

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

BETWEEN:

**BANK OF MONTREAL**

Applicant

- and -

**INGENIOUS PACKAGING GROUP ULC**

Respondent

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION  
243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3,  
AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*,  
R.S.O. 1990, c. C.43, AS AMENDED**

**APPLICATION RECORD  
(Returnable July 24, 2018)**

July 20, 2018

**BORDEN LADNER GERVAIS LLP**  
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22 Adelaide Street West  
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Lawyers for the Applicant

**Ingenious Packaging Group ULC**  
**Service List**  
**(As at July 20, 2018)**

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<b>AND TO:</b>	<p><b>DELOITTE RESTRUCTURING INC.</b> Bay Adelaide Centre, East Tower 8 Adelaide St West   Suite 200 Toronto, ON M5J 0A9</p> <p><b>Phil Reynolds</b> Tel: 416-956-9200 philreynolds@deloitte.ca</p> <p><b>Stefano Damiani</b> Tel: 416-874 4404 sdamiani@deloitte.ca</p> <p>Proposed Receiver</p>

<b>AND TO:</b>	<p><b>GOODMANS LLP</b> Bay Adelaide Centre, West Tower 333 Bay Street   Suite 3400 Toronto, ON M5H 2S7</p> <p><b>Brendan O'Neill</b> Tel: 416-849-6017 boneill@goodmans.ca</p> <p><b>Bradley Wiffen</b> Tel: 416-597-4208 bwiffen@goodmans.ca</p> <p>Lawyers for Deloitte as Receiver</p>
<b>AND TO:</b>	<p><b>MCMILLAN LLP</b> Brookfield Place 181 Bay Street   Suite 4400 Toronto, ON M5J 2T3</p> <p><b>Tushara Weerasooriya</b> Tel: 416-865-7890 tushara.weerasooriya@mcmillan.ca</p> <p><b>Brett Stewart</b> Tel: 416-865-7115 brett.stewart@mcmillan.ca</p> <p>Lawyers for the Respondent</p>
<b>AND TO:</b>	<p><b>STIKEMAN ELLIOTT LLP</b> 5300 Commerce Court West 199 Bay Street, Toronto, ON M5L 1B9</p> <p><b>Ashley John Taylor</b> Tel: 416-869-5236 ataylor@stikeman.com</p> <p><b>Kathryn Esaw</b> Tel: 416-869-6820 kesaw@stikeman.com</p> <p>Lawyers for Ingenious Packaging, Inc.</p>
<b>AND TO:</b>	<p><b>E.I. DUPONT CANADA COMPANY</b> 1919 Minnesota Court Mississauga, ON L5N 0C9 Tel: 905-816-3300 Fax: 905-816-3059</p>

<b>AND TO:</b>	<b>FUJIFILM CANADA INC.</b> 600 Suffolk Court Mississauga, ON L5R 4G4 Tel: 1-800-461-0416 Fax: 1-800-567-1414
<b>AND TO:</b>	<b>TRIVENI PROPERTY HOLDINGS LTD.</b> 50 Sunnydene Crescent Toronto, ON M4N 3J6  <b>Sandeep Lal</b> slal@triveni.ca
<b>AND TO:</b>	<b>DEPARTMENT OF JUSTICE (CANADA)</b> Ontario Regional Office 120 Adelaide Street West   Suite 400 Toronto, ON M5H 1T1  <b>Diane Winters</b> Tel: 416-973-3172 diane.winters@justice.gc.ca
<b>AND TO:</b>	<b>MINISTRY OF FINANCE</b> Legal Services Branch College Park   777 Bay Street   11th Floor Toronto, ON M5G 2C8  <b>Kevin O'Hara, Counsel</b> Tel: 416-327-8463 kevin.ohara@ontario.ca
<b>AND TO:</b>	<b>MORGAN STANLEY CANADA LTD</b> 181 Bay Street Toronto, ON M5J 2T3 Tel: 416-943-8400 Fax: 416-943-8697  <b>Ashwin Krishnan, Managing Director</b> Tel: 212-761-1528 Ashwin.Krishnan@morganstanley.com

<b>AND TO:</b>	<p><b>PROSKAUER ROSE LLP</b> One International Place Boston, MA 02110-2600</p> <p><b>Stephen A. Boyko</b> Tel: 617-526-9770 sboyko@proskauer.com</p> <p><b>Joshua M. Robinson</b> Tel: 617-526-9463 jrobinson@proskauer.com</p> <p>Lawyers for North Haven Credit Partners II, L.P.</p>
<b>AND TO:</b>	<p><b>THE STEPHEN ADAMS LIVING TRUST</b> The Stephen Adams Living Trust 88 Old Roxbury Road Roxbury, CT 06783-0271</p> <p><b>Stephen Adams, Trustee</b> Fax: (860) 210-9673</p>
	<p><b>COPY TO:</b> <b>Kaplan, Strangis and Kaplan, P.A.</b> 90 South Seventh Street   Suite 5500 Minneapolis, MN 55402</p> <p><b>Robert T. York</b> rty@kskpa.com Fax: (612) 375-1143</p>
<b>AND TO:</b>	<p><b>HURWITZ &amp; FINE, P.C.</b> Liberty Building 424 Main Street   Suite 1300 Buffalo, New York 14202</p> <p><b>Anna Evanko</b> Tel: 716-849-8900 AEE@hurwitzfine.com</p>

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# Index

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**B E T W E E N:**

**BANK OF MONTREAL**

Applicant

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**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION  
243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3,  
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**I N D E X**

<b>TAB</b>	<b>DOCUMENT</b>
1.	Notice of Application returnable July 24, 2018
2.	Affidavit of Jack Kane sworn July 20, 2018
Exhibit A:	BC Company Summary for Ingenious obtained from BC Registry Services, and Corporation Profile Report for Ingenious obtained from the Ontario Ministry of Government Services on June 26, 2018
Exhibit B:	Credit Agreement dated July 6, 2015
Exhibit C:	First Amendment and Waiver to Credit Agreement dated October 20, 2016
Exhibit D:	Forbearance Agreement and Second Amendment dated September 15, 2017
Exhibit E:	Amendment to Forbearance Agreement and Second Amendment dated November 10, 2017
Exhibit F:	Amendment No. 2 to Forbearance Agreement and Second Amendment dated December 22, 2017
Exhibit G:	Forbearance Agreement and Third Amendment dated March 12, 2018
Exhibit H:	Amendment to Third Amendment and Forbearance Agreement dated May 15, 2018



**TAB****DOCUMENT**

- Exhibit I: Second Amendment to Forbearance Agreement and Third Amendment dated May 31, 2018
  - Exhibit J: Third Amendment to Forbearance Agreement and Third Amendment dated June 15, 2018
  - Exhibit K: Fourth Amendment to Forbearance Agreement and Third Amendment dated June 20, 2018
  - Exhibit L: Fourth Amendment to Credit Agreement dated May 31, 2018
  - Exhibit M: Fifth Amendment to Credit Agreement dated June 15, 2018
  - Exhibit N: Sixth Amendment to Credit Agreement dated June 20, 2018
  - Exhibit O: Canadian Pledge and Security Agreement dated July 6, 2015
  - Exhibit P: Ontario PPSA Enquiry Response Certificate obtained against Ingenious and each of its predecessor corporate names with a file currency of June 26, 2018
  - Exhibit Q: British Columbia PPSA search obtained as against Ingenious and each of its predecessor names with a file currency of June 26 or June 27, 2018
  - Exhibit R: Opco Subordination and Intercreditor Agreement dated July 6, 2015
  - Exhibit S: Amendment No. 1 to Opco Subordination and Intercreditor Agreement dated October 20, 2016
  - Exhibit T: Amendment No. 2 to Opco Subordination and Intercreditor Agreement dated September 15, 2017
  - Exhibit U: Holdco Subordination Agreement dated July 6, 2015
  - Exhibit V: Amendment No. 1 to Holdco Subordination and Intercreditor Agreement September 15, 2017
  - Exhibit W: Convertible Note Subordination Agreement dated July 6, 2015
  - Exhibit X: Warrant Subordination Agreement dated July 6, 2015
  - Exhibit Y: Reservation of Rights Letter dated February 19, 2016
  - Exhibit Z: Reservation of Rights Letter dated July 3, 2018
  - Exhibit AA: Demand Letter delivered to the Borrowers
  - Exhibit BB: NITES delivered to Ingenious and consent from Ingenious
  - Exhibit CC: Demand Letter delivered to the US Guarantor
  - Exhibit DD: Consent of Deloitte to act as Receiver
3. Affidavit of Michael Silverman sworn July 20, 2018
- Exhibit A: Graph that illustrates the decline in on-time delivery
  - Exhibit B: Asset Purchase Agreement

**TAB**

**DOCUMENT**

5. Blackline to Model Receivership Order

# Tab 1

Court File No.: CN-18-60760-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

BETWEEN:

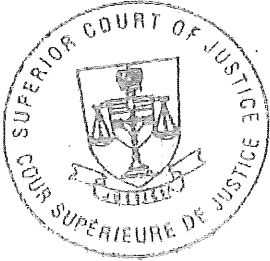
**BANK OF MONTREAL**

Applicant

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**INGENIOUS PACKAGING GROUP ULC**

Respondent



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**NOTICE OF APPLICATION  
(Returnable July 24, 2018)**

**TO THE RESPONDENT**

**A LEGAL PROCEEDING HAS BEEN COMMENCED** by the applicant. The claim made by the applicant appears on the following page.

**THIS APPLICATION** will come on for a hearing before a Judge presiding over the Commercial List on **Tuesday, July 24, 2018 at 10:00 a.m.** or so soon thereafter at 330 University Avenue, Toronto, Ontario.

**IF YOU WISH TO OPPOSE THIS APPLICATION**, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

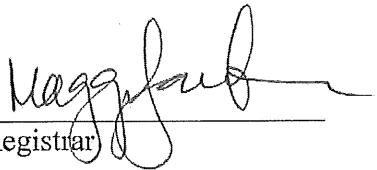
**IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS - EXAMINE WITNESSES ON THE APPLICATION**, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than two (2) days before the hearing.

**IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.**

**IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

Date: July 20, 2018

Issued by

  
Local Registrar

**Address of court office:**

330 University Avenue  
7<sup>th</sup> Floor  
Toronto, ON M5G 1R7

**TO: ATTACHED SERVICE LIST**

**Service List**

**Ingenious Packaging Group ULC**

**Service List**

**(As at July 20, 2018)**

<b>AND TO:</b>	<p><b>DELOITTE RESTRUCTURING INC.</b> Bay Adelaide Centre, East Tower 8 Adelaide St West   Suite 200 Toronto, ON M5J 0A9</p> <p><b>Phil Reynolds</b> Tel: 416-956-9200 philreynolds@deloitte.ca</p> <p><b>Stefano Damiani</b> Tel: 416-874 4404 sdamiani@deloitte.ca</p> <p>Proposed Receiver</p>
<b>AND TO:</b>	<p><b>GOODMANS LLP</b> Bay Adelaide Centre, West Tower 333 Bay Street   Suite 3400 Toronto, ON M5H 2S7</p> <p><b>Brendan O'Neill</b> Tel: 416-849-6017 boneill@goodmans.ca</p> <p><b>Bradley Wiffen</b> Tel: 416-597-4208 bwiffen@goodmans.ca</p> <p>Lawyers for Deloitte as Receiver</p>

<b>AND TO:</b>	<p><b>MCMILLAN LLP</b> Brookfield Place 181 Bay Street   Suite 4400 Toronto, ON M5J 2T3</p> <p><b>Tushara Weerasooriya</b> Tel: 416-865-7890 tushara.weerasooriya@mcmillan.ca</p> <p><b>Brett Stewart</b> Tel: 416-865-7115 brett.stewart@mcmillan.ca</p> <p>Lawyers for the Respondent</p>
<b>AND TO:</b>	<p><b>STIKEMAN ELLIOTT LLP</b> 5300 Commerce Court West 199 Bay Street, Toronto, ON M5L 1B9</p> <p><b>Ashley John Taylor</b> Tel: 416-869-5236 ataylor@stikeman.com</p> <p><b>Kathryn Esaw</b> Tel: 416-869-6820 kesaw@stikeman.com</p> <p>Lawyers for Ingenious Packaging, Inc.</p>
<b>AND TO:</b>	<p><b>E.I. DUPONT CANADA COMPANY</b> 1919 Minnesota Court Mississauga, ON L5N 0C9 Tel: 905-816-3300 Fax: 905-816-3059</p>
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<b>AND TO:</b>	<p><b>TRIVENI PROPERTY HOLDINGS LTD.</b> 50 Sunnydene Crescent Toronto, ON M4N 3J6</p> <p><b>Sandeep Lal</b> slal@triveni.ca</p>

<b>AND TO:</b>	<b>DEPARTMENT OF JUSTICE (CANADA)</b> Ontario Regional Office 120 Adelaide Street West   Suite 400 Toronto, ON M5H 1T1  <b>Diane Winters</b> Tel: 416-973-3172 diane.winters@justice.gc.ca
<b>AND TO:</b>	<b>MINISTRY OF FINANCE</b> Legal Services Branch College Park   777 Bay Street   11th Floor Toronto, ON M5G 2C8  <b>Kevin O'Hara, Counsel</b> Tel: 416-327-8463 kevin.ohara@ontario.ca
<b>AND TO:</b>	<b>MORGAN STANLEY CANADA LTD</b> 181 Bay Street Toronto, ON M5J 2T3 Tel: 416-943-8400 Fax: 416-943-8697  <b>Ashwin Krishnan, Managing Director</b> Tel: 212-761-1528 Ashwin.Krishnan@morganstanley.com
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<b>AND TO:</b>	<b>THE STEPHEN ADAMS LIVING TRUST</b> The Stephen Adams Living Trust 88 Old Roxbury Road Roxbury, CT 06783-0271  <b>Stephen Adams, Trustee</b> Fax: (860) 210-9673



**COPY TO:**

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Minneapolis, MN 55402

**Robert T. York**  
Email: rty@kskpa.com  
Fax: (612) 375-1143

## APPLICATION

1. All terms used and not otherwise defined herein shall have the meanings ascribed to them in the Kane Affidavit (as defined below).

2. The Applicant, Bank of Montreal ("**BMO**"), makes an application for an Order substantially in the form attached to Tab 4 of the Application Record:

- (a) abridging the time for service of the Notice of Application and the Application Record and dispensing with further service thereof;
- (b) appointing Deloitte Restructuring Inc. ("**Deloitte**") as receiver (in such capacity, the "**Receiver**"), without security, of all of the assets, undertakings and properties (the "**Property**") of Ingenious Packaging Group Inc. (the "**Debtor**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**");
- (c) granting a charge over the Property in favour of the Receiver and the Receiver's counsel to secure their fees and disbursements in respect of these proceedings on the terms set out in the draft order filed (the "**Receiver's Charge**"); and
- (d) such further and other relief as counsel may request and this Court may permit.

3. **THE GROUNDS FOR THE APPLICATION ARE:**

- (a) the Debtor is currently indebted to the Lender Parties with respect to certain credit facilities extended by the Lender Parties (the "**Credit Facilities**");
- (b) the obligations of the Debtor to the Lender Parties, are secured by, among other things, a pledge and security agreement and a guarantee contained in a credit agreement dated July 6, 2015, as amended (collectively the "**Security**");
- (c) the Debtor has committed certain events of default;
- (d) on July 19, 2018, BMO issued a demand for payment to the Debtor, Ingenious Packaging Group, LLC (as co-borrower under the Credit Facilities), as well as

Ingenious Packaging Group Holding Company, LLC (as guarantor of the Credit Facilities), and delivered a Notice of Intention to Enforce Security (“NITES”) to the Debtor, pursuant to the provisions of the BIA. The Debtor has acknowledged receipt of the demand and the NITES, agreed to waive the 10 day notice period under the NITES, and consented to the immediate enforcement of the Security by BMO;

- (e) BMO seeks to appoint the Receiver in order to secure the Property and to take steps to realize on the Property as expeditiously as possible in order to seek to maximize value for all stakeholders while preserving the enterprise value of the Debtor;
- (f) Deloitte, if appointed as Receiver, will be bringing a concurrent motion to approve the sale transaction (the “**Transaction**”) contemplated by the asset purchase agreement between the Debtor and Ingenious Packaging, Inc. (the “**Purchaser**”) dated as of July 20, 2018;
- (g) Deloitte is a licensed trustee in bankruptcy within the meaning of section 2 of the BIA and consents to its appointment as Receiver;
- (h) Deloitte was engaged by BLG, in its capacity as counsel to BMO, on July 9, 2018 to act as its financial advisor and is familiar with the operations and financial circumstances of the Debtor;
- (i) on account of Deloitte’s familiarity of the operations and financial circumstances of the Debtor, Deloitte will be in the best position to achieve certain commercial efficiencies in respect of maximizing value for the stakeholders and evaluating the terms of the proposed Transaction;
- (j) the appointment of Deloitte as receiver is just and convenient in the circumstances;
- (k) section 243(1) of the BIA;
- (l) section 101 of the CJA;

- (m) rules 1.04, 2.03, 3.02, 16 and 38 of the Rules of Civil Procedure, R.R.O. 1990. Reg. 194, as amended; and
- (n) such further and other grounds as counsel may advise and this Court may permit.

4. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the application:

- (a) the Affidavit of Jack Kane sworn July 20, 2018 and the exhibits referred to therein (the "**Kane Affidavit**");
- (b) the Affidavit of Michael Silverman sworn July 20, 2018 and the exhibits referred to therein;
- (c) the Pre-Filing Report of Deloitte to be filed; and
- (d) such further and documentary evidence as counsel may advise and this Court may permit.

July 20, 2018

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Lawyers for the Applicant

Court File No.:  
CN-18-601960-00CL

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
PROCEEDINGS COMMENCED AT TORONTO

**NOTICE OF APPLICATION**  
**(Returnable July 24, 2018)**

**BORDEN LADNER GERVAIS LLP**

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eferreira@blg.com

Lawyers for the Applicant

TOR01: 7490736: v10

# Tab 2

Court File No.:

**ONTARIO  
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BETWEEN:

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R.S.O. 1990, c. C.43, AS AMENDED

**AFFIDAVIT OF JACK J. KANE  
(Sworn July 20, 2018)**

I, **JACK J. KANE**, of the City of Chicago, in the State of Illinois, **MAKE OATH AND SAY** as follows:

1. I am a Managing Director & Team Lead in the Corporate and US Commercial Special Accounts Management Unit of Bank of Montreal (the "**Bank**" or "**BMO**") and as such have personal knowledge of the matters hereinafter deposed to, and where I do not possess such personal knowledge, I have stated the source of my information and in all such cases do verily believe it to be true.
2. This affidavit is sworn in support of an application by BMO, as administrative agent under the Credit Agreement (as defined below), on behalf of itself and the other Lender Parties, to appoint Deloitte Restructuring Inc. ("**Deloitte**") as receiver (in such capacity, the "**Receiver**"), without security, over the assets, properties and undertaking (the "**Property**") of Ingenious Packaging Group ULC ("**Ingenious**") pursuant to section

243(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) and section 101 of the *Courts of Justice Act* (Ontario) (the “**Application**”).

**A. BACKGROUND ON INGENIOUS PACKAGING GROUP ULC**

3. Tapp Label Ltd. was incorporated on April 22, 2015 pursuant to the laws of the Province of Ontario. Tapp Label Ltd. was continued in British Columbia on December 14, 2016 and converted to a British Columbia unlimited liability company under the name “Tapp Label ULC” on January 1, 2017. Tapp Label ULC subsequently changed its name on January 30, 2018 to Ingenious Packaging Group ULC. Ingenious is a premier manufacturer of unique and comprehensive prime labels for a variety of products and end markets.
4. Ingenious is a wholly-owned subsidiary of Ingenious Packaging Group, LLC (previously known as Tapp Label Company, LLC), a Delaware limited liability company (the “**US Borrower**”). The US Borrower is a wholly-owned subsidiary of Ingenious Packaging Group Holding Company, LLC (previously known as Tapp Label Holding Company, LLC), a Delaware limited liability company (the “**US Guarantor**”).
5. The registered office for Ingenious is located at 1055 West Georgia Street, Vancouver, British Columbia. While Ingenious has carried out operations from its Vancouver office, this business was shut down and moved to Toronto in or about October, 2017. The head office is located in Toronto, Ontario at 999 Progress Avenue, Toronto, Ontario, which is the only premises leased or occupied by Ingenious and where all of its corporate, accounting, management and administrative functions are performed. The President of Ingenious is David Bowyer.
6. Attached hereto and marked as **Exhibit “A”** is a copy of the BC Company Summary for Ingenious obtained from BC Registry Services on June 26, 2018, as well as a Corporation Profile Report for Ingenious obtained from the Ontario Ministry of Government Services on June 26, 2018.



7. In June 2017, Silverman Consulting, a restructuring and financial advisory firm, was engaged as a financial advisor to Ingenious, and in September 2017, Michael Silverman, a principal at Silverman Consulting, was appointed as the Chief Restructuring Officer of Ingenious.
8. I am informed by Mr. Brian Metzger, a partner at Silverman Consulting, and verily believe that Ingenious has 134 highly-skilled full-time employees, 40 of whom are salaried and 94 are hourly. 130 employees are based in Canada and 4 are based in the US. All employees are non-unionized. Ingenious also utilizes temporary employees as needed.
9. All references herein to amounts shall be in Canadian currency, unless otherwise stated.
10. All terms used and not otherwise defined herein shall have the meanings ascribed to them in the Credit Agreement (as defined below).

## **B. CAPITAL STRUCTURE AND FORBEARANCE AGREEMENT**

### **Loan and Security Documents**

11. BMO is party to a credit agreement dated July 6, 2015, entered into by, among others, Ingenious and the US Borrower (collectively, the “**Borrowers**”), as borrowers, the US Guarantor, as guarantor, BMO and the other lenders from time to time party thereto, as lenders, and BMO, as Administrative Agent, as amended by (i) the First Amendment and Waiver to Credit Agreement dated as of October 20, 2016, (ii) the Forbearance Agreement and Second Amendment dated as of September 15, 2017 (as amended by the Amendment to Forbearance Agreement and Second Amendment dated as of November 10, 2017 and the Amendment No. 2 to Forbearance Agreement and Second Amendment dated as of December 22, 2017), (iii) the Forbearance Agreement and Third Amendment dated as of March 12, 2018 (as amended by the First Amendment to Forbearance Agreement and Third Amendment dated as of May 15, 2018, the Second Amendment to Forbearance Agreement and Third Amendment dated as of May 31, 2018, the Third Amendment to Forbearance Agreement and Third Amendment dated as of June 15, 2018 and the Fourth Amendment to Forbearance Agreement and Third Amendment dated as of

June 20, 2018), (iv) the Fourth Amendment to Credit Agreement dated as of May 31, 2018, (v) the Fifth Amendment to Credit Agreement dated as of June 15, 2018, and (vi) the Sixth Amendment to Credit Agreement dated as of June 20, 2018 (collectively, the “**Credit Agreement**”). Attached hereto and marked as **Exhibits “B” to “N”** are copies of the Credit Agreement.

12. As of the date hereof, the Lenders under the Credit Agreement include: (i) BMO; (ii) Audax Senior Loan Fund SPV, LLC, Audax Senior Debt (WCTPT) SPV, LLC, Audax Credit Opportunities (SBA), LLC, Audax Credit BDC Inc. and Audax Senior Loan Insurance Fund SPV, LLC (collectively, the “**Audax Fund Lenders**”); (iii) Maranon Senior Credit Fund II-A L.P., Maranon Senior Credit Fund II-B SPV, LLC, Maranon Senior Credit IV, LLC and Maranon Loan Funding 2015-1 LTD. (collectively, the “**Maranon Fund Lenders**”) and (iv) Stephen Adams Living Trust (the “**Second Amendment Term Lender**”).
13. Pursuant to the Credit Agreement, the Lenders granted the following credit facilities to the Borrowers (collectively, the “**Credit Facilities**”):
  - (a) Canadian Term Loan Facility to Ingenious by the Canadian Term Lenders in the original aggregate principal amount of the Canadian dollar equivalent of US\$15,716,500 (equal to Cdn\$19,897,089 at the then current exchange rate);
  - (b) U.S. Term Loan Facility to the US Borrower by the U.S. Term Lenders in the original aggregate amount of US\$19,716,500;
  - (c) Second Amendment Term Loan Facility to the US Borrower by the Second Amendment Term Lender in the original aggregate amount of US\$3,000,000; and
  - (d) Revolving Credit Facility, providing for Revolving Loans, Letters of Credit and Swing Line Loans to or for the benefit of the Borrowers by the Revolving Lenders, L/C Issuer and Swing Line Lender, as the case may be, in the maximum aggregate principal amount at any time outstanding of US\$5,000,000, as adjusted from time to time pursuant to the terms of the Credit Agreement; provided that, unless waived by the Revolving Lenders, at any time on or after the First

Amendment Effective Date (being October 20, 2016), the maximum aggregate principal amount of the Revolving Loans, Letters of Credit and Swing Line Loans shall not exceed US\$4,596,539.36. As of December 22, 2017, the Canadian Revolving Credit Commitment was terminated and no additional Revolving Loans were permitted to be made in Canadian Dollars.

14. Pursuant to section 2.05 of the Credit Agreement; (a) the outstanding unpaid principal balance and all accrued and unpaid interest on the Canadian Term Loan, the U.S. Term Loan and the Second Amendment Term Loan are to be paid on the earlier of (i) the Term Loan Maturity Date (being July 6, 2020), and (ii) the date of the acceleration of the Term Loan; and (b) the aggregate principal amount of the Revolving Loans are repayable on the earlier of (i) the Revolving Credit Maturity Date (being July 6, 2020), and (ii) the date of the acceleration of the U.S. Revolving Loans and the Canadian Revolving Loans, as applicable.
15. Pursuant to section 2.15(a) of the Credit Agreement, each Borrower is jointly and severally liable for all Obligations under the Loan Documents. Each Borrower is also a guarantor of each other Borrower's obligations and liabilities to the Lender Parties arising under the Credit Agreement or under any other Loan Document.
16. In addition, pursuant to Article XI of the Credit Agreement, each Borrower and the US Guarantor provided an unlimited guarantee of all obligations of the Borrowers to the Lenders arising under the Credit Agreement or under any other Loan Document (the "**Guarantee**").
17. As security for the obligations of the Borrowers and the US Guarantor to the Lender Parties, BMO, in its capacity as Administrative Agent on behalf of the Lender Parties obtained the following (collectively, the "**Security**"):
  - (a) a Pledge and Security Agreement dated July 6, 2015 granted by Ingenious in favour of the Administrative Agent, charging all of Ingenious' Property (the "**Canadian Pledge and Security Agreement**"), which is attached hereto and marked as Exhibit "**O**";

- (b) the Guarantee;
  - (c) a Pledge and Security Agreement dated July 6, 2015, granted by the US Borrower and the US Guarantor in favor of the Administrative Agent, charging all of the US Borrower's Property and the US Guarantor's Property (the "**US Pledge and Security Agreement**"); and
  - (d) a Trademark Security Agreement dated July 6, 2015, granted by the US Borrower in favor of the Administrative Agent, charging the US Borrower's Trademarks.
18. BMO registered its security interest in respect of all of Ingenious' Property under the Ontario *Personal Property Security Act* (the "**ON PPSA**") and the British Columbia *Personal Property Security Act* (the "**BC PPSA**"). Attached hereto and marked as **Exhibit "P"** is a copy of the ON PPSA Enquiry Response Certificate obtained as against Ingenious and each of its predecessor names of Tapp Label Ltd. and Tapp Label ULC with a file currency of June 26, 2018. Attached hereto and marked as **Exhibit "Q"** is a copy of the BC PPSA search obtained as against Ingenious and each of its predecessor names of Tapp Label Ltd. and Tapp Label ULC, with a file currency of June 26 or June 27, 2018, as applicable.

#### **Lender Priority Arrangements**

19. The Second Amendment Term Lender is, directly or indirectly, the majority owner of the US Guarantor. The Second Amendment Term Loan Facility is a senior secured facility secured by the Security, but the Second Amendment Term Lender is not entitled to payment of such Second Amendment Term Loan Facility until all other Obligations under the Credit Agreement have been repaid in full. The consent of the Second Amendment Term Lender is not required for any amendment, waiver or consent under the Credit Agreement unless such amendment, waiver or consent reduces the principal of, or the rate of interest on, the Second Amendment Term Loan Facility or increases the commitment of the Second Amendment Term Lender.

20. In addition, for purposes of determining the Required Lenders under the Credit Agreement (the lenders that are required to vote on virtually all matters germane to the other Credit Facilities), the Second Amendment Term Loan Facility and Second Amendment Term Lender are disregarded. The Second Amendment Term Lender may not assign the Second Amendment Term Loan Facility at any time.

**Note and Warrant Subordination Agreements**

21. Pursuant to a Note Purchase Agreement dated July 6, 2015 (as amended, the “**Opco Note Purchase Agreement**”), North Haven Credit Partners II L.P. (“**NHCP**”) agreed to purchase notes issued by the Borrowers in an original aggregate principal amount of US\$35,669,250 (the “**Opco Notes**”). The obligations under the Opco Notes are guaranteed by, *inter alia*, the US Guarantor.
22. In addition, pursuant to a Note Purchase Agreement dated July 6, 2015 (as amended, the “**Holdco Note Purchase Agreement**”), NHCP also agreed to purchase notes issued by the US Guarantor in an aggregate principal amount of US\$3,000,000 (the “**Holdco Notes**”).
23. On July 6, 2015 NHCP and BMO (as Administrative Agent), among others, entered into a Subordination and Intercreditor Agreement, as amended by Amendment Nos. 1, 2 and 3 dated October 20, 2016, September 15, 2017 and March 12, 2018 respectively (collectively, the “**Opco Subordination and Intercreditor Agreement**”). Attached hereto and marked as **Exhibits “R”** through “**T**” are copies of the Opco Subordination and Intercreditor Agreement.
24. Each of the Borrowers, the US Guarantor and NHCP agreed that payment of obligations owing in respect of the Opco Notes and the other Subordinated Debt Documents (as defined in the Opco Subordination and Intercreditor Agreement) shall be subordinate and subject in right and time of payment, to the obligations owing to the Lender Parties under the Credit Agreement and the other Loan Documents, subject to payment of the Permitted Subordinated Debt Payments (as defined in the Opco Subordination and Intercreditor Agreement).

25. Similarly, on July 6, 2015 NHCP and BMO (as Administrative Agent), among others, entered into the Holdco Subordination and Intercreditor Agreement, which was subsequently amended by Amendment No. 1 dated September 15, 2017 and Amendment No. 2 dated March 12, 2018 (collectively, the “**Holdco Subordination and Intercreditor Agreement**”).
26. Pursuant to the Holdco Subordination and Intercreditor Agreement, each of the Borrowers, the US Guarantor and NHCP agreed that payment of obligations owing in respect of the Holdco Notes and the other Subordinated Debt Documents (as defined in the Holdco Subordination and Intercreditor Agreement) shall be subordinate and subject in right and time of payment, to the obligations owing to the Lender Parties under the Credit Agreement and the other Loan Documents, subject to payment of the Permitted Subordinated Debt Payments (as defined in the Holdco Subordination and Intercreditor Agreement). Attached hereto and marked as **Exhibits “U” to “V”** are copies of the Holdco Subordination and Intercreditor Agreement.
27. The Sponsor is the holder of a convertible note in the original principal amount of US\$22,000,000 issued by Tapp Label Parent Holding Company, LLC (currently known as “Ingenious Packaging Group Holding, LLC”, the “**Parent**”) as of July 6, 2015 (the “**Convertible Note**”).
28. Pursuant to the Convertible Note Subordination Agreement dated July 6, 2015 between, *inter alia*, the Sponsor, and BMO, as Administrative Agent (the “**Convertible Note Subordination Agreement**”), each of the Borrowers, the US Guarantor and the Sponsor agreed that payment of obligations owing in respect of the Convertible Note and the other Subordinated Debt Documents (as defined in the Convertible Note Subordination Agreement) shall be subordinate and subject in right and time of payment, to the obligations owing to the Lender Parties under the Credit Agreement and the other Loan Documents, subject to payment of the Subordinated PIK Payments or a Distribution of Reorganization Subordinated Securities (as such terms are defined in the Convertible Note Subordination Agreement). Attached hereto and marked as **Exhibit “W”** is a copy of the Convertible Note Subordination Agreement.

29. Lastly, NH Tapp, Inc. (“NHT”) is the holder of a warrant issued by the US Guarantor and the Parent as of July 6, 2015 (the “Warrant”).
30. Pursuant to the Warrant Subordination Agreement dated July 6, 2015 between, *inter alia*, the NHT, and BMO (as Administrative Agent) (the “Warrant Subordination Agreement”), each of the Borrowers, the US Guarantor and NHT agreed that payment of any Warrant Claims (as defined in the Warrant Subordination Agreement) shall be subordinate and subject in right and time of payment, to the obligations owing to the Lender Parties under the Credit Agreement and the other Loan Documents. Attached hereto and marked as **Exhibit “X”** is a copy of the Warrant Subordination Agreement.

#### **Forbearance Agreement**

31. The Administrative Agent and each Lender agreed to forbear from exercising certain of its rights and remedies against the Borrowers and the US Guarantor pursuant to the Forbearance Agreement and Third Amendment dated as of March 12, 2018, as amended by
  - (i) the First Amendment to Forbearance Agreement and Third Amendment dated as of May 15, 2018;
  - (ii) the Second Amendment to Forbearance Agreement and Third Amendment dated as of May 31, 2018;
  - (iii) the Third Amendment to Forbearance Agreement dated as of June, 15, 2018;and
  - (iv) the Fourth Amendment to Forbearance Agreement dated as of June 20, 2018.(collectively, the “**Forbearance Agreement**”). Attached hereto as **Exhibits “G”** through **“K”** are copies of the Forbearance Agreement.
32. Pursuant to the terms of the Forbearance Agreement, the agreement of the Administrative Agent and each Lender to forbear from exercising its rights and remedies against the Borrowers and the US Guarantor expired on **June 29, 2018**.

33. As further outlined below in Section C of this Affidavit, several Events of Default have occurred and the forbearance period under the Forbearance Agreement has expired. Pursuant to letters to the Borrowers dated February 19, 2016 (the “**2016 Reservation of Rights Letter**”) and July 3, 2018 (the “**2018 Reservation of Rights Letter**”), BMO confirmed on behalf of the Lenders that the Administrative Agent and the Lenders have not waived any of the Events of Default specified therein and expressly reserved all rights and remedies available under the Loan Documents and at law. Attached hereto and marked as **Exhibits “Y”** and **“Z”** are the 2016 Reservation of Rights Letter and the 2018 Reservation of Rights Letters, respectively.
34. Accordingly, BMO as Administrative Agent on behalf of the Lender Parties is entitled to immediate payment in full of any amounts outstanding, together with outstanding accrued interest and any and all other indebtedness, under or with respect to the Credit Facilities extended to Ingenious.

**C. DEFAULT UNDER THE LOAN AGREEMENTS AND DEMAND FOR PAYMENT**

35. The Borrowers are in default under the Credit Agreement and the other Loan Documents, which defaults constitute one or more Events of Default under the Loan Documents, including, without limitation, the following:
- (a) failure to pay principal and interest on the Loans due on July 2, 2018;
  - (b) failure to comply with the Consolidated EBITDA financial covenant pursuant to section 7.12(b) of the Credit Agreement for the Fiscal Months ending on January 31, 2017, February 28, 2017, March 31, 2017 April 30, 2017, May 31, 2017, June 30, 2017, July 31, 2017 and December 31, 2017;
  - (c) failure to comply with the Liquidity financial covenant pursuant to section 7.12(c) of the Credit Agreement for the Fiscal Months ending on May 31, 2017 and June 30, 2017;



- (d) failure to deliver the financial statements pursuant to section 6.01(a) of the Credit Agreement for the Fiscal Year ending December 31, 2016;
  - (e) failure to deliver the financial statements pursuant to section 6.01(b) of the Credit Agreement for the Fiscal Month ending July 31, 2017;
  - (f) failure to deliver the 13-week cash flow forecast pursuant to section 6.02(d)(i) of the Credit Agreement for the Fiscal Months ending April 30, 2017, May 31, 2017, June 30, 2017 and July 31, 2017; and
  - (g) failure to deliver the accounts receivable/accounts payable reports pursuant to section 6.02(d)(ii) of the Credit Agreement for the Fiscal Months ending December 31, 2016, January 31, 2017, February 28, 2017, March 31, 2017, April 30, 2017, May 31, 2017, June 30, 2017 and July 31, 2017.
36. Pursuant to section 8.02 of the Credit Agreement BMO, as Administrative Agent, is entitled to exercise the following remedies upon any Event of Default:
- (a) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable;
  - (b) exercise all rights and remedies available under the Loan Documents, or applicable Law.
37. On July 19, 2018, BMO issued a demand for payment, pursuant to the BIA, to the Borrowers. Attached hereto and marked as **Exhibit "AA"** is a copy of the demand letter that was delivered to the Borrowers.
38. On July 19, 2018, BMO also delivered a Notice of Intention to Enforce Security ("**NITES**"), pursuant to the BIA, to Ingenious. Upon delivery of the NITES Ingenious agreed to waive the ten (10) day notice period thereunder and also consented to the immediate enforcement by BMO of the Security. Attached hereto and marked as **Exhibit "BB"** is a copy of the NITES that was delivered to Ingenious and consent from Ingenious.

39. On the same day, BMO issued a demand for payment, pursuant to the BIA, to the US Guarantor in respect of the guarantee provided by the US Guarantor of the Borrowers' Obligations pursuant to the terms of the Credit Agreement. Attached hereto and marked as **Exhibit "CC"** is a copy of the demand letter that was delivered to the US Guarantor.
40. Pursuant to section 2.08(b)(iii) of the Credit Agreement all accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable on demand.
41. As of July 18, 2018, the Borrowers are indebted or otherwise liable to the Lender Parties in the amount of Cdn \$7,759,779.22 and US \$15,663,286.88, each inclusive of interest to July 18, 2018, but excluding the outstanding balance of the forbearance fee in the amount of US \$474,000.00 as provided in the Forbearance Agreement, as well as any costs and expenses (including, without limitation, legal fees and expenses) incurred to date and that will be incurred after the date hereof and additional interest from and after July 18, 2018 to which the Lender Parties are entitled under the Credit Agreement and the other Loan Documents (collectively, the **"Indebtedness"**). The Indebtedness is secured by, *inter alia*, the Security. Additional interest and costs will continue to accrue from and after July 18, 2018, until all amounts are paid in full.

**D. THE ASSET PURCHASE AGREEMENT AND TRANSACTION**


42. On July 20, 2018, Ingenious and Ingenious Packaging, Inc. (the **"Purchaser"**) entered into an asset purchase agreement (the **"APA"**) to effect the sale transaction (the **"Transaction"**), whereby the Purchaser agreed to purchase Ingenious' right, title and interest in and to the assets described in the APA (the **"Purchased Assets"**), free and clear of all liens, claims, interests and encumbrances, except certain permitted encumbrances as determined by Ingenious and the Purchaser.
43. As further described in the affidavit of Michael Silverman sworn July 20, 2018 (the **"Silverman Affidavit"**), the APA was the culmination of an extensive sales and marketing process commenced in early March, 2018 on behalf of Ingenious by its advisor, Mesirow Financial Inc. (**"Mesirow"**).

