in connection herewith, unless caused by their gross (not mere) negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment), or (ii) responsible in any manner for any recitals, statements, representations or warranties made by any Debtor or any officer thereof contained in this Agreement, or in any of the Other Documents or in any certificate, report, statement or other document referred to or provided for in, or received by Agent under or in connection with, this Agreement or any of the Other Documents or for the value, validity, effectiveness, genuineness, due execution, enforceability or sufficiency of this Agreement, or any of the Other Documents or for any failure of any Debtor to perform its obligations hereunder. Agent shall not be under any

obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any of the Other Documents, or to inspect the properties, books or records of any Debtor. The duties of Agent as respects the Advances to Debtors shall be mechanical and administrative in nature; Agent shall not have by reason of this Agreement a fiduciary relationship in respect of any Lender; and nothing in this Agreement, expressed or implied, is intended to or shall be so construed as to impose upon Agent any obligations in respect of this Agreement or the transactions described herein except as expressly set forth herein.

14.3. Lack of Reliance on Agent. Independently and without reliance upon Agent or any other Lender, each Lender has made and shall continue to make (i) its own independent investigation of the financial condition and affairs of each Debtor in connection with the making and the continuance of the Advances hereunder and the taking or not taking of any action in connection herewith, and (ii) its own appraisal of the creditworthiness of each Debtor. Agent shall have no duty or responsibility, either initially or on a continuing basis, to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Advances or at any time or times thereafter except as shall be provided by any Debtor pursuant to the terms hereof. Agent shall not be responsible to any Lender for any recitals, statements, information, representations or warranties herein or in any agreement, document, certificate or a statement delivered in connection with or for the execution, effectiveness, genuineness, validity, enforceability, collectability or sufficiency of this Agreement or any Other Document, or of the financial condition of any Debtor, or be required to make any inquiry concerning either the performance or observance of any of the terms, provisions or conditions of this Agreement, the Note, the Other Documents or the financial condition or prospects of any Debtor, or the existence of any Event of Default or any Default.

14.4. Resignation of Agent; Successor Agent. Agent may resign on thirty (30) days written notice to each Lender and Borrowing Agent and upon such resignation, Required Lenders will promptly designate a successor Agent reasonably satisfactory to Debtor (provided that no such approval by Debtors shall be required (i) in any case where the successor Agent is one of the Lenders or (ii) after the occurrence and during the continuance of any Event of Default). Any such successor Agent shall succeed to the rights, powers and duties of Agent, and shall in particular succeed to all of Agent's right, title and interest in and to all of the Liens in the Collateral securing the Obligations created hereunder or any Other Document (including any Mortgages, Pledge Agreement and all Account Control Agreements), and the term "Agent" shall mean such successor agent effective upon its appointment, and the former Agent's rights, powers and duties as Agent shall be terminated, without any other or further act or deed on the part of such former Agent. However, notwithstanding the foregoing, if at the time of the effectiveness of the new Agent's appointment, any further actions need to be taken in order to provide for the legally binding and valid transfer of any Liens in the Collateral from former Agent to new Agent and/or for the perfection of any Liens in the Collateral as held by new Agent or it is otherwise not then possible for new Agent to become the holder of a fully valid, enforceable and perfected Lien as to any of the Collateral, former Agent shall continue to hold such Liens solely as agent for perfection of such Liens on behalf of new Agent until such time as new Agent can obtain a fully valid, enforceable and perfected Lien on all Collateral, provided that Agent shall not be required to or have any liability or responsibility to take any further actions after such date as

such agent for perfection to continue the perfection of any such Liens (other than to forego from taking any affirmative action to release any such Liens). After any Agent's resignation as Agent, the provisions of this Article XIV, and any indemnification rights under this Agreement, including rights arising under Section 16.5 hereof, shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement (and in the event resigning Agent continues to hold any Liens pursuant to the provisions of the immediately preceding sentence, the provisions of this Article XIV and any indemnification rights under this Agreement, including rights arising under Section 16.5 hereof, shall inure to its benefit as to any actions taken or omitted to be taken by it in connection with such Liens).

14.5. Certain Rights of Agent. If Agent shall request instructions from Lenders with respect to any act or action (including failure to act) in connection with this Agreement or any Other Document, Agent shall be entitled to refrain from such act or taking such action unless and until Agent shall have received instructions from Required Lenders; and Agent shall not incur liability to any Person by reason of so refraining. Without limiting the foregoing, Lenders shall not have any right of action whatsoever against Agent as a result of its acting or refraining from acting hereunder in accordance with the instructions of Required Lenders.

14.6. Reliance. Agent shall be entitled to rely, and shall be fully protected in relying, upon any note, writing, resolution, notice, statement, certificate, email, facsimile, telex, teletype or telecopier message, cablegram, order or other document or telephone message believed by it to be genuine and correct and to have been signed, sent or made by the proper person or entity, and, with respect to all legal matters pertaining to this Agreement and the Other Documents and its duties hereunder, upon advice of counsel selected by it. Agent may employ agents and attorneys-in-fact and shall not be liable for the default or misconduct of any such agents or attorneys-in-fact selected by Agent with reasonable care.

14.7. Notice of Default. Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder or under the Other Documents, unless Agent has received notice from a Lender or Borrowing Agent referring to this Agreement or the Other Documents, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that Agent receives such a notice, Agent shall give notice thereof to Lenders. Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by Required Lenders; provided, that, unless and until Agent shall have received such directions, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of Lenders.

14.8. Indemnification. To the extent Agent is not reimbursed and indemnified by Debtors, each Lender will reimburse and indemnify Agent in proportion to its respective portion of the outstanding Advances and its respective Participation Commitments in the outstanding Letters of Credit and outstanding Swing Loans (or, if no Advances are outstanding, pro rata according to the percentage that its Revolving Commitment Amount constitutes of the total aggregate Revolving Commitment Amounts), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or

asserted against Agent in performing its duties hereunder, or in any way relating to or arising out of this Agreement or any Other Document; provided that Lenders shall not be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from Agent's gross (not mere) negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment).

14.9. Agent in its Individual Capacity. With respect to the obligation of Agent to lend under this Agreement, the Advances made by it shall have the same rights and powers hereunder as any other Lender and as if it were not performing the duties as Agent specified herein; and the term "Lender" or any similar term shall, unless the context clearly otherwise indicates, include Agent in its individual capacity as a Lender. Agent may engage in business with any Debtor as if it were not performing the duties specified herein, and may accept fees and other consideration from any Debtor for services in connection with this Agreement or otherwise without having to account for the same to Lenders.

14.10. Delivery of Documents. To the extent Agent receives financial statements required under Sections 9.1 and 9.2 or Borrowing Base Certificates from any Debtor pursuant to the terms of this Agreement which any Debtor is not obligated to deliver to each Lender, Agent will promptly furnish such documents and information to Lenders.

14.11. Debtors Undertaking to Agent. Without prejudice to their respective obligations to Lenders under the other provisions of this Agreement, each Debtor hereby undertakes with Agent to pay to Agent from time to time on demand all amounts from time to time due and payable by it for the account of Agent or Lenders or any of them pursuant to this Agreement to the extent not already paid. Any payment made pursuant to any such demand shall pro tanto satisfy the relevant Debtor's obligations to make payments for the account of Lenders or the relevant one or more of them pursuant to this Agreement.

14.12. No Reliance on Agent's Customer Identification Program. To the extent the Advances or this Agreement is, or becomes, syndicated in cooperation with other Lenders, each Lender acknowledges and agrees that neither such Lender, nor any of its Affiliates, participants or assignees, may rely on Agent to carry out such Lender's, Affiliate's, participant's or assignee's customer identification program, or other obligations required or imposed under or pursuant to the USA PATRIOT Act or the regulations thereunder, including the regulations contained in 31 CFR 103.121 (as hereafter amended or replaced, the "CIP Regulations"), or any other Anti-Terrorism Law, including any programs involving any of the following items relating to or in connection with any of Debtors, their Affiliates or their agents, the Other Documents or the transactions hereunder or contemplated hereby: (i) any identity verification procedures, (ii) any recordkeeping, (iii) comparisons with government lists, (iv) customer notices or (v) other procedures required under the CIP Regulations or such Anti-Terrorism Laws.

14.13. Other Agreements.

(a) Each of the Lenders agrees that it shall not, without the express consent of Agent, and that it shall, to the extent it is lawfully entitled to do so, upon the request of Agent, set off against the Obligations, any amounts owing by such Lender to any Debtor or any deposit

accounts of any Debtor now or hereafter maintained with such Lender. Anything in this Agreement to the contrary notwithstanding, each of the Lenders further agrees that it shall not, unless specifically requested to do so by Agent, take any action to protect or enforce its rights arising out of this Agreement or the Other Documents, it being the intent of Lenders that any such action to protect or enforce rights under this Agreement and the Other Documents shall be taken in concert and at the direction or with the consent of Agent or Required Lenders.

(b) Each of the Lenders hereby irrevocably authorizes Agent to release any Lien and any such Lien granted hereunder shall be automatically released (1) on all of the Collateral upon Payment in Full, and (2) on all or any portion of the Collateral, (i) constituting property being sold or disposed of if any Debtor certifies to Agent that the sale or disposition is made in compliance with Section 7.1 hereof (and Agent may rely conclusively on any such certificate, without further inquiry), or (ii) constituting property in which any Debtor did not own an interest at the time the Lien was granted or at any time thereafter, or (iii) [reserved], (iv) if required or permitted under the terms of any of the Other Documents, including any intercreditor agreement. In addition, each of the Lenders hereby irrevocably authorizes Agent, at its option and in its discretion to release any Collateral (x) having a value in the aggregate in any twelve (12) month period of less than $2,500,000, and to the extent Agent may release its Lien upon any such Collateral pursuant to the sale or other disposition thereof, such sale or other disposition shall be deemed consented to by Lenders or (y) subject to Section 16.2, if the release is approved, authorized or ratified in writing by the Required Lenders. Upon request by Agent at any time, Lenders will promptly confirm in writing Agent's authority to release particular types or items of Collateral pursuant to this Section. In no event shall the consent or approval of an Issuer to any release of Collateral be required. Nothing contained herein shall be construed to require the consent of any provider of Cash Management Products and Services to any release of any Collateral or termination of Liens in any Collateral. Agent shall (and is hereby irrevocably authorized by Lenders to) execute such documents as may be reasonably requested by the Debtor to evidence the release of Liens granted to Agent upon any Collateral to the extent set forth above; provided, that, (i) Agent shall not be required to execute any such document on terms which, in Agent's Permitted Discretion, would expose Agent to liability or create any obligations or entail any consequences other than the release of such Lien without recourse or warranty and (ii) such release shall not in any manner discharge, affect or impair the Obligations or any Lien upon (or obligations of any Debtor in respect of) the Collateral retained by such Debtor.

(c) Each Lender hereby (a) agrees that this Agreement and the Other Documents, and the rights and remedies of Agent and the Lenders hereunder and thereunder, are subject to the terms of the Intercreditor Agreement (and to the extent any term of this Agreement or any Other Document conflicts or is inconsistent with the terms hereof, the terms of the Intercreditor Agreement shall control), (b) agrees that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreement and (c) authorizes and instructs Agent to enter into the Intercreditor Agreement. Each Lender hereby authorizes and instructs Agent to enter into the Subordination Agreement on the date hereof and any future subordination agreement in respect of any Subordinated Debt permitted hereunder.

XV. BORROWING AGENCY.

15.1. Borrowing Agency Provisions.

(a) Each Debtor hereby irrevocably designates Borrowing Agent to be its attorney and agent and in such capacity to (i) borrow, (ii) request advances, (iii) request the issuance of Letters of Credit, (iv) sign and endorse notes, (v) execute and deliver all instruments, documents, applications, security agreements, reimbursement agreements and letter of credit agreements for Letters of Credit and all other certificates, notice, writings and further assurances now or hereafter required hereunder, (vi) make elections regarding interest rates, (vii) give instructions regarding Letters of Credit and agree with Issuer upon any amendment, extension or renewal of any Letter of Credit and (viii) otherwise take action under and in connection with this Agreement and the Other Documents, all on behalf of and in the name such Debtor or Debtors, and hereby authorizes Agent to pay over or credit all loan proceeds hereunder in accordance with the request of Borrowing Agent.

(b) The handling of this credit facility as a co-borrowing facility with a borrowing agent in the manner set forth in this Agreement is solely as an accommodation to Debtors and at their request. Neither Agent nor any Lender shall incur liability to Debtors as a result thereof. To induce Agent and Lenders to do so and in consideration thereof, each Debtor hereby indemnifies Agent and each Lender and holds Agent and each Lender harmless from and against any and all liabilities, expenses, losses, damages and claims of damage or injury asserted against Agent or any Lender by any Person arising from or incurred by reason of the handling of the financing arrangements as a co-borrowing facility with a borrowing agent as provided herein, reliance by Agent or any Lender on any request or instruction from Borrowing Agent or any other action taken by Agent or any Lender with respect to this Section 15.1 except due to willful misconduct or gross (not mere) negligence by the indemnified party (as determined by a court of competent jurisdiction in a final and non-appealable judgment).

(c) All Obligations shall be joint and several, and each Debtor shall make payment upon the maturity of the Obligations by acceleration or otherwise, and such obligation and liability on the part of each Debtor shall in no way be affected by any extensions, renewals and forbearance granted by Agent or any Lender to any Debtor, failure of Agent or any Lender to give any Debtor notice of borrowing or any other notice, any failure of Agent or any Lender to pursue or preserve its rights against any Debtor, the release by Agent or any Lender of any Collateral now or thereafter acquired from any Debtor, and such agreement by each Debtor to pay upon any notice issued pursuant thereto is unconditional and unaffected by prior recourse by Agent or any Lender to the other Debtors or any Collateral for such Debtor's Obligations or the lack thereof. Each Debtor waives all suretyship defenses.

15.2. Waiver of Subrogation. Each Debtor expressly waives any and all rights of subrogation, reimbursement, indemnity, exoneration, contribution of any other claim which such Debtor may now or hereafter have against the other Debtors or any other Person directly or contingently liable for the Obligations hereunder, or against or with respect to any other Debtors' property (including any property which is Collateral for the Obligations), arising from the existence or performance of this Agreement, until termination of this Agreement and Payment in Full.

XVI. MISCELLANEOUS.

16.1. Governing Law.

(a) This Agreement and each Other Document (unless and except to the extent expressly provided otherwise in any such Other Document), and all matters relating hereto or thereto or arising herefrom or therefrom (whether arising under contract law, tort law or otherwise) shall, in accordance with Section 5-1401 of the General Obligations Law of the State of New York, be governed by and construed in accordance with the laws of the State of New York.