**E. REQUEST FOR THE APPOINTMENT OF DELOITTE AS RECEIVER.**

44. Pursuant to the Canadian Pledge and Security Agreement, BMO on behalf of the Lender Parties has the right to appoint a receiver.
45. As described above, Ingenious is in default of its obligations to the Lender Parties and is unable to repay the secured indebtedness.
46. The urgent need to appoint a receiver is highlighted by the serious financial difficulties being experienced by Ingenious. In particular, I am informed by Michael Silverman as follows:
- (a) as of July 11, 2018, (i) the 13-week cash flow forecast reflects that Ingenious is barely able to maintain a positive cash balance, fluctuating in the range of US\$0 to US\$500,000, and (ii) Ingenious averages US\$515,000 per week in expenses. Accordingly, Ingenious is essentially operating with no liquidity;
  - (b) with regard to payments owing to vendors, as of July 11, 2018, Ingenious is currently past due by US\$1.4 million;
  - (c) Ingenious' customers are aware that a transaction is pending and Ingenious is increasingly concerned that if the transaction were delayed, certain major customers may start sending their upcoming contracts out for bids; and
  - (d) Ingenious has provided stay bonuses to key management employees that are payable upon the closing of the sale of the business. On account of the uncertainty surrounding the pending sale and Ingenious' survivability, key management are becoming distracted and Ingenious is concerned that certain key management employees may not be willing to continue to work with Ingenious in this intervening period.
47. I understand from Brian Metzger and verily believe that Ingenious is in serious need to purchase new equipment in order to relieve certain capacity constraints. Ingenious, however, is unable to afford these necessary capital expenditures.

- 48. I also understand from Mr. Metzger that on-time delivery at Ingenious has not been running at levels necessary to properly satisfy its customer demands.
- 49. On account of Ingenious' continuing default and deteriorating financial circumstances, BMO seeks to appoint Deloitte as the Receiver, so that the Receiver can (a) stabilize the business and operations of Ingenious; and (b) consummate the Transaction in order to maximize the realizations for the benefit of all creditors.
- 50. Since its engagement, Deloitte has undertaken an extensive review of the current financial circumstances and operations of Ingenious. Accordingly, Deloitte is intimately familiar with the financial circumstances, operations and business of Ingenious as well as with regard to the pending Transaction.
- 51. If the relief sought is not granted, BMO is of the view that significant value to Ingenious' business and operations will be destroyed, particularly if the pending sale Transaction is not completed in a timely manner. The interests of Ingenious' creditors and other stakeholders will also be correspondingly harmed.
- 52. I understand that Deloitte is a licensed trustee in bankruptcy, and has consented to act as Receiver. Attached hereto and marked as **Exhibit "DD"** is a copy of the consent of Deloitte to act as Receiver.
- 53. This affidavit is sworn in support of an Order for the appointment of Deloitte as Receiver over the Property of Ingenious and for no other or improper purpose.

SWORN BEFORE ME at the City of )  
 Chicago, in the State of Illinois, this )  
 20th day of July, 2018. )

  
 \_\_\_\_\_ )  
 A Notary Public in and for the State of Illinois )

  
 \_\_\_\_\_  
 JACK J. KANE



Court File No.:

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
R.S.C. 1985, c. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

BANK OF MONTREAL

- and -

INGENIOUS PACKAGING GROUP ULC

Applicant

Respondent

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

AFFIDAVIT OF JACK J. KANE  
(Sworn July 20, 2018)

**BORDEN LADNER GERVAIS LLP**  
Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto, ON M5H 4E3  
Tel: (416) 367-6000  
Fax: (416) 367-6749

**Alex MacFarlane – LSO No. 28133Q**  
Tel: (416) 367-6305  
amacfarlane@blg.com

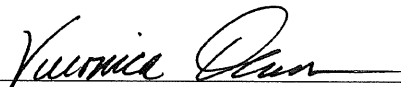
**Bevan Brooksbank – LSO No. 56717U**  
Tel: (416) 367-6604  
BBrooksbank@blg.com

**Evita Ferreira – LSO No. 69967K**  
Tel: (416) 367-6708  
eferreira@blg.com

Lawyers for the Applicant

# Tab A

THIS IS EXHIBIT "A" TO THE AFFIDAVIT  
OF JACK KANE SWORN BEFORE ME  
ON THIS 20<sup>TH</sup> DAY OF JULY, 2018



\_\_\_\_\_  
A Notary Public in and for the State of Illinois





BC Company Summary For INGENIOUS PACKAGING GROUP ULC

Date and Time of Search: June 26, 2018 07:11 AM Pacific Time
Currency Date: May 10, 2018

ACTIVE

Incorporation Number: C1100225
Name of Company: INGENIOUS PACKAGING GROUP ULC
Recognition Date and Time: Continued into British Columbia on December 14, 2016 02:24 PM Pacific Time In Liquidation: No
Last Annual Report Filed: December 14, 2017 Receiver: No

CONVERT FROM

Previous Company Name Date of Company Change
TAPP LABEL LTD. January 01, 2017

PREVIOUS FOREIGN JURISDICTION INFORMATION

Identifying Number in Foreign Jurisdiction: 2463258 Name in Foreign Jurisdiction: Tapp Label Ltd.
Date of Incorporation, Continuation or Amalgamation in Foreign Jurisdiction: April 22, 2015 Foreign Jurisdiction: ONTARIO

COMPANY NAME INFORMATION

Previous Company Name Date of Company Name Change
TAPP LABEL ULC January 30, 2018

REGISTERED OFFICE INFORMATION

Mailing Address: 1500 ROYAL CENTRE 1055 WEST GEORGIA STREET P.O. BOX 11117 VANCOUVER BC V6E 4N7 CANADA
Delivery Address: 1500 ROYAL CENTRE 1055 WEST GEORGIA STREET P.O. BOX 11117 VANCOUVER BC V6E 4N7 CANADA



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**RECORDS OFFICE INFORMATION****Mailing Address:**

1500 ROYAL CENTRE  
1055 WEST GEORGIA STREET  
P.O. BOX 11117  
VANCOUVER BC V6E 4N7  
CANADA

**Delivery Address:**

1500 ROYAL CENTRE  
1055 WEST GEORGIA STREET  
P.O. BOX 11117  
VANCOUVER BC V6E 4N7  
CANADA

---

**DIRECTOR INFORMATION****Last Name, First Name, Middle Name:**

Beharry, Glen

**Mailing Address:**

39 PURDUE AVENUE  
AJAX ON L1T 4L3  
CANADA

**Delivery Address:**

39 PURDUE AVENUE  
AJAX ON L1T 4L3  
CANADA

---

**Last Name, First Name, Middle Name:**

Bowyer, David

**Mailing Address:**

181 BAY STREET, SUITE 4400  
TORONTO ON M5J 2T3  
CANADA

**Delivery Address:**

181 BAY STREET, SUITE 4400  
TORONTO ON M5J 2T3  
CANADA

---

**Last Name, First Name, Middle Name:**

Ziegler, Jay

**Mailing Address:**

129 NOTTINGHAM TERRACE  
BUFFALO NY 14216  
UNITED STATES

**Delivery Address:**

129 NOTTINGHAM TERRACE  
BUFFALO NY 14216  
UNITED STATES

---

**OFFICER INFORMATION AS AT December 14, 2017****Last Name, First Name, Middle Name:**

Bowyer, David

**Office(s) Held:** (President)

**Mailing Address:**

181 BAY STREET  
SUITE 4400  
TORONTO ON M5J 2T3  
CANADA

**Delivery Address:**

181 BAY STREET  
SUITE 4400  
TORONTO ON M5J 2T3  
CANADA

---

**Last Name, First Name, Middle Name:**

Hauprich, Gerald

**Office(s) Held:** (CFO)

**Mailing Address:**

1380 MAIN STREET  
SUITE 200  
ST. HELENA CA 94574  
UNITED STATES

**Delivery Address:**

1380 MAIN STREET  
SUITE 200  
ST. HELENA CA 94574  
UNITED STATES

Request ID: 021812773  
Transaction ID: 68498021  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2018/06/26  
Time Report Produced: 10:07:11  
Page: 1

## CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>	<b>Incorporation Date</b>
2463258	INGENIOUS PACKAGING GROUP ULC	2015/04/22
		<b>Jurisdiction</b>
		BR COLUMBIA
<b>Corporation Type</b>	<b>Corporation Status</b>	<b>Former Jurisdiction</b>
EP DOMESTIC WITH SHARE	REFER TO JURISDICTION	ONTARIO
<b>Registered or Head Office Address</b>	<b>Date Amalgamated</b>	<b>Amalgamation Ind.</b>
1055 WEST GEORGIA STREET ROYAL CENTRE P O BOX 11117 Suite # 1500 VANCOUVER BRITISH COLUMBIA CANADA V6E 4N7	NOT APPLICABLE	NOT APPLICABLE
<b>Principal Place of Business in Ontario</b>	<b>New Amal. Number</b>	<b>Notice Date</b>
REPORTED AS NOT APPLICABLE	NOT APPLICABLE	NOT APPLICABLE
		<b>Letter Date</b>
		NOT APPLICABLE
	<b>Revival Date</b>	<b>Continuation Date</b>
	NOT APPLICABLE	NOT APPLICABLE
	<b>Transferred Out Date</b>	<b>Cancel/Inactive Date</b>
	2016/12/14	NOT APPLICABLE
	<b>EP Licence Eff.Date</b>	<b>EP Licence Term.Date</b>
	NOT APPLICABLE	NOT APPLICABLE
<b>Activity Classification</b>	<b>Date Commenced in Ontario</b>	<b>Date Ceased in Ontario</b>
NOT AVAILABLE	2015/04/22	NOT APPLICABLE

Request ID: 021812773  
Transaction ID: 68498021  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2018/06/26  
Time Report Produced: 10:07:11  
Page: 2

## CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

2463258

INGENIOUS PACKAGING GROUP ULC

### Corporate Name History

REFER TO JURISDICTION

Current Business Name(s) Exist:

NO

Expired Business Name(s) Exist:

NO

### Last Document Recorded

Act/Code	Description	Form	Date
CIA	CHANGE NOTICE	2	2018/02/05

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.  
ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

Request ID: 021812774  
Transaction ID: 68498024  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2018/06/26  
Time Report Produced: 10:07:12  
Page: 1

## CORPORATION DOCUMENT LIST

### Ontario Corporation Number

2463258

### Corporation Name

INGENIOUS PACKAGING GROUP ULC

ACT/CODE	DESCRIPTION	FORM	DATE (YY/MM/DD)
CIA	CHANGE NOTICE PAF: TRAJKOVSKI, TINA	2	2018/02/05
CIA	INITIAL RETURN PAF: RUDENSKY, ADRIANA	2	2017/01/09
CB	CORP. TRANSFERRED OUT	461T	2017/01/05
BCA	APPLICATION FOR AUTHORIZA	7	2016/12/09
CIA	CHANGE NOTICE PAF: BOWYER, DAVID	1	2016/12/06 (ELECTRONIC FILING)
CB	MEMO TO FILE	461M	2015/08/21
CIA	INITIAL RETURN PAF: SMETANA, DAGMAR	1	2015/06/23 (ELECTRONIC FILING)
BCA	ARTICLES OF AMENDMENT	3	2015/06/05
BCA	ARTICLES OF INCORPORATION	1	2015/04/22 (ELECTRONIC FILING)

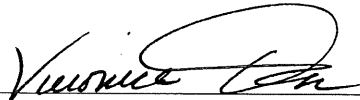
THIS REPORT SETS OUT ALL DOCUMENTS FOR THE ABOVE CORPORATION WHICH HAVE BEEN FILED ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

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The issuance of this report in electronic form is authorized by the Ministry of Government Services.

# Tab B

THIS IS EXHIBIT "B" TO THE AFFIDAVIT  
OF JACK KANE SWORN BEFORE ME  
ON THIS 20<sup>TH</sup> DAY OF JULY, 2018



\_\_\_\_\_  
A Notary Public in and for the State of Illinois



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**CREDIT AGREEMENT**

Dated as of July 6, 2015

among

**TAPP LABEL COMPANY, LLC,**  
as U.S. Borrower,

**TAPP LABEL LTD.,**  
as Canadian Borrower,

**TAPP LABEL HOLDING COMPANY, LLC,**  
as Guarantor,

**CERTAIN FINANCIAL INSTITUTIONS,**  
as Lenders,

and

**BANK OF MONTREAL,**  
as Administrative Agent, Swing Line Lender and an L/C Issuer

**BMO HARRIS BANK, N.A.**

**AND**

**MARANON CAPITAL, L.P.**  
as Joint Arrangers and Bookrunners

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## EXHIBITS

### *Form of*

A	Committed Loan Notice
B	Swing Line Loan Notice
C-1	Revolving Loan Note
C-2	Term Loan Note
D	Compliance Certificate
E	Excess Cash Flow Certificate
F	Assignment and Assumption
G	Closing Checklist

## CREDIT AGREEMENT

This **CREDIT AGREEMENT** (as amended, restated, supplemented or otherwise modified from time to time, this "**Agreement**") is entered into as of July 6, 2015, among **TAPP LABEL COMPANY, LLC**, a Delaware limited liability company (the "**U.S. Borrower**"), **TAPP LABEL LTD.**, an Ontario corporation ("**Canadian Borrower**"); each of the U.S. Borrower and Canadian Borrower may be referred to individually, as a "**Borrower**" and collectively herein, as "**Borrowers**", **TAPP LABEL HOLDING COMPANY, LLC**, a Delaware limited liability company ("**Holdings**"), solely for purposes of Sections 7.15, 7.17 and 8.01, **TAPP LABEL PARENT HOLDING COMPANY, LLC**, a Delaware limited liability company, ("**Parent**"), **EACH LENDER FROM TIME TO TIME PARTY HERETO** (collectively, the "**Lenders**" and individually, a "**Lender**"), and **BANK OF MONTREAL**, a Canadian chartered bank acting through its Chicago branch as Administrative Agent, Swing Line Lender, and an L/C Issuer.

### PRELIMINARY STATEMENTS

A. Borrowers have requested that Lenders, the Swing Line Lender and the L/C Issuer provide a credit facility to Borrowers to finance their mutual and collective business enterprise.

B. Lenders are willing to provide the credit facility on the terms and conditions set forth in this Agreement.

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

### **ARTICLE I DEFINITIONS AND ACCOUNTING TERMS**

**1.01. Defined Terms.** As used in this Agreement, the following terms shall have the meanings set forth below:

"Acquisition" means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in the acquisition of (a) a majority equity or other ownership interest in another Person (including the purchase of an option, warrant or convertible or similar type security to acquire such a majority interest at the time it becomes exercisable by the holder thereof), or (b) assets of another Person which constitute all or substantially all of the assets of such Person or of a line or lines of business or division conducted by such Person.

"Additional Lender" has the meaning specified in Section 2.18(c).

"Administrative Agent" means BMO, in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

"Administrative Agent's Office" means Administrative Agent's address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as Administrative Agent may from time to time notify Borrower Agent and the Lenders.

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

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Agent Parties” has the meaning specified in Section 10.02(c).

“Aggregate Revolving Credit Commitments” means, as at any date of determination thereof, the sum of all Revolving Credit Commitments of all Lenders at such date.

“Agreement” has the meaning specified in the introductory paragraph hereto.

“Applicable Margin” means (a) in the case of a Base Rate Loan, 3.75 percentage points, and (b) in the case of a Eurodollar Rate Loan, 4.75 percentage points.

“Applicable Percentage” means (a) in respect of the Revolving Credit Facility, with respect to any U.S. Revolving Lender or Canadian Revolving Lender, as applicable, at any time, the percentage (carried out to the ninth decimal place) of the Revolving Credit Facility, represented by the amount of the U.S. Revolving Credit Commitment or the Canadian Revolving Credit Commitment, as applicable, of such Revolving Lender at such time; provided that if the Aggregate Revolving Credit Commitments have been terminated at such time, then the Applicable Percentage of each Revolving Lender shall be the Applicable Percentage of such Revolving Lender immediately prior to such termination and after giving effect to any subsequent assignments, and (b) in respect of each Term Loan Facility, with respect to any U.S. Term Lender or Canadian Term Lender, as applicable, at any time, the percentage (carried out to the ninth decimal place) of such Term Loan Facility represented by (i) on or prior to the Closing Date, such Term Lender’s U.S. Term Loan Commitment or Canadian Term Loan Commitment, as applicable, at such time and (ii) thereafter, the Outstanding Amount of such Term Lender’s U.S. Term Loans or Canadian Term Loans, as applicable, at such time. The initial Applicable Percentage of each Lender with respect to each Facility is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

“Approved Fund” means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Arrangers” means each of BMO Harris Bank, N.A. and Maranon Capital, L.P..

“Assignee Group” means two or more assignees of Loans or Commitments that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

“Assignment and Assumption” means an assignment and assumption agreement entered into by a Lender and an assignee of Loans or Commitments (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by Administrative Agent, in substantially the form of Exhibit F or any other form approved by Administrative Agent.

“Attributable Indebtedness” means, on any date, (a) in respect of any Capital Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any synthetic lease or other similar financing lease, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a capital lease.

“Audited Financial Statements” means (i) the audited consolidated balance sheet of Tapp Label Technologies Inc. and its Subsidiaries for the Fiscal Year ended December 31, 2013, and the related consolidated statements of income or operations, retained earnings and cash flows for such Fiscal Year, including the notes thereto and (ii) the audited balance sheet of Metro Label Company Ltd. for the Fiscal Year ended June 30, 2014, and the related consolidated statements of income or operations, retained earnings and cash flows for such Fiscal Year, including the notes thereto.

“Auditor” has the meaning specified in Section 6.01(a).

“Auto-Extension Letter of Credit” has the meaning specified in Section 2.03(b)(iii).

“Bankruptcy Code” means title 11 of the United States Code, as in effect from time to time.

“Base Rate” means the U.S. Base Rate or the Canadian Base Rate, as applicable.

“Base Rate Loan” means a Loan (or segment of a Loan) that bears interest based on the applicable Base Rate.

“Base Rate Revolving Loan” means a Revolving Loan that is a Base Rate Loan.

“BMO” means Bank of Montreal.

“Borrower Agent” has the meaning specified in Section 2.15(d).

“Borrower” and “Borrowers” has the meaning specified in the introductory paragraph hereto.

“Borrower Materials” has the meaning specified in Section 10.02(c).

“Borrowing” means any of (a) a Revolving Borrowing, (b) a U.S. Term Borrowing, (c) a Canadian Term Borrowing or (d) a Swing Line Borrowing, as the context may require.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where Administrative Agent’s Office is located or Canada and, if such day relates to any interest rate settings as to a Eurodollar Rate Loan, any fundings, disbursements, settlements and payments in respect of any such Eurodollar Rate Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such Eurodollar Rate Loan, means any such day that is also a London Banking Day.

“Canadian Base Rate” means, for any day, the higher of the following: (i) the floating rate of interest announced from time to time by Administrative Agent as its reference rate then in effect for determining rates of interest on Canadian Dollar loans to its customers in Canada and designated as its prime rate; and (ii) the thirty (30) day Canadian CDOR plus one percent (1%) per annum. Any change in the Canadian Base Rate shall be effective on the date the change becomes effective generally without the necessity for any notice.

“Canadian Borrower” has the meaning specified in the introductory paragraph hereto.

“Canadian CDOR” means, on any day the annual rate of interest which is the greater of (x) 1.00% and (y) the rate determined as being the average of the quotations of all financial institutions

which are Schedule I Banks for purposes of the Bank Act (Canada) listed in respect of the rate for Canadian Dollar bankers' acceptances for the relevant period displayed and identified as such on the "Reuters Screen CDOR Page" (as defined in the International Swap Dealer Association, Inc. definitions, as modified and amended from time to time), or any relevant successor source, as of 10:00 A.M. Toronto, Ontario local time on such day and, if such day is not a Business Day, then on the immediately preceding Business Day (as adjusted by Administrative Agent after 10:00 A.M. Toronto, Ontario local time to reflect any error in a posted rate of interest or in the posted average annual rate of interest with notice of such adjustment in reasonable detail evidencing the basis for such determination being concurrently provided to the Borrowers). If such rates are not available on the Reuters Screen CDOR Page on any particular day, then the Canadian CDOR Rate on that day shall be the rates applicable to Canadian Dollar bankers' acceptances for the relevant period quoted for customer in Canada by Administrative Agent as of 10:00 A.M. Toronto, Ontario local time on such day; or if such day is not a Business Day, then on the immediately preceding Business Day.

"Canadian Dollar Equivalent" means, as of any date of determination, the aggregate of (a) as to any amount denominated in Canadian Dollars, the amount thereof as of such date of determination, and (b) as to any amount denominated in another currency, the equivalent amount thereof in Canadian Dollars as determined by Administrative Agent on the basis of the Currency Exchange Rate for the purchase of Canadian Dollars with such currency in effect on such date of determination.

"Canadian Dollars" and the symbol "Cdn. \$" each means lawful money of Canada.

"Canadian Insolvency Legislation" means all present and future statutes in Canada relating to bankruptcy, insolvency, reorganization, arrangement, compromise or readjustment of debt, dissolution or winding-up, or any similar legislation, and specifically includes without limitation for greater certainty the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada), the *Winding-Up and Restructuring Act* (Canada), and all regulations thereto, as such legislation may be amended or replaced from time to time.

"Canadian Plan" shall mean all employee benefit plans, programs or compensation arrangements, including, but without limiting the generality of the foregoing: all compensation, bonus, deferred compensation, incentive compensation, share purchase, share appreciation, share option, severance or termination pay, vacation pay, hospitalization or other medical, health and welfare benefits, life or other insurance, dental, eye care, disability, salary continuation, supplemental unemployment benefits, profit-sharing, mortgage assistance, employee loan, employee discount, employee assistance, counseling, pension, retirement or supplemental retirement benefit plan, arrangement or agreement, including any registered or unregistered defined benefit or defined contribution pension plan and any group registered retirement savings plan, and any other similar employee benefit plan, arrangement or agreement, whether oral or written, formal or informal, funded or unfunded governed by applicable Laws (whether federal laws of Canada or laws of any Province thereof), to which any Borrower or any Subsidiary has any liability, contingent or otherwise, except that the term Canadian Plan shall not include plans established by statute or administered by a Governmental Authority, including the Canada Pension Plan or plans established and administered pursuant to applicable provincial health tax, workers' compensation, and employment insurance legislation.

"Canadian Revolving Credit Commitment" means, as to each Canadian Revolving Lender, its obligation to (a) make Revolving Loans to Canadian Borrower in Canadian Dollars pursuant to Section 2.01(a), (b) purchase participations in L/C Obligations denominated in Canadian Dollars, and (c) purchase participations in Swing Line Loans denominated in Canadian Dollars, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Canadian Revolving Lender's name on Schedule 2.01 or in the Assignment and Assumption pursuant to which such



Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

“Canadian Revolving Lender” means each Lender that has a Canadian Revolving Credit Commitment or, following termination of the Canadian Revolving Credit Commitments, has Revolving Loans denominated in Canadian Dollars outstanding or participations in outstanding Letters of Credit and/or Swing Line Loans denominated in Canadian Dollars.

“Canadian Revolving Loan” means a Base Rate Loan or a Eurodollar Rate Loan made to Canadian Borrower pursuant to Section 2.01(a) or any Increase pursuant to Section 2.18.

“Canadian Subsidiary” means each Subsidiary which is incorporated or organized under the laws of Canada or any province or territory thereof.

“Canadian Term Borrowing” means a borrowing consisting of simultaneous Canadian Term Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period, advanced by each of the Canadian Term Lenders to the Canadian Borrower pursuant to Section 2.01(b)(ii).

“Canadian Term Lender” means each Lender that has a Canadian Term Loan Commitment or, following termination of the Canadian Term Loan Commitments, has Canadian Term Loans outstanding.

“Canadian Term Loan” means a Base Rate Loan or a Eurodollar Rate Loan made to Canadian Borrower pursuant to Section 2.01(b)(ii) or any Increase under an incremental term facility pursuant to Section 2.18.

“Canadian Term Loan Commitment” means, as to each Canadian Term Lender, its obligation to make Canadian Term Loans to Canadian Borrower on the Closing Date pursuant to Section 2.01(b)(ii) in an aggregate original principal amount equal to the amount set forth opposite such Canadian Term Lender’s name on Schedule 2.01.

“Canadian Term Loan Facility” means the facility described in Section 2.01(b)(ii), providing for Canadian Term Loans to Canadian Borrower by the Canadian Term Lenders in the original aggregate principal amount of the Canadian Dollar Equivalent (determined as of the Closing Date) of \$15,716,500.

“Capital Leases” means all leases that have been or should be, in accordance with GAAP, recorded as capitalized leases; provided, that, for purposes of this Agreement, the determination of whether a lease is required to be accounted for as a Capital Lease on the balance sheet of such Person shall be made by reference to GAAP as in effect on the Closing Date.

“Cash Collateralize” means to pledge and deposit with or deliver to Administrative Agent, (a) for the benefit of one or more of the L/C Issuer or the Revolving Lenders, as collateral for L/C Obligations or obligations of the Revolving Lenders to fund participations in respect of L/C Obligations, (i) cash or Deposit Account balances in an amount equal to 105% of the L/C Obligations (pursuant to documentation reasonably satisfactory to Administrative Agent and the L/C Issuer), (ii) a standby letter of credit, in form and substance reasonably satisfactory to Administrative Agent and the L/C Issuer, from a commercial bank acceptable to Administrative Agent and the L/C Issuer, in an amount equal to 105% of the L/C Obligations, or (iii) such other credit support or other arrangements with respect thereto satisfactory to Administrative Agent and the L/C Issuer in their sole discretion shall have been made, (b)

for the benefit of the Swing Line Lender, as collateral for Swing Line Loans that have not been refunded by the Revolving Lenders, cash or Deposit Account balances in an amount equal to the principal amount of such Swing Line Loans or, if Administrative Agent shall agree in its sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to Administrative Agent or (c) for the benefit of the Lender Parties during the continuance of an Event of Default or in connection with the Payment in Full of the Obligations, as collateral for any Obligations that are due or may become due, cash or Deposit Account balances or, if Administrative Agent shall agree in its sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to Administrative Agent. "Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"Cash Equivalents" means any of the following types of property, to the extent owned by Holdings or any of its Subsidiaries:

(a) cash, denominated in U.S. Dollars, Canadian Dollars or, with respect to a Foreign Subsidiary, any other lawful currency;

(b) readily marketable direct obligations of the government of the United States or Canada or any agency or instrumentality thereof, or obligations the timely payment of principal and interest on which are fully and unconditionally guaranteed by the government of the United States or Canada or any state, province or municipality thereof, in each case so long as such obligation has an investment grade rating by S&P and Moody's;

(c) commercial paper maturing no more than one year from the date of creation thereof and rated at least P-1 (or the then equivalent grade) by Moody's and A-1 (or the then equivalent grade) by S&P, or carrying an equivalent rating by a nationally recognized rating agency if at any time neither Moody's and S&P shall be rating such obligations;

(d) insured certificates of deposit or bankers' acceptances of, or time deposits with any commercial bank that (i) is a member of the Federal Reserve System, (ii) issues (or the parent of which issues) commercial paper rated as described in clause (c) above, (iii) is organized under the laws of the United States, Canada or of any state or province thereof and (iv) has combined capital and surplus of at least \$500,000,000 or the Canadian Dollar Equivalent thereof;

(e) readily marketable general obligations of any corporation organized under the laws of any state of the United States or province of Canada, payable in the United States or Canada, expressed to mature not later than twelve months following the date of issuance thereof and rated A or better by S&P or A2 or better by Moody's;

(f) readily marketable shares of investment companies or money market funds that, in each case, invest solely in the foregoing Investments described in clauses (a) through (e) above; and

(g) in the case of a Foreign Subsidiary, Investments of a kind or type similar to Cash Equivalents described above (replacing United States or any state, agency, instrumentality or municipality thereof with the corresponding Governmental Authorities of any foreign jurisdiction and using comparable ratings, if any, customary in the relevant jurisdiction) in any country other than the United States where such Foreign Subsidiary maintains a business location.

"CFC" means a "controlled foreign corporation" as defined in Section 957 of the Code, with respect to which any Loan Party is a "United States shareholder" within the meaning of Section 951(b) of the Code.

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

“Change of Control” means an event or series of events by which:

(a) Sponsor shall cease to own and control, directly or indirectly, beneficially and of record both (i) in excess of 50% of the voting and economic interests of the issued and outstanding Equity Interests of Holdings (assuming for purposes of this definition the exercise of rights to such Equity Interests) and (ii) a sufficient percentage of the issued and outstanding Equity Interests of Holdings to control its board of directors; or

(b) a majority of Holdings’ board of directors (or similar governing body) shall cease to consist of the directors (or similar parties) of Holdings on the Closing Date (after giving effect to the Transactions) and other directors (or similar parties) whose nomination for election to Holdings’ board of directors (or similar governing body) is recommended by at least a majority of the foregoing described directors (or similar parties); or

(c) Holdings shall fail to own and control, beneficially and of record (directly or indirectly), 100% of the issued and outstanding Equity Interests of each of its Subsidiaries, except where such failure is the result of a transaction permitted under the Loan Documents; or

(d) any “change of control” or similar event under the Subordinated Indebtedness Documents.

“Closing Date” means July 6, 2015.

“Closing Date Acquisition Documents” means the Purchase Agreement and all other material documents executed between or among the Loan Parties and the Target in connection with the Closing Date Acquisition.

“Closing Date Acquisition” means the Acquisition provided for in the Purchase Agreement.

“Code” means the U.S. Internal Revenue Code of 1986.

“Collateral” means, collectively, certain personal property of the Loan Parties or any other Person in which Administrative Agent or any Lender Party is granted a Lien under any Security Instrument as security for all or any portion of the Obligations or any other obligation arising under any Loan Document.

“Commitment” means a Term Loan Commitment or a Revolving Credit Commitment, as the context may require.

“Committed Loan Notice” means a notice of (a) a Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Eurodollar Rate Loans, which, if in writing, shall be substantially in the form of Exhibit A.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.).

“Compliance Certificate” means a certificate substantially in the form of Exhibit D.

“Consolidated” means the consolidation, in accordance with GAAP, of the financial condition or operating results of such Person and its Subsidiaries.

“Consolidated Capital Expenditures” has the meaning specified in the Compliance Certificate.

“Consolidated EBITDA” has the meaning specified in the Compliance Certificate.

“Consolidated Fixed Charge Coverage Ratio” has the meaning specified in the Compliance Certificate.

“Consolidated Senior Net Leverage Ratio” has the meaning specified in the Compliance Certificate.

“Consolidated Total Net Leverage Ratio” has the meaning specified in the Compliance Certificate.

“Convertible Notes Subordination Agreement” means that certain Convertible Note Subordination Agreement dated as of the date hereof among the Administrative Agent, the Purchaser (as defined in the Subordinated Indebtedness Documents), North Haven Credit Partners II L.P., as the initial purchaser under the Subordinated Indebtedness Documents and the Holdco Notes, Sponsor, Parent and the Loan Parties with respect to the convertible notes issued by Parent to Sponsor.

“Contingent Obligation” means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person: (i) with respect to any Indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto; (ii) with respect to any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (iii) under any Swap Contracts; (iv) to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement; or (v) for the obligations of another Person through any agreement to purchase, repurchase or otherwise acquire such obligation or any Property constituting security therefor, to provide funds for the payment or discharge of such obligation or to maintain the solvency, financial condition or any balance sheet item or level of income of another Person. The amount of any Contingent Obligation shall be equal to the amount of the obligation so guaranteed or otherwise supported or, if not a fixed and determined amount, the maximum amount so guaranteed or supported.

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, indenture, mortgage, deed of trust, contract or any other instrument or undertaking (other than a Loan Document) to which such Person is a party or by which it or any of its property is bound or to which any of its property is subject.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “*Controlling*” and “*Controlled*” have meanings correlative thereto. Without limiting the generality of the foregoing, a Person shall be deemed to be Controlled by another Person if such other Person possesses, directly or indirectly, power to vote 10% or more of the securities having ordinary voting power for the election of directors, managing general partners or the equivalent.

“Control Agreement” means, with respect to any Deposit Account, any Securities Account, Commodity Account, securities entitlement or Commodity Contract, an agreement, in form and substance reasonably satisfactory to Administrative Agent, among Administrative Agent, the financial institution or other Person at which such account is maintained or with which such entitlement or contract is carried and the Loan Party maintaining such account, effective to grant “control” (as defined under the applicable UCC governing such account) over such account to Administrative Agent.

“Controlled Account Bank” means each bank with whom Deposit Accounts are maintained in which any funds of any of the Loan Parties are maintained and with whom a Control Agreement has been, or is required to be, executed in accordance with the terms hereof.

“Core Business” means any material line of business conducted by Holdings and its Subsidiaries as of the Closing Date and any business reasonably related thereto.

“Credit Extension” means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

“Credit Product Arrangements” means, collectively, (a) Swap Contracts between any Loan Party and any Credit Product Provider and (b) Treasury Management and Other Services between any Loan Party and any Credit Product Provider.

“Credit Product Indemnitee” has the meaning specified in Section 9.13(a).

“Credit Product Obligations” means Indebtedness and other obligations of any Loan Party or any Subsidiary of a Loan Party arising under Credit Product Arrangements and owing to any Credit Product Provider; provided, that Credit Product Obligations shall not include Excluded Swap Obligations.

“Credit Product Provider” means (a) BMO or any of its Affiliates; and (b) any other Person who was a Lender at the time of entry into the applicable Credit Product Arrangement or an Affiliate of a Person who was a Lender at the time of entry into the applicable Credit Product Arrangement that is a provider under such Credit Product Arrangement, so long as such provider delivers written notice to Administrative Agent, in form and substance satisfactory to Administrative Agent, by the later of the Closing Date or the entering into of the applicable Credit Product Arrangement, (i) describing the Credit Product Arrangement and (ii) agreeing to be bound by Section 9.13.

“Cure Amount” has the meaning specified in Section 8.04.

“Cure Right” has the meaning specified in Section 8.04.

“Currency Exchange Rate” means, with respect to a currency, the rate reasonably determined in good faith by Administrative Agent as the spot rate for the purchase of such currency with another currency.

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

“Default” means any event or condition that, with the giving of any notice, the passage of time, or both, would unless cured or waived be an Event of Default.

“Default Rate” means (a) an interest rate equal to the rate of interest otherwise applicable hereunder plus 2% per annum, and (b) with respect to Letter of Credit Fees, the Letter of Credit Fee then in effect plus 2% per annum, in each case to the fullest extent permitted by applicable Laws.

“Defaulting Lender” means, subject to Section 2.17(b), any Lender that (a) has failed to fund all or any portion of its Loans or otherwise pay to Administrative Agent, the L/C Issuer, the Swing Line Lender or any other Lender any other amount required to be paid by it hereunder, in any case within two Business Days of the date such Loans were required to be funded or amounts required to be paid hereunder unless due to such Lender’s good faith determination that the conditions set forth in Section 4.02 have not been met, (b) has notified any Borrower, Administrative Agent, the L/C Issuer or the Swing Line Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect, unless due to such Lender’s good faith determination that the conditions set forth in Section 4.02 have not been met, (c) has failed, within three Business Days after written request by Administrative Agent or Borrower Agent, to confirm in writing to Administrative Agent and Borrower Agent that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by Administrative Agent and Borrower Agent), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets; provided, that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error.

“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property (including any Equity Interest), or part thereof, by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Disqualified Equity Interest” means any Equity Interest that (a) matures or is redeemable at the option of the holder thereof on or prior to the date that is 180 days after the later of (x) the Revolving Credit Maturity Date and (y) the Term Loan Maturity Date, (b) is convertible into or exchangeable for debt securities (unless only occurring at the sole option of the issuer thereof), or (c) (i) requires cash dividend payments (other than in respect of taxes) prior to, or (ii) provides the holders thereof with any rights to receive any cash upon the occurrence of a change of control or sale of assets prior to, in each case, the date that is 180 days after the later of (x) the Revolving Credit Maturity Date and (y) the Term Loan Maturity Date.

“Dollar Equivalent” means, as of any date of determination, the aggregate of (a) as to any amount denominated in U.S. Dollars, the amount thereof as of such date of determination, and (b) as to any amount denominated in another currency, the equivalent amount thereof in U.S. Dollars as determined by Administrative Agent on the basis of the Currency Exchange Rate for the purchase of U.S. Dollars with such currency in effect on such date of determination.

“Domestic Subsidiary” means any Subsidiary that is organized under the laws of any political subdivision of the United States (but excluding any territory or possession thereof) or any Canadian Subsidiary.

“Environmental Laws” means any and all applicable federal, state, provincial, local, and foreign statutes, laws (including common law), regulations, ordinances, rules, judgments, orders, decrees, permits, licenses, agreements or governmental restrictions or other applicable Laws relating to pollution or the protection of the environment or human health and safety or relating in any way to the natural or human environment (including land, surface, water, groundwater, and real, personal, movable and immovable property), public or occupational health and safety, the manufacture, importation, handling, use, re use, recycling, transportation, storage, disposal, elimination and treatment (or any other environmental activity) of a substance, hazardous or otherwise.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of a Loan Party or any of its Subsidiaries directly or indirectly resulting from or based upon (a) compliance with or violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract or agreement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in, including partnership, member or trust interests) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, and all of the other ownership or profit interests in such Person.

“ERISA” means the Employee Retirement Income Security Act of 1974.

“ERISA Affiliate” means any trade or business (whether or not incorporated) under common control with any Loan Party or a Subsidiary thereof within the meaning of section 414(b) or (c) of the Code (and sections 414(m) and (o) of the Code for purposes of provisions relating to Sections 412 and 430 through 436 of the Code and Section 302 through 305 and 4007 of ERISA).

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of any Loan Party, a Subsidiary thereof or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA 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) a complete or partial withdrawal by any Loan Party, a Subsidiary thereof or any ERISA Affiliate from a Multiemployer Plan or receipt by any Loan Party, a Subsidiary thereof or any ERISA Affiliate of notification that a Multiemployer Plan is in reorganization or that any Multiemployer Plan is insolvent or being terminated; (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination, each under Section 4041 or 4041A of ERISA; (e) the institution by the PBGC of proceedings to terminate a Pension Plan; (f) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a

trustee to administer, any Pension Plan; (g) the determination that any Pension Plan is considered an at-risk plan or a plan in endangered or critical status within the meaning of Sections 430, 431 and 432 of the Code or Sections 303, 304 and 305 of ERISA; or (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party, a Subsidiary thereof or any ERISA Affiliate; or (i) any failure by any Pension Plan to satisfy the minimum funding standards (within the meaning of Sections 412 or 430 of the Code or Section 302 of ERISA) applicable to such Pension Plan, whether or not waived.