(b) ALL DIRECT ACTIONS OR PROCEEDINGS BY AND BETWEEN ANY DEBTORS ON THE ONE HAND AND ANY SECURED PARTY ON THE OTHER HAND, IN ANY WAY, MANNER OR RESPECT, ARISING OUT OF OR FROM, RELATED TO OR IN CONNECTION WITH THIS AGREEMENT, THE OTHER DOCUMENTS OR THE COLLATERAL (COLLECTIVELY, "SPECIFIED ACTIONS" AND EACH A "SPECIFIED ACTION", SHALL BE LITIGATED IN THE BANKRUPTCY COURT, EXCEPT THAT IF (I) A SPECIFIED ACTION IS DISMISSED, (II) THE BANKRUPTCY COURT ABSTAINS FROM HEARING A SPECIFIED ACTION OR (III) THE BANKRUPTCY COURT REFUSES TO EXERCISE JURISDICTION OVER A SPECIFIED ACTION, THEN SUCH AFFECTED SPECIFIED ACTION SHALL BE LITIGATED IN COURTS HAVING SITUS WITHIN THE BOROUGH OF MANHATTAN, COUNTY OF NEW YORK, STATE OF NEW YORK. EACH OF THE DEBTORS, AGENT, AND LENDERS HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF (X) THE BANKRUPTCY COURT AND (Y) ANY LOCAL, STATE OR FEDERAL COURTS LOCATED WITHIN THE BOROUGH OF MANHATTAN, COUNTY OF NEW YORK, STATE OF NEW YORK. EACH OF THE DEBTORS HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT AGAINST ANY DEBTOR BY ANY SECURED PARTY IN ACCORDANCE WITH THIS SECTION.

(c) Each Debtor hereby waives personal service of any and all process upon it and consents that all such service of process may be made by certified or registered mail (return receipt requested) directed to Borrowing Agent at its address set forth in Section 16.6 and service so made shall be deemed completed five (5) days after the same shall have been so deposited in the mails of the United States of America, or, at Agent's option, by service upon Borrowing Agent which each Debtor irrevocably appoints as such Debtor's agent for the purpose of accepting such service of process for purposes hereof. Nothing herein shall affect the right to serve process in any manner permitted by law or shall limit the right of Agent or any Lender to bring proceedings against any Debtor in the courts of any other jurisdiction. Each Debtor waives any objection to jurisdiction and venue of any action instituted hereunder in accordance with Section 16.1 and shall not assert any defense based on lack of jurisdiction or venue or based upon forum non conveniens. Other than with respect to Specified Actions, each Debtor waives the right to remove any judicial proceeding brought against such Debtor in any state court to any federal court. Any judicial proceeding (other than a Specified Action) by any Debtor against Agent or any Lender involving, directly or indirectly, any matter or claim in any way arising out

of, related to or connected with this Agreement or any related agreement, shall be brought only in a federal or state court located in the County of New York, State of New York.

16.2. Entire Understanding.

(a) This Agreement and the documents executed concurrently herewith contain the entire understanding between each Debtor, Agent and each Lender and supersedes all prior agreements and understandings, if any, relating to the subject matter hereof. Any promises, representations, warranties or guarantees not herein contained and hereinafter made shall have no force and effect unless in writing, signed by each Debtor's, Agent's and each Lender's respective officers. Neither this Agreement nor any portion or provisions hereof may be changed, modified, amended, waived, supplemented, discharged, cancelled or terminated orally or by any course of dealing, or in any manner other than by an agreement in writing, signed by the party to be charged. The parties hereto shall be permitted to amend this Agreement and the Other Documents without further approval or order of the Bankruptcy Court; provided, however, that any material modification or amendment to this Agreement or the any Other Documents shall be subject to providing notice of such material modification or amendment to counsel to any Committee and the US Trustee each of whom shall have five (5) Business Days from the date of such notice within which to object in writing to such modification or amendment unless the Committee and the US Trustee agree in writing to a shorter period. Unless the Committee or the US Trustee timely objects to any material modification or amendment to this Agreement or any Other Document, then such modification or amendment shall become effective upon the expiration of the aforementioned notice period. If a timely objection is interposed, the Bankruptcy Court shall resolve such objection prior to such modification or amendment becoming effective. Each Debtor acknowledges that it has been advised by counsel in connection with the execution of this Agreement and Other Documents and is not relying upon oral representations or statements inconsistent with the terms and provisions of this Agreement.

(b) Required Lenders, Agent with the consent in writing of Required Lenders, and Debtors may, subject to the provisions of this Section 16.2(b), from time to time enter into written supplemental agreements to this Agreement or the Other Documents executed by Debtors, for the purpose of adding or deleting any provisions or otherwise changing, varying or waiving in any manner the rights of Lenders, Agent or Debtors thereunder or the conditions, provisions or terms thereof or waiving any Event of Default thereunder, but only to the extent specified in such written agreements; provided, however, that no such supplemental agreement shall:

(i) increase the Revolving Commitment Percentage or the maximum dollar amount of the Revolving Commitment Amount of any Lender without the consent of such Lender directly affected thereby;

(ii) whether or not any Advances are outstanding, extend the Maturity Date or the time for payment of principal or interest of any Advance (excluding the due date of any mandatory prepayment of an Advance), or any fee payable to any Lender, or reduce the principal amount of or the rate of interest borne by any Advances or reduce any fee payable to any Lender, without the consent of each Lender directly affected thereby (except that Required

Lenders may elect to waive or rescind any imposition of the Default Rate under Section 3.1 or of default rates of Letter of Credit fees under Section 3.2 (unless imposed by Agent));

(iii) increase the Maximum Revolving Advance Amount without the consent of each Lender directly affected thereby;

(iv) alter the definition of the term "Required Lenders" or alter, amend or modify this Section 16.2(b) without the consent of all Lenders;

(v) alter, amend or modify the provisions of Section 11.5 without the consent of all Lenders;

(vi) release any Collateral during any calendar year (other than in accordance with the provisions of this Agreement) having an aggregate value in excess of $5,000,000 without the consent of all Lenders;

(vii) change the rights and duties of Agent without the consent of Agent; or

(viii) except as permitted hereunder, release any Debtor without the consent of all Lenders.

(c) Any such supplemental agreement shall apply equally to each Lender and shall be binding upon Debtors, Lenders and Agent and all future holders of the Obligations. In the case of any waiver, Debtors, Agent and Lenders shall be restored to their former positions and rights, and any Event of Default waived shall be deemed to be cured and not continuing, but no waiver of a specific Event of Default shall extend to any subsequent Event of Default (whether or not the subsequent Event of Default is the same as the Event of Default which was waived), or impair any right consequent thereon.

(d) In the event that Agent requests the consent of a Lender pursuant to this Section 16.2 and such consent is denied, then Agent may, at its option, require such Lender to assign its interest in the Advances to Agent or to another Lender or to any other Person designated by Agent (the "Designated Lender"), for a price equal to (i) the then outstanding principal amount thereof plus (ii) accrued and unpaid interest and fees due such Lender, which interest and fees shall be paid when collected from Debtors. In the event Agent elects to require any Lender to assign its interest to Agent or to the Designated Lender, Agent will so notify such Lender in writing within forty-five (45) days following such Lender's denial, and such Lender will assign its interest to Agent or the Designated Lender no later than five (5) days following receipt of such notice pursuant to a Commitment Transfer Supplement executed by such Lender, Agent or the Designated Lender, as appropriate, and Agent.

(e) Notwithstanding (i) the existence of a Default or an Event of Default, (ii) that any of the other applicable conditions precedent set forth in Section 8.2 hereof have not been satisfied or the commitments of Lenders to make Revolving Advances hereunder have been terminated for any reason, or (iii) any other contrary provision of this Agreement, Agent may at its discretion and without the consent of any Lender, voluntarily permit the outstanding

Revolving Advances at any time to exceed the Budget (the "Out-of-Formula Loans"). If Agent is willing in its sole and absolute discretion to permit such Out-of-Formula Loans, Lenders holding the Revolving Commitments shall be obligated to fund such Out-of-Formula Loans in accordance with their respective Revolving Commitment Percentages, and such Out-of-Formula Loans shall be payable on demand and shall bear interest at the Default Rate for Revolving Advances; provided that, if Agent does permit Out-of-Formula Loans, neither Agent nor Lenders shall be deemed thereby to have changed the limits of Section 2.1(a) nor shall any Lender be obligated to fund Revolving Advances in excess of its Revolving Commitment Amount.

(f) In addition to (and not in substitution of) the discretionary Revolving Advances permitted above in this Section 16.2, Agent is hereby authorized by Debtors and Lenders, at any time in Agent's sole discretion, regardless of (i) the existence of a Default or an Event of Default, (ii) whether any of the other applicable conditions precedent set forth in Section 8.2 hereof have not been satisfied or the commitments of Lenders to make Revolving Advances hereunder have been terminated for any reason, or (iii) any other contrary provision of this Agreement, to make Revolving Advances to Debtors on behalf of Lenders which Agent, in its reasonable business judgment, deems necessary or desirable (a) to preserve or protect the Collateral, or any portion thereof, (b) to enhance the likelihood of, or maximize the amount of, repayment of the Advances and other Obligations, or (c) to pay any other amount chargeable to Debtors pursuant to the terms of this Agreement (the "Protective Advances"). Lenders holding the Revolving Commitments shall be obligated to fund such Protective Advances and effect a settlement with Agent therefor upon demand of Agent in accordance with their respective Revolving Commitment Percentages. To the extent any Protective Advances are not actually funded by the other Lenders as provided for in this Section 16.2(f), any such Protective Advances funded by Agent shall be deemed to be Revolving Advances made by and owing to Agent, and Agent shall be entitled to all rights (including accrual of interest) and remedies of a Lender holding a Revolving Commitment under this Agreement and the Other Documents with respect to such Revolving Advances.

16.3. Successors and Assigns; Participations.

(a) This Agreement shall be binding upon and inure to the benefit of Debtors, Agent, each Lender, all permitted future holders of the Obligations and their respective successors and permitted assigns, except that, no Debtor may assign or transfer any of its rights or obligations under this Agreement (i) without the prior written consent of Agent and each Lender or (ii) except as permitted pursuant to Section 7.1.

(b) Each Debtor acknowledges that in the regular course of commercial banking business one or more Lenders may at any time and from time to time sell participating interests in the Advances to other Persons (other than a Disqualified Institution) (each such transferee or purchaser of a participating interest, a "Participant"). Each Participant may exercise all rights of payment with respect to the portion of such Advances held by it or other Obligations payable hereunder as fully as if such Participant were the direct holder thereof provided that (i) Debtors shall not be required to pay to any Participant more than the amount which it would have been required to pay to Lender which granted an interest in its Advances or other Obligations payable hereunder to such Participant had such Lender retained such interest in

the Advances hereunder or other Obligations payable hereunder unless the sale of the participation to such Participant is made with Debtor's prior written consent, and (ii) in no event shall Debtors be required to pay any such amount arising from the same circumstances and with respect to the same Advances or other Obligations payable hereunder to both such Lender and such Participant. Each Debtor hereby grants to any Participant a continuing security interest in any deposits, moneys or other property actually or constructively held by such Participant as security for the Participant's interest in the Advances. Each Lender that sells a participating interest shall, acting solely for this purpose as a non-fiduciary agent of Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Advances or other Obligations under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Advances or Obligations) except to the extent that such disclosure is necessary to establish that such Advance or Obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participating interest for all purposes of this Agreement notwithstanding any notice to the contrary.

(c) Any Lender may, with the consent of Agent, sell, assign or transfer all or any part of its rights and obligations under or relating to Revolving Advances and/or the FILO Advance under this Agreement and the Other Documents to one or more additional Persons and one or more additional Persons may commit to make Advances hereunder (each a "Purchasing Lender"), in minimum amounts of not less than $5,000,000, pursuant to a Commitment Transfer Supplement, executed by a Purchasing Lender, the transferor Lender, and Agent and delivered to Agent for recording, provided, however, that each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to each of the Revolving Advances under this Agreement in which such Lender has an interest. Upon such execution, delivery, acceptance and recording, from and after the transfer effective date determined pursuant to such Commitment Transfer Supplement, (i) Purchasing Lender thereunder shall be a party hereto and, to the extent provided in such Commitment Transfer Supplement, have the rights and obligations of a Lender thereunder with a Revolving Commitment Percentage as set forth therein, and (ii) the transferor Lender thereunder shall, to the extent provided in such Commitment Transfer Supplement, be released from its obligations under this Agreement, the Commitment Transfer Supplement creating a novation for that purpose. Such Commitment Transfer Supplement shall be deemed to amend this Agreement to the extent, and only to the extent, necessary to reflect the addition of such Purchasing Lender and the resulting adjustment of the Revolving Commitment Percentages arising from the purchase by such Purchasing Lender of all or a portion of the rights and obligations of such transferor Lender under this Agreement and the Other Documents. Each Debtor hereby consents to the addition of such Purchasing Lender and the resulting adjustment of the Revolving Commitment Percentages arising from the purchase by such Purchasing Lender of all or a portion of the rights and obligations of such transferor Lender under this Agreement and the Other Documents. Debtor shall execute and deliver such further documents and do such further acts and things in order to effectuate the foregoing.

(d) Any Lender, with the consent of Agent which shall not be unreasonably withheld or delayed, may directly or indirectly sell, assign or transfer all or any portion of its rights and obligations under or relating to Revolving Advances under this Agreement and the Other Documents to an entity, whether a corporation, partnership, trust, limited liability company or other entity that (i) is not a Disqualified Institution, (ii) is engaged in making, purchasing, holding or otherwise investing in bank loans and similar extensions of credit in the ordinary course of its business and (iii) is administered, serviced or managed by the assigning Lender or an Affiliate of such Lender (a "Purchasing CLO" and together with each Participant and Purchasing Lender, each a "Transferee" and collectively the "Transferees"), pursuant to a Commitment Transfer Supplement modified as appropriate to reflect the interest being assigned ("Modified Commitment Transfer Supplement"), executed by any intermediate purchaser, the Purchasing CLO, the transferor Lender, and Agent as appropriate and delivered to Agent for recording. Upon such execution and delivery, from and after the transfer effective date determined pursuant to such Modified Commitment Transfer Supplement, (i) Purchasing CLO thereunder shall be a party hereto and, to the extent provided in such Modified Commitment Transfer Supplement, have the rights and obligations of a Lender thereunder and (ii) the transferor Lender thereunder shall, to the extent provided in such Modified Commitment Transfer Supplement, be released from its obligations under this Agreement, the Modified Commitment Transfer Supplement creating a novation for that purpose. Such Modified Commitment Transfer Supplement shall be deemed to amend this Agreement to the extent, and only to the extent, necessary to reflect the addition of such Purchasing CLO. Each Debtor hereby consents to the addition of such Purchasing CLO. Debtors shall execute and deliver such further documents and do such further acts and things in order to effectuate the foregoing.

(e) Agent shall maintain at its address a copy of each Commitment Transfer Supplement and Modified Commitment Transfer Supplement delivered to it and a register (the "Register") for the recordation of the names and addresses of each Lender and the outstanding principal, accrued and unpaid interest and other fees due hereunder. The entries in the Register shall be conclusive, in the absence of manifest error, and each Debtor, Agent and Lenders may treat each Person whose name is recorded in the Register as the owner of the Advance recorded therein for the purposes of this Agreement. The Register shall be available for inspection by Borrowing Agent or any Lender at any reasonable time and from time to time upon reasonable prior notice. Agent shall receive a fee in the amount of $3,500 payable by the applicable Purchasing Lender and/or Purchasing CLO upon the effective date of each transfer or assignment (other than to an intermediate purchaser) to such Purchasing Lender and/or Purchasing CLO.

(f) Each Debtor authorizes each Lender to disclose to any Transferee and any prospective Transferee any and all financial information in such Lender's possession concerning such Debtor which has been delivered to such Lender by or on behalf of such Debtor pursuant to this Agreement or in connection with such Lender's credit evaluation of such Debtor.