“Eurodollar Rate” means the U.S. Eurodollar Rate for Eurodollar Rate Loans to U.S. Borrower and/or the Canadian CDOR Rate for Eurodollar Rate Loans to the Canadian Borrower.

“Eurodollar Rate Loan” means a Loan (or segment of a Loan) that bears interest at a rate based on the “U.S. Eurodollar Rate” for the U.S. Borrower or the “Canadian CDOR Rate” for the Canadian Borrower.

“Event of Default” has the meaning specified in Section 8.01.

“Event of Loss” means, with respect to any property, any of the following: (a) any loss, destruction or damage of such property or (b) any condemnation, seizure, or taking, by exercise of the power of eminent domain or otherwise, of such property by any Governmental Authority, or confiscation of such property or the requisition of the use of such property by any Governmental Authority.

“Exchange Act” means the Securities Exchange Act of 1934.

“Excess” has the meaning specified in Section 2.18(f).

“Excess Availability” means the sum of the undrawn Revolving Credit Commitments plus unrestricted cash available to the Borrowers.

“Excess Cash Flow” has the meaning specified in the Excess Cash Flow Certificate.

“Excess Cash Flow Certificate” means a certificate substantially in the form of Exhibit E.

“Excluded Account” means (i) any Deposit Account which is used solely (A) to fund payroll, 401(k) and other employee benefit plans, (B) as a withholding tax account or (C) as a trust or fiduciary account, and (ii) Deposit Accounts, Commodity Accounts and Securities Accounts maintained by the Loan Parties provided that the total amount on deposit at any one time in all such Deposit Accounts, Commodity Accounts and Securities Accounts pursuant to this clause (ii) does not exceed \$250,000.

“Excluded Issuances” means (i) in the event that Holdings or any of its Subsidiaries forms any Subsidiary in accordance with the terms hereof, the issuance by such Subsidiary of Equity Interests to Holdings or such Subsidiary, as applicable, (ii) the issuance of Equity Interests by Holdings to any Person that is an equity holder of Holdings prior to such issuance (a “Subject Holder”) so long as such Subject Holder did not acquire any Equity Interest of Holdings so as to become a Subject Holder concurrently with, or in contemplation of, the issuance of such Equity Interest to such Subject Holder, and so long as no Default or Event of Default is then in existence, (iii) the issuance of Equity Interests of Holdings constituting Permitted Cure Securities, (iv) the issuance of Equity Interests of Holdings to directors, officers and employees of Holdings and its Subsidiaries pursuant to employee stock option plans (or other employee incentive plans or other compensation arrangements) approved by the Board of Directors, (v) the issuance of Equity Interest of Holdings in order to finance the purchase consideration



(or a portion thereof) in connection with a Permitted Acquisition or Capital Expenditures, and (vi) the issuance of Equity Interests by a Subsidiary of Holdings to its parent or member in connection with the contribution by such parent or member to such Subsidiary of the proceeds of an issuance described in clauses (i) – (v) hereof).

“Excluded Swap Obligation” means, with respect to any Loan Party (other than the direct counterparty of such Swap Obligation), any Swap Obligation of a Loan Party (other than the direct counterparty of such Swap Obligation) if, and to the extent that, all or a portion of the Guarantee of such Loan Party of, or the grant by such Loan Party of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Party’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act at the time the Guarantee of such Loan Party or the grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof), (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by Borrower Agent under Section 10.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01 amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office, (c) United States federal withholding Taxes that would not have been imposed but for such Recipient’s failure to comply with Section 3.01(e) (except where the failure to comply with Section 3.01(e) was the result of a change in law, ruling, regulation, treaty, directive, or interpretation thereof by a Governmental Authority after the date the Recipient became a party to this Agreement or a participant in the Obligations) and (d) any U.S. federal withholding Taxes imposed under FATCA. Notwithstanding the foregoing, clauses (b) and (d) above shall not apply with respect to payments made by or on account of the Canadian Borrower.

“Executive Order” has the meaning specified in Section 5.15.

“Extraordinary Expenses” means all costs, expenses, liabilities or advances that Administrative Agent incurs during a Default or Event of Default, or during the pendency of a proceeding of any Loan Party under any Debtor Relief Laws, including those relating to (a) any audit, inspection, repossession, storage, repair, appraisal, insurance, manufacture, preparation or advertising for sale, sale, collection, or other preservation of or realization upon any Collateral; (b) any action, arbitration or other proceeding (whether instituted by or against Administrative Agent, any Lender, any Loan Party, any representative of creditors of a Loan Party or any other Person) in any way relating to any Collateral (including the validity, perfection, priority or avoidability of Administrative Agent’s Liens with respect to any Collateral), Loan Documents, Letters of Credit or Obligations, including any lender liability or other claims; (c) the exercise, protection or enforcement of any rights or remedies of Administrative Agent in, or the monitoring of, any proceeding applicable to any Loan Party under any Debtor Relief Laws;

(d) settlement or satisfaction of any taxes, charges or Liens with respect to any Collateral; (e) any enforcement action; and (f) negotiation and documentation of any modification, waiver, workout, restructuring or forbearance with respect to any Loan Documents or Obligations. Such costs, expenses and advances include transfer fees, Other Taxes, storage fees, insurance costs, permit fees, utility reservation and standby fees, legal fees, appraisal fees, brokers' fees and commissions, auctioneers' fees and commissions, accountants' fees, environmental study fees, wages and salaries paid to employees of any Loan Party or independent contractors in liquidating any Collateral, and travel expenses.

“Extraordinary Receipts” means any cash received by or paid to or for the account of any Loan Party or any Subsidiary not in the ordinary course of business (and not consisting of proceeds described in any of Section 2.06(b)(ii), (iii) or (iv)) including without limitation amounts received in respect of foreign, United States, state or local tax refunds to the extent not included in the calculation of Consolidated EBITDA, indemnity payments, purchase price adjustments pursuant to the Closing Date Acquisition Agreement and pension plan reversions; provided that Extraordinary Receipts shall exclude (i) any single or related series of amounts received in an aggregate amount less than \$250,000 and (ii) amounts to the extent that the amounts received are applied by such Loan Party for the purpose of (A) payment of (or reimbursement of payments made for) claims and settlements to third parties not an Affiliate of a Loan Party, or (B) otherwise covering any payments, claims, losses, damages, interest expenses, judgments, penalties, settlements, expenses, fees, reimbursement obligations, liabilities or other out of pocket expenses incurred by a Loan Party.

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

“Facility” means the Term Loan Facility and/or the Revolving Credit Facility, as the context may require.

“Facility Termination Date” means the date as of which Payment in Full of all Obligations has occurred.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to BMO on such day on such transactions as reasonably determined by Administrative Agent.

“Fee Letter” means the letter agreements, each dated as of July 6, 2015 among U.S. Borrower and Administrative Agent.

“Fiscal Month” means each fiscal month of Holdings and its Subsidiaries ending on or about the last day of each calendar month, as established by Holdings from time to time.

“Fiscal Quarter” means each fiscal quarter of Holdings and its Subsidiaries as established by Holdings from time to time.

“Fiscal Year” means each twelve Fiscal Month period of Holdings and its Subsidiaries, ending on December 31 of each year.

“Foreign Assets Control Regulations” has the meaning specified in Section 5.15.

“Foreign Government Scheme or Arrangement” has the meaning specified in Section 5.12(e).

“Foreign Lender” means a Lender that is not a U.S. Person.

“Foreign Plan” has the meaning specified in Section 5.12(e).

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

“Fraudulent Conveyance” has the meaning specified in Section 11.10.

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

“Fronting Exposure” means, at any time there is a Defaulting Lender that is a Revolving Lender, (a) with respect to the L/C Issuer, such Defaulting Lender’s Applicable Percentage of the outstanding L/C Obligations other than L/C Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Revolving Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swing Line Lender, such Defaulting Lender’s Applicable Percentage of Swing Line Loans other than Swing Line Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Revolving Lenders.

“Fund” means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“GAAP” means, in relation to any Person at any time, as applicable, (i) generally accepted accounting principles as in effect from time to time in the United States, consistently applied, or (ii) if such Person has adopted the International Financial Reporting Standards or companion Accounting Standards for Private Enterprises, accounting principals generally accepted in Canada as recommended in the Handbook of the Canadian Institution of Chartered Accountants or its successor, applied on a basis consistent with the most recent audited financial statements of such Person then such standards, in each case, subject to Sections 1.03(b) and 1.03(c) below.

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

“Guarantee” means, as to any Person, any (a) obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to

purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith; provided, that with respect to clause (b) of the preceding sentence, if the subject Indebtedness or other obligation is non-recourse, then the amount of such Guarantee shall be deemed to be the lower of the amount of such Guarantee determined pursuant to the foregoing terms of this sentence or the fair market value of the property subject to such Lien. The term "Guarantee" as a verb has a corresponding meaning.

"Guarantor" means Holdings, each Subsidiary Guarantor and each other Person that becomes a guarantor of all or part of the Obligations after the Closing Date pursuant to Section 6.12 of the Agreement or otherwise.

"Hazardous Materials" means all substances or wastes listed, defined or regulated pursuant to any Environmental Law as explosive, radioactive, hazardous, toxic or as pollutants and petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law or Governmental Authority.

"Holdco Notes" means Indebtedness of Holdings in an original principal amount of up to \$3,000,000 (together with capitalized interest, fees, costs and other amounts) incurred pursuant to the terms of the Note Purchase Agreement, dated as of the Closing Date, among Holdings and the entities from time to time party thereto as purchasers.

"Holdco Notes Subordination Agreement" means that certain Holdco Subordination and Intercreditor Agreement dated as of the date hereof among Administrative Agent, North Haven Credit Partners II L.P., as the initial purchaser under the Subordinated Indebtedness Documents and the Holdco Notes, and the Loan Parties with respect to the Holdco Notes.

"Holdings" has the meaning specified in the introductory paragraph hereto.

"Honor Date" has the meaning specified in Section 2.03(c)(i).

"Increase" has the meaning specified in Section 2.18(a).

"Increase Effective Date" has the meaning specified in Section 2.18(d).

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

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

(b) all direct or contingent obligations of such Person arising under (i) letters of credit (including standby and commercial), bankers' acceptances, bank guarantees and similar instruments or (ii) surety, customs, reclamation or performance bonds;

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

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade payables incurred in the ordinary course of business and not more than 120 days past due);

(e) indebtedness secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(f) obligations under Capital Leases and synthetic or other similar financing leases of such Person;

(g) all obligations of such Person with respect to the redemption, repayment or other repurchase or payment in respect of any Disqualified Equity Interest; and

(h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, to the extent such Indebtedness is recourse to such Person. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of any Capital Lease or synthetic or other similar financing lease as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date. The amount of any non-recourse indebtedness described in clause (e) above shall be limited to the fair market value of any property securing such indebtedness if less than the aggregate outstanding amount of such indebtedness.

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

“Indemnitees” has the meaning specified in Section 10.04(b).

“Information” has the meaning specified in Section 10.07.

“Intellectual Property” means all past, present and future: trade secrets, know-how and other proprietary information; trademarks, internet domain names, service marks, trade dress, trade names, business names, designs, logos, slogans (and all translations, adaptations, derivations and combinations of the foregoing) indicia and other source and/or business identifiers, and the goodwill of the business relating thereto and all registrations or applications for registrations which have heretofore been or may hereafter be issued thereon throughout the world; copyrights (including copyrights for computer programs) and copyright registrations or applications for registrations which have heretofore been or may hereafter be issued throughout the world and all tangible property embodying the copyrights, unpatented inventions (whether or not patentable); patent applications and patents; industrial design applications and registered industrial designs; license agreements related to any of the foregoing and income therefrom; books, records, writings, computer tapes or disks, flow diagrams, specification sheets,

computer software, source codes, object codes, executable code, data, databases and other physical manifestations, embodiments or incorporations of any of the foregoing; the right to sue for all past, present and future infringements of any of the foregoing; all other intellectual property; and all common law and other rights throughout the world in and to all of the foregoing.

“Intercreditor Agreement” means that certain subordination and intercreditor agreement among Administrative Agent, North Haven Credit Partners II L.P., as agent for the holders of Subordinated Indebtedness, and the Loan Parties dated as of the date hereof and in form and substance acceptable to Administrative Agent.

“Interest Payment Date” means, (a) as to any Eurodollar Rate Loan, (i) the last day of each Interest Period applicable to such Eurodollar Rate Loan; provided that if any Interest Period for a Eurodollar Loan is greater than three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates, (ii) with respect to the portion prepaid or converted, any date that a Term Loan is prepaid or converted, in whole or in part, and with respect to the portion repaid or converted, any date that a Revolving Loan is repaid or converted, in whole or in part, and in the case of repayment, only if such repayment is accompanied by a corresponding reduction of the Revolving Credit Commitment, and (iii) the Maturity Date with respect to such Loan; (b) as to any Base Rate Loan (including a Swing Line Loan), (i) the first day of each Fiscal Quarter with respect to interest accrued through the last day of the Fiscal Quarter ending immediately prior to such date, (ii) with respect to the portion prepaid or converted, any date that a Term Loan is prepaid or converted, in whole or in part, and with respect to the portion repaid or converted, any date that a Revolving Loan is repaid or converted, in whole or in part, and in the case of repayment, only if such repayment is accompanied by a corresponding reduction of the Revolving Credit Commitment, and (iii) the Maturity Date with respect to such Loan; and (c) as to any Swing Line Loan with a rate of interest equal to the Swing Line Lender’s Quoted Rate, the last day of the applicable Interest Period; provided, further, that interest accruing at the Default Rate shall be payable from time to time upon demand of Administrative Agent.

“Interest Period” means, (i) as to each Swing Line Loan with a rate of interest equal to the Swing Line Lender’s Quoted Rate, the period commencing on the date such Swing Line Loan is disbursed and ending, on the date that is one to five Business Days thereafter, and (ii) as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending, in each case, on the date one, two, three or six months thereafter, or if available to each applicable Lender, nine or twelve months thereafter, as selected by Borrower Agent in its Committed Loan Notice; provided that:

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

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

(c) no Interest Period shall extend beyond the Maturity Date for the Term Loan or Revolving Loan to which such Interest Period applies; and

(d) no Interest Period with respect to any portion of the Term Loan shall extend beyond a date on which Borrowers are required to make a scheduled payment of principal on the Term

Loan unless the sum of (a) the aggregate principal amount of the Term Loan that is Base Rate Loans *plus* (b) the aggregate principal amount of the Term Loan that is Eurodollar Loans with Interest Periods expiring on or before such date equals or exceeds the principal amount to be paid on the Term Loan on such payment date.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the ownership, purchase or other acquisition of capital stock or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment, less all returns of principal or equity thereon (and without adjustment by reason of the financial condition of such other Person) and shall, if made by the transfer or exchange of property other than cash, be deemed to have been made in an original principal or capital amount equal to the fair market value of such property at the time of such transfer or exchange.

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

“Issuer Documents” means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the L/C Issuer and any Borrower (or any other Loan Party) or in favor the L/C Issuer and relating to any such Letter of Credit.

“Laws” means, collectively, all international, foreign, Federal, state, provincial and local statutes, treaties, rules, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“L/C Advance” means each Revolving Lender’s funding of its participation in any L/C Borrowing in accordance with its Applicable Percentage.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Borrowing.

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

“L/C Exposure” means, at any time, for any Lender, such Lender’s Applicable Percentage of the total L/C Obligations at such time.

“L/C Issuer” means BMO and its Affiliates and/or any other Lender that, at the request of Borrowers and with the consent of Administrative Agent, agrees, in such Lender’s sole discretion, to become an L/C Issuer, each in its capacity as an issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder. At any time there is more than one L/C Issuer, all singular

references to the L/C Issuer shall mean any L/C Issuer, either L/C Issuer, each L/C Issuer, the L/C Issuer that has issued the applicable Letter of Credit, or both or all L/C Issuers, as the context may require.

“L/C Obligations” means, as at any date of determination, (a) the aggregate undrawn amount of all outstanding Letters of Credit, plus (b) the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“Lender” has the meaning specified in the introductory paragraph hereto and, as the context requires, includes the L/C Issuer and the Swing Line Lender.

“Lender Party” means (a) each Lender, (b) each Credit Product Provider to the extent it holds Credit Product Obligations and was a Lender or an Affiliate of a Lender when such Person provided Credit Product Arrangements to the Loan Parties, (c) Administrative Agent, (d) the L/C Issuer, (e) the Swing Line Lender (f) the Arrangers, (g) each Related Party entitled to indemnification under Section 10.04(b) hereof, and (h) the successors and assigns of each of the foregoing.

“Lender Party Expenses” has the meaning set forth in Section 10.04(a).

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

“Letter of Credit” means any standby or documentary letter of credit issued by L/C Issuer for the account of a Borrower, or any indemnity, guarantee, exposure transmittal memorandum or similar form of credit support issued by Administrative Agent or L/C Issuer for the benefit of a Borrower.

“Letter of Credit Application” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the L/C Issuer.

“Letter of Credit Expiration Date” means, with respect to any Letter of Credit, the day that is thirty days prior to the Revolving Credit Maturity Date then in effect (or, if such day is not a Business Day, the next preceding Business Day) or, to the extent such Letter of Credit is Cash Collateralized, such later date as may be permitted by Section 2.03(a)(vi) hereof.

“Letter of Credit Fees” means, collectively or individually as the context may indicate, the fees with respect to Letters of Credit described in Section 2.09(b).

“Letter of Credit Sublimit” means an amount equal \$2,000,000 or the Canadian Dollar Equivalent thereof. The Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Revolving Credit Commitments.

“License” means any license or agreement under which a Loan Party is granted any right to Intellectual Property in connection with any manufacture, marketing, distribution or disposition of Collateral, any use of assets or property or any other conduct of its business.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including



any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

“Loan” means an extension of credit under Article II in the form of a Revolving Loan, a Term Loan or a Swing Line Loan, including any Increases.

“Loan Account” has the meaning specified in Section 2.11(a).

“Loan Documents” means this Agreement, each Note, each Security Instrument, the Intercreditor Agreement, the Sponsor Equity Contribution Agreement, the Convertible Notes Subordination Agreement, the Holdco Notes Subordination Agreement, the Warrant Subordination Agreement and all other instruments and documents heretofore or hereafter executed or delivered to or in favor of any Lender or Administrative Agent in connection with the Loans made and transactions contemplated by this Agreement.

“Loan Obligations” means all Obligations other than amounts (including fees) owing by any Loan Party or any Subsidiary of any Loan Party pursuant to any Credit Product Arrangements.

“Loan Parties” means Borrowers, Holdings and the Subsidiary Guarantors, collectively.

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

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect on, the operations, business, assets, properties, liabilities (actual or contingent), or financial condition of the Loan Parties taken as a whole or the Loan Parties and their Subsidiaries, taken as a whole; (b) a material impairment of the ability of the Loan Parties taken as a whole to perform their payment obligations under any Loan Document; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party or on the ability of Administrative Agent to collect any material portion of the Obligations or realize upon any material portion of the Collateral.

“Material License” has the meaning specified in Section 6.05(d).

“Maturity Date” means either of the Revolving Credit Maturity Date or the Term Loan Maturity Date.

“Maximum Rate” has the meaning specified in Section 10.09.

“Measurement Period” means, at any date of determination, the most recently completed twelve (12) consecutive Fiscal Months of Holdings and its Subsidiaries for which financial statements have or should have been delivered in accordance with Section 6.01(a), 6.01(b) or 6.01(c).

“Minimum Collateral Amount” means, at any time, (a) with respect to Cash Collateral consisting of cash or Deposit Account balances provided to reduce or eliminate Fronting Exposure, an amount equal to 105% of the Fronting Exposure of the L/C Issuer with respect to Letters of Credit issued and outstanding at such time, (b) with respect to Cash Collateral consisting of cash or Deposit Account balances provided in accordance with the provisions of Section 2.16(a)(i) or 2.16(a)(ii), an amount equal to 105% of the Outstanding Amount of all L/C Obligations, and (c) otherwise, an amount determined by Administrative Agent and the L/C Issuer in their sole discretion.

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.

“Mortgaged Property” means the Real Estate of the Loan Parties required from time to time to be subject to a Mortgage pursuant to the terms of the Loan Documents.

“Mortgages” means the mortgages, leasehold mortgages, deeds of trust, leasehold deeds of trust or deeds to secure debt executed by any Loan Party on or about the Closing Date, or from time to time thereafter in favor of Administrative Agent, for the benefit of the Lender Parties, by which such Loan Party has granted to Administrative Agent, as security for the Obligations, a Lien upon the Mortgaged Property described therein.

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which any Loan Party, a Subsidiary thereof or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Multiple Employer Plan” means a Plan which has two or more contributing sponsors (at least one of which is a Loan Party, a Subsidiary thereof or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

“Net Cash Proceeds” means, with respect to any transaction or event, an amount equal to the cash proceeds received by any Loan Party (or any Subsidiary) from or in respect of such transaction or event (including deferred payments and cash proceeds of any non-cash proceeds of such transaction), less (a) any out-of-pocket expenses paid to an unaffiliated Person that are reasonably incurred by such Loan Party or Subsidiary in connection therewith and (b) in the case of a Disposition or Event of Loss, the amount of any Indebtedness secured by a Lien on the related asset and discharged from the proceeds of such Disposition or Event of Loss, any taxes paid or reasonably estimated by the applicable Loan Party or Subsidiary to be payable by such Person in respect of such Disposition (provided, that if the actual amount of taxes paid is less than the estimated amount, the difference shall immediately constitute Net Cash Proceeds).

“Non-Consenting Lender” has the meaning specified in Section 10.01.

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

“Non-Extension Notice Date” has the meaning specified in Section 2.03(b)(iii).

“Note” means any or all of the Revolving Loan Notes and/or the Term Loan Notes, as applicable.

“Obligations” means (a) all amounts owing by any Loan Party to Administrative Agent, any Lender or any other Lender Party pursuant to or in connection with this Agreement or any other Loan Document or otherwise with respect to any Loan or Letter of Credit, including without limitation, all principal, interest (including any interest accruing after the filing of any petition in bankruptcy or the commencement of any proceeding under any Debtor Relief Law relating to any Loan Party, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), all reimbursement obligations, fees, expenses, indemnification and reimbursement payments, costs and expenses (including all fees and expenses of counsel to Administrative Agent incurred and payable by the Loan Parties pursuant to this Agreement or any other Loan Document), whether direct or indirect, absolute or contingent, liquidated or unliquidated, now existing or hereafter arising hereunder or thereunder, together

with all renewals, extensions, modifications or refinancings thereof and (b) all Credit Product Obligations; provided, that Obligations shall not include Excluded Swap Obligations.

“Organization Documents” means, as applicable with respect to any Person, its certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); its certificate or articles of formation or organization and operating agreement; or its partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization.

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document.

“Outstanding Amount” means, as applicable, the aggregate outstanding principal amount of Revolving Loans, Swing Line Loans and/or Term Loans on any date after giving effect to any Borrowings, prepayments or repayments thereof occurring on such date, and with respect to any L/C Obligations, the aggregate outstanding amount of such L/C Obligations on any date after giving effect to any L/C Credit Extension or other changes in the aggregate amount of the L/C Obligations occurring on such date.

“Overnight Rate” means, for any day, with respect to any amount denominated in U.S. Dollars or Canadian Dollars, as applicable, the greater of (a) the Federal Funds Rate and (b) an overnight rate determined by Administrative Agent, the L/C Issuer, or the Swing Line Lender, as the case may be, in accordance with banking industry rules on interbank compensation.

“Parent” means Tapp Label Parent Holding Company, LLC, a Delaware limited liability company.

“Participant” has the meaning specified in clause (d) of Section 10.06.

“Participant Register” has the meaning specified in clause (d) of Section 10.06.

“Payment in Full” or “Payment in Full of the Obligations” means (a) the payment in full in cash of all Loan Obligations (other than contingent indemnification claims for which no claim has been asserted), together with all accrued and unpaid interest and fees thereon, other than L/C Obligations that have been fully Cash Collateralized, (b) the Commitments shall have terminated or expired, (c) the obligations and liabilities of each Loan Party under all Credit Product Arrangements constituting Obligations, to the extent such obligations and liabilities are outstanding as of the date clauses (a) and (b) preceding have been satisfied and the amount of such obligations and liabilities has been provided to Administrative Agent and Borrower Agent in writing by the applicable Credit Product Provider on or prior to such date, shall have been paid and satisfied in full or fully Cash Collateralized (other than contingent indemnification claims for which no claims has been asserted), and (d) all claims of the Loan Parties against any Lender Party arising on or before the payment date shall have been released on terms reasonably acceptable to Administrative Agent.

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Act” means the Pension Protection Act of 2006.

“Pension Funding Rules” means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and Multiemployer Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Section 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA, and any sections of the Code or ERISA related thereto that are enacted after the date of this Agreement.

“Pension Plan” means any employee pension benefit plan (including a Multiple Employer Plan or a Multiemployer Plan) that is maintained or is contributed to by any Loan Party, a Subsidiary thereof or any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code.

“Permitted Acquisition” means any Acquisition by a Loan Party (other than Holdings) so long as:

(a) such Acquisition shall be structured as (1) an asset acquisition by a Loan Party of all or substantially all of the assets of the Person whose assets are being acquired (or all or substantially all of a line or lines of business of such Person), (2) a merger of the Person to be acquired and into a Loan Party, with such Loan Party as the surviving corporation in such merger, or (3) a purchase of no less than 100% of the equity interests of the Person to be acquired by a Loan Party;

(b) the Person to be (or whose assets are to be) acquired does not oppose such Acquisition, such Acquisition shall be consummated in accordance with the terms of the agreements and documents related thereto, in material compliance with all applicable Laws, and the line or lines of business of the Person to be acquired constitute Core Businesses;

(c) no Default or Event of Default shall have occurred and be continuing either immediately prior to or immediately after giving effect to such Acquisition;

(d) the cost of such Acquisition (including cash and other property (other than Equity Interests or options to acquire Equity Interests of Holdings) given as consideration, any Indebtedness incurred, assumed or acquired by any Loan Party or any Subsidiary in connection with such Acquisition, and the maximum amount of all additional purchase price consideration in the form of earnouts and other similar contingent obligations) does not exceed \$10,000,000 or the Canadian Dollar Equivalent thereof individually and \$20,000,000 or the Canadian Dollar Equivalent thereof when aggregated with all other Acquisitions consummated during the term of this Agreement;

(e) after giving pro forma effect to such Acquisition (including the payment of cash and other property given as consideration, any Indebtedness incurred, assumed or acquired by any Loan Party or any Subsidiary in connection with such Acquisition, the maximum amount of all additional purchase price consideration in the form of earnouts and other similar contingent obligations, and all fees expenses and transaction costs incurred in connection therewith), (i) the Loan Parties shall be in compliance on a pro forma basis with the financial covenants set forth in Section 7.12 (after decreasing the then applicable compliance levels by 0.25 each, in the case of Section 7.12(a)) recomputed for the most recently ended month for which information is available regarding the business being acquired, (ii) the Loan Parties shall have on a pro forma basis a Consolidated Total Net Leverage Ratio of not greater than 4.75:1.00, (iii) the Loan Parties shall have on a pro forma basis a Consolidated Senior Net Leverage Ratio of not greater than 3.00:1.00, and (iv) the lesser of the Revolving Credit Commitment plus Qualified Cash shall exceed Revolving Credit Outstandings by an amount that is equal to or greater than \$5,000,000 or the Canadian Dollar Equivalent thereof;

(f) with respect to any such Acquisition with a cost in excess of \$2,000,000, Borrower Agent shall have furnished Administrative Agent with ten (10) days' (or such shorter period as may be agreed by Administrative Agent) prior written notice of such intended Acquisition and shall have furnished Administrative Agent with a current draft of the applicable acquisition documents (and final copies thereof as and when executed) and a due diligence package, reasonably satisfactory to Administrative Agent, which package shall include, without limitation, the following with regard to the Acquisition: (1) a pro forma balance sheet and pro forma financial projections (each, after giving effect to such Acquisition) for Holdings and its Subsidiaries for the twelve (12) month period following such Acquisition (prepared on a monthly basis) and the subsequent two Fiscal Years or through the remaining term of this Agreement; (2) appraisals (if existing); (3) historical financial statements of the Person to be (or whose assets are to be) acquired for the three fiscal years prior to such Acquisition (or, if such Person has not been in existence for three years, for each year such Person has existed); (4) a description of the method of financing the Acquisition, including sources and uses; (5) locations of all material personal and real property of such Person, including the location of its chief executive office; (6) pro forma updated schedules to each of the Loan Documents such that each such schedule will be true, correct and complete with respect to such Person after giving effect to the proposed Permitted Acquisition and without regard to any reference to the Closing Date set forth in any representation or warranty contained in any Loan Document; (7) such environmental audits and other related materials as have been made available to any Loan Party with respect to the proposed Permitted Acquisition; (8) a quality of earnings report to the extent one is prepared (it being agreed that the materials described in the foregoing clauses (6), (7) and (8) are required to be reasonably satisfactory to Administrative Agent) and (9) any material due diligence investigation with respect to such Acquisition reasonably required by Administrative Agent;

(g) Borrower Agent shall have furnished to Administrative Agent at least five (5) Business Days prior to the date on which any such Acquisition is to be consummated or such shorter time as Administrative Agent may allow, a certificate of a Responsible Officer of Borrower Agent, in form and substance reasonably satisfactory to Administrative Agent, (i) certifying that all of the requirements for a Permitted Acquisition will be satisfied on or prior to the consummation of such Acquisition and (ii) a reasonably detailed calculation of item (e) above (and such certificate shall be updated as necessary to make it accurate as of the date the Acquisition is consummated);

(h) at or prior to the closing of any such proposed Permitted Acquisition, Administrative Agent will be granted a first priority perfected Lien (subject to Permitted Liens) in substantially all assets acquired pursuant thereto or, to the extent required by Section 6.12 and the other Loan Documents, in the assets and Equity Interests of the Person being acquired, and the Loan Parties and such Person shall have executed such documents and taken such actions as may be reasonably required by Administrative Agent in connection therewith (including the delivery of (A) certified copies of the resolutions of the board of directors (or comparable governing board) of Holdings, its Subsidiaries and such Person authorizing such Permitted Acquisition and the granting of Liens described herein, (B) legal opinions, in form and substance reasonably acceptable to Administrative Agent, with respect to the transactions described herein and (C) evidence of insurance of the business to be acquired consistent with the requirements of Section 5.10); and

(i) such Permitted Acquisition shall involve assets (i) principally located in the United States or Canada (and, in connection with the acquisition of the Equity Interests of a Person being acquired, such Person shall be organized under the laws of a state within the United States or a province within Canada) and (ii) comprising a business which would not subject Administrative Agent or any Lender to regulatory or third party approvals attributable to such Lender in connection with the exercise of its rights and remedies under this Agreement or any other Loan Documents other than approvals applicable to the exercise of such rights and remedies with respect to Borrowers prior to such proposed Permitted Acquisition.

“Permitted Cure Security” means an equity security other than a Disqualified Equity Interest.

“Permitted Liens” has the meaning specified in Section 7.02.

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

“Plan” means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan), maintained for employees of any Loan Party or any such plan to which any Loan Party is required to contribute (including any Pension Plan which any ERISA Affiliate maintains, or is required to contribute to) on behalf of any of its employees.

“Platform” has the meaning specified in Section 10.02(c).

“Properly Contested” means with respect to any obligation of a Loan Party or any Subsidiary of a Loan Party, (a) the obligation is subject to a bona fide dispute regarding amount or such Loan Party’s liability to pay; (b) the obligation is being properly contested in good faith by appropriate proceedings promptly instituted and diligently pursued; (c) appropriate reserves have been established in accordance with GAAP; (d) non-payment could not reasonably be expected to have a Material Adverse Effect, nor result in forfeiture or sale of any assets of a Loan Party; (e) no Lien (other than an inchoate Lien) is imposed on assets of a Loan Party, unless bonded and stayed to the satisfaction of Administrative Agent; and (f) if the obligation results from entry of a judgment or other order, such judgment or order is stayed pending appeal or other judicial review.

“Purchase Agreement” means that certain Asset Purchase Agreement dated as of April 30, 2015, as amended, between ML Acquisition Company, LLC and ML Acquisition Company Canada Inc. and the Target pursuant to which the U.S. Borrower, as successor by assignment from ML Acquisition Company, LLC, and the Canadian Borrower, f/k/a ML Acquisition Company Canada Inc., will acquire assets of the Target on the Closing Date.

“Purchase Agreement Representations” means the representations regarding the Target and its Subsidiaries in the Purchase Agreement.

“Qualified Cash” means cash of any Loan Party on deposit in a Deposit Account subject to a Control Agreement, in an aggregate amount not to exceed \$3,000,000 or the Canadian Dollar Equivalent thereof.

“Qualified ECP Guarantor” means, in respect of any Swap Obligation, each Loan Party that has total assets exceeding \$10,000,000 or the Canadian Dollar Equivalent thereof at the time the relevant Guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other person as constitutes an “eligible contract participant” under the Commodity Exchange Act and can cause another person to qualify as an “eligible contract participant” at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“Real Estate” means all land, together with the buildings, structures, parking areas, and other improvements thereon, now or hereafter owned by any Loan Party, including all easements, rights-of-way, and similar rights appurtenant thereto and all leases, tenancies, and occupancies thereof.

“Recipient” means (a) Administrative Agent, (b) any Lender, (c) any L/C Issuer or (d) or any other recipient of any payment to be made by or on account of any obligation of any Loan Party under any Loan Document, as applicable.

“Register” has the meaning specified in Section 10.06(c).

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

“Request for Credit Extension” means (a) with respect to a Borrowing, conversion or continuation of Loans, a Committed Loan Notice, (b) with respect to an L/C Credit Extension, a Letter of Credit Application, and (c) with respect to a Swing Line Loan, a Swing Line Loan Notice.

“Required Lenders” means, as of any date of determination, Lenders holding more than 50% of the sum of (a) Total Outstandings and (b) aggregate unused Commitments; but if at least two unaffiliated Lenders exist, Required Lenders must include at least two unaffiliated Lenders. The unused Commitments of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“Responsible Officer” means, with respect to each Loan Party, the chief executive officer, president, chief financial officer, treasurer or controller of such Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“Restricted Payment” means (a) any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of Holdings or any Subsidiary, (b) 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 capital stock or other Equity Interest, or on account of any return of capital to a Loan Party’s or its Subsidiaries’ stockholders, partners or members (or the equivalent Person thereof), or (c) any payment of management, consulting, monitoring, advisory or similar fees to any board member or holder of any capital stock or other Equity Interest of Holdings or any Subsidiary or any Affiliate of any such board member or holder.

“Reviewed Financial Statements” means (i) the reviewed consolidated balance sheet of Metro Label California Ltd. for the Fiscal Year ended June 30, 2014, and the related consolidated statements of income or operations, retained earnings and cash flows for such Fiscal Year and (ii) the reviewed consolidated balance sheet of Metro Label Pacific Ltd. for the Fiscal Year ended June 30, 2014, and the related consolidated statements of income or operations, retained earnings and cash flows for such Fiscal Year.

“Revolving Borrowing” means a borrowing consisting of simultaneous Revolving Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period, made by each of the Revolving Lenders pursuant to Section 2.01(a).

“Revolving Credit Commitment” means each of the U.S. Revolving Credit Commitment and the Canadian Revolving Credit Commitment.

“Revolving Credit Facility” means the facility described in Sections 2.01(a), 2.03 and 2.04 providing for Revolving Loans, Letters of Credit and Swing Line Loans to or for the benefit of Borrowers by the Revolving Lenders, L/C Issuer and Swing Line Lender, as the case may be, in the maximum aggregate principal amount at any time outstanding of \$7,000,000, as adjusted from time to time pursuant to the terms of this Agreement.

“Revolving Credit Maturity Date” means July 6, 2020.

“Revolving Credit Outstandings” means, with respect to any Lender at any time, the sum of the Outstanding Amount of such Lender’s Revolving Loans and its L/C Exposure and Swing Line Exposure at such time.

“Revolving Credit Termination Date” means the earliest of (a) the Revolving Credit Maturity Date, (b) the date of termination of the Aggregate Revolving Credit Commitments pursuant to Section 2.07(a), and (c) the date of termination of the commitment of each Lender to make Loans and of the obligation of the L/C Issuer to make L/C Credit Extensions pursuant to Section 8.02.

“Revolving Lender” means each U.S. Revolving Lender and each Canadian Revolving Lender.

“Revolving Loan” means each of the U.S. Revolving Loan and the Canadian Revolving Loans.

“Revolving Loan Note” means a promissory note made by the relevant Borrower in favor of a Revolving Lender evidencing Revolving Loans made by such Revolving Lender, substantially in the form of Exhibit C-1.

“Royalties” means all royalties, fees, expense reimbursement and other amounts payable by a Loan Party under a License.

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

“Sale and Leaseback Transaction” means, with respect to any Person (the “*obligor*”), any Contractual Obligation or other arrangement with any other Person (the “*counterparty*”) consisting of a lease by such obligor of any property that, directly or indirectly, has been or is to be sold by the obligor to such counterparty or to any other Person to whom funds have been advanced by such counterparty based on a Lien on, or an assignment of, such property or any obligations of such obligor under such lease.

“SEC” means the Securities and Exchange Commission.

“Security Agreement” means the Pledge and Security Agreement dated as of the date hereof by the Loan Parties and Administrative Agent for the benefit of the Lender Parties.

“Security Instruments” means, collectively or individually as the context may indicate, the Security Agreement, the Control Agreements, the Mortgages, all security agreements pertaining to Intellectual Property, any landlord lien waiver, warehouseman’s or bailee’s letter or similar agreement and all other agreements, instruments and other documents, whether now existing or hereafter in effect,



pursuant to which any Loan Party or other Person shall grant or convey to Administrative Agent or the Lenders a Lien in property as security for all or any portion of the Obligations.

“Settlement Date” has the meaning provided in Section 2.14(a).

“Solvent” means, as to any Person, such Person (a) owns property or assets whose fair salable value is greater than the amount required to pay all of its debts (including contingent, subordinated, unmatured and unliquidated liabilities); (b) owns property or assets whose present fair salable value (as defined below) is greater than the probable total liabilities (including contingent, subordinated, unmatured and unliquidated liabilities) of such Person as they become absolute and matured; (c) is able to pay all of its debts as they mature; (d) has capital that is not unreasonably small for its business and is sufficient to carry on its business and transactions and all business and transactions in which it is about to engage; (e) is not “insolvent” within the meaning of Section 101(32) of the Bankruptcy Code; (f) is not an “insolvent person” within the meaning of the Bankruptcy and Insolvency Act (Canada), as applicable; and (g) has not incurred (by way of assumption or otherwise) any obligations or liabilities (contingent or otherwise) under any Loan Documents, or made any conveyance in connection therewith, with actual intent to hinder, delay or defraud either present or future creditors of such Person or any of its Affiliates. “Fair salable value” means the amount that could be obtained for assets within a reasonable time, either through collection or through sale under ordinary selling conditions by a capable and diligent seller to an interested buyer who is willing (but under no compulsion) to purchase. For purposes hereof, the amount of all contingent liabilities at any time shall be computed as the amount that, in light of all the facts and circumstances existing at the time, can reasonably be expected to become an actual or matured liability.