(g) Notwithstanding anything to the contrary contained in this Agreement, any Lender may at any time and from time to time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such

pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

16.4. Application of Payments. Agent shall have the continuing and exclusive right to apply or reverse and re-apply any payment and any and all proceeds of Collateral to any portion of the Obligations. To the extent that any Debtor makes a payment or Agent or any Lender receives any payment or proceeds of the Collateral for any Debtor's benefit, which are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, debtor in possession, receiver, custodian or any other party under any bankruptcy law, common law or equitable cause, then, to such extent, the Obligations or part thereof intended to be satisfied shall be revived and continue as if such payment or proceeds had not been received by Agent or such Lender.

16.5. Indemnity. Each Debtor shall defend, protect, indemnify, pay and save harmless Agent, Issuer, each Lender and each of their respective officers, directors, Affiliates, attorneys, employees and agents (each an "Indemnified Party") for and from and against any and all claims, demands, liabilities, obligations, losses, damages, penalties, fines, actions, judgments, suits, and reasonable and documented costs, expenses and disbursements of any kind or nature whatsoever (including reasonable and documented fees and disbursements of counsel (collectively, "Claims") which may be imposed on, incurred by, or asserted against any Indemnified Party in any litigation, investigation, claim or proceeding arising out of or in any way relating to or as a consequence, direct or indirect, of: (i) this Agreement, the Other Documents, the Advances and other Obligations and/or the transactions contemplated hereby including the Transactions, (ii) any action or failure to act or action taken only after delay or the satisfaction of any conditions by any Indemnified Party in connection with and/or relating to the negotiation, execution, delivery or administration of the Agreement and the Other Documents, the credit facilities established hereunder and thereunder and/or the transactions contemplated hereby including the Transactions, (iii) any Debtor's failure to observe, perform or discharge any of its covenants, obligations, agreements or duties under or breach of any of the representations or warranties made in this Agreement and the Other Documents, (iv) the enforcement of any of the rights and remedies of Agent, Issuer or any Lender under the Agreement and the Other Documents, (v) any threatened or actual imposition of fines or penalties, or disgorgement of benefits, for violation of any Anti-Terrorism Law by any Debtor, any Affiliate or Subsidiary of any Debtor, and (vi) any claim, litigation, proceeding or investigation instituted or conducted by any Governmental Body or instrumentality or any other Person with respect to any aspect of, or any transaction contemplated by this Agreement or the Other Documents whether or not Agent or any Lender is a party thereto, except in each case to the extent that any of the foregoing arises out of the gross negligence or willful misconduct of the Indemnified Party (as determined by a court of competent jurisdiction in a final and non-appealable judgment). Without limiting the generality of the foregoing, this indemnity shall extend to any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, and reasonable and documented expenses and disbursements of any kind or nature whatsoever (including reasonable and documented fees and disbursements of counsel) asserted against or incurred by any of the Indemnified Parties by any Person under any Environmental Laws or similar laws by reason of any Debtor's or any other Person's failure to comply with laws applicable to solid or hazardous waste materials, including Hazardous Materials and Hazardous Waste, or other Toxic Substances.

16.6. Notice. Any notice or request hereunder may be given to Borrowing Agent or any Debtor or to Agent or any Lender at their respective addresses set forth below or at such other address as may hereafter be specified in a notice designated as a notice of change of address under this Section. Any notice, request, demand, direction or other communication (for purposes of this Section 16.6 only, a "Notice") to be given to or made upon any party hereto under any provision of this Agreement shall be given or made by telephone or in writing (which includes by means of electronic transmission (i.e., "e-mail") or facsimile transmission or by setting forth such Notice on a website to which Debtors are directed (an "Internet Posting") if Notice of such Internet Posting (including the information necessary to access such site) has previously been delivered to the applicable parties hereto by another means set forth in this Section 16.6) in accordance with this Section 16.6. Any such Notice must be delivered to the applicable parties hereto at the addresses and numbers set forth under their respective names on Section 16.6 hereof or in accordance with any subsequent unrevoked Notice from any such party that is given in accordance with this Section 16.6. Any Notice shall be effective:

(a) In the case of hand-delivery, when delivered;

(b) If given by mail, four (4) days after such Notice is deposited with the United States Postal Service, with first-class postage prepaid, return receipt requested;

(c) In the case of a telephonic Notice, when a party is contacted by telephone, if delivery of such telephonic Notice is confirmed no later than the next Business Day by hand delivery, a facsimile or electronic transmission, an Internet Posting or an overnight courier delivery of a confirmatory Notice (received at or before noon on such next Business Day);

(d) In the case of a facsimile transmission, when sent to the applicable party's facsimile machine's telephone number, if the party sending such Notice receives confirmation of the delivery thereof from its own facsimile machine;

(e) In the case of electronic transmission, when actually received;

(f) In the case of an Internet Posting, upon delivery of a Notice of such posting (including the information necessary to access such site) by another means set forth in this Section 16.6; and

(g) If given by any other means (including by overnight courier), when actually received.

Any Lender giving a Notice to Borrowing Agent or any Debtor shall concurrently send a copy thereof to Agent, and Agent shall promptly notify the other Lenders of its receipt of such Notice.

(A) If to Agent or PNC at:

PNC Bank, National Association
100 Summer Street, 10th Floor
Boston, MA 02110

Attention: Portfolio Manager
Telephone: 617-338-6070

with an additional copy to (which shall not constitute notice):

Blank Rome LLP
130 North 18th Street
Philadelphia, Pennsylvania 19103
Attention: Michael C. Graziano
Telephone: (215) 569-5387
Facsimile: (215) 832-5387

(B) If to a Lender other than Agent, as specified on the signature pages hereof.

(C) If to Borrowing Agent or any Debtor:

Avenue Stores, LLC
365 West Passaic Street Suite 230
Rochelle Park, NJ 07662

with a copy to:
[_____
_____
_____
Facsimile No.: _____]

16.7. Survival. The obligations of Debtors under Sections 2.2(f), 2.2(g), 2.2(h), 3.7, 3.8, 3.9, 3.10, 16.5 and 16.9 and the obligations of Lenders under Sections 2.2, 2.15(b), 2.16, 2.18, 2.19, 14.8 and 16.5, shall survive termination of this Agreement and the Other Documents and the Payment in Full.

16.8. Severability. If any part of this Agreement is contrary to, prohibited by, or deemed invalid under Applicable Laws, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder hereof shall not be invalidated thereby and shall be given effect so far as possible.

16.9. Expenses. Debtors shall pay (i) all reasonable and documented out-of-pocket expenses incurred by Agent and its Affiliates (including the reasonable and documented fees, charges and disbursements of a single firm of counsel for Agent and a local counsel as deemed necessary by Agent) in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the Other Documents or any amendments, modifications or waivers of the provisions hereof

or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable and documented out-of-pocket expenses incurred by Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable and documented out-of-pocket expenses incurred by Agent, Lenders or Issuer (including the reasonable and documented fees, charges and disbursements of a single counsel for Agent, local counsel as deemed necessary by Agent, a single counsel for Lenders and to the extent necessary a single counsel for Issuer (and, in the case of an actual or reasonably perceived conflict of interest, of another firm of counsel for such affected Person), (A) in connection with this Agreement and the Other Documents, including its rights under this Section, or (B) in connection with the Advances made or Letters of Credit issued hereunder, including all such reasonable and documented out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Advances or Letters of Credit, (iv) all reasonable and documented out-of-pocket expenses of Agent's regular employees and agents engaged periodically to perform audits of the any Debtor's or any Debtor's Affiliate's or Subsidiary's books, records and business properties, or (v) in connection with the Case, including without limitation, (a) costs and expenses incurred in connection with review of pleadings and other filings made with the Bankruptcy Court, (b) attendance at all hearings in respect of the Case, and (c) defending and prosecuting any actions or proceedings arising out of or relating to the Pre-Petition Obligations, the Obligations, the Liens securing the Pre-Petition Obligations and the Obligations or any transactions related to arising in connection with the Pre-Petition Other Documents or the Other Documents. Each Debtor agrees that in the event that any actions or proceedings are in effect or are threatened by or Agent reasonably believes any actions or proceedings may be brought by the Committee or any other party in interest attacking the legality, validity, enforceability of the Pre-Petition Obligations, the Liens arising under the Pre-Petition Credit Agreement or any other matters relating to the Pre-Petition Other Documents at the time of the consummation of any sale of the assets of the Debtors or at the time that Debtors propose to pay and satisfy the Obligations in full, Agent may hold a reserve following the date of payment in full of the Obligations as cash collateral for the expenses (including the fees, charges and disbursements of counsel for Agent and Lenders) expected to be incurred in connection with such actions or proceedings until the earliest of (x) Agent's receipt of a general release satisfactory in form and substance to Agent, (y) the entry of a final non-appealable order determining the outcome of such litigation, and (z) the expiration of the Challenge Period so long as no Challenge (as defined in the Interim Order or, if entered, the Final Order) has been asserted by that date.