“Specified Representations” means those representations and warranties made by the Loan Parties in Sections 5.01(a), 5.01(b)(ii), 5.02, 5.03, 5.04(d), 5.05(a), 5.13, 5.15(b) and 5.21.

“Sponsor” means The Stephen Adams Living Trust.

“Sponsor Convertible Notes” means Indebtedness of Holdings to Sponsor in an original principal amount of \$22,000,000 (together with capitalized interest, fees, costs and other amounts) incurred pursuant to the Convertible Note Payable dated as of the Closing Date.

“Sponsor Equity Contribution Agreement” means that certain Sponsor Equity Contribution Agreement dated as of the date hereof among North Haven Credit Partner II L.P., Holdings, U.S. Borrower, Canadian Borrower, Sponsor and Administrative Agent.

“Subordinated Indebtedness” means Indebtedness of any one or more of Loan Parties in an original principal amount of \$20,700,000 (together with capitalized interest, fees, costs and other amounts) incurred pursuant to the terms of the Subordinated Indebtedness Documents.

“Subordinated Indebtedness Documents” means the Subordinated Note Purchase Agreement, dated as of the Closing Date, among the U.S. Borrower, Canadian Borrower, Holdings North Haven Credit Partners II, L.P., and certain other investors from time to time party thereto, any notes issued thereunder, any guaranties thereof, and any other instruments and agreements evidencing the terms of the Subordinated Indebtedness.

“Subordination Provisions” has the meaning specified in Section 8.01(l).

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity (but not a representative office of such Person) of which a majority of

the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person and in any event, including any other Person the accounts of which would be consolidated with such Person in accordance with GAAP as of the date of determination. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of Holdings.

“Subsidiary Guarantor” and “Subsidiary Guarantors” means each Subsidiary that becomes a Guarantor of all or a part of the Obligations after the Closing Date pursuant to Section 6.12 of the Agreement or otherwise.

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, (b) a “swap agreement” as that term is defined in Section 101(53B)(A) of the Bankruptcy Code, and (c) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “*Master Agreement*”), including any such obligations or liabilities under any Master Agreement.

“Swap Obligation” means, with respect to any Loan Party, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

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

“Swing Line” means the revolving credit facility made available by the Swing Line Lender pursuant to Section 2.04.

“Swing Line Borrowing” means a borrowing of a Swing Line Loan pursuant to Section 2.04.

“Swing Line Exposure” means, at any time, the Outstanding Amount of all Swing Line Loans outstanding at such time. The Swing Line Exposure of any Lender at any time shall be its Applicable Percentage of the total Swing Line Exposure at such time.

“Swing Line Lender” means BMO in its capacity as provider of Swing Line Loans, or any successor swing line lender hereunder.

“Swing Line Lender’s Quoted Rate” has the meaning specified in Section 2.04(b).

“Swing Line Loan” has the meaning specified in Section 2.04(a).

“Swing Line Loan Notice” means a notice of a Swing Line Borrowing pursuant to Section 2.04(b), which, if in writing, shall be substantially in the form of Exhibit B.

“Swing Line Sublimit” means an amount equal to \$2,000,000 or the Canadian Dollar Equivalent thereof. The Swing Line Sublimit is part of, and not in addition to, the Aggregate Revolving Credit Commitments.

“Target” means Metro Label Company Ltd., an Ontario corporation, Metro Label California Ltd., a California corporation, and Metro Label Pacific Ltd., a British Columbia corporation.

“Tax Distribution” has the meaning specified in Section 7.06(e).

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

“Term Lender” means each Lender that has a Term Loan Commitment or, following termination of the Term Loan Commitments, has Term Loans outstanding.

“Term Loan” means a U.S. Base Rate Loan or a Canadian Base Rate Loan, as applicable.

“Term Loan Commitment” means the U.S. Term Loan Commitment and the Canadian Term Loan Commitment.

“Term Loan Facility” means U.S. Term Loan Facility and the Canadian Term Loan Facility.

“Term Loan Maturity Date” means July 6, 2020.

“Term Loan Note” means a promissory note made by U.S. Borrower or Canadian Borrower, as applicable in favor of a U.S. Term Lender or Canadian Term Lender evidencing U.S. Term Loans or Canadian Term Loans made by such U.S. Term Lender or Canadian Term Lender, as applicable, substantially in the form of Exhibit C-2.

“Total Outstandings” means the Outstanding Amount of all Loans and L/C Obligations.

“Total Revolving Credit Outstandings” means, without duplication, the aggregate Outstanding Amount of all Revolving Loans, Swing Line Loans and L/C Outstandings at such time.

“Trading With the Enemy Act” has the meaning specified in Section 5.15.

“Transaction” means, individually or collectively as the context may indicate, (a) the incurrence of the Subordinated Indebtedness, (b) the incurrence of the Indebtedness under the Holdco Notes, (c) the Closing Date Acquisition and (d) the entering by Borrowers of the Loan Documents to which they are a party and the funding of the Revolving Credit Facility and the Term Loan Facility.

“Treasury Management and Other Services” means (a) all arrangements for the delivery of treasury management services, (b) all commercial credit card, purchase card and merchant card services; and (c) all other banking products or services, other than Letters of Credit and Swap Contracts, in each case, to or for the benefit of any Loan Party or a Subsidiary of a Loan Party which are entered into or maintained with a Lender or Affiliate of a Lender and which are not prohibited by the express terms of the Loan Documents.

“Type” means, with respect to a Loan, its character as a Base Rate Loan or a Eurodollar Rate Loan.

“UCC” means the Uniform Commercial Code as in effect from time to time in the State of New York; provided that if, with respect to any financing statement or by reason of any mandatory provisions of law, the perfection or the effect of perfection or non-perfection of any security interests granted to Administrative Agent pursuant to any applicable Loan Document is governed by the Uniform Commercial Code as in effect in a jurisdiction of the United States other than New York, the term “UCC” shall also include the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of this Agreement, each Loan Document and any financing statement relating to such perfection or effect of perfection or non-perfection.

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

“Unreimbursed Amount” has the meaning specified in Section 2.03(c)(i).

“Unused Fee” has the meaning specified in Section 2.09(a).

“U.S. Base Rate” means, for any day, a fluctuating rate per annum equal to the highest of (a) the rate of interest announced by BMO from time to time as its prime rate, or its equivalent for U.S. Dollar loans to borrowers located in the United States, for such day (whether or not the lowest rate offered by BMO and with any change in such rate announced by BMO taking effect at the opening of business on the day specified in the public announcement of such change); (b) the Federal Funds Rate for such day, plus 0.50%; (c) the Eurodollar Rate, calculated for such day for an Interest Period of one month plus 1.00%; and (d) 1.00%.

“U.S. Borrower” has the meaning specified in the introductory paragraph hereto.

“U.S. Dollar” and “\$” mean lawful money of the United States.

“U.S. Eurodollar Rate” means for any Interest Period with respect to a Eurodollar Rate Loan, a rate per annum determined by Administrative Agent pursuant to the following formula:

$$\text{Eurodollar Rate} = \frac{\text{Eurodollar Base Rate}}{1.00 - \text{Reserve Percentage}}$$

Where,

“Eurodollar Base Rate” means, for such Interest Period, the higher of (a) the rate per annum equal to the ICE Benchmark Administration (or the successor thereto if the ICE Benchmark Administration is no longer making the LIBOR Rate available) LIBOR Rate (“*ICE LIBOR*”), as published by Reuters (or other commercially available source providing quotations of ICE LIBOR as designated by Administrative Agent from time to time) at approximately 11:00 a.m., London time, two London Banking Days prior to the commencement of such Interest Period, for U.S. Dollar deposits (for delivery on the first

day of such Interest Period) with a term equivalent to such Interest Period; provided that if such rate is not available at such time for any reason, then the "Eurodollar Base Rate" for such Interest Period shall be the rate per annum determined by Administrative Agent to be the rate at which deposits in U.S. Dollars for delivery on the first day of such Interest Period in immediately available funds in the approximate amount of the Eurodollar Rate Loan being made, continued or converted and with a term equivalent to such Interest Period would be offered by such other authoritative source (as is selected by Administrative Agent in its sole reasonable discretion) to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two London Banking Days prior to the commencement of such Interest Period, and (b) 1.00% per annum.

"Eurodollar Reserve Percentage" means, for any day during any Interest Period, the reserve percentage (expressed as a decimal, carried out to five decimal places) in effect on such day, whether or not applicable to any Lender, under regulations issued from time to time by the FRB for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to Eurocurrency funding. The Eurodollar Rate for each outstanding Eurodollar Rate Loan shall be adjusted automatically as of the effective date of any change in the Eurodollar Reserve Percentage.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"U.S. Revolving Credit Commitment" means, as to each U.S. Revolving Lender, its obligation to (a) make Revolving Loans to U.S. Borrower in U.S. Dollars pursuant to Section 2.01(a), (b) purchase participations in L/C Obligations denominated in U.S. Dollars, and (c) purchase participations in Swing Line Loans denominated in U.S. Dollars, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such U.S. Revolving Lender's name on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

"U.S. Revolving Lender" means each Lender that has a U.S. Revolving Credit Commitment or, following termination of the U.S. Revolving Credit Commitments, has Revolving Loans denominated in U.S. Dollars outstanding or participations in outstanding Letters of Credit and/or Swing Line Loans denominated in U.S. Dollars.

"U.S. Revolving Loan" means a Base Rate Loan or a Eurodollar Rate Loan made to U.S. Borrower pursuant to Section 2.01(a) or any Increase pursuant to Section 2.18.

"U.S. Term Borrowing" means a borrowing consisting of simultaneous U.S. Term Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period, made by each of the U.S. Term Lenders pursuant to Section 2.01(b).

"U.S. Term Lender" means each Lender that has a U.S. Term Loan Commitment or, following termination of the U.S. Term Loan Commitments, has U.S. Term Loans outstanding.

"U.S. Term Loan" means a Base Rate Loan or a Eurodollar Rate Loan made to Borrowers pursuant to Section 2.01(b) or any Increase under an incremental term facility pursuant to Section 2.18.

“U.S. Term Loan Commitment” means, as to each U.S. Term Lender, its obligation to make U.S. Term Loans to U.S. Borrower on the Closing Date pursuant to Section 2.01(b)(i) in an aggregate original principal amount equal to the amount set forth opposite such U.S. Term Lender’s name on Schedule 2.01.

“U.S. Term Loan Facility” means the facility described in Section 2.01(b)(i), providing for U.S. Term Loans to U.S. Borrower by the U.S. Term Lenders in the original aggregate principal amount of \$19,716,500.

“Warrant” means that certain Warrant issued by Holdings to NH Tapp Inc. on the Closing Date.

“Warrant Subordination Agreement” means that certain Warrant Subordination Agreement dated as of the date hereof among Administrative Agent, NH Tapp, Inc. and the Loan Parties with respect to the Warrant.

**1.02. Other Interpretive Provisions.** With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to any restrictions on assignment set forth herein or in any other Loan Document), (iii) the words “herein,” “hereof” and “hereunder,” and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

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

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

### 1.03. Accounting Terms.

(a) **Generally.** All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, except as otherwise specifically prescribed herein.

(b) **Changes in GAAP.** If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either Borrower Agent, Administrative Agent or the Required Lenders shall so request, Administrative Agent, the Lenders and Borrower Agent shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) Borrower Agent shall provide to Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

(c) **Pro Forma Calculations.** Any pro forma calculation of the financial covenants set forth in Section 7.12 hereof shall be made as if all Indebtedness incurred or Acquisitions or Dispositions of a Subsidiary or business segment made prior to the time of such measurement had been incurred or made, as applicable, on the first day of the Measurement Period most recently ended for which Borrower Agent has delivered (or was required to deliver) financial statements pursuant to Sections 6.01(a), 6.01(b) or 6.01(c). All defined terms used in the calculation of the financial covenants set forth in Section 7.12 hereof shall be calculated on a historical pro forma basis giving effect, during any Measurement Period that includes any Permitted Acquisition, to the actual historical results of the Person or line of business so acquired and which amounts shall include adjustments as contemplated by the Pro Forma Acquisition EBITDA definition set forth on the Compliance Certificate.

(d) In computing financial ratios and other financial calculations of Holdings and its Subsidiaries required to be submitted pursuant to this Agreement, all Indebtedness shall be calculated at par value irrespective of whether the Borrowers have elected the fair value option pursuant to FASB Interpretation No. 159 – The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115 (February 2007).

**1.04. Uniform Commercial Code.** As used herein, the following terms are defined in accordance with the UCC in effect in the State of New York from time to time: “Chattel Paper,” “Commodity Account,” “Commodity Contract,” “Deposit Account,” “Documents,” “General Intangible,” “Instrument,” “Inventory,” and “Securities Account.”

**1.05. Rounding.** Any financial ratios required to be maintained by Borrowers pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

**1.06. Foreign Currency.** Transactions with Foreign Subsidiaries permitted hereunder that are denominated in U.S. Dollars shall be deemed to be the dollar equivalent of any such transactions that are actually funded in a foreign currency, if applicable, using prevailing exchange rates at the time of such transaction and without giving effect to fluctuations in exchange rates.

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

**ARTICLE II  
THE COMMITMENTS AND CREDIT EXTENSIONS**

**2.01. Loan Commitments.**

(a) Revolving Credit Commitments. Subject to the terms and conditions set forth herein, (i) each U.S. Revolving Lender severally agrees to make U.S. Revolving Loans to U.S. Borrower in U.S. Dollars from time to time until the Revolving Credit Termination Date, in an aggregate amount not to exceed at any time outstanding the amount of such Lender's U.S. Revolving Credit Commitment and (ii) each Canadian Revolving Lender severally agrees to make Canadian Revolving Loans to Canadian Borrower in Canadian Dollars from time to time until the Revolving Credit Termination Date, in an aggregate amount not to exceed at any time outstanding the Dollar Equivalent amount of such Lender's Canadian Revolving Credit Commitment, subject to the following limitations:

(i) after giving effect to any Revolving Borrowing, the Dollar Equivalent of the Total Revolving Credit Outstandings shall not exceed the Aggregate Revolving Credit Commitments,

(ii) the Dollar Equivalent of the Outstanding Amount of all L/C Obligations shall not at any time exceed the Letter of Credit Sublimit, and

(iii) the Dollar Equivalent of the Outstanding Amount of all Swing Line Loans shall not at any time exceed the Swing Line Sublimit.

Within the limits of each Lender's Revolving Credit Commitment, and subject to the other terms and conditions hereof, Borrowers may borrow under this Section 2.01(a), prepay under Section 2.06(a), and reborrow under this Section 2.01(a).

(b) Term Loan Commitments.

(i) U.S. Term Loan Commitments. Subject to the terms and conditions set forth herein, each U.S. Term Lender severally agrees to make a U.S. Term Loan to U.S. Borrower on the Closing Date in an amount equal to such U.S. Term Lender's U.S. Term Loan Commitment. The advance of the U.S. Term Loan shall be made simultaneously by the U.S. Lenders in accordance with their respective Applicable Percentages of the U.S. Term Loan Facility. Amounts borrowed under this Section 2.01(b) and repaid or prepaid may not be reborrowed.

(ii) Canadian Term Loan Commitments. Subject to the terms and conditions set forth herein, each Lender severally agrees to make a Canadian Term Loan to Canadian Borrower on the Closing Date in an amount equal to such Canadian Lender's Canadian Term Loan Commitment. The advance of the Canadian Term Loan shall be made simultaneously by the Canadian Lenders in accordance with their respective Applicable Percentages of the Canadian Term Loan Facility. Amounts borrowed under this Section 2.01(b) and repaid or prepaid may not be reborrowed.



## **2.02. Borrowings, Conversions and Continuations of Loans.**

(a) Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Eurodollar Rate Loans by the U.S. Borrower shall be made upon U.S. Borrower's irrevocable notice to Administrative Agent, which may be given by telephone. Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Eurodollar Rate Loans by the Canadian Borrower shall be made upon Canadian Borrower's irrevocable notice to Administrative Agent, which may be given by telephone. Each such notice must be received by Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurodollar Rate Loans or of any conversion of Eurodollar Rate Loans to Base Rate Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans. Each telephonic notice pursuant to this Section 2.02(a) must be confirmed promptly by delivery to Administrative Agent of a written Committed Loan Notice, appropriately completed and signed by a Responsible Officer of U.S. Borrower or Canadian Borrower, as applicable. Each Borrowing of, conversion to or continuation of Eurodollar Rate Loans in U.S. Dollars shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Borrowing of, conversion to or continuation of Eurodollar Rate Loans in Canadian Dollars shall be in a principal amount of Cnd. \$500,000 or a whole multiple of Cnd.\$100,000 in excess thereof. Except as provided in Sections 2.03(c) and 2.04(c), each Borrowing of or conversion to Base Rate Loans in U.S. Dollars shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Except as provided in Sections 2.03(c) and 2.04(c), each Borrowing of or conversion to Base Rate Loans in Canadian Dollars shall be in a principal amount of Cnd. \$500,000 or a whole multiple of Cnd. \$100,000 in excess thereof. If the applicable Borrower fail to specify a Type of Loan in a Committed Loan Notice or if such Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If a Borrower request a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Committed Loan Notice for a Facility, Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage under such Facility of the applicable Loans, and if no timely notice of a conversion or continuation is provided by the applicable Borrower, Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in the preceding subsection. In the case of a U.S. Term Borrowing, a Canadian Term Borrowing or Revolving Borrowing, each Lender shall make the amount of its Loan available to Administrative Agent in immediately available funds at Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), Administrative Agent shall make all funds so received available to the applicable Borrower in like funds as received by Administrative Agent either by (i) crediting the account of the applicable Borrower on the books of BMO with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with written instructions provided to (and reasonably acceptable to) Administrative Agent by the applicable Borrower.

(c) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan. During the existence of a Default or an Event of Default, at the election of Administrative Agent or Required Lenders, no Loans may be requested as, converted to or continued as Eurodollar Rate Loans.

(d) After giving effect to all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than four (4) Interest Periods in effect in

respect of each of the U.S. Term Loan Facility, the Canadian Term Loan Facility, the Revolving Credit Facility denominated in U.S. Dollars and the Revolving Credit Facility denominated in Canadian Dollars.

(e) Borrowers and each Lender hereby irrevocably authorize Administrative Agent, in Administrative Agent's sole discretion, to advance to Borrowers, and/or to pay and charge to Borrowers' Loan Account hereunder, all sums necessary to pay (i) any interest accrued on the Obligations when due and to pay all fees, costs and expenses and other Obligations at any time owed by any Loan Party to Administrative Agent or any Lender hereunder and (ii) any service charge or Lender Party Expenses when due. Any amount which is added to the principal balance of the Loan Account as provided in this Section 2.02(e) shall constitute Revolving Loans (notwithstanding the failure of the Borrowers to satisfy any of the conditions to Credit Extensions in Section 4.02) and Obligations hereunder and shall bear interest at the interest rate then and thereafter applicable to Base Rate Loans.

### **2.03. Letters of Credit.**

#### **(a) The Letter of Credit Commitment.**

(i) Subject to the terms and conditions set forth herein, (A) the L/C Issuer agrees, in reliance upon the agreements of the Revolving Lenders set forth in this Section 2.03, from time to time on any Business Day during the period from the Closing Date until the earlier to occur of the Letter of Credit Expiration Date or Revolving Credit Termination Date, to issue Letters of Credit denominated in U.S. Dollars at the request of U.S. Borrower for the account of U.S. Borrower and to issue Letters of Credit denominated in Canadian Dollars at the request of Canadian Borrower for the account of Canadian Borrower, and to amend Letters of Credit previously issued by it, in accordance with subsection (b) below; and (B) the U.S. Revolving Lenders severally agree to participate in Letters of Credit denominated in U.S. Dollars issued for the account of U.S. Borrower and any drawings thereunder and the Canadian Revolving Lenders severally agree to participate in Letters of Credit denominated in Canadian Dollars issued for the account of Canadian Borrower and any drawings thereunder; provided that the L/C Issuer shall not be obligated to make any L/C Credit Extension, if as of the date of such L/C Credit Extension, (A) the aggregate Revolving Credit Outstandings of any Revolving Lender would exceed such Revolving Lender's Revolving Credit Commitment, (B) the Total Revolving Credit Outstandings would exceed the Aggregate Revolving Credit Commitments or (C) the Outstanding Amount of the L/C Obligations would exceed the Letter of Credit Sublimit. Each request by a Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by such Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence.

(ii) The L/C Issuer shall not be under any obligation to issue any Letter of Credit if:

(A) subject to Section 2.03(b)(iii), the expiry date of such requested Letter of Credit would occur later than the earlier of (i) the Letter of Credit Expiration Date, and (ii) twelve months after the date of issuance,

(B) any order, judgment, decree, request or directive of any Governmental Authority or arbitrator or any Law shall by its terms purport to enjoin, restrain or prohibit the L/C Issuer from issuing such Letter of Credit or shall impose upon the L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date;

(C) the issuance of such Letter of Credit would violate one or more policies of the L/C Issuer;

(D) such Letter of Credit is in an initial amount less than \$10,000 or the Canadian Dollar Equivalent thereof; or

(E) any Lender is at that time a Defaulting Lender, unless the L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to the L/C Issuer (in its sole discretion) with Borrowers or such Lender to eliminate the L/C Issuer's actual or potential Fronting Exposure (after giving effect to Section 2.17(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which the L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(iii) The L/C Issuer shall not amend any Letter of Credit if the L/C Issuer would not be permitted at such time to issue such Letter of Credit in its amended form under the terms hereof.

(iv) The L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) the L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(v) The L/C Issuer shall act on behalf of the Revolving Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the L/C Issuer shall have all of the benefits and immunities (A) provided to Administrative Agent in Article IX with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article IX included the L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to the L/C Issuer.

(vi) Notwithstanding anything contained in this Section 2.03, at the election of Administrative Agent and the L/C Issuer, either Borrower may request that the L/C Issuer issue Letters of Credit with expiration dates extending beyond the earlier of the Letter of Credit Expiration Date and the Revolving Credit Termination Date (or that the L/C Issuer permits an automatic extension of any Letter of Credit to a date beyond the earlier of the Letter of Credit Expiration Date and the Revolving Credit Termination Date), in each case subject to the delivery to Administrative Agent by such Borrower of cash collateral in an amount at least equal to the Minimum Collateral Amount (to be held by Administrative Agent as set forth in Section 2.16 hereof), and in any event, such cash collateral shall be deposited no later than 30 days prior to the earlier of the Letter of Credit Expiration Date and the Revolving Credit Termination Date.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the applicable Borrower delivered to the L/C Issuer (with a copy to Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the applicable Borrower. Such Letter of Credit Application must be

received by the L/C Issuer and Administrative Agent not later than 11:00 a.m. at least two Business Days (or such later date and time as Administrative Agent and the L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, each Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer the date on which the proposed Letter of Credit is to be issued (which shall be a Business Day), the expiration date of such Letter of Credit and such other matters as the L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer the Letter of Credit to be amended, the proposed date of amendment thereof (which shall be a Business Day), and such other matters as the L/C Issuer may require. Additionally, the applicable Borrower shall furnish to the L/C Issuer and Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as the L/C Issuer or Administrative Agent may require.

(ii) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with Administrative Agent (by telephone or in writing) that Administrative Agent has received a copy of such Letter of Credit Application and, if not, the L/C Issuer will provide Administrative Agent with a copy thereof. Unless the L/C Issuer has received written notice from any Revolving Lender, Administrative Agent or the applicable Borrower, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the applicable Borrower or enter into the applicable amendment, as the case may be, in each case in accordance with the L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit denominated in U.S. Dollars, each U.S. Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer a risk participation in such Letter of Credit in an amount equal to such U.S. Revolving Lender's Applicable Percentage of such Letter of Credit. Immediately upon the issuance of each Letter of Credit denominated in Canadian Dollars, each Canadian Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer a risk participation in such Letter of Credit in an amount equal to such Canadian Revolving Lender's Applicable Percentage of such Letter of Credit.

(iii) If a Borrower so requests in any applicable Letter of Credit Application, the L/C Issuer may, in its sole and absolute discretion, agree to issue a standby Letter of Credit that has automatic extension provisions (each, an "***Auto-Extension Letter of Credit***"); provided that any such Auto-Extension Letter of Credit must permit the L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "***Non-Extension Notice Date***") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the L/C Issuer, such Borrower shall not be required to make a specific request to the L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the applicable Revolving Lenders shall be deemed to have authorized (but may not require) the L/C Issuer to permit the extension of such Letter of Credit; provided, however, that the L/C Issuer shall not permit any such extension if (A) the L/C Issuer has determined that it would not be permitted at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof, or (B) it has received notice (which may be by telephone or in writing) on or before the day that is five Business Days before the Non-Extension Notice Date (1) from Administrative Agent that the Required Lenders have elected not to permit such extension or (2) from Administrative Agent, any applicable Revolving Lender or the

applicable Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each such case directing the L/C Issuer not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the L/C Issuer will also deliver to the applicable Borrower and Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing or presentation of documents under such Letter of Credit, the L/C Issuer shall notify the applicable Borrower and Administrative Agent thereof. Not later than 1:00 p.m. on the date of any payment by the L/C Issuer under a Letter of Credit (each such date, an "**Honor Date**"), (A) if such Letter of Credit is denominated in U.S. Dollars, U.S. Borrower shall reimburse the L/C Issuer through Administrative Agent in U.S. Dollars and in an amount equal to the amount of such drawing and (B) if such Letter of Credit is denominated in Canadian Dollars, Canadian Borrower shall reimburse the L/C Issuer through Administrative Agent in Canadian Dollars and in an amount equal to the amount of such drawing. If such Borrower fails to so reimburse the L/C Issuer by such time, Administrative Agent shall promptly notify each applicable Revolving Lender of the Honor Date, the amount of the unreimbursed drawing or payment (the "**Unreimbursed Amount**"), and the amount of such Revolving Lender's Applicable Percentage thereof. In such event, the applicable Borrower shall be deemed to have requested a Revolving Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.03 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Aggregate Revolving Credit Commitments. Any notice given by the L/C Issuer or Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each applicable Revolving Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available (and Administrative Agent may apply Cash Collateral provided for this purpose) to Administrative Agent for the account of the L/C Issuer, in U.S. Dollars or Canadian Dollars, as applicable, at Administrative Agent's Office, an amount equal to its Applicable Percentage of the Unreimbursed Amount not later than 3:00 p.m. on the Business Day specified in such notice by Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Revolving Lender that so makes funds available shall be deemed to have made a Base Rate Revolving Loan to the applicable Borrower in such amount. Administrative Agent shall remit the funds so received to the L/C Issuer in U.S. Dollars or Canadian Dollars, as applicable.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Borrowing of Base Rate Loans for any reason, the applicable Borrower shall be deemed to have incurred from the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each applicable Revolving Lender's payment to Administrative Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Revolving Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Revolving Lender funds its Revolving Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such applicable Revolving Lender's Applicable Percentage of such amount shall be solely for the account of the L/C Issuer.

(v) Each Revolving Lender's obligation to make Revolving Loans or L/C Advances to reimburse the L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any set-off, counterclaim, recoupment, defense or other right which such Revolving Lender may have against the L/C Issuer, any Borrower or any other Person for any reason whatsoever; (B) the failure of one or more of the applicable conditions specified in Section 4.02 to be satisfied, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing. No such making of an L/C Advance shall relieve or otherwise impair the obligation of Borrowers to reimburse the L/C Issuer for the amount of any payment made by the L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Lender fails to make available to Administrative Agent for the account of the L/C Issuer any amount required to be paid by such Revolving Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), then, without limiting the other provisions of this Agreement, the L/C Issuer shall be entitled to recover from such Revolving Lender (acting through Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the L/C Issuer at a rate per annum equal to the applicable Overnight Rate from time to time in effect, plus any administrative, processing or similar fees customarily charged by the L/C Issuer in connection with the foregoing. A certificate of the L/C Issuer submitted to any Revolving Lender (through Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations. At any time after the L/C Issuer has made a payment under any Letter of Credit and has received from any Revolving Lender such Revolving Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if Administrative Agent receives for the account of the L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from Borrowers or otherwise, including proceeds of Cash Collateral applied thereto by Administrative Agent), Administrative Agent will distribute to such applicable Revolving Lender its Applicable Percentage thereof in U.S. Dollars or Canadian Dollars, as applicable (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Revolving Lender's L/C Advance was outstanding).

(e) Obligations Absolute. The obligation of each Borrower to reimburse the L/C Issuer for each drawing under each Letter of Credit, and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other agreement or instrument relating thereto;

(ii) the existence of any claim, counterclaim, set-off, defense or other right that any Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the L/C Issuer or any other Person, whether in connection with this Agreement, the

transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document or endorsement presented under or in connection with such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit, or any payment made by the L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Borrower or any Subsidiary.

(f) Role of L/C Issuer. Each Revolving Lender and each Borrower agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuer, Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Revolving Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. Each Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit. The L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument endorsing, transferring or assigning or purporting to endorse, transfer or assign a 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.

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

(h) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. U.S. Borrower shall pay directly to the L/C Issuer for its own account a fronting fee with respect to each Letter of Credit denominated in U.S. Dollars, in an amount equal to 0.50%, computed on the amount of such Letter of Credit, and payable upon the issuance or renewal (automatic or otherwise) thereof or upon any amendment increasing the amount thereof. Canadian Borrower shall pay directly to the L/C Issuer for its own account a fronting fee with respect to each Letter of Credit denominated in Canadian Dollars, in an

amount equal to 0.50%, computed on the amount of such Letter of Credit, and payable upon the issuance or renewal (automatic or otherwise) thereof or upon any amendment increasing the amount thereof. In addition, each Borrower shall pay directly to the L/C Issuer for its own account, in U.S. Dollars or Canadian Dollars, as applicable, the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the L/C Issuer relating to letters of credit issued by it as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(i) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

#### **2.04. Swing Line Loans.**

(a) The Swing Line. Subject to the terms and conditions set forth herein, the Swing Line Lender may, but shall not be obligated to, make loans in reliance upon the agreements of the other Lenders set forth in this Section 2.04 (each such loan, a "**Swing Line Loan**") to U.S. Borrower in U.S. Dollars or to the Canadian Borrower in Canadian Dollars from time to time on any Business Day until the Revolving Credit Termination Date in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit, notwithstanding the fact that such Swing Line Loans, when aggregated with the Applicable Percentage of the Outstanding Amount of Revolving Loans and L/C Obligations of the Revolving Lender acting as Swing Line Lender, may exceed the amount of such Revolving Lender's Revolving Credit Commitment; provided, however, that after giving effect to any Swing Line Loan, the Revolving Credit Outstandings of any Revolving Lender shall not exceed such Revolving Lender's Revolving Credit Commitment, and provided, further, that Borrowers shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan. Within the foregoing limits and subject to the discretion of the Swing Line Lender to make Swing Line Loans, and subject to the other terms and conditions hereof, Borrowers may borrow under this Section 2.04, prepay under Section 2.06, and reborrow under this Section 2.04. Each Swing Line Loan made in U.S. Dollars shall bear interest until maturity at a rate per annum equal to (i) the sum of the U.S. Base Rate plus the Applicable Margin for U.S. Base Rate Loans under the Revolving Credit Facility as from time to time in effect or (ii) the Swing Line Lender's Quoted Rate (computed on the basis of a year of 360 days for the actual number of days elapsed). Each Swing Line Loan made in Canadian Dollars shall bear interest until maturity at a rate per annum equal to (i) the sum of the Canadian Base Rate plus the Applicable Margin for Canadian Base Rate Loans under the Revolving Credit Facility as from time to time in effect or (ii) the Swing Line Lender's Quoted Rate (computed on the basis of a year of 360 days for the actual number of days elapsed). Immediately upon the making of a Swing Line Loan in U.S. Dollars, each U.S. Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such U.S. Revolving Lender's Applicable Percentage times the amount of such Swing Line Loan. Immediately upon the making of a Swing Line Loan in Canadian Dollars, each Canadian Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Canadian Revolving Lender's Applicable Percentage times the amount of such Swing Line Loan.

(b) Borrowing Procedures. Each Swing Line Borrowing shall be made upon the applicable Borrower's irrevocable notice to the Swing Line Lender and Administrative Agent, which may be given by telephone. Each such notice must be received by the Swing Line Lender and Administrative Agent not later than 12:00 noon on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of \$100,000 and integral multiples of \$50,000 in excess thereof for Swing Line Loans denominated in U.S. Dollars and Cnd. \$100,000 and integral multiples of Cnd. \$50,000 for Swing



Line Loans denominated in Canadian Dollars, and (ii) the requested borrowing date, which shall be a Business Day. Each such telephonic notice must be confirmed promptly by delivery to the Swing Line Lender and Administrative Agent of a written Swing Line Loan Notice, appropriately completed and signed by a Responsible Officer of the applicable Borrower. Promptly after receipt by the Swing Line Lender of any Swing Line Loan Notice, the Swing Line Lender will (i) deliver notice to the applicable Borrower and Administrative Agent as to whether it will or will not make such Swing Line Loan available to such Borrower and, if agreeing to make such Swing Line Loan, (ii) in its discretion quote an interest rate to the applicable Borrower at which the Swing Line Lender would be willing to make such Swing Line Loan available to such Borrower (the rate so quoted being herein referred to as "*Swing Line Lender's Quoted Rate*") and (iii) confirm with Administrative Agent (by telephone or in writing) that Administrative Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify Administrative Agent (by telephone or in writing) of the contents thereof. Unless the Swing Line Lender has received notice (by telephone or in writing) from Administrative Agent (including at the request of any Revolving Lender) prior to 1:00 p.m. on the date of the proposed Swing Line Borrowing (A) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the proviso to the first sentence of Section 2.04(a), or (B) that one or more of the applicable conditions specified in Article IV is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender may, not later than 3:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the applicable Borrower at its office by crediting the account of Borrower Agent on the books of the Swing Line Lender in immediately available funds.

(c) Refinancing of Swing Line Loans.

(i) The Swing Line Lender at any time in its sole and absolute discretion, may request, on behalf of the applicable Borrower (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each applicable Revolving Lender make a Base Rate Revolving Loan in an amount equal to such Revolving Lender's Applicable Percentage of the amount of Swing Line Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Committed Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.04 without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Aggregate Revolving Credit Commitments and the conditions set forth in Section 4.02. The Swing Line Lender shall furnish the applicable Borrower with a copy of the applicable Committed Loan Notice promptly after delivering such notice to Administrative Agent. Each applicable Revolving Lender shall make an amount equal to its Applicable Percentage of the amount specified in such Committed Loan Notice available to Administrative Agent in immediately available funds (and Administrative Agent may apply Cash Collateral available with respect to the applicable Swing Line Loan) for the account of the Swing Line Lender at Administrative Agent's Office not later than 2:00 p.m. on the day specified in such Committed Loan Notice, whereupon, subject to Section 2.04(c)(ii), each applicable Revolving Lender that so makes funds available shall be deemed to have made a Base Rate Revolving Loan to the applicable Borrower in such amount. Administrative Agent shall remit the funds so received to the Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Revolving Borrowing in accordance with Section 2.04(c)(i), the request for Base Rate Revolving Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the applicable Revolving Lenders fund its risk participation in the relevant Swing Line Loan and each such Revolving Lender's payment to Administrative Agent

for the account of the Swing Line Lender pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.

(iii) If any applicable Revolving Lender fails to make available to Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Revolving Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the Swing Line Lender shall be entitled to recover from such Revolving Lender (acting through Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the applicable Overnight Rate from time to time in effect, plus any administrative processing or similar fees customarily charged by the Swing Line Lender in connection with the foregoing. A certificate of the Swing Line Lender submitted to any Revolving Lender (through Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Revolving Lender's obligation to make Revolving Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any set-off, counterclaim, recoupment, defense or other right which such Revolving Lender may have against the Swing Line Lender, Borrowers or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default or an Event of Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Lender's obligation to make Revolving Loans or to purchase and fund participations pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02. No such funding of risk participations shall relieve or otherwise impair the obligation of Borrowers to repay Swing Line Loans, together with interest, as provided herein.

(d) Repayment of Participations. At any time after any Revolving Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Revolving Lender its Applicable Percentage of such payment (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Revolving Lender's risk participation was funded) in the same funds as those received by the Swing Line Lender.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing Borrowers for interest on the Swing Line Loans. Until each Revolving Lender funds its Base Rate Revolving Loan or risk participation pursuant to this Section 2.04 to refinance such Revolving Lender's Applicable Percentage of any Swing Line Loan, interest in respect of such Applicable Percentage shall be solely for the account of the Swing Line Lender.

(f) Payments Directly to Swing Line Lender. Borrowers shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

## **2.05. Repayment of Loans.**

(a) U.S. Term Loan. U.S. Borrower unconditionally promise to pay to Administrative Agent for the account of each U.S. Term Lender the aggregate principal amount of the U.S. Term Loan outstanding on the following dates in the respective amounts set forth opposite such dates:

Date	Quarterly Payment
September 30, 2015	\$246,456.25
December 31, 2015	\$246,456.25
March 31, 2016	\$246,456.25
June 30, 2016	\$246,456.25
September 30, 2016	\$246,456.25
December 31, 2016	\$246,456.25
March 31, 2017	\$246,456.25
June 30, 2017	\$246,456.25
September 30, 2017	\$246,456.25
December 31, 2017	\$246,456.25
March 31, 2018	\$246,456.25
June 30, 2018	\$246,456.25
September 30, 2018	\$246,456.25
December 31, 2018	\$246,456.25
March 31, 2019	\$246,456.25
June 30, 2019	\$246,456.25
September 30, 2019	\$246,456.25
December 31, 2019	\$246,456.25
March 31, 2020	\$246,456.25
June 30, 2020	\$246,456.25

The outstanding unpaid principal balance and all accrued and unpaid interest on the U.S. Term Loan shall be due and payable on the earlier of (i) the Term Loan Maturity Date, and (ii) the date of the acceleration of the Term Loan in accordance with the terms hereof.

(b) Canadian Term Loan. Canadian Borrower unconditionally promises to pay to Administrative Agent for the account of each Canadian Term Lender the aggregate principal amount of the Canadian Term Loan outstanding on the following dates in the respective amounts set forth opposite such dates:

Date	Quarterly Payment
September 30, 2015	Cnd. \$248,713.61
December 31, 2015	Cnd. \$248,713.61
March 31, 2016	Cnd. \$248,713.61
June 30, 2016	Cnd. \$248,713.61
September 30, 2016	Cnd. \$248,713.61
December 31, 2016	Cnd. \$248,713.61
March 31, 2017	Cnd. \$248,713.61
June 30, 2017	Cnd. \$248,713.61
September 30, 2017	Cnd. \$248,713.61
December 31, 2017	Cnd. \$248,713.61
March 31, 2018	Cnd. \$248,713.61
June 30, 2018	Cnd. \$248,713.61
September 30, 2018	Cnd. \$248,713.61
December 31, 2018	Cnd. \$248,713.61
March 31, 2019	Cnd. \$248,713.61
June 30, 2019	Cnd. \$248,713.61
September 30, 2019	Cnd. \$248,713.61
December 31, 2019	Cnd. \$248,713.61
March 31, 2020	Cnd. \$248,713.61
June 30, 2020	Cnd. \$248,713.61

The outstanding unpaid principal balance and all accrued and unpaid interest on the Canadian Term Loan shall be due and payable on the earlier of (i) the Term Loan Maturity Date, and (ii) the date of the acceleration of the Term Loan in accordance with the terms hereof.

(c) Revolving Loans. U.S. Borrower shall repay to Administrative Agent for the account of the U.S. Revolving Lenders on the earlier of (i) the Revolving Credit Maturity Date, and (ii) the date of the acceleration of the U.S. Revolving Loans the aggregate principal amount of all U.S. Revolving Loans outstanding on such date. Canadian Borrower shall repay to Administrative Agent for the account of the Canadian Revolving Lenders on the earlier of (i) the Revolving Credit Maturity Date, and (ii) the date of the acceleration of the Canadian Revolving Loans the aggregate principal amount of all Canadian Revolving Loans outstanding on such date. If at any time the Dollar Equivalent of the outstanding Revolving Loans made to the Borrowers shall be equal to or greater than the Aggregate Revolving Credit Commitments, the Borrowers shall immediately repay such Revolving Loans in an amount sufficient to eliminate such excess.

(d) Swing Line Loans. The U.S. Borrower shall repay each Swing Line Loan denominated in U.S. Dollars on the Revolving Credit Maturity Date. The Canadian Borrower shall repay each Swing Line loan denominated in Canadian Dollars on the Revolving Credit Maturity Date.

## 2.06. Prepayments.

### (a) Optional.

(i) U.S. Borrower may, upon notice to Administrative Agent from U.S. Borrower, at any time or from time to time voluntarily prepay U.S. Term Loans or U.S. Revolving Loans in whole or in part without premium or penalty and Canadian Borrower may, upon notice to Administrative Agent from Canadian Borrower, at any time or from time to time voluntarily prepay Canadian Term Loans or Canadian Revolving Loans in whole or in part without premium

or penalty; provided that (A) such notice must be received by Administrative Agent not later than 11:00 a.m. (1) three Business Days prior to any date of prepayment of Eurodollar Rate Loans and (2) on the date of prepayment of Base Rate Loans; (B) any prepayment of Eurodollar Rate Loans denominated in U.S. Dollars shall be in a principal amount of at least \$500,000 and any prepayment of Eurodollar Rate Loans denominated in Canadian Dollars shall be in a principal amount of at least Cnd. \$500,000; and (C) any prepayment of Base Rate Loans denominated in U.S. Dollars shall be in a principal amount of at least \$250,000 and any prepayment of Base Rate Loans denominated in Canadian Dollars shall be in a principal amount of at least Cnd. \$250,000, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and, if Eurodollar Rate Loans are to be prepaid, the Interest Period(s) of such Loans. Administrative Agent will promptly notify each applicable Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's Applicable Percentage in respect of the relevant Facility). If such notice is given by a Borrower, such Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein; provided that such notice may state that the prepayment is conditioned upon the effectiveness of other credit facilities, acquisitions or dispositions, in which case such notice may be revoked by the applicable Borrower (by notice to Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Each prepayment of the outstanding Term Loans pursuant to this Section 2.06(a) shall be applied to the principal repayment installments thereof pro rata to remaining installments. Subject to Section 2.17, such prepayments shall be paid to the Lenders in accordance with their respective Applicable Percentage in respect of each of the relevant Facilities.

(ii) U.S. Borrower may, upon notice to the Swing Line Lender (with a copy to Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans denominated in U.S. Dollars in whole or in part without premium or penalty and Canadian Borrower may, upon notice to the Swing Line Lender (with a copy to Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans denominated in Canadian Dollars in whole or in part without premium or penalty (in each case, without a reduction of the Swing Line Sublimit); provided that (A) such notice must be received by the Swing Line Lender and Administrative Agent not later than 1:00 p.m. on the date of the prepayment, and (B) any such prepayment shall be in a minimum principal amount of \$100,000, in the case of Swing Line Loans denominated in U.S. Dollars, or Cnd. \$100,000, in the case of Swing Line Loans denominated in Canadian Dollars, or, if less, the entire principal amount thereof outstanding. Each such notice shall specify the date and amount of such prepayment. If such notice is given by a Borrower, such Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(b) Mandatory.

(i) Excess Cash Flow. Commencing with the Fiscal Year ending December 31, 2016, within ten days after financial statements have been delivered pursuant to Section 6.01(a) and the related Compliance Certificate has been delivered pursuant to Section 6.02(a), Borrowers shall, in accordance with Section 2.06(b)(vii) below, prepay an aggregate principal amount of Loans equal to 75% of Excess Cash Flow for the Fiscal Year covered by such financial statements; provided that if the Consolidated Total Net Leverage Ratio (determined as of the last day of such Fiscal Year by reference to the Compliance Certificate delivered together with the financial statements delivered pursuant to Section 6.01(a) for such Fiscal Year) shall be 3.50 to

1.00 or less, Borrowers shall prepay an aggregate principal amount of Loans equal to 50% of Excess Cash Flow for such Fiscal Year.

(ii) Asset Dispositions. If any Loan Party or any of its Subsidiaries Disposes of, or suffers an Event of Loss of, any property (other than any Disposition of any property permitted by Section 7.05(a), (c), (e), (f), (g) or (h)) which results in Net Cash Proceeds in connection with such Disposition or Event of Loss and all other Dispositions and Events of Loss occurring during the Fiscal Year in excess of \$500,000 or the Canadian Dollar Equivalent thereof, Borrowers shall prepay an aggregate principal amount of Loans equal to such excess Net Cash Proceeds promptly after receipt thereof by such Person; provided that so long as no Default or Event of Default shall have occurred and be continuing, the recipient of any such Net Cash Proceeds realized in a Disposition or Event of Loss described in this Section 2.06(b)(ii) may reinvest the amount of any such Net Cash Proceeds within one hundred eighty (180) days of the receipt thereof, in replacement assets of a kind then used or usable in the business of such recipient; provided that if the recipient does not intend to fully reinvest such Net Cash Proceeds, or if the time period set forth in this sentence expires without such recipient having reinvested such Net Cash Proceeds, Borrowers shall prepay the Loans in an amount equal to such Net Cash Proceeds (to the extent not reinvested or intended to be reinvested within such time period).

(iii) Debt Incurrence. Upon the incurrence or issuance by any Loan Party or any of its Subsidiaries of any Indebtedness (other than Indebtedness expressly permitted to be incurred or issued pursuant to Section 7.01), Borrowers shall, in accordance with Section 2.06(b)(vii) below, prepay an aggregate principal amount of Loans equal to all Net Cash Proceeds received therefrom promptly after receipt thereof by such Loan Party or such Subsidiary.

(iv) Equity Issuance. Upon the sale or issuance by any Loan Party or any of its Subsidiaries of any of its Equity Interests (other than Excluded Issuances), or the receipt by any Loan Party of additional paid in capital, Borrowers shall, in accordance with Section 2.06(b)(vii) below, prepay an aggregate principal amount of Loans equal to all Net Cash Proceeds received therefrom promptly after receipt thereof by such Loan Party or such Subsidiary.

(v) Curative Equity. Upon the sale or issuance by any Loan Party or any of its Subsidiaries of any Permitted Cure Securities pursuant to Section 8.04, or the receipt by any Loan Party of additional paid in capital pursuant to Section 8.04, Borrowers shall, in accordance with Section 2.06(b)(vii) below, prepay an aggregate principal amount of Loans equal to all Net Cash Proceeds received therefrom immediately upon receipt thereof by any such Loan Party or such Subsidiary.

(vi) Extraordinary Receipts. Upon receipt by any Loan Party or any Subsidiary of any Extraordinary Receipts, Borrowers shall, in accordance with Section 2.06(b)(vii) below, prepay the Obligations in an amount equal to one hundred percent (100%) of such Extraordinary Receipts.

(vii) Application of Mandatory Prepayments.

(A) Each prepayment of Loans pursuant to the foregoing provisions of this Section 2.06(b) shall be applied, first, pro rata to the next four scheduled amortization payments and then pro rata to remaining principal installments of the Term Loans and, second, to the Revolving Credit Facility (without a corresponding permanent reduction in the Revolving Credit Commitment) in the manner set forth in clause (B) of this Section 2.06(b)(vii). Subject to Section 2.17, such prepayments shall be paid to the

Lenders in accordance with their respective Applicable Percentage in respect of the relevant Facilities.

(B) Except as otherwise provided in Section 2.17, (1) prepayments of the Revolving Credit Facility by the U.S. Borrower made pursuant to this Section 2.06(b), first, shall be applied ratably to the L/C Borrowings and the Swing Line Loans, second, shall be applied ratably to the outstanding Revolving Loans, third, shall be used to Cash Collateralize the remaining L/C Obligations and (2) prepayments of the Revolving Credit Facility by the Canadian Borrower made pursuant to this Section 2.06(b), first, shall be applied ratably to the L/C Borrowings and the Swing Line Loans made in Canadian Dollars, second, shall be applied ratably to the outstanding Canadian Revolving Loans, third, shall be used to Cash Collateralize the remaining L/C Obligations made in Canadian Dollars. Upon the drawing of any Letter of Credit that has been Cash Collateralized, the funds held as Cash Collateral shall be applied (without any further action by or notice to or from Borrowers or any other Loan Party or any Defaulting Lender that has provided Cash Collateral) to reimburse the L/C Issuer or the Revolving Lenders, as applicable.

#### **2.07. Termination or Reduction of Commitments.**

(a) Revolving Credit Commitment. Borrowers may, upon notice to Administrative Agent from Borrower Agent, terminate the Aggregate Revolving Credit Commitments, or from time to time permanently reduce the Aggregate Revolving Credit Commitments; provided that (i) any such notice shall be received by Administrative Agent not later than 11:00 a.m. five Business Days prior to the date of termination or reduction, (ii) any such reduction shall be in an aggregate amount of \$500,000 or the Canadian Dollar Equivalent thereof or any whole multiple of \$500,000 or the Canadian Dollar Equivalent thereof in excess thereof, (iii) Borrowers shall not terminate or reduce the Aggregate Revolving Credit Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Credit Outstandings would exceed the Aggregate Revolving Credit Commitments and (iv) if, after giving effect to any reduction or termination, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the aggregate amount of the Revolving Credit Commitments, such Sublimit shall be automatically reduced by the amount of such excess. Administrative Agent will promptly notify the Lenders of any such notice of termination or reduction of the Aggregate Revolving Credit Commitments. Any reduction of the Aggregate Revolving Credit Commitments shall be applied to the Revolving Credit Commitment of each Revolving Lender according to its Applicable Percentage. All fees accrued until the effective date of any termination of the Aggregate Revolving Credit Commitments shall be paid on the effective date of such termination.

(b) Term Loan Commitment. The aggregate U.S. Term Loan Commitments and Canadian Term Loan Commitments shall be automatically and permanently reduced to zero on the date of the U.S. Term Borrowing and Canadian Term Borrowing (after giving effect thereto).

#### **2.08. Interest.**

(a) Subject to the provisions of Section 2.10 and subsection (b) below, (i) each Eurodollar Rate Loan denominated in U.S. Dollars shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the U.S. Eurodollar Rate for such Interest Period plus the Applicable Margin; (ii) each Eurodollar Rate Loan denominated in Canadian Dollars shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Canadian CDOR Rate for such Interest Period plus the Applicable Margin; (iii) each Base Rate Loan denominated in U.S. Dollars shall bear interest on the outstanding principal amount thereof from the

applicable borrowing date at a rate per annum equal to the U.S. Base Rate plus the Applicable Margin; (iv) each Base Rate Loan denominated in Canadian Dollars shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Canadian Base Rate plus the Applicable Margin and (v) subject to the Swing Line Lender and Borrower Agent agreeing that interest shall be paid at the Swing Line Lender's Quoted Rate, each Swing Line Loan denominated in U.S. Dollars shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Margin for U.S. Revolving Loans and each Swing Line Loan denominated in Canadian Dollars shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Margin for Canadian Revolving Loans.

(b) (i) If any amount payable by Borrowers under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) If any Event of Default exists, then Administrative Agent may, and upon the request of the Required Lenders shall, require (and notify Borrowers thereof) that all outstanding Loan Obligations shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate; provided that during the continuance of an Event of Default under Section 8.01(f) or (g); all outstanding Loan Obligations shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate.

(iii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

## **2.09. Fees.**

(a) Unused Fee. U.S. Borrower shall pay to Administrative Agent for the account of each Revolving Lender in accordance with its Applicable Percentage, a fee (the "**Unused Fee**") equal to 0.50% times the actual daily amount by which the aggregate Revolving Credit Commitments exceeds the sum of (i) the Outstanding Amount of the aggregate Revolving Loans and (ii) the Outstanding Amount of the aggregate L/C Obligations, subject to adjustment as provided in Section 2.17. For the avoidance of doubt, the Outstanding Amount of Swing Line Loans shall not be counted towards or considered usage of the Aggregate Revolving Credit Commitments for purposes of determining the Unused Fee. The Unused Fee shall accrue at all times until the Revolving Credit Termination Date, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the first Business Day after the end of each Fiscal Quarter, commencing with the first such date to occur after the Closing Date, and on the Revolving Credit Termination Date.

(b) Letter of Credit Fees. Subject to the provisions of the last sentence of this subsection (b), U.S. Borrower shall pay to Administrative Agent for the account of each U.S. Revolving Lender in accordance with its Applicable Percentage and Canadian Borrower shall pay to Administrative Agent for the account of each Canadian Revolving Lender in accordance with its Applicable Percentage, (i) a Letter of Credit fee ("**Letter of Credit Fee**") for each applicable Letter of Credit equal to the Applicable Margin for Eurodollar Rate Loans that are U.S. Revolving Loans or Canadian Revolving Loans, as applicable,



times the daily maximum amount available to be drawn under such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit); provided, however, any Letter of Credit Fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the L/C Issuer shall be payable, to the maximum extent permitted by applicable Law, to the other Revolving Lenders in accordance with the upward adjustments in their respective Applicable Percentages allocable to such Letter of Credit pursuant to Section 2.17(a)(iv), with the balance of such fee, if any, payable to the L/C Issuer for its own account. The Letter of Credit Fee with respect to each Letter of Credit shall accrue at all times until the Revolving Credit Termination Date and shall be due and payable quarterly in arrears on the first Business Day after the end of each Fiscal Quarter, commencing with the first such date to occur after the Closing Date, and on the Revolving Credit Termination Date. If there is any change in the Applicable Margin for Eurodollar Rate Loans that are Revolving Loans during any quarter, the daily maximum amount of each Letter of Credit shall be computed and multiplied by the Applicable Margin for Eurodollar Rate Loans that are Revolving Loans separately for each period during such quarter that such Applicable Margin was in effect. At all times that the Default Rate shall be applicable to any Loans pursuant to Section 2.08(b), the Letter of Credit Fees payable under this subsection (i) shall accrue and be payable at the Default Rate.

(c) Fee Letter. Borrowers agree to pay the fees payable in the amounts and at the times set forth in the Fee Letter.

(d) Generally. All fees payable hereunder shall be paid on the dates due, in immediately available funds, to (i) Administrative Agent for distribution, in the case of commitment fees and participation fees, to the Revolving Lenders, and otherwise, to the Lenders entitled thereto or (ii) the L/C Issuer, in the case of fees payable to it. Fees paid shall not be refundable under any circumstances.

**2.10. Computation of Interest and Fees.** All computations of interest for Base Rate Loans shall be made on the basis of the actual days elapsed over a year of 365 or 366 days, as the case may be. All other computations of fees and interest shall be made on the basis of the actual days elapsed over a 360-day year (i.e., the 365/360 day method of interest computation, which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

#### **2.11. Evidence of Debt.**

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by Administrative Agent (the "**Loan Account**") in the ordinary course of business; provided that any failure to so record or any error in doing so shall not limit or otherwise affect the obligation of Borrowers hereunder to pay any amount owing with respect to the Obligations. The accounts or records maintained by Administrative Agent (and any Lender) shall be conclusive absent manifest error; provided that in the event of any conflict between the accounts and records maintained by any Lender and Administrative Agent, the accounts and records of Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through Administrative Agent, Borrowers shall execute and deliver to such Lender (through Administrative Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records.

(b) In addition to the accounts and records referred to in (a) above, each Lender and Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the accounts and records maintained by Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of Administrative Agent shall control in the absence of manifest error.

## **2.12. Payments Generally; Administrative Agent's Clawback.**

(a) General. All payments to be made by Borrowers shall be made without deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by Borrowers hereunder shall be made to Administrative Agent, for the account of the respective Lenders to which such payment is owed, at Administrative Agent's Office in U.S. Dollars (other than with respect to Loans denominated in Canadian Dollars) or Canadian Dollars (with respect to Loans denominated in Canadian Dollars) and in immediately available funds not later than 2:00 p.m. on the date specified herein. Subject to Section 2.14, Administrative Agent will promptly distribute to each Lender its Applicable Percentage in respect of the relevant Facility (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by Borrowers shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected when computing interest or fees, as the case may be.

### **(b) Presumptions by Administrative Agent.**

(i) Funding by Lenders. Unless Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurodollar Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to Administrative Agent such Lender's share of such Borrowing, Administrative Agent may assume that such Lender has made such share available in accordance with Section 2.02 and may, in reliance upon such assumption, make available to the relevant Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to Administrative Agent, then the applicable Lender and applicable Borrower severally agree to pay to Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to such Borrower to but excluding the date of payment to Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by a Borrower, the interest rate applicable to Base Rate Loans. If a Borrower and such Lender shall pay such interest to Administrative Agent for the same or an overlapping period, Administrative Agent shall promptly remit to such Borrower the amount of such interest paid by such Borrower for such period. If such Lender pays its share of the applicable Borrowing to Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by Borrowers shall be without prejudice to any claim Borrowers may have against a Lender that shall have failed to make such payment to Administrative Agent.

(ii) Payments by Borrowers. Unless Administrative Agent shall have received notice from Borrower Agent prior to the time at which any payment is due to Administrative Agent for the account of the Lenders or the L/C Issuer hereunder that the applicable Borrower will not make such payment, Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the L/C Issuer, as the case may be, the amount due. In such event, if such Borrower has not in fact made such payment, then each of the Lenders or the L/C Issuer, as the case may be, severally agrees to repay to Administrative Agent forthwith on demand the amount so distributed to such Lender or the L/C Issuer, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by Administrative Agent in accordance with banking industry rules on interbank compensation.

A notice of Administrative Agent to any Lender or any Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to Borrowers by Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to Section 10.04(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 10.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 10.04(c).

(e) Insufficient Funds. If at any time insufficient funds are received by and available to Administrative Agent to pay fully all amounts of principal, L/C Borrowings, interest and fees then due hereunder, such funds shall be applied as provided in Section 8.03.

**2.13. Sharing of Payments by Lenders.** If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of (a) Obligations in respect of any of the Facilities due and payable to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations due and payable to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time) of payments on account of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time obtained by all the Lenders at such time or (b) Obligations in respect of any of the Facilities owing (but not due and payable) to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations owing (but not due and payable) to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time) of payments on account of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time obtained by all of the Lenders at such time,

then, in each case under clauses (a) and (b) above, the Lender receiving such greater proportion shall (A) notify Administrative Agent of such fact, and (B) purchase (for cash at face value) participations in the Loans and subparticipations in L/C Obligations and Swing Line Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of Obligations in respect of the Facilities then due and payable to the Lenders or owing (but not due and payable) to the Lenders, as the case may be, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (A) any payment made by or on behalf of any Loan Party pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (B) the application of Cash Collateral provided for in Section 2.16, or (C) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations or Swing Line Loans to any assignee or participant, other than an assignment to any Loan Party or any Affiliate thereof (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

#### **2.14. Settlement Among Lenders.**

(a) The amount of each Revolving Lender's Applicable Percentage of outstanding Revolving Loans shall be computed on each Business Day (or less frequently in Administrative Agent's discretion but no less frequently than weekly) and shall be adjusted upward or downward based on all Revolving Loans and repayments of Revolving Loans received by Administrative Agent as of 3:00 p.m. on such Business Day (or the first Business Day (such date, the "**Settlement Date**") following the end of the period specified by Administrative Agent).

(b) Each Business Day, or on each Settlement Date, as applicable, (i) Administrative Agent shall transfer to each Revolving Lender its Applicable Percentage of repayments, and (ii) each Revolving Lender shall transfer to Administrative Agent (as provided below) or Administrative Agent shall transfer to each Revolving Lender, such amounts as are necessary to insure that, after giving effect to all such transfers, the Revolving Credit Outstandings of each Revolving Lender shall be equal to such Revolving Lender's Applicable Percentage of all the Total Revolving Credit Outstandings as of such Business Day or Settlement Date. If the applicable Revolving Lender is notified of a transfer to be made to Administrative Agent prior to 1:00 p.m. on a Business Day, such transfer shall be made in immediately available funds no later than 3:00 p.m. that day; and, if received after 1:00 p.m., then no later than 3:00 p.m. on the next Business Day. The obligation of each Revolving Lender to transfer such funds is irrevocable, unconditional and without recourse to or warranty by Administrative Agent. If and to the extent any Revolving Lender shall not have so made its transfer to Administrative Agent, such Lender agrees to pay to Administrative Agent, forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to Administrative Agent, equal to the greater of the Federal Funds Rate and a rate determined by Administrative Agent in accordance with

banking industry rules on interbank compensation plus any reasonable administrative, processing, or similar fees customarily charged by Administrative Agent in connection with the foregoing.

**2.15. Nature and Extent of Each Borrower's Liability.**

(a) Joint and Several Liability. Each Borrower agrees that it is jointly and severally liable for all Obligations and all agreements under the Loan Documents. As such, each Borrower agrees that it is a guarantor of each other Borrower's obligations and liabilities hereunder and under the other Loan Documents.

(b) Direct Liability. Nothing contained in this Section 2.15 or Article XI shall limit the liability of any Borrower to pay Loans made directly or indirectly to that Borrower (including Loans advanced to any other Borrower and then re-loaned or otherwise transferred to, or for the benefit of, such Borrower), L/C Obligations relating to Letters of Credit issued to support such Borrower's business, and all accrued interest, fees, expenses and other related Obligations with respect thereto, for which such Borrower shall be primarily liable for all purposes hereunder.

(c) Joint Enterprise. Each Borrower has requested that Administrative Agent and Lenders make this credit facility available to Borrowers on a combined basis, in order to finance Borrowers' business most efficiently and economically. Borrowers' business is a mutual and collective enterprise, and the successful operation of each Borrower is dependent upon the successful performance of the integrated group. Borrowers believe that consolidation of their credit facility will enhance the borrowing power of each Borrower and ease administration of the facility, all to their mutual advantage. Borrowers acknowledge that Administrative Agent's and Lenders' willingness to extend credit and to administer the Collateral on a combined basis hereunder is done solely as an accommodation to Borrowers and at Borrowers' request.

(d) Borrower Agent.

(i) Each Borrower hereby irrevocably appoints and designates the U.S. Borrower ("**Borrower Agent**") as its representative and agent and attorney-in-fact for all purposes under the Loan Documents, including designation of interest rates, delivery or receipt of communications, preparation and delivery of financial reports, receipt and payment of Obligations, requests for waivers, amendments or other accommodations, actions under the Loan Documents (including in respect of compliance with covenants), and all other dealings with Administrative Agent, L/C Issuers or any Lender.

(ii) Each other Loan Party hereby irrevocably appoints and designates Borrower Agent as its agent and attorney-in-fact to receive statements on account and all other notices from Administrative Agent and Lenders with respect to the Obligations or otherwise under or in connection with this Agreement and the other Loan Documents.

(iii) Any notice, election, representation, warranty, agreement or undertaking by or on behalf of any Loan Party by Borrower Agent shall be deemed for all purposes to have been made by such Loan Party and shall be binding upon and enforceable against such Loan Party to the same extent as if made directly by such Loan Party.

(iv) Borrower Agent hereby accepts the appointment by each Loan Party hereunder to act as its agent and attorney-in-fact.

(v) Administrative Agent and Lenders shall be entitled to rely upon, and shall be fully protected in relying upon, any notice or communication (including any notice of borrowing) delivered by Borrower Agent on behalf of any Borrower or other Loan Party. Administrative Agent and Lenders may give any notice or communication with a Borrower or other Loan Party hereunder to Borrower Agent on behalf of such Borrower or Loan Party. Each of Administrative Agent, L/C Issuers and Lenders shall have the right, in its discretion, to deal exclusively with Borrower Agent for any or all purposes under the Loan Documents. Each Borrower and each other Loan Party agrees that any notice, election, communication, representation, agreement or undertaking made on its behalf by Borrower Agent shall be binding upon and enforceable against it.

## **2.16. Cash Collateral.**

(a) Certain Credit Support Events. If (i) the L/C Issuer has honored any full or partial drawing request under any Letter of Credit upon presentation and such drawing has resulted in an L/C Borrowing, (ii) as of the date that is 30 days prior to the earlier of the Letter of Credit Expiration Date and the Revolving Credit Termination Date, any L/C Obligation for any reason remains outstanding, (iii) the applicable Borrower shall be required to provide Cash Collateral pursuant to Section 8.02 or (iv) there shall exist a Defaulting Lender, such Borrower shall immediately (in the case of clause (iv) above) or within one Business Day (in all other cases) following any request by Administrative Agent or the L/C Issuer, provide Cash Collateral in an amount not less than the Minimum Collateral Amount (determined in the case of Cash Collateral provided pursuant to clause (iv) above, after giving effect to Section 2.17(a)(iv) and any Cash Collateral provided by the Defaulting Lender).

(b) Grant of Security Interest. U.S. Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) Administrative Agent, for the benefit of Administrative Agent, the L/C Issuer and the Lenders, and agrees to maintain, a first priority security interest in all such cash, Deposit Accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.16(c). Canadian Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) Administrative Agent, for the benefit of Administrative Agent, the L/C Issuer and the Lenders, and agrees to maintain, a first priority security interest in all such cash, Deposit Accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.16(c). If at any time Administrative Agent determines that Cash Collateral is less than the Minimum Collateral Amount or otherwise deficient for any reason, the applicable Borrower will, promptly upon demand by Administrative Agent, pay or provide to Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in one or more blocked, non-interest bearing Deposit Accounts at BMO.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided in respect of Letters of Credit or Swing Line Loans, shall be held and applied to the satisfaction of the specific L/C Obligations, Swing Line Loans, obligations to fund participations therein (including, as to Cash Collateral provided by a Revolving Lender that is a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may be provided for herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the

applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Revolving Lender (or, as appropriate, its assignee following compliance with Section 10.06(b)(v)) or (ii) the determination by Administrative Agent and the L/C Issuer that there exists excess Cash Collateral.

## 2.17. Defaulting Lenders.

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

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders," or any comparable definition and Section 10.01.

(ii) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by Administrative Agent from a Defaulting Lender pursuant to Section 10.08 shall be applied at such time or times as may be determined by Administrative Agent, provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Obligations owed to, all Non-Defaulting Lenders under the applicable Facility on a pro rata basis (and ratably among all applicable Facilities computed in accordance with the Defaulting Lenders' respective funding deficiencies) prior to being applied to the payment of any Loans of, or L/C Obligations owed to, such Defaulting Lender under the applicable Facility until such time as all Loans and funded and unfunded participations in L/C Obligations and Swing Line Loans are held by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to Section 2.17(a)(iv). It is agreed and understood that Administrative Agent shall be entitled to set off any funding shortfall of such Defaulting Lender against such Defaulting Lender's respective share of any payments received from Borrowers. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.16(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. No Defaulting Lender shall be entitled to receive any Unused Fee payable pursuant to Section 2.09(a) for any period during which that Lender is a Defaulting Lender (and Borrowers shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender). Each Defaulting Lender which is a Revolving Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.16.

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Obligations and Swing Line Loans shall be reallocated among the Non-Defaulting Lenders which are Revolving Lenders in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's

Revolving Credit Commitment) but only to the extent that (x) the conditions set forth in Section 4.02 are satisfied at the time of such reallocation (and, unless Borrower Agent shall have otherwise notified Administrative Agent at such time, the relevant Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the aggregate Revolving Credit Outstandings of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Credit Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(b) Defaulting Lender Cure. If Borrower Agent, Administrative Agent and, in the case that a Defaulting Lender is a Revolving Lender, the Swing Line Lender and the L/C Issuer, agree in writing that a Lender is no longer a Defaulting Lender, Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Revolving Loans of the other Lenders or take such other actions as Administrative Agent may determine to be necessary to cause the Revolving Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.17(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of Borrowers while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

## **2.18. Increase in Term Loan Facility.**

(a) Request for Increase. On up to five occasions in the aggregate after the Closing Date, provided there exists no Default or Event of Default (except as the relevant Lenders or Additional Lenders providing the applicable Increase may agree if the proceeds thereof will be used to finance a Permitted Acquisition subject to "funds certain provisions", in which case no Default or Event of Default may exist at the time of entry into the applicable purchase agreement and no Event of Default under Sections 8.01(a), (f) or (g) shall exist at the time of consummation of such Acquisition), upon notice to Administrative Agent (which shall promptly notify the applicable Term Lenders), Borrower Agent may from time to time request to add one or more incremental term facilities and/or request an increase in the U.S. Term Loan Facility or the Canadian Term Loan Facility by an amount (for all such requests) not exceeding \$20,000,000 or the Canadian Dollar Equivalent thereof in the aggregate, all of which may be used to increase either Term Loan Facility or add one or more incremental term facilities (each such increase or addition of incremental facilities, an "**Increase**"); provided that any such request for an Increase shall be in a minimum amount of \$1,000,000 or the Canadian Dollar Equivalent thereof in the aggregate or, if less, the entire unutilized amount of the maximum amount of all such requests set forth above. At the time of sending such notice, Borrower Agent (in consultation with Administrative Agent) shall specify the time period within which each applicable Term Lender is requested to respond (which shall in no event be less than ten Business Days from the date of delivery of such notice to the applicable Term Lenders).

(b) Lender Elections to Increase. Each applicable Term Lender shall notify Administrative Agent within such time period whether or not it agrees to commit to a portion of the requested increase of the Term Loan Facility or the requested incremental term facility and, if so, whether by an amount equal



to, greater than, or less than its Applicable Percentage. Any Lender not responding within such time period shall be deemed to have declined to commit to any portion of the requested increase.

(c) Notification by Administrative Agent; Additional Lenders. Administrative Agent shall notify Borrower Agent of the applicable Lenders' responses to each request made hereunder. To achieve the full amount of a requested increase or incremental term facility and subject to the approval of Administrative Agent (which approval shall not be unreasonably withheld), Borrower Agent may also invite additional Persons (subject to the same approvals required for an assignment pursuant to Section 10.06) to become Lenders pursuant to a joinder agreement in form and substance satisfactory to Administrative Agent and its counsel (each such assignee issuing a commitment, executing and delivering such joinder agreement and becoming a Lender, an "*Additional Lender*").

(d) Effective Date and Allocations. If the Term Loan Facility is increased or an incremental term facility is provided in accordance with this Section 2.18, Administrative Agent and Borrower Agent shall determine the effective date (the "*Increase Effective Date*") and the final allocation of such increase or incremental term facility. Administrative Agent shall promptly notify Borrower Agent and the applicable Term Lenders of the final allocation of such increase or incremental term facility and the Increase Effective Date.

(e) Conditions to Effectiveness of Increase. As a condition precedent to each Increase, (i) Borrower Agent shall have delivered to Administrative Agent a certificate dated as of the Increase Effective Date (in sufficient copies for each Lender) signed by a Responsible Officer of Borrower Agent (A) certifying and attaching the resolutions adopted by the Loan Parties approving or consenting to such Increase, and (B) certifying that, before and after giving effect to the Increase, the representations and warranties contained in Article V and in the other Loan Documents, or which are contained in any document furnished at any time under or in connection herewith or therewith, are true and correct in all respects (or in all material respects for such representations and warranties that are not by their terms already qualified as to materiality) on and as of the Increase Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this Section 2.18, the representations and warranties contained in subsections (a) and (b) of Section 5.04 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (c), respectively, of Section 6.01; provided that, if the proceeds thereof will be used to finance a Permitted Acquisition subject to "funds certain provisions", the relevant Lenders or Additional Lenders providing the applicable Increase may agree that this condition shall be limited to the Specified Representations and those representations included in the acquisition agreement related to such Permitted Acquisition that are material to the interest of the Lenders and only to the extent that the relevant Borrower has the right to terminate its obligations under such acquisition agreement as a result of a breach of such representation; (ii) Borrowers, Administrative Agent, and any Additional Lender shall have executed and delivered a joinder to the Loan Documents in such form as Administrative Agent shall reasonably require; (iii) Borrowers shall have paid such fees and other compensation to Administrative Agent, the Lenders increasing their Term Loan Commitments or providing any incremental term loan and the Additional Lenders, as Borrowers, Administrative Agent, such Lenders and such Additional Lenders shall agree; (iv) Borrower Agent shall have delivered to Administrative Agent updated projections (after giving effect to the applicable Increase) for Holdings and its Subsidiaries evidencing that (1) on a pro forma basis after giving effect to the applicable Increase, the Consolidated Total Net Leverage Ratio of Holdings and its Subsidiaries as of the end of the fiscal month most recently ended as to which financial statements were required to be delivered pursuant to this Agreement was equal to or less than the lesser of (A) 0.25 less than the maximum Consolidated Total Net Leverage Ratio permitted pursuant to Section 7.12(a) for the Fiscal Quarter most recently ended as to which financial statements were required to be delivered pursuant to this Agreement and (B) 4.75 to 1.00 and (2) on a pro forma basis after giving effect to the applicable Increase, the Consolidated Senior Net

Leverage Ratio of Holdings and its Subsidiaries as of the end of the fiscal month most recently ended as to which financial statements were required to be delivered pursuant to this Agreement was equal to or less than 3.00 to 1.00; (v) the applicable Borrower shall have delivered to Administrative Agent and the Lenders increasing their Commitments and each Additional Lender an opinion or opinions, in form and substance reasonably satisfactory to Administrative Agent, from counsel to the Loan Parties reasonably satisfactory to Administrative Agent and dated such date; (vi) Borrowers, the Lenders increasing their Commitments and each Additional Lender shall have delivered such other instruments, documents and agreements as Administrative Agent may reasonably have requested; and (vii) each of the conditions precedent set forth in Section 4.02 shall have been satisfied.

(f) Interest Margins. Borrower Agent shall have reached agreement with the Lenders (or Additional Lenders) agreeing to the respective Increase with respect to the interest margins applicable to Term Loans or incremental term loans to be made pursuant such Increase (which interest margins may be higher than, equal to, or lower than the interest margins applicable to the applicable Term Loan set forth in this Agreement immediately prior to the Increase Effective Date, as applicable) and shall have communicated the amount of such interest margins to Administrative Agent. Any joinder pursuant to clause (c) above may, with the consent of Administrative Agent, Borrowers and the Lenders or Additional Lenders providing such Increase, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate to effectuate the provisions of this Section 2.18 (including any amendment necessary to effectuate the interest margins for the Term Loans or incremental term loans to be made pursuant to such Increase). Anything to the contrary contained herein notwithstanding, it is agreed and understood that the all-in yield (including interest rate margins, any interest rate floors, original issue discount and upfront fees (based on the lesser of a four-year average life to maturity or the remaining life to maturity), but excluding reasonable and customary arrangement, structuring and underwriting fees paid or payable to the lead arranger or its affiliates with respect to an Increase of the Term Loans or any incremental term loans provided pursuant to an Increase) applicable to any Increase of the Term Loan or any incremental term loans provided pursuant to an Increase shall not be more than 0.50% higher than the corresponding all-in yield (determined on the same basis) applicable to the then outstanding Term Loans, unless the interest rate margin with respect to the then outstanding Term Loans is increased by an amount equal to (I) the difference between the all-in yield with respect to the Increase of the Term Loan or the incremental term loans provided pursuant to the Increase, as applicable, and the all-in yield with respect to the then outstanding Term Loans having the lowest all-in yield, minus (II) 0.50% per annum; provided that to the extent that the interest rate margin of the outstanding Term Loans are increased pursuant to the foregoing clause, the interest rate margin applicable to the Revolving Loans shall be increased by the same amount.

(g) Each Increase shall rank pari passu in right of payment in respect of Collateral and with the applicable Obligations in respect of the applicable Term Loans available to Borrowers. In addition thereto (i) Increases to the Term Loans or any incremental term loans shall not have a final maturity date earlier than the latest maturity date applicable to any Term Loan or previously established incremental term loan, (ii) Increases to the Term Loans or any incremental term loans shall not have a weighted average life to maturity that is shorter than the then weighted average life to maturity of the remaining Term Loans and previously established incremental term loans and (iii) other than pricing or maturity date, Increases of the Term Loans and establishment of incremental term loans shall have substantially the same terms as the Term Loans and previously established incremental term loans.

(h) Conflicting Provisions. This Section 2.18 shall supersede any provisions in Section 2.13 or 10.01 to the contrary.

**2.19. Interest Act (Canada); Criminal Rate of Interest; Nominal Rate of Interest.**

Notwithstanding anything to the contrary contained in this Agreement or in any other Loan Document, solely to the extent that a court of competent jurisdiction finally determines that the calculation or determination of interest payable by Canadian Borrower in respect of the Obligations pursuant to this Agreement and the other Loan Documents shall be governed by the federal laws of Canada or any Province thereof:

(a) whenever interest, fees or other amounts payable by Canadian Borrower are calculated on the basis of a period which is less than the actual number of days in a calendar year, each rate of interest determined pursuant to such calculation is, for the purposes of the Interest Act (Canada), equivalent to such rate multiplied by the actual number of days in the calendar year in which such rate is to be ascertained and divided by the number of days used as the basis of such calculation;

(b) in no event shall the aggregate "interest" (as defined in Section 347 of the Criminal Code, R.S.C. 1985, c. C-46, as the same shall be amended, replaced or reenacted from time to time) payable by Canadian Borrower to Administrative Agent or any Lender under this Agreement or any other Loan Document exceed the aggregate amount of such interest which Administrative Agent and the Lenders are entitled to charge and receive under applicable Laws and, if any payment, collection or demand pursuant to this Agreement or any other Loan Document in respect of "interest" (as defined in that section) is determined to be contrary to the provisions of that section, such payment, collection or demand shall be deemed to have been made by mutual mistake of Administrative Agent, Lenders and the Canadian Borrower and the amount of such payment or collection exceeding the payment or collection lawfully permitted shall be refunded by Administrative Agent and Lenders to Canadian Borrower. There is no intention that Administrative Agent or any Lender shall contract for, charge or receive compensation in the form of such "interest" in excess of the highest lawful rate, and, in the event it should be determined that any excess has been charged or received, then, ipso facto, such rate (or, if such excess has resulted from more than one rate, the particular rate or rates as determined by Administrative Agent in its sole discretion) shall be reduced to the highest lawful rate so that no amounts shall be charged which are in excess thereof. For the purposes of this Agreement and each other Loan Document to which Canadian Borrower is a party, the effective annual rate of interest payable by Canadian Borrower shall be determined in accordance with generally accepted actuarial practices and principles over the term of the Loans on the basis of annual compounding for the lawfully permitted rate of interest and, in the event of dispute, a certificate of a Fellow of the Institute of Actuaries appointed by Administrative Agent for the account of Canadian Borrower will be conclusive for the purpose of such determination in the absence of evidence to the contrary; and

(c) all calculations of interest payable by Canadian Borrower under this Agreement or any other Loan Document are to be made on the basis of the nominal interest rate described herein and therein and not on the basis of effective yearly rates or yields or on any other basis which gives effect to the principle of deemed reinvestment of interest. The parties acknowledge that there is a material difference between the stated nominal interests rates and the effective yearly rates of interest and that they are capable of making the calculations required to determine such effective yearly rates of interest.