16.10. Injunctive Relief. Each Debtor recognizes that, in the event any Debtor fails to perform, observe or discharge any of its obligations or liabilities under this Agreement, or threatens to fail to perform, observe or discharge such obligations or liabilities, any remedy at law may prove to be inadequate relief to Lenders; therefor, Agent, if Agent so requests, shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving that actual damages are not an adequate remedy.

16.11. Consequential Damages. Neither Agent nor any Lender, nor any agent or attorney for any of them, shall be liable to any Debtor (or any Affiliate of any such Person) for indirect, punitive, exemplary or consequential damages arising from any breach of contract, tort or other wrong relating to the establishment, administration or collection of the Obligations or as

a result of any transaction contemplated under this Agreement or any Other Document. No Debtor, nor any agent or attorney for any of them shall be liable to Agent or any Lender (or any Affiliate of any such Person) for indirect, punitive, exemplary or consequential damages arising from any breach of contract, tort or other wrong relating to the establishment, administration or collection of the Obligations or as a result of any transaction contemplated under this Agreement or any Other Document.

16.12. Captions. The captions at various places in this Agreement are intended for convenience only and do not constitute and shall not be interpreted as part of this Agreement.

16.13. Counterparts; Facsimile Signatures. This Agreement may be executed in any number of and by different parties hereto on separate counterparts, all of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same agreement. Any signature delivered by a party by facsimile or electronic transmission (including email transmission of a PDF image) shall be deemed to be an original signature hereto.

16.14. Construction. The parties acknowledge that each party and its counsel have reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments, schedules or exhibits thereto.

16.15. Confidentiality; Sharing Information. Agent, each Lender and each Transferee shall hold all non-public information obtained by Agent, such Lender or such Transferee pursuant to the requirements of this Agreement in accordance with Agent's, such Lender's and such Transferee's customary procedures for handling confidential information of this nature and safe and sound lending practices; provided, however, Agent, each Lender and each Transferee may disclose such confidential information (a) to its examiners, outside auditors, counsel and other professional advisors, as long as such examiners, auditors, counsel and other advisors are advised of their obligation to retain such information as confidential and Agent, the relevant Lender or the relevant Transferee shall be responsible for its examiners', auditors', counsel's or relevant Transferee's compliance with this Section 16.15, (b) to Agent, any Lender or to any prospective Transferees so long as Agent, Lender or prospective Transferee shall have been instructed to treat such information as confidential in accordance with this Section 16.15, and (c) as required or requested by any Governmental Body, examiners and other regulators in connection with any litigation to which Agent or any Lender is a party; provided, further that (i) unless specifically prohibited by Applicable Law, Agent, each Lender and each Transferee shall use its reasonable best efforts, (A) prior to disclosure thereof, notify the applicable Debtor of the applicable request for disclosure of such non-public information pursuant to clause (c), (B) provide such Debtor a reasonable opportunity to seek confidential treatment, a protective order or other appropriate relief or remedy, if disclosure of such information is required pursuant to clause (c), to disclose only the portion of information that is required to be disclosed and (D) subject to reimbursement by Borrowers of Agent's, such Lender's or Transferee's expenses, as the case may be, cooperate with Debtor in the reasonable efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to such portion of the information disclosed pursuant to clause (c) which Debtor so designate; and (ii) in no event shall Agent, any Lender or any Transferee be obligated to return any materials furnished by any Debtor other than

those documents and instruments in possession of Agent or any Lender in order to perfect its Lien on the Collateral once Payment in Full has been made and this Agreement has been terminated. Each Debtor acknowledges that from time to time financial advisory, investment banking and other services may be offered or provided to such Debtor or one or more of its Affiliates (in connection with this Agreement or otherwise) by any Lender or by one or more Subsidiaries or Affiliates of such Lender and each Debtor hereby authorizes each Lender to share any information delivered to such Lender by such Debtor and its Subsidiaries pursuant to this Agreement, or in connection with the decision of such Lender to enter into this Agreement, to any such Subsidiary or Affiliate of such Lender, it being understood that any such Subsidiary or Affiliate of any Lender receiving such information shall be bound by the provisions of this Section 16.15 as if it were a Lender hereunder. Such authorization shall survive the repayment of the other Obligations and the termination of this Agreement. Notwithstanding any non-disclosure agreement or similar document executed by Agent in favor of any Debtor, the provisions of this Agreement shall supersede such agreements.

16.16. Publicity. Each Debtor and each Lender hereby authorizes Agent to make appropriate announcements of the financial arrangement entered into among Debtor, Agent and Lenders, including announcements which are commonly known as tombstones, in such publications and to such selected parties as Agent shall in its reasonable discretion deem appropriate, provided that Borrowing Agent shall be entitled to review and approve any proposed announcement, such approval not to be unreasonably withheld or delayed.

16.17. Certifications From Banks and Participants; USA PATRIOT Act.

(a) Each Lender, assignee of a Lender or participant that is not incorporated under the laws of the United States of America or a state thereof (and is not excepted from the certification requirement contained in Section 313 of the USA PATRIOT Act and the applicable regulations because it is both (i) an affiliate of a depository institution or foreign bank that maintains a physical presence in the United States or foreign country, and (ii) subject to supervision by a banking authority regulating such affiliated depository institution or foreign bank) shall deliver to Agent the certification, or, if applicable, recertification, certifying that such Lender is not a "shell" and certifying to other matters as required by Section 313 of the USA PATRIOT Act and the applicable regulations: (1) within ten (10) days after the Closing Date, and (2) as such other times as are required under the USA PATRIOT Act.

(b) The USA PATRIOT Act requires all financial institutions to obtain, verify and record certain information that identifies individuals or business entities which open an "account" with such financial institution. Consequently, Lender may from time to time request, and each Debtor shall provide to Lender, such Debtor's name, address, tax identification number and/or such other identifying information as shall be necessary for Lender to comply with the USA PATRIOT Act and any other Anti-Terrorism Law.

16.18. Anti-Terrorism Laws.

(a) Each Debtor represents and warrants that (i) no Covered Entity is a Sanctioned Person and (ii) no Covered Entity, either in its own right or through any third party, (A) has any of its assets in a Sanctioned Country or in the possession, custody or control of a

Sanctioned Person in violation of any Anti-Terrorism Law; (B) does business in or with, or derives any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; or (C) engages in any dealings or transactions prohibited by any Anti-Terrorism Law.

(b) Each Debtor covenants and agrees that (i) no Covered Entity will become a Sanctioned Person, (ii) no Covered Entity, either in its own right or through any third party, will (A) have any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (B) do business in or with, or derive any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; (C) engage in any dealings or transactions prohibited by any Anti-Terrorism Law or (D) use the Advances to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law, (iii) the funds used to repay the Obligations will not be derived from any unlawful activity, (iv) each Covered Entity shall comply with all Anti-Terrorism Laws and (v) the Debtors shall promptly notify Agent in writing upon the occurrence of a Reportable Compliance Event.

16.19. Acknowledgment and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary contained in this Agreement, any Other Document, or any other agreement, arrangement or understanding among Agent, Lenders and the Debtors, Agent, each Lender and each Debtor acknowledges that any liability of any EEA Financial Institution arising under this Agreement or any Other Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any Other Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution.

16.20. Exclusive Remedy For Any Alleged Post-Petition Claim. Notwithstanding anything to the contrary provided for herein, if any Debtor asserts that it has any adverse claims against any Post-Petition Secured Party with respect to this Agreement and the transactions

contemplated hereby, each Debtor agrees that its sole and exclusive remedy for any and all such adverse claims will be an action for monetary damages (a "Damage Lawsuit"). Any such Damage Lawsuit, regardless of the procedural form in which it is alleged (e.g., by complaint, counterclaim, cross-claim, third-party claim, or otherwise) will be severed from any enforcement by Post-Petition Secured Parties of their legal, equitable, and contractual rights (including collection of the Obligations and foreclosure or other enforcement against the Collateral) pursuant to the Other Documents, and the Damage Lawsuit (including any and all adverse claims alleged against the Post-Petition Secured Parties) cannot be asserted by any Debtor as a defense, setoff, recoupment, or grounds for delay, stay, or injunction against any enforcement by any Post-Petition Secured Party of their legal, equitable, and contractual rights under the Final Order, the Other Documents, and otherwise.

16.21. Prohibition on Surcharge. No Person will be permitted to surcharge the Collateral under Section 506(c) of the Bankruptcy Code, nor shall any costs or expenses whatsoever be imposed against the Collateral, except for the Carve-Out. The prohibition on surcharging or priming of the Liens of Agent on the Collateral will survive the termination of this Agreement and the dismissal of the Case, such that no Person will be permitted to obtain a Lien or rights (through any means, at law or in equity) which in any case is equal or senior to the Liens of Agent on the Collateral. Upon the termination of this Agreement and the dismissal of the Case, the Bankruptcy Court will retain jurisdiction over the Collateral for the limited purpose of enforcing this section.

16.22. Marshalling Obligations. The Agent shall not be subject to any equitable remedy of marshalling.

16.23. No Discharge; Survival of Claims. Each Debtor agrees that (i) the Obligations shall not be discharged by the entry of an order confirming a Reorganization Plan (and each Debtor, pursuant to Section 1141(d)(4) of the Bankruptcy Code, hereby waives any such discharge), (ii) the Superpriority Claim granted to the Post-Petition Secured Parties pursuant to the Interim Order and the Final Order and the Liens granted to Agent, for the benefit of the Post-Petition Secured Parties pursuant to the Interim Order, the Final Order, this Agreement and the Other Documents, shall not be affected in any manner by the entry of an order confirming a Reorganization Plan, (iii) the Debtors shall not propose or support any Reorganization Plan that is not conditioned upon Payment in Full and the release of Agent and Lenders in full from all claims of the Debtors and their estate, in each case, on or before the effective date of such Reorganization Plan, and (iv) no Reorganization Plan shall be confirmed if it does not satisfy the foregoing requirements.

16.24. Disavowal and Waiver of Any Subsequent Relief Based on Changed Circumstances. The Debtors and the Post-Petition Secured Parties know and understand that there are rights and remedies provided under the Bankruptcy Code, the Federal Rules of Civil Procedure, and the Bankruptcy Rules, pursuant to which parties otherwise bound by a previously entered order can attempt to obtain relief from such an order by alleging circumstances that may warrant a change or modification in the order, or circumstances such as fraud, mistake, inadvertence, excusable neglect, newly discovered evidence, or similar matters that may justify vacating the order entirely, or otherwise changing or modifying it (collectively, "Changed

Circumstances"). Rights and remedies based on Changed Circumstances include, but are not limited to, modification of a plan of reorganization after confirmation of the plan and before its substantial consummation, pursuant to Section 1127(b) of the Bankruptcy Code, relief from a final order or judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure and Bankruptcy Rule 9024, and the commencement and prosecution of a serial Chapter 11 case by a debtor which is in default of obligations under a stipulation or plan of reorganization confirmed in an earlier case. With full knowledge and understanding of what are, or may be, its present or future rights and remedies based on allegations of Changed Circumstances, each Debtor: (i) expressly disavows that there are any matters which constitute any kind of Changed Circumstances as of the date of entry of the Interim Order and (ii) expressly disavows that it is aware of any matters whatsoever that it is assuming, contemplating, or expecting in proceeding with the Final Order and the transactions contemplated by this Agreement and having the Final Order entered that would serve as a basis to allege such Changed Circumstances. Each Debtor understands and agrees that the Post-Petition Secured Parties are not willing to bear any of the risks involved in the Debtors' business enterprises and the Post-Petition Secured Parties are not willing to modify any of the rights if such risks cause actual or alleged Changed Circumstances; and each Debtor expressly assumes all risks of any and all such matters, and the consequences that the Post-Petition Secured Parties will enforce their legal, equitable, and contractual rights if the Post-Petition Secured Parties are not paid and dealt with strictly in accordance with the terms and conditions of the Interim Order, the Final Order, this Agreement and the Other Documents. Without limiting the foregoing in any way, the Debtors' use of any cash collateral that is included in the Collateral will be governed exclusively by the terms and conditions of this Agreement, the Interim Order and the Final Order, and, until Payment in Full either before or after a termination of this Agreement, no Debtor will seek authority from the Bankruptcy Court to otherwise use any cash collateral that is included in the Collateral for any purpose whatsoever.

16.25. Interim Order and Final Order Control. In the event of any conflict between the terms of the Interim Order and/or the Final Order and this Agreement or any Other Document, the terms of the Interim Order and/or the Final Order, as applicable, shall control to the extent the Interim Order and/or Final Order, as applicable, were approved and acceptable to Agent.

XVII. GUARANTY.

17.1. Guaranty. Each Debtor Guarantor hereby unconditionally guarantees, as a primary obligor and not merely as a surety, jointly and severally with each other Debtor Guarantor when and as due, whether at maturity, by acceleration, by notice of prepayment or otherwise, the due and punctual performance of all Post-Petition Obligations other than Excluded Hedge Liabilities (and, upon entry of the Final Order, any and all Obligations, including without limitation, a Pre-Petition Obligations and Post-Petition Obligations other than Excluded Hedge Liabilities); provided that with respect to Obligations under or in respect of any Swap Obligation, the foregoing guarantee shall only be effective to the extent that such Debtor Guarantor is a Qualified ECP Debtor at the time such Swap Obligation is entered into and such Obligations and such guarantee thereof are not Excluded Hedge Liabilities. Each payment made by any Debtor Guarantor pursuant to this Guaranty shall be made in lawful money of the United States in immediately available funds.

17.2. Waivers. Each Debtor Guarantor hereby absolutely, unconditionally and irrevocably waives (i) promptness, diligence, notice of acceptance, notice of presentment of payment and any other notice hereunder, (ii) demand of payment, protest, notice of dishonor or nonpayment, notice of the present and future amount of the Obligations and any other notice with respect to the Obligations, (iii) any requirement that Agent or any Lender protect, secure, perfect or insure any security interest or Lien on any property subject thereto or exhaust any right or take any action against any other Debtor, or any Person or any Collateral, (iv) any other action, event or precondition to the enforcement hereof or the performance by each such Debtor Guarantor of the Obligations, and (v) any defense arising by any lack of capacity or authority or any other defense of any Debtor or any notice, demand or defense by reason of cessation from any cause of Obligations other than payment and performance in full of the Obligations by Debtors and any defense that any other guarantee or security was or was to be obtained by Agent.