**ARTICLE III  
TAXES, YIELD PROTECTION AND ILLEGALITY**

**3.01. Taxes.**

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of the Loan Parties hereunder or under any other Loan Document shall to the extent permitted by applicable Laws be

made free and clear of and without reduction or withholding for any Taxes. If, however, applicable Law requires the withholding or deduction of any Tax, such Tax shall be withheld or deducted in accordance with such Laws as determined by Borrower Agent or Administrative Agent, as the case may be, upon the basis of the information and documentation to be delivered pursuant to subsection (e) below.

(ii) If applicable Law requires the withholding or deduction of any Taxes from any payment under any Loan Document, then (A) the applicable Loan Party shall withhold or make such deductions as are required based upon the information and documentation it has received pursuant to subsection (e) below, (B) such Loan Party shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the applicable Law, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the Loan Parties shall be increased as necessary so that after any required withholding or deductions (including deductions and withholdings applicable to additional sums payable under this Section) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by Loan Parties. Without limiting the provisions of subsection (a) above, the Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable Law or at Administrative Agent's option timely reimburse it for the payment of any Other Taxes.

(c) Tax Indemnification.

(i) Without limiting the provisions of subsection (a) or (b) above, each Loan Party shall, and does hereby, on a joint and several basis indemnify each Recipient (and its respective directors, officers, employees, affiliates and agents) and shall make payment in respect thereof within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) withheld or deducted on payments to, or paid by, such Recipient (or its respective directors, officers, employees, affiliates and agents), as the case may be, and any penalties, interest and related expenses and losses arising therefrom or with respect thereto (including the fees, charges and disbursements of any counsel or other tax advisor for the Recipient (or its respective directors, officers, employees, affiliates, and agents)), whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Each Loan Party on a joint and several basis shall also, and does hereby, indemnify Administrative Agent, and shall make payment in respect thereof within 10 days after demand therefor, for any amount which a Lender or the L/C Issuer for any reason fails to pay indefeasibly to Administrative Agent as required by clause (ii) of this subsection. A certificate as to the amount of any such payment or liability delivered to Borrower Agent by a Lender or the L/C Issuer (with a copy to Administrative Agent), or by Administrative Agent on its own behalf or on behalf of a Lender or the L/C Issuer, shall be conclusive absent manifest error.

(ii) Without limiting the provisions of subsection (a) or (b) above, each Lender and the L/C Issuer shall, and does hereby, indemnify Administrative Agent, and shall make payment in respect thereof within 10 days after demand therefor, against (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.06(d) relating to the maintenance of a Participant Register and (iii) any Taxes (other than Indemnified Taxes) attributable to such Lender, in each case, that are

payable or paid by Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender or L/C Issuer by Administrative Agent shall be conclusive absent manifest error. Each Lender and the L/C Issuer hereby authorizes Administrative Agent to set off and apply any and all amounts at any time owing to such Lender or the L/C Issuer, as the case may be, under this Agreement or any other Loan Document against any amount due to Administrative Agent under this clause (ii). The agreements in this clause (ii) shall survive the resignation and/or replacement of Administrative Agent, any assignment of rights by, or the replacement of, a Lender or the L/C Issuer and the occurrence of the Facility Termination Date.

(d) Evidence of Payments. Upon request by Borrower Agent or Administrative Agent, as the case may be, after any payment of Taxes by the Loan Parties or by Administrative Agent to a Governmental Authority as provided in this Section 3.01, Borrower Agent shall deliver to Administrative Agent or Administrative Agent shall deliver to Borrower Agent, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to Borrower Agent or Administrative Agent, as the case may be.

(e) Status of Lenders; Tax Documentation.

(i) Each Lender shall deliver to Borrower Agent and to Administrative Agent, at the time or times prescribed by applicable Laws or when reasonably requested by Borrower Agent or Administrative Agent, such properly completed and executed documentation prescribed by applicable Laws or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit Borrower Agent or Administrative Agent, as the case may be, to determine (A) whether or not payments made hereunder or under any other Loan Document are subject to Taxes, (B) if applicable, the required rate of withholding or deduction, and (C) such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of all payments to be made to such Lender by the Loan Parties pursuant to this Agreement or otherwise to establish such Lender's status for withholding tax purposes in the applicable jurisdiction; provided each Lender shall only be required to deliver such documentation as it may legally provide.

(ii) Without limiting the generality of the foregoing:

(A) any Lender that is a "United States person" within the meaning of Section 7701(a)(30) of the Code shall deliver to Borrower Agent and Administrative Agent executed originals of Internal Revenue Service Form W-9 or such other documentation or information prescribed by applicable Laws or reasonably requested by Borrower Agent or Administrative Agent as will enable Borrower Agent or Administrative Agent, as the case may be, to determine whether or not such Lender is subject to backup withholding or information reporting requirements; and

(B) each Foreign Lender that is entitled under the Code or any applicable treaty to an exemption from or reduction of withholding tax with respect to payments hereunder or under any other Loan Document shall deliver to Borrower Agent and Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of Borrower Agent or

Administrative Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

(I) executed originals of Internal Revenue Service Form W-8BEN-E claiming eligibility for benefits of an income tax treaty to which the United States is a party,

(II) executed originals of Internal Revenue Service Form W-8ECI,

(III) executed originals of Internal Revenue Service Form W-8IMY and all required supporting documentation (including executed originals of the beneficial owner's applicable IRS Forms and a withholding statement, if applicable),

(IV) 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 any Borrower 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) executed originals of Internal Revenue Service Form W-8BEN-E,

(V) executed originals of any other form prescribed by applicable Laws as a basis for claiming exemption from or a reduction in United States Federal withholding tax together with such supplementary documentation as may be prescribed by applicable Laws to permit Borrower Agent or Administrative Agent to determine the withholding or deduction required to be made, or

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

(iii) Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower Agent and Administrative Agent in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. Unless required by applicable Laws, at no time shall Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender or the L/C Issuer, or have any obligation to pay to any Lender or the L/C Issuer, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or the L/C Issuer, as the case may be. So long

as no Event of Default is occurring, if Administrative Agent, any Lender or the L/C Issuer determines, in its sole discretion acting in good faith, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this Section, it shall pay to such Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by any Loan Party 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 by Administrative Agent, such Lender or the L/C Issuer, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that each Loan Party, upon the request of Administrative Agent, such Lender or the L/C Issuer, agrees to repay the amount paid over to any Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to Administrative Agent, such Lender or the L/C Issuer in the event Administrative Agent, such Lender or the L/C Issuer is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (f), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (f) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise to such refund had never been paid. This subsection shall not be construed to require Administrative Agent, any Lender or the L/C Issuer to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Loan Party or any other Person.

**3.02. Illegality.** If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurodollar Rate, or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to Borrower Agent through Administrative Agent, (i) any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Eurodollar Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by Administrative Agent without reference to the Eurodollar Rate component of the Base Rate, in each case until such Lender notifies Administrative Agent and Borrower Agent that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Loan Parties shall, upon demand from such Lender (with a copy to Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by Administrative Agent without reference to the Eurodollar Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurodollar Rate, Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurodollar Rate component thereof until Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurodollar Rate. Upon any such prepayment or conversion, the Loan Parties shall also pay accrued interest on the amount so prepaid or converted.

**3.03. Inability to Determine Rates.** If Administrative Agent determines that for any reason in connection with any request for a Eurodollar Rate Loan or a conversion to or continuation

thereof that (a) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Loan, (b) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan or in connection with an existing or proposed Base Rate Loan, or (c) the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, Administrative Agent will promptly so notify Borrower Agent and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurodollar Rate Loans shall be suspended, and (y) in the event of a determination described in the preceding sentence with respect to the Eurodollar Rate component of the Base Rate, the utilization of the Eurodollar Rate component in determining the Base Rate shall be suspended, in each case until Administrative Agent revokes such notice. Upon receipt of such notice, Borrower Agent may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

#### **3.04. Increased Costs; Reserves on Eurodollar Rate Loans.**

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

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by Section 3.04(e)) or the L/C Issuer;

(ii) subject any Recipient to any Taxes on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto (except for Indemnified Taxes covered by Section 3.01 and the imposition of, or any change in the rate of, any Tax described in clause (a) of the definition of Excluded Tax, payable by such Lender or the L/C Issuer); or

(iii) impose on any Lender or the L/C Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or the L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or the L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or the L/C Issuer, the Loan Parties will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or the L/C Issuer determines that any Change in Law affecting such Lender or the L/C Issuer or any Lending Office of such Lender or such Lender's or the L/C Issuer's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or the L/C Issuer's capital or on the capital of such Lender's or the L/C Issuer's holding company, if any, as a consequence of this Agreement, the Revolving Credit Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by the L/C Issuer, to a level below that which such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company could have achieved but for such



Change in Law (taking into consideration such Lender's or the L/C Issuer's policies and the policies of such Lender's or the L/C Issuer's holding company with respect to capital adequacy), then from time to time pursuant to subsection (c) below the Loan Parties will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or the L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or the L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to Borrower Agent shall be conclusive absent manifest error. The Loan Parties shall pay such Lender or the L/C Issuer, as the case may be, the amount shown as due on any such certificate within 10 Business Days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or the L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or the L/C Issuer's right to demand such compensation, provided that the Loan Parties shall not be required to compensate a Lender or the L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender or the L/C Issuer, as the case may be, notifies the Loan Parties of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Reserves on Eurodollar Rate Loans. Without duplication of the effect of the Eurodollar Reserve Percentage, the relevant Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits, additional interest on the unpaid principal amount of each Eurodollar Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided Borrower Agent shall have received at least 10 days' prior notice (with a copy to Administrative Agent) of such additional interest from such Lender. If a Lender fails to give notice 10 days prior to the relevant Interest Payment Date, such additional interest shall be due and payable 10 days from receipt of such notice.

**3.05. Compensation for Losses.** Upon demand of any Lender (with a copy to Administrative Agent) from time to time, the relevant Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by Borrowers (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by Borrower Agent; or

(c) any assignment of a Eurodollar Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by Borrower Agent pursuant to Section 10.13;

including any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained.

Borrowers shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by Borrowers to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurodollar Rate Loan made by it at the Eurodollar Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan was in fact so funded.

**3.06. Mitigation Obligations.** If any Lender requests compensation under Section 3.04, or Borrowers are required to pay any additional amount to any Lender, the L/C Issuer or any Governmental Authority for the account of any Lender or the L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender or the L/C Issuer, as applicable, shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or the L/C Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or the L/C Issuer, as the case may be, to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or the L/C Issuer, as the case may be. Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender or the L/C Issuer in connection with any such designation or assignment.

**3.07. Survival.** All of the obligations under this Article III shall survive the resignation of Administrative Agent, the L/C Issuer and the Swing Line Lender, the replacement of any Lender and the occurrence of the Facility Termination Date.

#### **ARTICLE IV CONDITIONS PRECEDENT TO CREDIT EXTENSIONS**

**4.01. Conditions of Initial Credit Extension.** The obligation of each Lender and the L/C Issuer to make any initial Credit Extension hereunder is subject to satisfaction or waiver by the applicable party of the following conditions precedent:

(a) Administrative Agent's receipt of the following items, each properly executed by a Responsible Officer of applicable Loan Party, each dated as of the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to Administrative Agent and its legal counsel:

(i) Uniform Commercial Code (and Personal Property Security Act financing statements prepared by counsel for the Administrative Agent for execution and filing on behalf of the Administrative Agent), suitable in form and substance for filing in all places required by applicable law to perfect the Liens of Administrative Agent under the Security Instruments as a first priority Lien as to items of Collateral in which a security interest may be perfected by the filing of financing statements, and such other documents and/or evidence of other actions as may be reasonably necessary under applicable law to perfect the Liens of Administrative Agent under such Security Instruments as a first priority Lien in and to such other Collateral as Administrative Agent may require;

(ii) Uniform Commercial Code, Personal Property Security Act, tax, judgment and other related search results showing only those Liens as are acceptable to Administrative Agent and Lenders;

(iii) evidence of the payment in full and cancellation of the Existing Agreement, including terminations of Uniform Commercial Code and Personal Property Security Act financing statements filed in connection with the Existing Agreement and other evidence of Lien releases and other related matters on terms acceptable to Administrative Agent.

(iv) evidence satisfactory to Administrative Agent of the consummation (in compliance with all applicable laws and regulations, with the receipt of all necessary material governmental, shareholder and third party consents and approvals relating thereto) of (A) the incurrence of the Subordinated Indebtedness in accordance with the terms of the Subordinated Indebtedness Documents with proceeds to U.S. Borrower not less than \$20,700,000, (B) the incurrence of Indebtedness in accordance with the terms of the Holdco Notes with proceeds to Holdings of not less than \$3,000,000, (C) the consummation (in compliance with all applicable laws and regulations, with the receipt of all necessary material governmental, shareholder and third party consents and approvals relating thereto) of issuance of the Sponsor Convertible Notes with proceeds thereof, together with additional proceeds from the Holdco Notes, representing at least 30% of the total capital structure of Holdings (inclusive of customary rollover equity), (D) the consummation of the Closing Date Acquisition in accordance with the terms of the Closing Date Acquisition Documents, each of which shall be on terms and conditions satisfactory to Administrative Agent and (E) Excess Availability equal to or in excess of \$5,000,000;

(v) (A) audited financial statements for the fiscal years ending December 31, 2011, December 31, 2012 and December 31, 2013 and unaudited monthly financial statements (including an income statement, balance sheet and cash flow statement) for the three years prior to the Closing Date of Tapp Label Technologies Inc. and its Subsidiaries, (B) audited financial statements for the fiscal years ending June 30, 2012, June 30, 2013 and June 30, 2014 and unaudited monthly financial statements (including an income statement, balance sheet and cash flow statement) for the three years prior to the Closing Date of Metro Label Company Ltd., (C) reviewed financial statements for the fiscal years ending years ending June 30, 2012, June 30, 2013 and June 30, 2014 and unaudited monthly financial statements (including an income statement, balance sheet and cash flow statement) for the three years prior to the Closing Date of each of Metro Label Pacific Ltd. and Metro Label California Ltd., (D) five-year projected financial statements and (E) a closing balance sheet adjusted to give effect to the Transactions, in each case, in form and substance acceptable to Administrative Agent;

(vi) such documentation and information at least 5 Business Days prior to the Closing Date about the Loan Parties required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation, the Act

(vii) each agreement, instrument, document, certificate, opinion and other items set forth on the closing checklist attached hereto as Exhibit G, except those items that are expressly permitted to be delivered after the Closing Date pursuant to Section 6.13 hereof;

(viii) such other assurances, certificates, documents, consents or opinions as Administrative Agent or any Lender may reasonably require.

(b) Any fees, charges and disbursements required to be paid on or before the Closing Date shall have been paid.

(c) All consents, licenses and approvals required in connection with the execution, delivery and performance by each Loan Party and the validity against each such Loan Party of the Loan Documents to which it is a party shall have been obtained and be in full force and effect.

(d) Unless waived by Administrative Agent, Borrowers shall have paid all reasonable fees, charges and disbursements of counsel to Administrative Agent to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such reasonable fees, charges and disbursements as shall constitute its reasonable estimate of such reasonable fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between Borrowers and Administrative Agent).

(e) Administrative Agent shall be satisfied that after giving effect to (i) the initial Credit Extension hereunder, (ii) consummation of the Transactions and payment of all fees and expenses in connection therewith, (1) the Consolidated Total Net Leverage Ratio shall not be greater than 4.75:1.0, (2) the Consolidated Senior Net Leverage Ratio shall not be greater than 3.00:1.0 and (3) Consolidated EBITDA for the latest twelve (12) fiscal months ended May 31, 2015 shall be equal to or greater than \$11,800,000, after giving pro forma effect to the consummation of the Transactions.

(f) Administrative Agent shall be satisfied with title and other matters related to owned real estate, if any, including receipt of title insurance, real estate surveys, flood determinations and environmental studies including Phase I assessments.

(g) The Purchase Agreement and all material documents and instruments delivered in connection therewith together with evidence satisfactory to the Administrative Agent that all consents and/or waivers from, or notices to, Governmental Authorities in accordance with applicable Laws have been obtained or made as Administrative Agent shall reasonably request shall be in form and substance satisfactory to Administrative Agent.

(h) The Purchase Agreement Representations shall be true and correct as of the closing date of the Closing Date Acquisition.

(i) The Closing Date Acquisition shall have been approved by the Target's directors and (if necessary) shareholders, and all necessary regulatory approvals with respect to the Closing Date Acquisition shall have been obtained. There shall be no injunction, temporary restraining order or other legal action in effect which would prohibit the closing of the Closing Date Acquisition or the closing and funding of the Facilities.

(j) Administrative Agent shall be satisfied that key members of the Borrower's management team have been retained and have entered into satisfactory employment contracts.

(k) The Sponsor, Borrowers, Administrative Agent and North Haven Credit Partners II L.P. shall have entered into the Sponsor Equity Contribution Agreement, in form and substance satisfactory to Administrative Agent.

(l) Since December 31, 2014, no event, circumstance or change shall have occurred that has caused or evidences, either in any case or in the aggregate, a Material Adverse Effect.

(m) Administrative Agent shall have received all other documents and legal matters in connection with the transactions contemplated by this Agreement and shall have been delivered, executed or recorded and shall be in form and substance reasonably satisfactory to Administrative Agent.

Without limiting the generality of the provisions of Section 9.04, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

**4.02. Conditions to all Credit Extensions.** The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurodollar Rate Loans) or make the initial Credit Extension hereunder is subject to the following conditions precedent:

(a) The representations and warranties of the Loan Parties contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all respects (or in all material respects for such representations and warranties that are not by their terms already qualified as to materiality) on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all respects (or in all material respects for such representations and warranties that are not by their terms already qualified as to materiality) as of such earlier date, and except that for purposes of this Section 4.02(a), the representations and warranties contained in subsections (a) and (b) of Section 5.04 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01.

(b) No Default or Event of Default shall have occurred and be continuing, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) Administrative Agent and, if applicable, the L/C Issuer or the Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) After giving effect to each Credit Extension, Total Revolving Credit Outstandings do not exceed the Total Revolving Credit Commitments.

Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurodollar Rate Loans) submitted by Borrower Agent shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a), 4.02(b) and 4.02(d) have been satisfied on and as of the date of the applicable Credit Extension.

## **ARTICLE V REPRESENTATIONS AND WARRANTIES**

To induce the Lender Parties to enter into this Agreement and to make Loans and to issue Letters of Credit hereunder, each Loan Party represents and warrants to Administrative Agent and the Lenders, and in the case of representations and warranties made as of the Closing Date both before and after the consummation of the Transactions, that:

**5.01. Existence, Qualification and Power.** Each Loan Party and each Subsidiary (a) is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business as is now being conducted and (ii) execute, deliver and perform its obligations under the Loan Documents to which

it is a party and to consummate the Transactions to which it is a party, and (c) is duly qualified and in good standing under the Laws of each jurisdiction where its operation or properties requires such qualification, except, in the case of this clause (c), to the extent that failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

**5.02. Authorization; No Contravention; Consents.** The execution, delivery and performance by each Loan Party of each Loan Document to which it is a party, and the consummation of the Transactions, have been duly authorized by all necessary organizational action, and do not and will not (a) contravene the terms of its Organization Documents, (b) conflict with or result in any breach or contravention of, in any material respect, or the creation of any Lien under (i) any material Contractual Obligation to which such Person is a party or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject, (c) violate any Law material to any Loan Party or Subsidiary in any material respect, or (d) require any material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person, if the failure to obtain the same, take such action or give such notice could reasonably be expected to result in a Material Adverse Effect.

**5.03. Binding Effect.** This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except as the enforcement hereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar Laws relating to or affecting the rights and remedies of creditors or by general equitable principles.

**5.04. Financial Statements; No Material Adverse Effect.**

(a) The Audited Financial Statements and the Reviewed Financial Statements (i) were each prepared in accordance with GAAP consistently applied throughout the applicable period covered thereby, except as otherwise expressly noted therein; and (ii) each fairly present, in all material respects, the financial condition of Holdings and its Subsidiaries, Metro Label Company Ltd., Metro Label California Ltd. and Metro Label Pacific Ltd., as applicable, as of the respective date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein.

(b) The unaudited consolidated and consolidating balance sheet of Holdings and its Subsidiaries dated as of May 31, 2015, and the related consolidated and consolidating statements of income or operations, shareholders' equity and cash flows for the month then ended (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present in all material respects the financial condition of Holdings and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.

(c) Since December 31, 2013, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

(d) As of the Closing Date, the Loan Parties and their Subsidiaries, on a Consolidated basis, are Solvent.

**5.05. Litigation.** As of the Closing Date, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of any Loan Party, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against any Loan Party or any Subsidiary or against any of their properties that (a) purport to affect or pertain to this Agreement or any other Loan Document or any of the Transactions or (b) except as specifically disclosed in Schedule 5.05, either individually or in the aggregate, assert liabilities in excess of, or could reasonably be expected to result in liabilities in excess of, \$250,000 or the Canadian Dollar Equivalent thereof, or otherwise have a Material Adverse Effect.

**5.06. No Default.** No Loan Party nor any Subsidiary is in default under or with respect to any Contractual Obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document or the incurrence of Indebtedness hereunder.

**5.07. Ownership of Property; Liens.**

(a) Each Loan Party and each of its Subsidiaries has good, and in the case of Real Estate, marketable title to all property (tangible and intangible), including Intellectual Property, necessary to, or used in the ordinary conduct of, its business, subject to Permitted Liens and except (i) for any such properties which are immaterial to the operations of such Loan Party's or such Subsidiary's respective business and/or (ii) as may have been disposed of in compliance with the terms of this Agreement.

(b) No Real Estate is owned by any Loan Party as of the Closing Date. Schedule 5.07(b) sets forth the address (including street address, county and state) of all leases of the Loan Parties, with respect to each such lease as of the Closing Date.

(c) Schedule 7.02 sets forth, as of the Closing Date, a complete and accurate list of all Liens on the property or assets of each Loan Party and each of its Subsidiaries (other than Liens created under the Loan Documents), showing the lienholder thereof, the principal amount of the obligations secured thereby and the property or assets of such Loan Party or such Subsidiary subject thereto. The property and assets of each Loan Party and each of its Subsidiaries is subject to no Liens, other than Liens set forth on Schedule 7.02, and other Permitted Liens.

**5.08. Environmental Compliance.**

(a) Each Loan Party, Subsidiary, Real Estate and real property currently leased or operated by any Loan Party or Subsidiary complies and has at all times complied with Environmental Law. Any real property formerly owned, leased or operated by any Loan Party, Subsidiary or their respective predecessors-in-interest complied with Environmental Law at all times during any such Loan Party's, Subsidiary's or predecessors-in-interest's ownership, lease or operation thereof.

(b) Each Loan Party and Subsidiary has obtained and maintains and complies with any permit, license or other approval required under any Environmental Law with respect to such Loan Party's or Subsidiary's operations.

(c) No Loan Party or any Subsidiary is or has any time been subject to any Environmental Liability except as has not resulted, and could not, individually or in the aggregate, reasonably be expected to result, in Environmental Liabilities on the part of the Loan Parties and their Subsidiaries in excess of \$250,000 or the Canadian Dollar Equivalent thereof.

(d) As of the Closing Date, (i) none of the properties currently or formerly owned, leased or operated by any Loan Party or any Subsidiary is listed or, to the knowledge of the Loan Parties, proposed for listing on the NPL or on the CERCLIS or any analogous foreign, state or local list or is adjacent to any such property; (ii) on any property currently owned, leased or operated by any Loan Party or any Subsidiary there are no and, to the knowledge of the Loan Parties, never have been any underground or above-ground storage tanks or any surface impoundments, septic tanks, pits, sumps or lagoons in which Hazardous Materials are being or have been treated, stored or disposed; (iii) to the knowledge of the Loan Parties, there is no asbestos or asbestos-containing material on any property currently owned, leased or operated by any Loan Party or Subsidiary; and (iv) Hazardous Materials have not been released, discharged or disposed of by any Loan Party or Subsidiary in violation of Environmental Laws or, to the knowledge of the Loan Parties, by any other Person in violation of Environmental Laws on any property currently or formerly owned, leased or operated by any Loan Party or any Subsidiary or their respective predecessors-in-interest, except in the case of this clause (iv) as has not resulted and could not, individually or in the aggregate, reasonably be expected to result in, Environmental Liabilities on the part of the Loan Parties and Subsidiaries in excess of \$250,000 or the Canadian Dollar Equivalent thereof.

(e) Except as could not individually or in the aggregate reasonably be expected to result in Environmental Liabilities on the part of the Loan Parties and their Subsidiaries in excess of \$250,000 or the Canadian Dollar Equivalent thereof, as of the Closing Date, no Loan Party or any Subsidiary is undertaking, and no Loan Party or any Subsidiary has completed, either individually or together with other potentially responsible parties, any investigation or assessment or remedial or response action relating to any actual or threatened release, discharge or disposal of Hazardous Materials at any site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law; and all Hazardous Materials generated, used, treated, handled or stored by any Loan Party or any Subsidiary at, or transported to or from by or on behalf of any Loan Party or any Subsidiary, any property owned or operated by any Loan Party or any Subsidiary have, to the knowledge of the Loan Parties, been disposed of in a manner not reasonably expected to result in Environmental Liability to any Loan Party or any Subsidiary in excess of \$250,000 or the Canadian Dollar Equivalent thereof.

(f) The Loan Parties and their Subsidiaries have provided the Administrative Agent all reports, audits, assessments and correspondence with regulatory authorities regarding environmental matters in connection with the Loan Parties, Subsidiaries or real property currently or formerly owned, leased or operated by any Loan Party or Subsidiary.

**5.09. Insurance and Casualty.** The Loan Parties and their Subsidiaries maintain insurance with financially sound and reputable insurance companies which are not Affiliates of the Loan Parties, in such amounts, with such deductibles and covering such risks (including, without limitation, workmen's compensation, public liability, business interruption and property damage insurance) as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Loan Parties or the applicable Subsidiary operates. Schedule 5.09 sets forth a description of all insurance maintained by or on behalf of the Loan Parties and their Subsidiaries as of the Closing Date. Each insurance policy listed on Schedule 5.09 is in full force and effect.

**5.10. Taxes.** Each Loan Party and each Subsidiary has filed all Federal and state and foreign (including Canadian federal and provincial) income Tax returns and other material Tax returns and reports required to be filed, and has paid all Federal and state and foreign (including Canadian federal and provincial) income Taxes and other material Taxes, assessments, fees and other governmental charges levied or imposed upon it or its properties, income or assets otherwise due and payable, except those which are being Properly Contested. Neither Holdings nor any Subsidiary thereof is party to any tax sharing agreement. All interest paid by U.S. Borrower will be treated as U.S.-source income for U.S.



federal income tax purposes. All interest paid by Canadian Borrower will be treated as Canadian-source income for U.S. federal income tax purposes.

#### 5.11. ERISA Compliance; Canadian Plans.

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state Laws. Each Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter or opinion letter from the Internal Revenue Service to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 501(a) of the Code and such letter may be relied upon, or an application for such a letter is currently being processed by the Internal Revenue Service. To the best knowledge of each Loan Party, nothing has occurred that would prevent or cause the loss of any such Plan's tax-qualified status.

(b) As of the Closing Date, there are no pending or, to the best knowledge of any Loan Party, threatened claims, actions or lawsuits, or action by any Person, with respect to any Plan that could reasonably be expected to result in liabilities individually or in the aggregate in excess of \$250,000 or the Canadian Dollar Equivalent thereof. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in liabilities individually or in the aggregate in excess of \$250,000 or the Canadian Dollar Equivalent thereof.

(c) (i) No ERISA Event has occurred, and no Loan Party is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event, in each case that could reasonably be expected to result in liabilities individually or in the aggregate in excess of \$250,000; (ii) each Loan Party, each Subsidiary thereof and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained, in each case except as could not reasonably be expected to result in liabilities individually or in the aggregate to the Loan Parties in excess of \$250,000; (iii) as of the valuation date for any Pension Plan immediately prior to the date this representation is made, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is 60% or higher and no Loan Party knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of the most recent valuation date; and (iv) no Loan Party, no Subsidiary thereof nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA, except as could not reasonably be expected to result in liabilities individually or in the aggregate to the Loan Parties in excess of \$250,000.

(d) As of the Closing Date, no Loan Party maintains or contributes to, or has any unsatisfied obligation to contribute to, or liability under, any active or terminated Pension Plan other than those listed on Schedule 5.11(d) hereto.

(e) Except as would not reasonably be expected to result in a Material Adverse Effect, (i) all Canadian Plans that are registered pension plans, as that term is defined in the *Pension Benefits Standards Act* (British Columbia) and Pension Benefits Act (Ontario) (or other applicable Laws governing registered pension plans in Canada ("**Canadian Pension Plans**")), have been administered in accordance with all applicable Laws, (ii) no Canadian Pension Plan is a multiemployer plan, as that term is defined in the *Pension Benefits Standards Act* (British Columbia) and Pension Benefits Act (Ontario) (or other law governing registered pension plans in Canada), (iii) no Canadian Pension Plan is or was a defined benefit pension plan, (iv) no Canadian Plan, other than a pension plan, provides post-employment benefits other

than as required by applicable Laws and (v) no Canadian Plan is unfunded, self-insured or contains a deficit reserve. Each Canadian Pension Plan, if any, has been duly registered under the *Income Tax Act* (Canada) and all other applicable Laws which require registration and no event has occurred which is reasonably likely to cause the loss of such registered status in each case where the failure to do so could reasonably be expected to have a Material Adverse Effect. All material obligations (including fiduciary, funding, investment and administration obligations) required to be performed in connection with the Canadian Pension Plans under any applicable Laws and any funding agreements therefor have been performed in a timely fashion, in each case where the failure to do so could reasonably be expected to have a Material Adverse Effect. To the knowledge of the Canadian Borrower, as of the Closing Date, there are no material outstanding disputes concerning the assets of the Canadian Pension Plans.

(f) With respect to each scheme or arrangement mandated by a government other than the United States or Canada (a “**Foreign Government Scheme or Arrangement**”) and with respect to each employee benefit plan maintained or contributed to by any Loan Party or any Subsidiary of any Loan Party that is not subject to United States or Canadian law (a “**Foreign Plan**”):

(i) any employer and employee contributions required by law or by the terms of any Foreign Government Scheme or Arrangement or any Foreign Plan have been made, or, if applicable, accrued, in accordance with normal accounting practices;

(ii) the fair market value of the assets of each funded Foreign Plan, the liability of each insurer for any Foreign Plan funded through insurance or the book reserve established for any Foreign Plan, together with any accrued contributions, is sufficient to procure or provide for the accrued benefit obligations, as of the date hereof, with respect to all current and former participants in such Foreign Plan according to the actuarial assumptions and valuations most recently used to account for such obligations in accordance with applicable generally accepted accounting principles; and

(iii) each Foreign Plan required to be registered has been registered and has been maintained in good standing with applicable regulatory authorities.

**5.12. Subsidiaries; Equity Interests; Capitalization.** No Loan Party and no Subsidiary of any Loan Party (a) has any Subsidiaries other than those disclosed on Schedule 5.12 (which Schedule sets forth the legal name, jurisdiction of incorporation or formation and authorized Equity Interests of each such Subsidiary) or created or acquired in compliance with Section 6.12, or (b) has any equity Investments in any other Person other than those specifically disclosed on Schedule 5.12 or made after the Closing Date in compliance with this Agreement and the other Loan Documents. All of the outstanding Equity Interests of each Loan Party and each Subsidiary have been validly issued, are fully paid and non-assessable and are owned by the Persons and in the amounts specified on Schedule 5.12 free and clear of all Liens except for non-consensual Permitted Liens.

**5.13. Margin Regulations; Investment Company Act.** No Loan Party and no Subsidiary of any Loan Party is engaged, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock. None of the Loan Parties, nor any Subsidiary is or is required to be registered as an “investment company” under the Investment Company Act of 1940.

**5.14. Disclosure.** No report, financial statement, certificate or other information furnished by or on behalf of any Loan Party or any Subsidiary to Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered

hereunder or under any other Loan Document (in each case, as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, each Loan Party represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

**5.15. Compliance with Laws; Anti-Terrorism Laws and Foreign Asset Control Regulations.**

(a) Each Loan Party and each Subsidiary is in compliance with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

(b) Each Loan Party and each Subsidiary is in compliance in all material respects with, and the advances of the Loans and use of the proceeds thereof will not violate, (a) the Trading With the Enemy Act (50 U.S.C. § 1 et seq., as amended) (the "*Trading With the Enemy Act*") or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) (the "*Foreign Assets Control Regulations*") and any other enabling legislation or executive order relating thereto, thereto (which for the avoidance of doubt shall include, but shall not be limited to Executive Order 13224 of September 21, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) (the "*Executive Order*") and/or (b) the Uniting And Strengthening America by Providing Appropriate Tools Required To Intercept And Obstruct Terrorism (USA Patriot Act of 2001). None of the Loan Parties or any of their Subsidiaries is a "blocked person" as described in the Executive Order, the Trading With the Enemy Act or the Foreign Assets Control Regulations.

(c) Neither the Loan Parties, nor, to the knowledge of the Loan Parties, any agent or representative of the Loan Parties, has taken any action in furtherance of an offer, payment, promise to pay, or authorization or approval of the payment or giving of money, property, gifts or anything else of value, directly or indirectly, to any "government official" (including any officer or employee of a government or government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing; or any political party or party official or candidate for political office) to influence official action or secure an improper advantage in violation of applicable anti-corruption laws, except for such violations that would not reasonably be expected to result in a loss to the Loan Parties in excess of \$500,000. The Loan Parties have conducted their businesses in compliance with applicable anti-corruption laws and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws and with the representation and warranty contained herein.

**5.16. Labor Matters.** Except as set forth on Schedule 5.16, as of the Closing Date no Loan Party or any Subsidiary is a party to or bound by any collective bargaining agreement. There are no strikes, lockouts, slowdowns or other labor disputes against any Loan Party or any Subsidiary pending or, to the knowledge of any Loan Party, threatened which, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. As of the Closing Date, there are no representation proceedings pending or, to any Loan Party's knowledge, threatened to be filed with the National Labor Relations Board, and no labor organization or group of employees of any Loan Party or any Subsidiary has made a pending demand for recognition. As of the Closing Date, there are no complaints, unfair labor practice charges, grievances, arbitrations, unfair employment practices charges or any other claims or

complaints against any Loan Party or any Subsidiary pending or, to the knowledge of any Loan Party, threatened to be filed with any Governmental Authority or arbitrator based on, arising out of, in connection with, or otherwise relating to the employment or termination of employment of any employee of any Loan Party or any of its Subsidiaries which individually or in the aggregate could reasonably be expected to result in a Material Adverse Effect. The consummation of the transactions contemplated by the Loan Documents will not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which any Loan Party or any of its Subsidiaries is bound.

**5.17. Brokers.** No broker or finder (except for those whose fees and expenses have been paid in full on the Closing Date) brought about the obtaining, making or closing of the Loans or transactions contemplated by the Loan Documents.

**5.18. Closing Date Acquisition Documents.** Borrower Agent has delivered to Administrative Agent a complete and correct copy of the Closing Date Acquisition Documents, including all schedules and exhibits thereto. The execution, delivery and performance of each of the Closing Date Acquisition Documents have been duly authorized by all necessary action on the part of the Loan Parties. Each Closing Date Acquisition Document is the legal, valid and binding obligation of each Loan Party party thereto, enforceable against such Loan Party in accordance with its terms, in each case, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar Laws relating to or affecting the rights and remedies of creditors or by general equitable principles. No Loan Party is in default in any material respect in the performance or compliance with any provisions thereof. All representations and warranties made by any Loan Party, and to each Loan Party's knowledge, each other party thereto, in the Closing Date Acquisition Documents and in the certificates delivered in connection therewith are true and correct in all material respects. The Closing Date Acquisition has been consummated (or is being consummated concurrently with the execution and delivery of this Agreement), in all material respects, in accordance with the terms of the Closing Date Acquisition Documents and all applicable Laws. All requisite approvals by Governmental Authorities having jurisdiction over any Loan Party and, to each Loan Party's knowledge, each other party to any Closing Date Acquisition Document, with respect to the Closing Date Acquisition, have been obtained (including filings or approvals required under the Hart-Scott-Rodino Antitrust Improvements Act and the Investment Canada Act and the Competition Act (Canada)), except for any approval the failure to obtain could not reasonably be expected to be material to the interests of the Lenders.

**5.19. Senior Indebtedness.** All Obligations including those to pay principal of and interest (including post-petition interest, whether or not allowed as a claim under bankruptcy or similar laws) on the Loans and other Obligations, and fees and expenses in connection therewith, constitute "Senior Indebtedness" or similar term relating to the Obligations and all such Obligations are entitled to the benefits of the subordination created by the Intercreditor Agreement or any other applicable Subordinated Indebtedness Document, as applicable. Each Loan Party acknowledges that Administrative Agent, each Lender and the L/C Issuer is entering into this Agreement and is extending its Commitments in reliance upon the subordination provisions of the Intercreditor Agreement or applicable Subordinated Indebtedness Document.

**5.20. Status of Holdings.** Holdings has not engaged in any business activity and does not own any property other than as permitted pursuant to Section 7.15.

**5.21. Surety Bonds.** No Loan Party is a party to or bound by any surety bond agreement, indemnification agreement therefor or bonding requirement with respect to products or services sold by it.

**5.22. Validity, Perfection and Priority of Security Interests.** The Liens in favor of Administrative Agent provided pursuant to the Security Instruments are valid and perfected first priority security interests in the Collateral (subject only to the Permitted Liens), and all filings and other actions necessary to perfect the Liens on such Collateral have been taken on the Closing Date or shall be taken as promptly as practicable following the Closing Date or in accordance with Section 6.13.