17.3. No Defense. No invalidity, irregularity, voidableness, voidness or unenforceability of this Agreement or any Other Document or any other agreement or instrument relating thereto, or of all or any part of the Obligations or of any collateral security therefor shall affect, impair or be a defense hereunder.

17.4. Guaranty of Payment. The Guaranty hereunder is one of payment and performance, not collection, and the obligations of each Debtor Guarantor hereunder are independent of the Obligations of the other Debtors, and a separate action or actions may be brought and prosecuted against any Debtor Guarantor to enforce the terms and conditions of this Article XVII, irrespective of whether any action is brought against any other Debtor or other Persons or whether any other Debtor or other Persons are joined in any such action or actions. Each Debtor Guarantor waives any right to require that any resort be had by Agent or any Lender to any security held for payment of the Obligations or to any balance of any deposit account or credit on the books of Agent or any Lender in favor of any Debtor or any other Person. No election to proceed in one form of action or proceedings, or against any Person, or on any Obligations, shall constitute a waiver of Agent's right to proceed in any other form of action or proceeding or against any other Person unless Agent has expressed any such right in writing. Without limiting the generality of the foregoing, no action or proceeding by Agent against any Debtor under any document evidencing or securing indebtedness of any Debtor to Agent shall diminish the liability of any Debtor Guarantor hereunder, except to the extent Agent receives actual payment on account of Obligations by such action or proceeding, notwithstanding the effect of any such election, action or proceeding upon the right of subrogation of any Debtor Guarantor in respect of any other Debtor.

17.5. Liabilities Absolute. The liability of each Debtor Guarantor hereunder shall be absolute, unlimited and unconditional and shall not be subject to any reduction, limitation, impairment, discharge or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any claim, defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any other Obligation or otherwise. Without limiting the generality of the foregoing, the obligations of each Debtor Guarantor shall not be discharged or impaired, released, limited or otherwise affected by:

(a) any change in the manner, place or terms of payment or performance, and/or any change or extension of the time of payment or performance of, release, renewal or alteration of, or any new agreements relating to any Obligation, any security therefor, or any liability incurred directly or indirectly in respect thereof, or any rescission of, or amendment, waiver or other modification of, or any consent to departure from, this Agreement or any Other Document, including any increase in the Obligations resulting from the extension of additional credit to any Debtor or otherwise;

(b) any sale, exchange, release, surrender, loss, abandonment, realization upon any property by whomsoever at any time pledged or mortgaged to secure, or howsoever securing, all or any of the Obligations, and/or any offset there against, or failure to perfect, or continue the perfection of, any Lien in any such property, or delay in the perfection of any such Lien, or any amendment or waiver of or consent to departure from any other guaranty for all or any of the Obligations;

(c) the failure of Agent or any Lender to assert any claim or demand or to enforce any right or remedy against any Debtor Guarantor or any other Debtor or any other Person under the provisions of this Agreement or any Other Document or any other document or instrument executed and delivered in connection herewith or therewith;

(d) any settlement or compromise of any Obligation, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and any subordination of the payment of all or any part thereof to the payment of any obligation (whether due or not) of any Debtor to creditors of any Debtor other than any other Debtor;

(e) any manner of application of Collateral, or proceeds thereof, to all or any of the Obligations, or any manner of sale or other disposition of any Collateral for all or any of the Obligations or any other assets of any Debtor; and

(f) any other agreements or circumstance of any nature whatsoever that may or might in any manner or to any extent vary the risk of any Debtor Guarantor or Borrower, or that might otherwise at law or in equity constitute a defense available to, or a discharge of, the Guaranty hereunder and/or the obligations of any Debtor Guarantor or Borrower, or a defense to, or discharge of, any Debtor or any other Person or party hereto or the Obligations or otherwise with respect to the Advances or other financial accommodations to Debtors pursuant to this Agreement and/or the Other Documents.

17.6. Waiver of Notice. Agent shall have the right to do any of the above without notice to or the consent of any Debtor Guarantor and each Debtor Guarantor expressly waives any right to notice of, consent to, knowledge of and participation in any agreements relating to any of the above or any other present or future event relating to Obligations whether under this Agreement or otherwise or any right to challenge or question any of the above and waives any defenses of such Debtor Guarantor which might arise as a result of such actions.

17.7. Agent's Discretion. Agent may at any time and from time to time (whether prior to or after the revocation or termination of this Agreement) without the consent of, or notice to,

any Debtor Guarantor, and without incurring responsibility to any Debtor Guarantor or impairing or releasing the Obligations, apply any sums by whomsoever paid or howsoever realized to any Obligations regardless of what Obligations remain unpaid.

17.8. Reinstatement.

(a) The Guaranty provisions herein contained shall continue to be effective or be reinstated, as the case may be, if claim is ever made upon Agent or any Lender for repayment or recovery of any amount or amounts received by such Person in payment or on account of any of the Obligations and such Person repays all or part of said amount for any reason whatsoever, including by reason of any judgment, decree or order of any court or administrative body having jurisdiction over such Person or the respective property of each, or any settlement or compromise of any claim effected by such Person with any such claimant (including any Debtor); and in such event each Debtor Guarantor hereby agrees that any such judgment, decree, order, settlement or compromise or other circumstances shall be binding upon such Debtor Guarantor, notwithstanding any revocation hereof or the cancellation of any note or other instrument evidencing any Obligation, and each Debtor Guarantor shall be and remain liable to Agent and/or Lenders for the amount so repaid or recovered to the same extent as if such amount had never originally been received by such Person(s).

(b) Agent shall not be required to marshal any assets in favor of any Debtor Guarantor, or against or in payment of Obligations.

(c) No Debtor Guarantor shall be entitled to claim against any present or future security held by Agent from any Person for Obligations in priority to or equally with any claim of Agent, or assert any claim for any liability of any Debtor to any Debtor Guarantor in priority to or equally with claims of Agent for Obligations, and no Debtor Guarantor shall be entitled to compete with Agent with respect to, or to advance any equal or prior claim to any security held by Agent for Obligations.

(d) If any Debtor makes any payment to Agent, which payment is wholly or partly subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to any Person under any federal or provincial statute or at common law or under equitable principles, then to the extent of such payment, the Obligation intended to be paid shall be revived and continued in full force and effect as if the payment had not been made, and the resulting revived Obligation shall continue to be guaranteed, uninterrupted, by each Debtor Guarantor hereunder.

(e) All present and future monies payable by any Debtor to any Debtor Guarantor, whether arising out of a right of subrogation or otherwise, are assigned to Agent for its benefit and for the ratable benefit of Lenders as security for such Debtor Guarantor's liability to Agent and Lenders hereunder and are postponed and subordinated to Agent's prior right to Payment in Full. Except to the extent prohibited otherwise by this Agreement, all monies received by any Debtor Guarantor from any other Debtor shall be held by such Debtor Guarantor as agent and trustee for Agent. This assignment, postponement and subordination shall only terminate when the Payment in Full and this Agreement is irrevocably terminated.

(f) Each Debtor acknowledges this assignment, postponement and subordination and, except as otherwise set forth herein, agrees to make no payments to any Debtor Guarantor without the prior written consent of Agent. Each Debtor agrees to give full effect to the provisions hereof.

[*Signature Pages Follow*]

Each of the parties has signed this Agreement as of the day and year first above written.

BORROWERS:

AVENUE STORES, LLC

By: _____
Name: _____
Title: _____

ORNATUS URG GIFT CARDS, LLC

By: _____
Name: _____
Title: _____

DEBTOR GUARANTORS:

ORNATUS URG HOLDINGS, LLC

By: _____
Name: _____
Title: _____

ORNATUS URG REAL ESTATE, LLC

By: _____
Name: _____
Title: _____

PNC BANK, NATIONAL ASSOCIATION,
As Lender and as Agent

By: _____
Name: _____
Title: _____