## **ARTICLE VI AFFIRMATIVE COVENANTS**

So long as any Lender shall have any Commitment hereunder or any Loan Obligation (other than contingent indemnification claims for which no claim has been asserted) hereunder shall remain unpaid or unsatisfied, each Loan Party shall, and shall cause each Subsidiary to:

**6.01. Financial Statements.** Deliver to Administrative Agent and each Lender:

(a) as soon as available, but in any event within 90 days after the end of each Fiscal Year of Holdings, a consolidated and consolidating balance sheet of Holdings and its Subsidiaries as of the end of such Fiscal Year, and the related consolidated and consolidating statements of income or operations, owners' equity and cash flows for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year, all in reasonable detail and prepared in accordance with GAAP; (i) such consolidated statements to be audited and accompanied by a report and opinion of an accounting firm of nationally recognized standing, subject to the approval of the Required Lenders (the "*Auditor*"), which report and opinion shall not be subject to any "going concern" or other qualification or exception or any qualification or exception as to the scope of such audit and shall state that such financial statements fairly present the financial condition of Holdings and its Subsidiaries as of the dates indicated and the results of their operations and cash flow for the periods indicated in conformity with GAAP, and (ii) such consolidating statements to be certified by a Responsible Officer of Borrower Agent to the effect that such statements are prepared in accordance with GAAP and fairly stated in all material respects when considered in relation to the consolidated financial statements of Holdings and its Subsidiaries;

(b) quarterly, as soon as available and in any event within forty five (45) days after the end of each Fiscal Quarter of Holdings, a consolidated and consolidating balance sheet of Holdings and its Subsidiaries as of the end of such Fiscal Quarter and the related consolidated statements of income or operations, owners' equity and cash flows for such Fiscal Quarter, setting forth in each case in comparative form figures for the preceding Fiscal Year and the financial projections for the current Fiscal Year and certified by a Responsible Officer of Borrower Agent to the effect that such statements fairly present in all material respects in accordance with GAAP the financial condition of Holdings and its Subsidiaries as of the dates indicated and the results of their operations for the periods indicated, subject to normal year-end adjustments and the absence of footnotes.

(c) monthly, as soon as available, but in any event within 30 days after the end of each Fiscal Month (or 45 days after the end of each Fiscal Month ending no more than 6 months after the Closing Date), unaudited consolidated and consolidating balance sheets of Holdings and its Subsidiaries as of the end of such Fiscal Month and the related consolidated and consolidating statements of income or operations and cash flows for such Fiscal Month and for the portion of the Fiscal Year then elapsed, setting forth in each case in comparative form figures for the preceding Fiscal Year and the financial projections for the current Fiscal Year and certified by a Responsible Officer of Borrower Agent to the effect that such statements fairly present in all material respects in accordance with GAAP the financial condition of Holdings and its Subsidiaries as of the dates indicated and the results of their operations for the periods indicated, subject to normal year-end adjustments and the absence of footnotes.

(d) as soon as available but in any event within 30 days after the end of each Fiscal Year, annual financial projections of Holdings and its Subsidiaries on a consolidated and consolidating basis, in form reasonably satisfactory to Administrative Agent, of monthly consolidated and consolidating balance sheets and statements of income or operations and cash flows.

**6.02. Other Information.** Deliver to Administrative Agent and each Lender, in form and detail reasonably satisfactory to Administrative Agent:

(a) concurrently with delivery of financial statements under Section 6.01(a) and with the financial statements under Section 6.01(b), a Compliance Certificate executed by a Responsible Officer of Borrower Agent which certifies compliance with Section 7.12 and provides a reasonably detailed calculation of financial covenants required thereby and a management report (i) describing the operations and financial condition of Holdings and its Subsidiaries for the fiscal period covered by such financial statements and the portion of the current Fiscal Year then elapsed (or for the Fiscal Year then ended in the case of year-end financials) and (ii) discussing the reasons for any significant variations as between the fiscal period covered and the portion of the Fiscal Year then elapsed and the same periods during the immediately preceding Fiscal Year, and as between such periods and the same periods included in the financial projections delivered pursuant to Section 6.01(d), all such information to be presented in reasonable detail;

(b) concurrently with delivery of financial statements under Section 6.01(a), an Excess Cash Flow Certificate executed by a Responsible Officer of Borrower Agent which provides a reasonably detailed description of Excess Cash Flow for such Fiscal Year;

(c) promptly after the same are available, copies of each annual report, proxy or financial statement sent to the equityholders of Holdings, and copies of all annual, regular, periodic and special reports and registration statements which Holdings may file or be required to file with the SEC under Section 13 or 15(d) of the Exchange Act, and not otherwise required to be delivered to Administrative Agent pursuant hereto; and

(d) promptly, such additional information regarding the business, financial or organizational affairs of any Loan Party or any Subsidiary, or compliance with the terms of the Loan Documents, as Administrative Agent or any Lender may from time to time reasonably request.

**6.03. Notices.** Promptly and in any event within three (3) Business Days, notify Administrative Agent and each Lender of:

(a) the occurrence of any Default or Event of Default;

(b) any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of or default under, or receipt of a notice alleging breach or non-performance of or default under, a Material License or a Contractual Obligation (including any Subordinated Indebtedness Document or the Holdco Notes); (ii) the threat or commencement of (or any material development in) any dispute, litigation, arbitration, or governmental investigation; or (iii) the violation or asserted violation of any applicable Law;

(c) the occurrence of any ERISA Event;

(d) the creation or acquisition of any Subsidiary;

(e) any material change in accounting policies or financial reporting practices by any Loan Party or any Subsidiary, the receipt by any Loan Party or any Subsidiary of any comment letter or management report submitted by its Auditor (together with a copy thereof) or any discharge, resignation or withdrawal by or of any Loan Party's present Auditor;

(f) any Change of Control; and

(g) any casualty, damage or destruction to any material portion of the Collateral (deemed to include Collateral having an aggregate value in excess of \$250,000 or the Canadian Dollar Equivalent thereof) or the commencement of any action or proceeding for the taking of any interest in a material portion of the Collateral (deemed to include Collateral having an aggregate value in excess of \$250,000 or the Canadian Dollar Equivalent thereof) under power of eminent domain or by condemnation or similar proceeding.

Each notice pursuant to this Section 6.03 shall be accompanied by a statement of a Responsible Officer of Borrower Agent setting forth details of the occurrence referred to therein and stating what action Borrowers have taken and propose to take with respect thereto.

**6.04. Payment of Obligations.** Pay and discharge as the same shall become due and payable, (a) all U.S. and non-U.S. federal, state, provincial and other material tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being Properly Contested; and (b) all lawful claims which, if unpaid, would by law become a Lien upon its property, excepted to the extent that any such Lien would otherwise be permitted by Section 7.02.

**6.05. Preservation of Existence, Etc.** (a) Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization or formation except in a transaction permitted by Section 7.04 or 7.05; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary in the normal conduct of its business; (c) preserve or renew all of its registered Intellectual Property and rights to use Intellectual Property necessary in the normal conduct of its business; and (d) keep in full force and effect each License the expiration or termination of which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect (each a "**Material License**").

**6.06. Maintenance of Properties.** Maintain, preserve and protect all of its properties (other than insignificant properties) and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted.

**6.07. Maintenance of Insurance; Condemnation Proceeds.**

(a) Maintain with (i) companies having an A.M. Best Rating of at least "A" or (ii) financially sound and reputable insurance companies reasonably acceptable to Administrative Agent and not Affiliates of the Loan Parties, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business and operating in the same or similar locations or as is required by applicable Law, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons.

(b) Deliver to Administrative Agent certificates setting forth in reasonable detail the nature and extent of all insurance maintained by the Loan Parties, and cause each issuer of an insurance policy to a Loan Party to provide Administrative Agent with a customary endorsement showing, among other things, Administrative Agent as a loss payee with respect to each policy of property or casualty insurance and naming Administrative Agent as an additional insured with respect to each policy of liability

insurance. Borrower Agent shall execute and deliver, and cause each other applicable Loan Party to execute and deliver, to Administrative Agent a collateral assignment, in form and substance reasonably satisfactory to Administrative Agent, of each business interruption insurance policy maintained by the Loan Parties.

(c) Unless Borrower Agent provides Agent Administrative with evidence of the continuing insurance coverage required by this Agreement, Administrative Agent may purchase insurance at Borrowers' expense to protect Administrative Agent's and Lenders' interests in the Collateral. This insurance may, but need not, protect Borrowers' and each other Loan Party's interests. The coverage that Administrative Agent purchases may, but need not, pay any claim that is made against a Borrower or any other Loan Party in connection with the Collateral. Borrowers may later cancel any insurance purchased by Administrative Agent, but only after providing Administrative Agent with evidence that Loan Parties have obtained the insurance coverage required by this Agreement. If Agent purchases insurance for the Collateral, as set forth above, Borrowers will be responsible for the costs of that insurance, including interest and any other charges that may be imposed with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance and the costs of the insurance may be added to the principal amount of the Loans owing hereunder.

**6.08. Compliance with Laws Generally; Environmental Laws.** Except in each case as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (a) comply with the requirements of all Laws (including without limitation all applicable Environmental Laws) and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which such requirement of Law or order, writ, injunction or decree is being Properly Contested; (b) maintain its Real Estate in compliance with all Environmental Laws; (c) obtain and renew all environmental permits necessary for its operations and properties; and (d) implement any and all investigation, remediation, removal and response actions that are required to comply with Environmental Laws pertaining to the presence, generation, treatment, storage, use, disposal, transportation or release of any Hazardous Materials on, at, in, under or about any of its Real Estate.

**6.09. Books and Records.** (a) Maintain proper books of record and account, in which full, true and correct entries, in all material respects, for the Loan Parties taken as a whole and for the Loan Parties and their Subsidiaries taken as a whole, in conformity with GAAP consistently applied (or such other customary standard in such foreign jurisdiction where a Foreign Subsidiary does business) shall be made; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over any Loan Party or such Subsidiary, as the case may be.

**6.10. Inspection Rights; Meetings with Administrative Agent.** Permit Administrative Agent or its designees or representatives from time to time, subject to reasonable notice and during normal business hours (except, no such notice shall be required and the inspection may be conducted at any time, when a Default or Event of Default exists), to conduct inspections of the operations and properties of the Loan Parties and Subsidiaries and to examine its organizational, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers and Auditors. Administrative Agent shall not have any duty to any Loan Party to share any results of any such inspection, examination with any Loan Party. The Loan Parties acknowledge that all reports are prepared by or for Administrative Agent and Lenders for their purposes, and Loan Parties shall not be entitled to rely upon them. Without limiting the foregoing, the Loan Parties will participate and will cause their key management personnel to participate in meetings with Administrative Agent and Lenders periodically during each year, which meetings shall be held at such times and such places as may be reasonably requested by Administrative Agent.



**6.11. Compliance with ERISA.** Do, and cause each of its ERISA Affiliates to do, each of the following: (a) maintain each Plan in compliance in all material respects with the applicable provisions of ERISA, the Code and other applicable Laws; (b) cause each Plan which is qualified under section 401(a) of the Code to maintain such qualification; (c) cause each Plan subject to any Foreign Benefit Law to maintain any required approvals by any Governmental Authority regulating such Plan, (d) make all required contributions to any Plan, and (e) make all required contributions and payments to any Foreign Plans.

**6.12. Further Assurances.**

(a) At Borrowers' cost and expense, upon request of Administrative Agent, duly execute and deliver or cause to be duly executed and delivered, to Administrative Agent such further instruments, documents, certificates and financing and continuation statements, and do and cause to be done such further acts that may be reasonably necessary or advisable in the reasonable opinion of Administrative Agent to carry out more effectively the provisions and purposes of this Agreement, the Security Instruments and the other Loan Documents.

(b) Upon the acquisition or creation of any Domestic Subsidiary or any Foreign Subsidiary, cause to be delivered to Administrative Agent each of the following, as applicable, in each case reasonably acceptable to Administrative Agent and, as applicable, duly executed by the parties thereto: (i) a joinder agreement with respect to this Agreement, together with other Loan Documents reasonably requested by Administrative Agent, including all Security Instruments and other documents reasonably requested to establish and preserve the Lien of Administrative Agent in all Collateral of such Domestic Subsidiary or Foreign Subsidiary, subject to any limitations on Collateral set forth in the Loan Documents; (ii) Uniform Commercial Code financing statements, Personal Property Security Act legislation financing statements, Documents and original collateral (including pledged Equity Interests, other securities and Instruments) and such other documents and agreements as may be reasonably required by Administrative Agent, all as necessary or desirable to establish and maintain a valid, perfected Lien in all Collateral in which such Domestic Subsidiary or Foreign Subsidiary has an interest consistent with the terms of the Loan Documents executed on the Closing Date (and subject to any limitations on Collateral set forth therein); (iii) an opinion of counsel to such Domestic Subsidiary or Foreign Subsidiary addressed to Administrative Agent and the Lenders, in form and substance reasonably acceptable to Administrative Agent and substantially similar to those opinions of counsel delivered on the Closing Date; and (iv) current copies of the Organization Documents of such Domestic Subsidiary or Foreign Subsidiary, resolutions of the Board of Directors, partners, or appropriate committees thereof (and, if required by such Organization Documents or applicable law, of the shareholders, members or partners) of such Person authorizing the actions and the execution and delivery of documents described in this Section 6.12, all certified by an appropriate officer as Administrative Agent may elect. For the avoidance of doubt, any Foreign Subsidiary that is a CFC shall not be required to guarantee or pledge its assets for any obligations of a Loan Party that is a United States person within the meaning of Section 7701(a)(30) of the Code; provided however, the shareholder or shareholders of such CFC that are Loan Parties shall pledge 65% of all classes of Equity Interests entitled to vote and 100% of all non-voting Equity Interests of the CFC to support the Obligations of such Loan Parties.

(c) Upon the acquisition by any Loan Party of any fee owned Real Estate with an individual fair market value in excess of \$500,000 or the Canadian Dollar Equivalent thereof (or any leasehold interest, but only if requested by Administrative Agent and only if Administrative Agent reasonably determines that such interest is material; provided that Borrowers shall only be required to use commercially reasonable efforts (without added cost to the applicable Loan Party under the respective lease) to obtain leasehold mortgages in accordance with this Section 6.12(c)), deliver or cause to be delivered to Administrative Agent, with respect thereto, in each case reasonably acceptable to

Administrative Agent, a mortgage or deed of trust, as applicable, and an opinion of Borrowers' counsel with respect thereto, an ALTA lender's title insurance policy insuring Administrative Agent's first priority Lien (subject to non-consensual Permitted Liens), a current ALTA survey, certified to Administrative Agent by a licensed surveyor, a certificate from a national certification agency indicating whether such Real Estate is located in a special flood hazard area, an environmental audit, and in addition, in the case of Real Estate that consists of a leasehold estate, such estoppel letters, consents and waivers from the landlord and non-disturbance agreements from any holders of mortgages or deeds of trust on such Real Estate and as may be obtained after the exercise of commercially reasonable efforts by the applicable Loan Party. Administrative Agent will have the right to waive all requirements set forth in this subsection (c) with respect to leasehold interests.

### **6.13. Post-Closing Covenants.**

(a) Borrowers shall enter into, not later than 90 days after the Closing Date (subject to extension or waiver by Administrative Agent), and thereafter maintain (i) an interest rate protection mechanism with a term of at least two years with one or more Lenders or Affiliates thereof or with counterparties reasonably acceptable to the Required Lenders to hedge the interest rate with respect to not less than 50% of the principal amount of each of the U.S. Term Loan and the Canadian Term Loan and (ii) a cross-currency swap from U.S. Dollars to Canadian Dollars with a term lasting until Payment in Full of the U.S. Term Loan with one or more Lenders or Affiliates thereof or with counterparties reasonably acceptable to the Required Lenders to hedge the currency exposure with respect to \$15,800,000 of the original principal amount of the U.S. Term Loan to cover initial principal, all scheduled amortization payments thereon, and the final principal payment thereof, in each case, in form and substance reasonably satisfactory to the Required Lenders.

(b) Each Loan Party shall use commercially reasonable efforts to cause to be delivered to Administrative Agent within 45 days after the Closing Date (subject to extension or waiver by Administrative Agent), a collateral access agreement, in form and substance reasonably satisfactory to Administrative Agent, with respect to (i) each bailee with which such Loan Party keeps Inventory or other assets as of the Closing Date with a fair market value in excess of \$250,000 or the Canadian Dollar Equivalent thereof and (ii) each landlord which leases real property to such Loan Party as of the Closing Date.

(c) Within 60 days after the Closing Date (subject to extension by Administrative Agent), each Loan Party shall move each Deposit Account of the Loan Parties as of the Closing Date (other than Excluded Accounts) to BMO and thereafter maintain each such account with BMO.

(d) Within 30 days after the Closing Date (subject to extension by Administrative Agent), Holdings shall deliver insurance endorsements required pursuant to Section 6.07(b) hereof, as are reasonably acceptable to Administrative Agent, in its sole discretion, naming Administrative Agent as additional insured on the liability insurance policies of the Loan Parties.

**6.14. Canadian Pension Plans.** Each Borrower shall, and shall cause each Subsidiary to, promptly pay and discharge all obligations and liabilities related to each Canadian Plan, including each Canadian Pension Plan, which if unpaid or unperformed could reasonably be expected to result in the imposition of a Lien against any of its property or to have a Material Adverse Effect. Each Borrower shall, and shall cause each Subsidiary to, promptly notify Administrative Agent and each Lender of the occurrence of any event with respect to any Canadian Plan, including each Canadian Pension Plan, which would result in the incurrence by any Borrower or any Subsidiary of any material liability, fine or penalty, or any material increase in the contingent liability of any Borrower or any Subsidiary with respect thereto.

**6.15. Foreign Corrupt Practices Act.** No Loan Party will fail to comply with the fails, regulations and executive orders referred to in Section 5.15.

## ARTICLE VII NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder or any Loan Obligation (other than contingent indemnification claims for which no claim has been asserted) hereunder shall remain unpaid or unsatisfied, no Loan Party (or Parent, solely for purposes of Sections 7.15 and 7.19) shall, nor shall it permit any Subsidiary to, directly or indirectly:

**7.01. Indebtedness.** Create, incur, assume or suffer to exist any Indebtedness or issue any Disqualified Equity Interest, except:

(a) the Obligations;

(b) Indebtedness outstanding on the date hereof and listed on Schedule 7.01 and any refinancings, refundings, renewals or extensions thereof; provided that (i) the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder, (ii) the average life to maturity of any refinancing, refunding, renewal or extension of such Indebtedness permitted hereby is not less than the then average life to maturity of the Indebtedness so refinanced or replaced, (iii) the direct or contingent obligors with respect to such Indebtedness are not changed as a result of or in connection with such refinancing, refunding, renewal or extension, (iv) any refinancing, refunding, renewal or extension of Indebtedness subordinated to the Obligations shall be on terms no less favorable to Administrative Agent and the Lenders, and no more restrictive to the Loan Parties, than the subordinated Indebtedness being refinanced, refunded, renewed or extended and in an amount not less than the amount outstanding at the time thereof, (v) the interest rate applicable to any such refinancing, refunding, renewing or extending Indebtedness does not exceed the interest rate for the Indebtedness being refinanced, refunded, renewed, or extended, and (vi) such refinancing, renewal, or extension does not impair or restrict, in any material respect greater than as contained in the Indebtedness being refinanced, refunded, renewed or extended, the ability of the Loan Parties to make distributions or transfer money and other property to or otherwise enter into transactions among the other Loan Parties;

(c) (i) Guarantees by any Loan Party in respect of Indebtedness otherwise permitted hereunder of any other Loan Party (other than Holdings); provided that any Guarantee of Indebtedness that is required to be subordinated to the Obligations shall be subordinated to the Obligations on substantially the same terms as such subordinated Indebtedness and (ii) Guarantees by a Subsidiary of Holdings which is not a Loan Party in respect of Indebtedness otherwise permitted hereunder of another Subsidiary of Holdings which is not a Loan Party;

(d) obligations (contingent or otherwise) of the Loan Parties existing or arising under any Swap Contract, provided that such obligations are (or were) required hereunder or entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, cash flows or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation or taking a "market view";

(e) Indebtedness in respect of Capital Leases and purchase money obligations for real property and fixed or capital assets within the limitations set forth in Section 7.02(i); provided, however, that the aggregate amount of all such Indebtedness at any one time outstanding shall not exceed \$2,000,000 or the Canadian Dollar Equivalent thereof;

(f) the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business;

(g) unsecured Indebtedness of (i) any Loan Party (other than Holdings) owing to any other Loan Party, (ii) any Subsidiary that is not a Loan Party owing to any other Subsidiary that is not a Loan Party and (iii) any Subsidiary that is not a Loan Party owing to any Loan Party; provided that (A) the aggregate principal amount of all such Indebtedness under this clause (iii) of all such Subsidiaries (together with Investment permitted under Section 7.03(c)(iv)) shall not exceed \$1,000,000 or the Canadian Dollar Equivalent thereof, (B) such Indebtedness is not incurred during the continuance of any Default or Event of Default, (C) such Indebtedness shall not be evidenced by promissory notes unless such notes are delivered to Administrative Agent and pledged to Administrative Agent pursuant to the Security Agreement;

(h) surety bonds incurred in the ordinary course of business and permitted under Section 7.02;

(i) Indebtedness owing to insurance carriers and incurred to finance insurance premiums of any Loan Party or any Subsidiary in the ordinary course of business in a principal amount not to exceed at any time the amount of insurance premiums to be paid by such Loan Party or any Subsidiary;

(j) deferred purchase price obligations in the form of earnouts and other similar contingent obligations and seller debt, in each case, incurred in connection with a Permitted Acquisition, solely to the extent permitted pursuant to the defined term "Permitted Acquisition"; provided that the terms of any such earnout and other similar contingent obligations and seller debt shall only require payments so long as no Default or Event of Default has occurred and is continuing and the Loan Parties are in compliance with the financial covenants contained in Section 7.12;

(k) Indebtedness in respect of netting services, overdraft protections and other like services, in each case incurred in the ordinary course of business and paid within five (5) Business Days;

(l) the Subordinated Indebtedness;

(m) the Holdco Notes; and

(n) other unsecured Indebtedness of a type not described above not exceeding \$1,000,000 or the Canadian Dollar Equivalent thereof in the aggregate at any time outstanding.

**7.02. Liens.** Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following ("*Permitted Liens*"):

(a) Liens in favor of Administrative Agent pursuant to any Loan Document;

(b) Liens existing on the date hereof and listed on Schedule 7.02 and any renewals or extensions thereof, provided that (i) the property covered thereby is not changed, (ii) the amount secured or benefited thereby is not increased, (iii) the direct or any contingent obligor with respect thereto is not

changed, and (iv) any renewal or extension of the obligations secured or benefited thereby is otherwise permitted under Section 7.01(b);

(c) Liens for taxes, duties, levies, imposts, deductions, assessments or other governmental charges, not yet due and payable or which are being Properly Contested;

(d) Liens of carriers, warehousemen, processors, mechanics, materialmen, repairmen, landlords or other like Liens imposed by Law or arising in the ordinary course of business which are not overdue for a period of more than 30 days or which are being Properly Contested;

(e) Liens, pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA or a foreign benefit law;

(f) Liens on deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety bonds (other than bonds related to judgments or litigation), performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(g) Liens consisting of minor imperfections of title and easements, rights-of-way, covenants, consents, reservations, encroachments, variations and zoning and other similar restrictions, charges, encumbrances or title defects affecting real property which, in the aggregate do not materially detract from the value of the property subject thereto or materially interfere with the use by the Loan Parties in the ordinary course of business of the property subject to such encumbrance;

(h) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01 or securing appeal or other surety bonds related to such judgments;

(i) Liens securing Indebtedness permitted under Section 7.01(e); provided that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (ii) the Indebtedness secured thereby does not exceed the cost or fair market value, whichever is lower, of the property being acquired on the date of acquisition;

(j) licenses, sublicenses, operating leases or subleases (and precautionary UCC filings with respect thereto) granted by or to the Loan Parties to or from any other Person in the ordinary course of business;

(k) Liens in favor of collecting banks arising under Section 4-210 of the UCC;

(l) Liens (including the right of setoff) in favor of a bank or other depository institution arising as a matter of law encumbering deposits;

(m) Liens in favor of customs and revenue authorities imposed by Law to secure payment of customs duties in connection with the importation of goods and arising in the ordinary course of business which are not overdue for a period of more than 30 days or which are being Properly Contested;

(n) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto to the extent permitted under Section 7.01(i);

(o) Liens on assets securing the Subordinated Indebtedness which Liens are subject to the Intercreditor Agreement; and

(p) other Liens which do not secure Indebtedness for borrowed money or letters of credit and as to which the aggregate amount of the obligations secured thereby does not exceed \$1,000,000 or the Canadian Dollar Equivalent thereof.

**7.03. Investments.** Make any Investments, except:

(a) Investments held by the Loan Parties and their Subsidiaries in the form of Cash Equivalents;

(b) loans and advances to officers, directors and employees of the Loan Parties and Subsidiaries made in the ordinary course of business in an aggregate amount at any one time outstanding not to exceed \$500,000 or the Canadian Dollar Equivalent thereof;

(c) (i) Investments by the Loan Parties and their Subsidiaries in their respective Subsidiaries solely to the extent outstanding on the date hereof, (ii) additional Investments by Loan Parties and their Subsidiaries in Loan Parties, (iii) additional Investments by Subsidiaries of Holdings that are not Loan Parties in other Subsidiaries that are not Loan Parties and (iv) so long as no Default or Event of Default has occurred and is continuing or would result from such Investment, additional Investments by the Loan Parties in wholly-owned Subsidiaries that are not Loan Parties in an aggregate amount (together with Indebtedness permitted by Section 7.01(g)(iii)) not to exceed \$1,000,000 or the Canadian Dollar Equivalent thereof;

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business (and, to the extent owing by a Foreign Subsidiary to a Loan Party, made on customary arms-length terms), and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(e) Investments existing as of the date hereof (other than those set forth on Schedule 5.12) to the extent set forth in Schedule 7.03 and extensions or renewals thereof, provided that no such extension or renewal shall be permitted if it would (i) increase the amount of such Investment at the time of such extension or renewal or (ii) result in a Default or an Event of Default hereunder;

(f) Investments consisting of a Permitted Acquisition;

(g) bank deposits and securities accounts maintained in accordance with the terms of this Agreement and the other Loan Documents;

(h) Investments in securities of account debtors received pursuant to a plan of reorganization or similar arrangement upon the bankruptcy or insolvency of such account debtors and Investments acquired in connection with the settlement of delinquent accounts receivable in the ordinary course of business;

(i) Investments received as the non-cash portion of consideration in connection with a transaction permitted under Section 7.05;

(j) Investments constituting Indebtedness and Guarantees permitted under Section 7.01 and transactions permitted by Sections 7.05 and Section 7.06;

(k) Guarantees permitted by Section 7.01; and

(l) other Investments, of a type not described above, not exceeding \$1,000,000 or the Canadian Dollar Equivalent thereof in the aggregate at any time outstanding.

**7.04. Mergers, Dissolutions, Etc..** Merge, dissolve, liquidate, consolidate with or into another Person (including Parent), except that, so long as no Default or Event of Default exists or would result therefrom:

(a) with not less than 10 Business Days' (or such shorter period as may be agreed by Administrative Agent) prior written notice to Administrative Agent, (i) any Subsidiary may merge or consolidate with or liquidate or dissolve into a Loan Party, provided, that, the Loan Party shall be the continuing or surviving Person, and (ii) any Subsidiary that is not a Loan Party may merge into any other Subsidiary that is not a Loan Party, provided, that, when any wholly-owned Subsidiary is merging with another Subsidiary that is not wholly-owned, the wholly-owned Subsidiary shall be the continuing or surviving Person; and

(b) in connection with a Permitted Acquisition, any Subsidiary of a Loan Party may merge with or into or consolidate with any other Person (other than Parent) or permit any other Person (other than Parent) to merge with or into or consolidate with it; provided, that, (i) the Person surviving such merger shall be a wholly-owned Subsidiary of a Loan Party and (ii) in the case of any such merger to which any Loan Party is a party, such Loan Party is the surviving Person.

**7.05. Dispositions.** Make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of Cash Equivalents and Inventory in the ordinary course of business;

(b) Dispositions in the ordinary course of business of equipment or fixed assets that are obsolete, worn out or no longer useful in the ordinary course of business and disposition of other assets (other than Equity Interests of a Subsidiary), in each case for so long as (i) no Event of Default has occurred and is continuing at the time of such Disposition, (ii) the aggregate fair market value or a book value, whichever is more, of such equipment, fixed assets and other assets does not exceed \$15,000,000 or the Canadian Dollar Equivalent thereof in any twelve-month period, (iii) the applicable Loan Party shall receive not less than 70% of such consideration in cash and (iv) all proceeds thereof are remitted to Administrative Agent for application to the Obligations in accordance with Section 2.06(b)(ii) if required thereby;

(c) any Disposition that constitutes or funds (i) an Investment permitted under Section 7.03, (ii) a Lien permitted under Section 7.02, (iii) a merger, dissolution, consolidation or liquidation permitted under Section 7.04, or (iv) a Restricted Payment permitted under Section 7.06;

(d) such Disposition that results from a casualty or condemnation in respect of such property or assets and is not otherwise an Event of Default so long as all proceeds thereof are remitted to Administrative Agent for application to the Obligations in accordance with Section 2.06(b)(ii) if required thereby;

(e) the sale or discount, in each case without recourse, of accounts receivable arising in the ordinary course of business, but only in connection with the compromise or collection thereof,

(f) licenses, sublicenses, leases or subleases granted to third parties in the ordinary course of business (but limited, in the case of licenses of intellectual property, to non-exclusive licenses) not interfering with the business of the Loan Parties;

(g) the lapse, abandonment or other dispositions of Intellectual Property that is, in the reasonable good faith judgment of a Loan Party, no longer economically practicable or commercially desirable to maintain or useful in the conduct of the business of the Loan Parties or any of their Subsidiaries; and

(h) (i) Dispositions among the Loan Parties (other than Holdings) or by any Subsidiary of a Loan Party to a Loan Party (other than Holdings) and (ii) Dispositions by any Subsidiary which is not a Loan Party to another Subsidiary that is not a Loan Party.

**7.06. Restricted Payments.** Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that, in each case (except Section 7.06(a) (b), (d) and (e)) only if no Default or Event of Default shall have occurred and be continuing (both before or as a result of the making of such Restricted Payment):

(a) each Subsidiary may make Restricted Payments to a Loan Party (other than Holdings) or a Subsidiary of a Loan Party and, in connection therewith, on a pro rata basis to any other equity holder of such Subsidiary;

(b) the Borrowers and each Subsidiary may make Restricted Payments to Holdings to permit Holdings to make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(c) the Borrowers and each Subsidiary may make Restricted Payments to Holdings to permit Holdings to immediately purchase, redeem or otherwise acquire shares of its stock or other Equity Interests to the extent contractually required by customary employee or management agreements, plans or arrangements in an amount not to exceed \$500,000 or the Canadian Dollar Equivalent thereof in any Fiscal Year and \$1,000,000 or the Canadian Dollar Equivalent thereof in the aggregate during the term of this Agreement;

(d) the Borrowers may make Restricted Payments to Holdings in amounts required for Holdings to immediately pay (or to make Restricted Payments to allow any direct or indirect parent entity thereof to pay), without duplication, any of the following: (i) franchise taxes and other similar licensing expenses and other fees and expenses required to maintain its corporate existence, and (ii) general corporate overhead expenses to the extent such expenses are attributable to the ownership or operation of the Borrowers and their Subsidiaries, provided, that the amount of distributions pursuant to this clause (ii) shall not exceed \$500,000 or the Canadian Dollar Equivalent thereof in the aggregate in any Fiscal Year; and

(e) for so long as the U.S. Borrower is a “disregarded entity” for U.S. federal income tax purposes, the U.S. Borrower may make Restricted Payments to Holdings (and so long as Holdings is a “disregarded entity” or a partnership for U.S. federal income tax purposes, Holdings may distribute such amounts to its members) solely to pay the federal, state and local income taxes of such members attributable to the period to which such distribution relates calculated by multiplying the net taxable income of the U.S. Borrower attributable to such period by the highest applicable marginal federal, state and local income tax rate (taking into account preferential tax rates and taking into account the deductibility of state and local taxes for U.S. federal income tax purposes) applicable to an individual residing in Napa, California provided that (1) such net taxable income shall be reduced by prior period net taxable losses of the U.S. Borrower not previously taken into account to reduce tax distributions hereunder; (2) such estimate shall be subject to true-up within 120 days after the end of such taxable period based on the U.S. Borrower’s actual net taxable income; (3) if such true-up (based on the actual net taxable income of the U.S. Borrower for the applicable period) demonstrates that the U.S. Borrower has



distributed more than allowable under this paragraph, then future tax distributions shall be reduced until such reductions are equal to such excess distribution (provided that, if such excess distribution exceeds \$500,000, it shall be a default unless one or more equity owners of Holdings contribute to Holdings within 45 days after the filing of such federal income tax return an amount equal to such excess distribution); and (4) such cash distributions shall be reduced by any amounts withheld by the U.S. Borrower (or otherwise paid directly to any taxing authority) with respect to any taxable income or gain of the U.S. Borrower and reduced by any income tax credits attributable to the U.S. Borrower allocated to any equity owners of Holdings (such Restricted Payments, subject to and to the extent permitted by the other provisions of this clause (e), "*Tax Distributions*").

**7.07. Change in Nature of Business.** Engage in any material line of business other than the Core Business.

**7.08. Transactions with Affiliates.** Enter into, or suffer to exist, any transaction, arrangement or agreement of any kind with any Affiliate of any Loan Party, other than (a) those described on Schedule 7.08, as in existence on the date hereof, (b) those expressly permitted by this Agreement and the other Loan Documents, (c) transactions between or among Loan Parties, (d) employment agreements and compensation to employees (including stock ownership plans, awards or grants of Equity Interests, employee benefit plans including vacation plans, health and life insurance plans, deferred compensation plans, retirement or savings plans and similar plans), (e) indemnification of officers, directors and employees in the ordinary course of business, (f) transactions between Loan Parties and Subsidiaries that are not Loan Parties, subject to any limitations set forth herein, and (g) others on fair and reasonable terms substantially as favorable to such Loan Party or such Subsidiary as would be obtainable by such Loan Party or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate.

**7.09. Inconsistent Agreements.** Enter into any Contractual Obligation (other than this Agreement, any other Loan Document, the Subordinated Indebtedness Documents or the Holdco Notes) that (i) requires the grant of a Lien to secure an obligation of such Person if a Lien is granted to secure another obligation of such Person; or (ii) limits the ability (A) of any Subsidiary to make Restricted Payments to any Loan Party or to otherwise transfer property to any Loan Party, (B) of any Subsidiary to Guarantee the Indebtedness of any Loan Party or become a direct Borrower hereunder, or (C) of any Borrower or any Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person; provided, however, that this Section 7.09 shall not prohibit limitations:

(a) in respect of any negative pledge incurred or provided in favor of any holder of Indebtedness permitted under Section 7.01(e) solely to the extent any such negative pledge relates to the property financed by or the subject of such Indebtedness;

(b) in respect of customary restrictions and conditions contained in any agreement relating to any Disposition not prohibited hereunder (in which case such restrictions or conditions shall relate only to the applicable property) or otherwise relating to a Disposition that is conditioned upon the amendment, restatement or replacement of this Agreement or the repayment in full of amounts owing hereunder;

(c) consisting of restrictions regarding licenses or sublicenses by a Loan Party or a Subsidiary of a Loan Party of Intellectual Property in the ordinary course of business (in which case such restrictions shall relate only to such Intellectual Property; and

(d) customary anti-assignment provisions found in Contractual Obligations entered into in the ordinary course of business.

**7.10. Use of Proceeds.** Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, in any manner that might cause the Credit Extension or the application of such proceeds to violate Regulations T, U or X of the FRB, in each case as in effect on the date or dates of such Credit Extension and such use of proceeds.

**7.11. Prepayment of Indebtedness; Amendment to Subordinated Indebtedness Documents, Holdco Notes, Sponsor Convertible Notes and Sponsor Equity Contribution Agreement; Amendment to Organization Documents.**

(a) Voluntarily prepay, redeem, purchase, repurchase, defease or otherwise satisfy prior to the scheduled maturity thereof any Indebtedness that is subordinated to any of the Obligations, or make any payment in violation of any subordination terms thereof.

(b) Amend, modify or change in any manner any term or condition of (i) any Subordinated Indebtedness Document in a manner that violates the Intercreditor Agreement, (ii) the Holdco Notes, (iii) the Sponsor Convertible Notes, (iv) the Sponsor Equity Contribution Agreement or (v) any other Indebtedness that is subordinated to any of the Obligations in a manner that violates the subordination terms thereof.

(c) Amend or otherwise modify any Organization Documents of such Person, except for such amendments or other modifications required by Law or which are not adverse to the interests of Administrative Agent or any Lender and which, in each instance, are fully disclosed to Administrative Agent.

**7.12. Financial Covenants.<sup>1</sup>**

(a) Consolidated Total Net Leverage Ratio. Permit the Consolidated Total Net Leverage Ratio as of the end of any Measurement Period of Borrowers set forth below to be greater than the ratio set forth below opposite the last day of such Measurement Period:

Measurement Period Ending	Maximum Consolidated Total Net Leverage Ratio
September 30, 2015	6.00 to 1.00
December 31, 2015	5.75 to 1.00
March 31, 2016 through June 30, 2016	5.25 to 1.00
September 30, 2016 through December 31, 2016	5.00 to 1.00
March 31, 2017	4.50 to 1.00
June 30, 2017 through December 31, 2017	4.25 to 1.00
March 31, 2018 through June 30, 2018	4.00 to 1.00
September 30, 2018 through December 31, 2018	3.75 to 1.00

<sup>1</sup> Subject to confirmation of acceptable cushion to subdebt financial covenant levels.

March 31, 2019 through June 30, 2019	3.50 to 1.00
September 30, 2019 through December 31, 2019	3.25 to 1.00
March 31, 2020 through June 30, 2020	3.00 to 1.00

(b) Consolidated Fixed Charge Coverage Ratio. Permit the Consolidated Fixed Charge Coverage Ratio as of the end of any Measurement Period of Borrowers set forth below to be less than 1.20 to 1.00.

(c) Consolidated Capital Expenditures. Permit the aggregate amount of Consolidated Capital Expenditures made by the Loan Parties and their Subsidiaries to exceed the applicable amount set forth below for each period set forth below:

Period	Consolidated Capital Expenditures
Fiscal Year ending December 31, 2015	\$2,500,000
Fiscal Year ending December 31, 2016	\$2,500,000
Fiscal Year ending December 31, 2017 and each Fiscal Year thereafter	\$4,000,000

**7.13. Anti-Terrorism Laws and Foreign Asset Control Regulations.** (a) Become a “blocked person” as described in the Executive Order, the Trading With the Enemy Act or the Foreign Assets Control Regulations, (b) knowingly engage in any dealings or transactions, or be otherwise associated, with any such “blocked person” or in any manner violate any such order, or (c) use any part of the proceeds of the Loans for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977.

**7.14. Fiscal Year.** Change its Fiscal Year end.

**7.15. Holdings and Parent Covenant.** (a) Permit Holdings to engage in any business activities, hold any assets or incur any Indebtedness other than (i) acting as a holding company and transactions incidental thereto, (ii) entering into the Loan Documents and the transactions required herein or permitted herein to be performed by Holdings, (iii) entering into the agreements related to and consummating the Transactions, (iv) receiving and distributing the dividends, distributions and payments permitted to be made to Holdings pursuant to Section 7.06, (v) owning the Equity Interests of the U.S. Borrower, (vi) issuing Equity Interests as permitted hereunder, (vii) providing guarantees for the benefit of a Borrower to the extent such Person is otherwise permitted to enter into the transaction under this Agreement (including guaranties of lease obligations) and (viii) holding nominal deposits in Deposit Accounts in connection with consummating any of the foregoing transactions or (b) Permit Parent to engage in any business activities, hold any assets or incur any Indebtedness other than (i) incurring Indebtedness under the Sponsor Convertible Notes, (ii) acting as a holding company and transactions incidental thereto, (iii) entering into the Loan Documents and the transactions required herein or permitted herein to be performed by Parent, (iv) entering into the agreements related to and

consummating the Transactions, (v) owning the Equity Interests of Holdings, and (vi) holding nominal deposits in Deposit Accounts in connection with consummating any of the foregoing transactions.

**7.16. Sale and Leaseback Transactions.** Enter into any Sale and Leaseback Transaction.

**7.17. Corporate Separateness, Related Matters and Covenants.** Parent and Holdings shall satisfy, and cause each of their respective Subsidiaries to satisfy, customary corporate or limited liability company formalities, including the maintenance of corporate and business records. No bank account of Parent shall be commingled with any bank account of any of its Subsidiaries. Any financial statements distributed to any creditor of Parent or Holdings (other than the Lenders, the holders under the Subordinated Indebtedness Documents and the holders of the Holdco Notes) shall, to the extent permitted under GAAP, clearly establish the corporate separateness of Parent from Holdings. Neither Parent nor Holdings shall take any action, or conduct its affairs in a manner, which is reasonably likely to result in its corporate existence being ignored for purposes of subjecting its assets to claims of creditors of any other person, or in its assets and liabilities being substantively consolidated with those of any other Person in a bankruptcy, reorganization or other insolvency proceeding.

## ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES

**8.01. Events of Default.** Any of the following shall constitute an Event of Default:

(a) Non-Payment. Any Borrower fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or any L/C Obligation, or (ii) within three days after the same becomes due, any interest on any Loan or on any L/C Obligation, or any fee or other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. Any Loan Party (or Parent, solely for purposes of Sections 7.15 and 7.17) fails to perform or observe any term, covenant or agreement contained (i) in any of Sections 6.03 (solely with respect to notices of Events of Default), 6.05(a) (solely with respect to the Loan Parties), 6.07, 6.10, 6.13, or Article VII, or (ii) in any of Sections 6.01, 6.02(a) or 6.02(b) and such failure continues for three (3) or more Business Days; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other term, covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after the earlier of (i) receipt of notice of such failure by a Responsible Officer of Borrower Agent from Administrative Agent, or (ii) any Responsible Officer of any Loan Party becomes aware, or should have been aware, of such failure; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Loan Party or any Subsidiary herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading when made or deemed made in any respect (or in any material respect if such representation, warranty, certification or statement is not by its terms already qualified as to materiality); or

(e) Cross-Default. (i) Parent, any Loan Party or any Subsidiary (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, and after passage of any grace period) in respect of any Indebtedness or Guarantee having an aggregate principal amount of more than \$1,000,000 or the Canadian Dollar Equivalent thereof, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or

Guarantee or any other event occurs, and such event continues for more than the grace period, if any, therein specified, the effect of which is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded, or (ii) there occurs any breach or non-performance of, or any default under, the Subordinated Indebtedness Documents or the Holdco Notes; or

(f) Insolvency Proceedings, Etc. Any Loan Party or any Subsidiary institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator, monitor or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. Any Loan Party or any Subsidiary becomes unable or admits in writing its inability or fails generally to pay its debts as they become due; any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any Loan Party or any Subsidiary and is not released, vacated or fully bonded within 30 days after its issue or levy; or

(h) Judgments. There is entered against any Loan Party or any Subsidiary (i) one or more final judgments or orders for the payment of money in an aggregate amount exceeding \$500,000 or the Canadian Dollar Equivalent thereof (except to the extent covered by insurance as to which the insurer does not dispute coverage or third party indemnification acceptable to Administrative Agent), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, such judgments or orders remain unvacated and unpaid and either (A) enforcement proceedings are commenced by any creditor upon any such judgment or order, or (B) there is a period of 30 consecutive days during which a stay of enforcement of any such judgment or order, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA. (i) An ERISA Event occurs which, together with any outstanding liability incurred in connection with any other ERISA Event, has resulted or could reasonably be expected to result in liability of any Loan Party or any Subsidiary in an aggregate amount in excess of \$500,000, (ii) the existence of any Lien under Section 430(k) of the Code or Section 303(k) or Section 4068 of ERISA on any assets of a Loan Party or any Subsidiary thereof, (iii) a Loan Party, a Subsidiary thereof or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan that could reasonably be expected to result in liability for any Loan Party in an aggregate amount in excess of \$500,000; (iv) any Loan Party shall fail to pay when due any amount under any Canadian Plan, including any Canadian Pension Plan which results in, or could reasonably result in liability for any Loan Party in an aggregate amount in excess of \$500,000; (v) any other event occurs or shall occur or exist with respect to a Plan or any Canadian Plan or Canadian Pension Plan that could reasonably be expected to have a Material Adverse Effect ; or (vi) the benefit liabilities of all Plans governed by Foreign Benefit Laws, or the funding of which are regulated by any Foreign Benefit Laws, at any time exceed all such

Plans' assets, as computed in accordance with applicable law as of the most recent valuation date for such Plans, by more than \$500,000; or

(j) Invalidity of Loan Documents. Any Loan Document, or any Lien granted thereunder, at any time after its execution and delivery and for any reason, other than as expressly permitted under such Loan Document or upon Payment in Full of all Loan Obligations, ceases to be in full force and effect (except with respect to immaterial assets); or any Loan Party or any Subsidiary or Affiliate thereof repudiates, challenges or contests in any manner the validity or enforceability of any Loan Document, Loan Obligation or any Lien granted to Administrative Agent pursuant to the Security Instruments (including the perfection or priority thereof); or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any Loan Document; or

(k) Subordinated Indebtedness. The subordination provisions relating to any Subordinated Indebtedness (the "***Subordination Provisions***") shall fail to be enforceable by Administrative Agent (except to the extent that Administrative Agent has effectively waived the benefits thereof) in accordance with the terms thereof, or the principal or interest on any Loan, any L/C Obligation or other Obligations shall fail to constitute "designated senior debt" (or any other similar term) under any document, instrument or agreement evidencing such Subordinated Indebtedness; or any Loan Party, any Subsidiary or any holder of Subordinated Indebtedness (or any representative thereof) shall, directly or indirectly, repudiate, challenge or contest in any manner (i) the effectiveness, validity or enforceability of any of the Subordination Provisions, or (ii) that any of such Subordination Provisions exist for the benefit of Administrative Agent, any Lender or the L/C Issuer; or

(l) Change of Control. There occurs any Change of Control.

**8.02. Remedies Upon Event of Default.** If any Event of Default occurs and is continuing, Administrative Agent may, and at the direction of the Required Lenders shall, take any or all of the following actions: (a) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated; (b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by Borrowers; (c) require that Borrowers Cash Collateralize the L/C Obligations or any other Obligations that are contingent or not yet due and payable, in each case in an amount equal to the Minimum Collateral Amount; and (d) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable Law; provided, however, that upon the occurrence of Event of Default under clause (f) above, the obligation of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of Borrowers to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of Administrative Agent or any Lender.

### **8.03. Application of Funds.**

(a) After the exercise of any remedy provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall, subject to the provisions of Sections 2.16 and 2.17, be applied by Administrative Agent in the following order:

First, to all fees, indemnities, expenses and other amounts (including all Extraordinary Expenses and all reasonable fees, charges and disbursements of counsel to Administrative Agent and amounts payable under Article III) due to Administrative Agent in its capacity as such, until paid in full;

Second, to all amounts owing to the Swing Line Lender for outstanding Swing Line Loans until paid in full;

Third, to that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest, fees and other Obligations expressly described in clauses Fourth through Sixth below) payable to the Lenders and the L/C Issuer (including reasonable fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuer and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Third payable to them until paid in full;

Fourth, to that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations, ratably among the Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Fourth payable to them until paid in full;

Fifth, to (i) that portion of the Obligations constituting unpaid principal of the Loans and L/C Borrowings and to Cash Collateralize that portion of L/C Obligations comprising the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by Borrowers and (ii) the payment of Credit Product Obligations (provided that funds from, and proceeds of Collateral owned by, any Person directly or indirectly liable for a Swap Obligation and that was not an "eligible contract participant" as defined in the Commodity Exchange Act at the time such Swap Obligation was incurred may not be used to satisfy such Swap Obligation), ratably among the Lenders, L/C Issuer and the Credit Product Providers in proportion to the respective amounts described in this clause Fifth payable to them until paid in full;

Sixth, to all other Obligations of Borrowers owing under or in respect of the Loan Documents that are due and payable to Administrative Agent and the other Lender Parties, or any of them, on such date (provided that funds from, and proceeds of Collateral owned by, any Person directly or indirectly liable for a Swap Obligation and that was not an "eligible contract participant" as defined in the Commodity Exchange Act at the time such Swap Obligation was incurred may not be used to satisfy such Swap Obligation), ratably based on the respective aggregate amounts of all such Obligations owing to Administrative Agent and the other Lender Parties on such date until paid in full; and

Last, the balance, if any, after Payment in Full of the Obligations, to Borrowers or as otherwise required by Law.

(ii) Subject to Sections 2.03(c) and 2.17, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. Amounts distributed with respect to any Credit Product Obligations shall be the lesser of (i) the maximum Credit Product Obligations last reported to Administrative Agent or (ii) the actual Credit Product Obligations as calculated by the methodology reported to Administrative Agent for determining the amount due. Administrative Agent shall have no obligation to calculate the amount to be distributed with respect to any Credit Product Obligations, and may request a reasonably detailed calculation of such amount from the applicable Credit Product Provider. The allocations set forth in this Section are solely to determine the rights and priorities of Administrative Agent and Lender Parties as among themselves, and may be changed by agreement among

them without the consent of any Borrower. This Section is not for the benefit of or enforceable by any Loan Party.

(b) For purposes of Section 8.03(a), “paid in full” of a type of Obligation means payment in cash or immediately available funds of all amounts owing on account of such type of Obligation, including interest accrued after the commencement of any insolvency proceeding, default interest, interest on interest, and expense reimbursements, irrespective of whether any of the foregoing would be or is allowed or disallowed in whole or in part in any proceeding under Debtor Relief Laws.

**8.04. Equity Cure Right.** In the event Borrowers fail to comply with the financial covenants set forth in Section 7.12 (excluding Section 7.12(c)), subject to the terms and conditions hereof, Holdings shall have the right (the “*Cure Right*”) from the last day of the applicable Fiscal Quarter until the expiration of the 10th day subsequent to the date the applicable financial statements are required to be delivered to Administrative Agent with respect thereto, to issue Permitted Cure Securities for cash or otherwise receive, as additional paid in capital, cash contributions from its equity holders, in either case in an aggregate amount equal to, but not greater than, the amount necessary to cure the relevant financial covenant (hereinafter, the “*Cure Amount*”), and upon the receipt by any Borrower of the cash proceeds thereof, the financial covenants shall then be recalculated giving effect to the following pro forma adjustments: (a) Consolidated EBITDA shall be increased for the applicable Fiscal Quarter and for the subsequent three (3) consecutive Fiscal Quarters, solely for the purpose of measuring compliance with the financial covenants and not for any other purpose under this Agreement, by an amount equal to the Cure Amount paid over to Administrative Agent for application to the Loans in accordance with Section 2.06(b) hereof; (b) the mandatory prepayment of the Loans made with respect to such Cure Amount shall not serve as a reduction to (i) Excess Cash Flow or (ii) Indebtedness for purposes of calculating the Consolidated Senior Net Leverage Ratio or the Consolidated Total Net Leverage Ratio for the applicable Fiscal Quarter or any of the next three (3) Fiscal Quarters; and (c) if, after giving effect to the foregoing recalculations, Borrowers shall then be in compliance with the requirements of all financial covenants (excluding Section 7.12(c)), Borrowers shall be deemed to have been in compliance with such financial covenants as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach, Default or Event of Default of such financial covenants that had occurred shall be deemed not to have occurred for this purpose of the Agreement. In the event that (i) no Default or Event of Default exists other than that arising due to failure of the Loan Parties to comply with the financial covenants set forth in Section 7.12 (excluding Section 7.12(c)), and (ii) Sponsor shall have delivered to Administrative Agent written notice of its intention to cause Holdings to exercise the Cure Right (which notice shall be delivered no earlier than 15 days prior to, and no later than the 5th day subsequent to, the date the applicable financial statements are required to be delivered hereunder), which exercise if fully consummated would be sufficient in accordance with the terms hereof to cause Borrowers to be in compliance with the financial covenants as of the relevant date of determination, then from and following receipt by Administrative Agent of any such notice and until the date that is the earlier of (x) the 10th day subsequent to the date the applicable financial statements are required to be delivered and (y) the date, if any, on which Sponsor or any Loan Party notifies Administrative Agent in writing that such Cure Right shall not be exercised, then neither Administrative Agent nor any Lender shall exercise any remedies set forth in Section 8.02 hereof during such period; provided, that so long as any Default or Event of Default shall be in existence due to failure of the Loan Parties to comply with the financial covenants set forth in Section 7.12, none of Administrative Agent, L/C Issuer nor any Lender shall be required to advance any Loans and/or issue any Letters of Credit, and all rights and remedies available to such parties under Section 6(f) of the Security Agreement shall be available to such parties. Notwithstanding anything herein to the contrary, in no event shall Holdings or Borrowers be permitted to exercise the Cure Right hereunder (x) more than 4 times in the aggregate during the term of this Agreement or (y) in 2 consecutive Fiscal Quarters.



**ARTICLE IX**  
**ADMINISTRATIVE AGENT**

**9.01. Appointment and Authority; Limitations on Lenders.** Each of the Lenders and the L/C Issuer hereby irrevocably appoints BMO to act on its behalf as Administrative Agent hereunder and under the other Loan Documents and authorizes Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of Administrative Agent, the Lenders and the L/C Issuer, except for a Borrower's consent right as expressly permitted in Section 9.06 and no Loan Party shall have rights as a third party beneficiary of any of such provisions (although each Loan Party shall be bound by such provisions). Administrative Agent shall be authorized to determine whether any conditions to funding any Loan or to issuance of a Letter of Credit have been satisfied. Actions taken by Administrative Agent hereunder, under the other Loan Documents or upon the instructions of Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as Administrative Agent shall believe in good faith shall be necessary), shall be binding upon each Lender.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against Borrowers or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders and the L/C Issuer; provided, however, that the foregoing shall not prohibit (a) Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) the L/C Issuer from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.13), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Borrower under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

**9.02. Rights as a Lender.** The Person serving as Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Loan Parties or any Subsidiary or other Affiliate thereof as if such Person were not Administrative Agent hereunder and without any duty to account therefor to the Lenders.

**9.03. Exculpatory Provisions.** Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, and shall not be required to take any action that, in its opinion may expose Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Affiliates that is communicated to or obtained by Administrative Agent or any of its Affiliates in any capacity.

Administrative Agent shall not be liable for any action taken (including any apportionment or distribution of payments) or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct. Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until written notice describing such Default or Event of Default is given to Administrative Agent by Borrower Agent, a Lender or the L/C Issuer. Administrative Agent shall have no obligation to take any action if it believes, in good faith, that such action would violate applicable Law or expose Administrative Agent to any liability for which it has not received satisfactory indemnification in accordance with the provisions of this Agreement.

Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to Administrative Agent.

**9.04. Reliance by Administrative Agent.** Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, Administrative Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless Administrative Agent shall have received notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. Administrative Agent may consult with legal counsel (who may be counsel for Borrowers), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

**9.05. Delegation of Duties.** Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any

one or more sub-agents appointed by Administrative Agent. Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

**9.06. Resignation of Administrative Agent.** Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuer and Borrower Agent. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with Borrower Agent, to appoint a successor, which shall be a Lender or a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders and the L/C Issuer, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that if Administrative Agent shall notify Borrower Agent and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any Collateral held by Administrative Agent on behalf of the Lenders or the L/C Issuer under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such Collateral (although shall have no duties with respect thereto) until such time as a successor Administrative Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through Administrative Agent shall instead be made by or to each Lender and the L/C Issuer directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by Borrowers to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between Borrowers and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Any resignation by BMO as Administrative Agent pursuant to this Section shall also constitute its resignation as L/C Issuer and Swing Line Lender. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer and Swing Line Lender, (b) the retiring L/C Issuer and Swing Line Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit.

**9.07. Non-Reliance on Administrative Agent and Other Lenders.** Each Lender and the L/C Issuer acknowledges that it has, independently and without reliance upon Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender

and the L/C Issuer also acknowledges that it will, independently and without reliance upon Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

**9.08. No Other Duties, Etc.** Anything herein to the contrary notwithstanding, none of the Bookrunners or Arrangers or Agents (other than Administrative Agent) listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as Administrative Agent, a Lender or the L/C Issuer hereunder.

**9.09. Administrative Agent May File Proofs of Claim; Credit Bidding.** In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether Administrative Agent shall have made any demand on Borrowers) shall be entitled and empowered, by intervention in such proceeding or otherwise (a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuer and Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuer and Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuer and Administrative Agent) allowed in such judicial proceeding; and (b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the L/C Issuer to make such payments to Administrative Agent and, in the event that Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuer, to pay to Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of Administrative Agent and its agents and counsel, and any other amounts due Administrative Agent under Sections 2.09.

Nothing contained herein shall be deemed to authorize Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or the L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or the L/C Issuer to authorize Administrative Agent to vote in respect of the claim of any Lender or the L/C Issuer in any such proceeding.

The Loan Parties and the Lender Parties hereby irrevocably authorize Administrative Agent, based upon the instruction of the Required Lenders, to (a) credit bid and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Section 363 of the Bankruptcy Code or any similar Laws in any other jurisdictions to which a Loan Party is subject, or (b) credit bid and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral at any other sale or foreclosure conducted by (or with the consent or at the direction of) Administrative Agent (whether by judicial action or otherwise) in accordance with applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the Lender Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims being estimated for such purpose if the fixing or liquidation thereof would not unduly delay the ability of Administrative Agent to credit bid and purchase at such sale or

other disposition of the Collateral and, if such claims cannot be estimated without unduly delaying the ability of Administrative Agent to credit bid, then such claims shall be disregarded, not credit bid, and not entitled to any interest in the asset or assets purchased by means of such credit bid) and the Lender Parties whose Obligations are credit bid shall be entitled to receive interests (ratably based upon the proportion of their Obligations credit bid in relation to the aggregate amount of Obligations so credit bid) in the asset or assets so purchased (or in the Equity Interests of the acquisition vehicle or vehicles that are used to consummate such purchase). Except as provided above and otherwise expressly provided for herein or in the other Security Instruments, Administrative Agent will not execute and deliver a release of any Lien on any Collateral. Upon request by Administrative Agent or Borrowers at any time, the Lender Parties will confirm in writing Administrative Agent's authority to release any such Liens on particular types or items of Collateral pursuant to this Section 9.09.

**9.10. Collateral Matters.** The Lender Parties irrevocably authorize Administrative Agent, at its option and in its discretion, (a) to release any Lien on any Collateral (i) upon the occurrence of the Facility Termination Date, (ii) that is Disposed or to be Disposed as part of or in connection with any Disposition permitted hereunder or under any other Loan Document, or (iii) subject to Section 10.01, if approved, authorized or ratified in writing by the Required Lenders; (b) to subordinate any Lien on any property granted to or held by Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted hereunder; and (c) to release any Subsidiary from its obligations under the Loan Documents (and all Liens granted by such Subsidiary) if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder. Upon request by Administrative Agent at any time, the Required Lenders will confirm in writing Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Loan Party from its obligations under the Loan Documents pursuant to this Section 9.10.

**9.11. Other Collateral Matters.**

(a) Care of Collateral. Administrative Agent shall have no obligation to assure that any Collateral exists or is owned by a Loan Party, or is cared for, protected or insured, nor to assure that Administrative Agent's Liens have been properly created, perfected or enforced, or are entitled to any particular priority, nor to exercise any duty of care with respect to any Collateral.

(b) Lenders as Agent For Perfection by Possession or Control. Administrative Agent and Lender Parties appoint each Lender as agent (for the benefit of Lender Parties) for the purpose of perfecting Liens in any Collateral held or controlled by such Lender, to the extent such Liens are perfected by possession or control. If any Lender obtains possession or control of any Collateral, it shall notify Administrative Agent thereof and, promptly upon Administrative Agent's request, deliver such Collateral to Administrative Agent or otherwise deal with it in accordance with Administrative Agent's instructions.

**9.12. Right to Perform, Preserve and Protect.** If any Loan Party fails to perform any obligation hereunder or under any other Loan Document, Administrative Agent itself may, but shall not be obligated to, cause such obligation to be performed at the Loan Parties' expense. Administrative Agent is further authorized by the Loan Parties and the Lender Parties to, upon the occurrence and during the continuance of an Event of Default, make expenditures from time to time which Administrative Agent, in its reasonable business judgment, deems necessary or desirable to (i) preserve or protect the business conducted by Loan Parties, the Collateral, or any portion thereof and/or (ii) enhance the likelihood of, or maximize the amount of, repayment of the Loans and other Obligations. Each Loan Party hereby agrees to reimburse Administrative Agent on demand for any and all costs, liabilities and obligations incurred by Administrative Agent pursuant to this Section 9.12. Each Lender hereby agrees to

indemnify Administrative Agent upon demand for any and all costs, liabilities and obligations incurred by Administrative Agent pursuant to this Section 9.12, in accordance with the provisions of Section 10.04.

**9.13. Credit Product Providers and Credit Product Arrangements.**

(a) Each Credit Product Provider, by delivery of a notice to Administrative Agent of the creation of a Credit Product Arrangement, agrees to be bound by Section 8.03 and this Article IX. Each Credit Product Provider shall indemnify Administrative Agent (and any sub-agent thereof) and each Related Party thereof (each a "**Credit Product Indemnitee**") against, and hold harmless each such Credit Product Indemnitee from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable fees, charges and disbursements of any counsel), incurred by any such Credit Product Indemnitee or asserted against any Credit Product Indemnitee by any third party or by Borrowers or any other Loan Party arising out of, in connection with, or as a result of such provider's Credit Product Obligations.

(b) Except as otherwise expressly set forth herein, no Credit Product Provider that obtains the benefit of the provisions of Section 8.03, any Guarantee or any Collateral by virtue of the provisions hereof or any other Loan Document shall have any voting rights or right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise (including with respect to the release or impairment of any Collateral or notice of or consent to any amendment, waiver or modification of the provisions hereof or of any other Loan Document) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Credit Product Arrangements in respect of any Payment in Full of the Obligations or the Facility Termination Date.

**9.14. Designation of Additional Agents.** Administrative Agent, subject to the consent of the Borrowers (not to be unreasonably withheld), shall have the continuing right, for purposes hereof, at any time and from time to time to designate one or more of the Lenders (and/or its or their Affiliates) as "syndication agents," "documentation agents," "book runners," "lead arrangers," "arrangers" or other designations for purposes hereto, but such designation shall have no substantive effect, and such Lenders and their Affiliates shall have no additional powers, duties or responsibilities as a result thereof.

**9.15. Authorization to Enter into Intercreditor Agreement.** Each Lender hereby irrevocably appoints, designates and authorizes Administrative Agent to enter into the Intercreditor Agreement on its behalf and to take such action on its behalf under the provisions of any such agreement. Each Lender further agrees to be bound by the terms and conditions of the Intercreditor Agreement. Each Lender hereby authorizes and directs Administrative Agent to issue blockage notices in connection with the Subordinated Indebtedness at the direction of Administrative Agent or the Required Lenders.

**ARTICLE X  
MISCELLANEOUS**

**10.01. Amendments, Etc.** No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by Borrowers, Borrower Agent or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and Borrowers, the applicable Borrower or the applicable Loan Party, as the case may be, and acknowledged by Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

(a) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender;

(b) postpone any date fixed by this Agreement or any other Loan Document for any payment (but excluding the delay or waiver of any mandatory prepayment) of principal, interest, fees or other amounts due to the Lenders (or any of them), including the Revolving Credit Maturity Date or the Term Loan Maturity Date, or any scheduled reduction of the Commitments hereunder or under any other Loan Document, in each case without the written consent of each Lender directly affected thereby;

(c) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (iv) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document, without the written consent of each Lender directly affected thereby; provided, however, that only the consent of the Required Lenders shall be necessary (i) to amend the definition of "Default Rate" (so long as such amendment does not result in the Default Rate being lower than the interest rate then applicable to Base Rate Loans or Eurodollar Rate Loans, as applicable) or to waive any obligation of Borrowers to pay interest or Letter of Credit Fees at the Default Rate or (ii) to amend any financial covenant hereunder (or any defined term used therein);

(d) change the provisions requiring pro rata payments to the Lenders set forth herein without the written consent of each Lender directly affected thereby;

(e) change any provision of this Section or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender;

(f) release any Borrower or all or substantially all of the Guarantors from this Agreement or release any material Security Instrument to which any such Person is a party without the written consent of each Lender, except to the extent such Person is the subject of a Disposition permitted by Section 7.05 (in which case such release may be made by Administrative Agent acting alone); or

(g) release all or substantially all of the Collateral without the written consent of each Lender except with respect to Dispositions and releases of Collateral permitted or required hereunder (including pursuant to Section 7.05) or as provided in the other Loan Documents (in which case such release may be made by Administrative Agent acting alone);

and, provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, affect the rights or duties of the L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of the Swing Line Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by Administrative Agent in addition to the Lenders required above, affect the rights or duties of Administrative Agent under this Agreement or any other Loan Document; and (iv) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the respective parties thereto. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms

affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

If any Lender does not consent (a “*Non-Consenting Lender*”) to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the consent of each Lender or any class of Lenders and that has been approved by the Required Lenders, Borrowers may replace such Non-Consenting Lender in accordance with Section 10.13; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by Borrowers to be made pursuant to this paragraph).

No Loan Party will, directly or indirectly, pay any remuneration or other thing of value, whether by way of additional interest, fee or otherwise, to any Lender or its Affiliates (in their capacities as such) as consideration for the agreement by such Lender to any amendment, waiver, consent or release with respect to any Loan Document, unless such remuneration or value is concurrently paid, on the same terms, on a ratable basis to all Lenders providing their agreement. Notwithstanding the terms of this Agreement or any amendment, waiver, consent or release with respect to any Loan Document, Non-Consenting Lenders shall not be entitled to receive any fees or other compensation paid to the Lenders in connection with any amendment, waiver, consent or release approved in accordance with the terms of this Agreement by the Required Lenders.

In addition, notwithstanding the foregoing, this Agreement, including this Section 10.01, and the other Loan Documents may be amended (or amended and restated) by Administrative Agent, the Borrower and the Lenders providing the applicable Credit Extension to increase the Term Loan Facility or the Revolving Credit Facility or to provide any incremental term loan, in each case pursuant to Section 2.18 hereof and (a) to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement (including the rights of the Lenders to share ratably in prepayments following any such increase to the Term Loan Facility or the Revolving Credit Facility or the provision of any incremental term loan), the Security Agreement and the other Loan Documents with the Loans and the accrued interest and fees in respect thereof, (b) to include appropriately the Lenders holding such credit facility in any determination of the Required Lenders and (c) to amend other provision of the Loan Documents so that such increase to the Term Loan Facility or the Revolving Credit Facility or the provision of any incremental term loan pursuant to Section 2.18 are appropriately incorporated herein (including this Section 10.01).

In addition, notwithstanding anything to the contrary contained in Section 10.01, if Administrative Agent and the Borrowers shall have jointly identified an obvious error or any error, defect or omission of a technical or immaterial nature, in each case, in any provision of the Loan Documents, then Administrative Agent and the Borrowers shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Loan Document if the same is not objected to in writing by the Required Lenders within five (5) Business Days following receipt of notice thereof.

#### **10.02. Notices; Effectiveness; Electronic Communication.**

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone or in the case of notices otherwise expressly provided herein (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier or email (including as a .pdf file) as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:



if to a Loan Party, Administrative Agent, the L/C Issuer or the Swing Line Lender, to the address, telecopier number, electronic mail address or telephone number specified for such Person below, as changed pursuant to subsection (d) below:

(i) If to Administrative Agent,  
Swing Line Lender or L/C  
Issuer:

Bank of Montreal  
111 West Monroe  
Chicago, Illinois 60603  
Attention: Dan M. Weeks  
Facsimile No.: (312) 293-8532  
Telephone No.: (312) 461-1533  
Email: [Dan.weeks@bmo.com](mailto:Dan.weeks@bmo.com)

With a copy to:

Bank of Montreal  
111 West Monroe  
Chicago, Illinois 60603  
Attention: Agency Services  
Facsimile No.: (312) 765-8078  
Telephone No. (312) 461-6332  
Email: [mike.fitzmaurice@bmo.com](mailto:mike.fitzmaurice@bmo.com)

With a copy to:

Winston & Strawn LLP  
35 West Wacker Drive  
Chicago, Illinois 60601  
Attention: Charles B. Boehrer  
Facsimile No.: (312) 558-5700  
Telephone No. (312) 558-5989  
Email: [CBoehrer@winston.com](mailto:CBoehrer@winston.com)

(ii) If to a Loan Party:

Tapp Label Company, LLC,  
as Borrower Agent  
580 Gateway Drive  
Napa, CA 94558  
Attention: David Bowyer  
Facsimile No.: (707) 251-9852  
Telephone No.: (707) 252-8300  
Email: [DBowyer@tapplabel.com](mailto:DBowyer@tapplabel.com)

With a copy to:

Adams Office, LLC  
Fox Wood  
88 Old Roxbury Road  
Roxbury, CT 06783  
Attention: Raymond Schwartz  
Facsimile No.: (860) 210-9673  
Telephone No.: (860) 350-4177  
Email: [rschwartz@adamsoffice.net](mailto:rschwartz@adamsoffice.net)

With a copy to:

Kaplan, Strangis and Kaplan, P.A  
90 South Seventh Street, Suite 5500  
Minneapolis, MN 55110  
Attention: Robert T. York  
Facsimile No.: (612) 375-1143  
Telephone No.: (612) 375-1138  
Email: rty@kskpa.com

if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire, as changed pursuant to subsection (d) below (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to Loan Parties).

Notices sent by hand or overnight courier service or by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not sent during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuer hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or the L/C Issuer pursuant to Article II if such Lender or the L/C Issuer, as applicable, has notified Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. Administrative Agent or Borrowers may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed to have been given when sent; provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed given to the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Platform. Each Loan Party hereby acknowledges that Administrative Agent and/or the Arrangers will make available to the Lenders and the L/C Issuer materials and/or information provided by or on behalf of Borrowers hereunder (collectively, "**Borrower Materials**") by posting Borrower Materials on SyndTrak, IntraLinks or another similar electronic system (the "**Platform**"). THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH BORROWER

MATERIALS OR THE PLATFORM. In no event shall Administrative Agent or any of its Related Parties (collectively, the "*Agent Parties*") have any liability to any Borrower, any Lender, the L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of a Borrower's or Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to any Borrower, any Lender, the L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of Borrowers, Administrative Agent, the L/C Issuer and the Swing Line Lender may change its address, telecopier number, electronic mail address or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier number, electronic mail address or telephone number for notices and other communications hereunder by notice to Borrower Agent, Administrative Agent, the L/C Issuer and the Swing Line Lender. In addition, each Lender agrees to notify Administrative Agent from time to time to ensure that Administrative Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(e) Reliance by Administrative Agent, L/C Issuer and Lenders. Administrative Agent, the L/C Issuer and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed Loan Notices and Swing Line Loan Notices) purportedly given by or on behalf of Borrowers even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. Borrowers shall indemnify Administrative Agent, the L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of Borrowers. All telephonic notices to and other telephonic communications with Administrative Agent may be recorded by Administrative Agent, and each of the parties hereto hereby consents to such recording.

**10.03. No Waiver; Cumulative Remedies.** No failure by any Lender, the L/C Issuer or Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

**10.04. Expenses; Indemnity; Damage Waiver.**

(a) Costs and Expenses. Borrowers shall pay (i) all reasonable out-of-pocket expenses (including any Extraordinary Expenses) incurred by Administrative Agent, the Arrangers and their respective Affiliates (whether incurred prior to or during any workout, restructuring or negotiations in respect of the Obligations), (A) in connection with this Agreement and the other Loan Documents, including without limitation the reasonable fees, charges and disbursements of (1) counsel for Administrative Agent and the Arrangers, (2) outside consultants for Administrative Agent, and (3) environmental site assessments, (B) in connection with (1) the syndication and administration of the credit facilities provided for herein, (2) the preparation, negotiation, administration, management,

execution and delivery of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), or (3) the enforcement or protection of their rights in connection with this Agreement or the Loan Documents or efforts to preserve, protect, collect, or enforce the Collateral, and (ii) with respect to the L/C Issuer, and its Affiliates, all reasonable out-of-pocket expenses incurred in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder. Borrowers shall pay all reasonable out-of-pocket expenses incurred by the Lender Parties who are not Administrative Agent, the Arrangers, the L/C Issuer or any Affiliate of any of them, after the occurrence and during the continuance of an Event of Default; provided, that, such Lender Parties shall be entitled to reimbursement for no more than one counsel representing all such Lender Parties (absent a conflict of interest in which case the Lender Parties may engage and be reimbursed for additional counsel) and local or specialty counsel, as needed (the foregoing, collectively being referred to as "**Lender Party Expenses**").

(b) Indemnification by Loan Parties. Each Loan Party shall indemnify Administrative Agent (and any sub-agent thereof), each other Lender Party and each Related Party of any of the foregoing Persons (each such Person being called an "**Indemnitee**") against, and hold harmless each Indemnitee from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any third party or by Borrowers or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby or, in the case of Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration and enforcement of this Agreement and the other Loan Documents, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Loan Party or any of its Subsidiaries, or any Environmental Liability related in any way to any Loan Party or any of its Subsidiaries, (iv) any claims of, or amounts paid by any Lender Party to, a Controlled Account Bank or other Person which has entered into a control agreement with any Lender Party hereunder or (v) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party, the Sponsor or any of its Affiliates or by Borrowers or any other Loan Party, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by Borrowers or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if such Borrower or such other Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

(c) Reimbursement by Lenders. To the extent that (i) the Loan Parties for any reason fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it, or (ii) any liabilities, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever are imposed on, incurred by, or asserted against, Administrative Agent, the L/C Issuer or a Related Party in any way relating to or arising out of this Agreement or any other Loan Document or any action taken or omitted to be taken by Administrative Agent, the L/C Issuer or a Related Party in connection therewith, then, in each case, each Lender severally agrees to pay to Administrative

Agent (or any such sub-agent), the L/C Issuer or such Related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on such Lender's portion of Loans, commitments and risk participations with respect to the Revolving Credit Facility) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against Administrative Agent (or any such sub-agent) or the L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for Administrative Agent (or any such sub-agent) or L/C Issuer in connection with such capacity; and provided, further, that, the obligation of the Lenders to so indemnify shall not be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Administrative Agent, L/C Issuer or Related Party. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Loan Parties shall not assert, and hereby waive, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section shall survive the resignation of Administrative Agent, the L/C Issuer and the Swing Line Lender, the replacement of any Lender and the occurrence of the Facility Termination Date.

**10.05. Marshalling; Payments Set Aside.** None of Administrative Agent or Lenders shall be under any obligation to marshal any assets in favor of any Loan Party or against any Obligations. To the extent that any payment by or on behalf of any Loan Party is made to a Lender Party, or a Lender Party exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Lender Party in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and the L/C Issuer severally agrees to pay to Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect. The obligations of the Lenders and the L/C Issuer under clause (b) of the preceding sentence shall survive the occurrence of the Facility Termination Date.

#### 10.06. Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that no Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to any Person (other than any of the Persons described in Subsection (b)(iv) of this Section) in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Lender Parties) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment(s) and the Loans (including for purposes of this Section 10.06(b), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment under any Facility and the Loans at the time owing to it under such Facility or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$1,000,000 or the Canadian Dollar Equivalent thereof, in the case of any assignment in respect of the Revolving Credit Facility, or \$1,000,000 or the Canadian Dollar Equivalent thereof, in the case of any assignment in respect of the Term Loan Facility or any Increase, unless each of Administrative Agent and, so long as no Event of Default has occurred and is continuing, Borrower Agent otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single assignee (or to an assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met.

(ii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of Borrower Agent (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that Borrower Agent shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to Administrative Agent within five (5) Business Days after having received notice thereof;

(B) the consent of Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (i) any Term Loan Commitment, Revolving Credit Commitment or Revolving Loan if such assignment is to a Person that is not a Lender with a Commitment or Loan in respect of the applicable Facility, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (ii) any Term Loan to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund;

(C) the consent of the L/C Issuer (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding); and

(D) the consent of the Swing Line Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of the Revolving Credit Facility.

(iii) Assignment and Assumption. The parties to each assignment shall execute and deliver to Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; provided, however, that Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment and provided, further, that such fee shall not be payable in connection with an assignment to an Affiliate of a Lender or an Approved Fund. The assignee, if it is not a Lender, shall deliver to Administrative Agent an Administrative Questionnaire.

(iv) No Assignment to Certain Persons. No such assignment shall be made to (A) Sponsor or any Affiliate of Sponsor, any Borrower or any of a Borrower's Affiliates or Subsidiaries, (B) any holder of the Subordinated Indebtedness, (C) any holder of the Holdco Notes, (D) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (D) or (E) a natural person.

(v) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of Borrower Agent and Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to Administrative Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of

all Loans and participations in Letters of Credit and Swing Line Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by Administrative Agent in the Register pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05 and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment). Upon request, each Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.06(d); provided that an assignment or transfer not in compliance with Section 10.06(b)(iv) shall be void and of no force or effect.

(c) Register. Administrative Agent, acting solely for this purpose as a non-fiduciary agent of Borrowers (and such agency being solely for tax purposes) (in such capacity, subject to Section 10.17), shall maintain at Administrative Agent's Office in the U.S. a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts and stated interest of the Loans and Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, and Borrowers, Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. In addition, Administrative Agent shall maintain on the Register information regarding the designation, and revocation of designation, of any Lender as a Defaulting Lender. The Register shall be available for inspection by Borrower Agent at any reasonable time and from time to time upon reasonable prior notice. In addition, at any time that a request for a consent for a material or substantive change to the Loan Documents is pending, any Lender may request and receive from Administrative Agent a copy of the Register.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, any Borrower or Administrative Agent, sell participations to any Person (other than a natural person, a Defaulting Lender or a Borrower or any of Borrowers' Affiliates or Subsidiaries) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Revolving Credit Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swing Line Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) Borrowers, Administrative Agent, the Lenders and the L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without



the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that affects such Participant. Subject to subsection (e) of this Section, Borrowers agree that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender granting a participation shall as a non-fiduciary agent of the Borrowers maintain in the U.S. a register ("**Participation Register**") with respect to the ownership and transfer of each participation containing the information set forth in the Register described in Section 10.06(c). No transfer of a participation shall be effective unless recorded in such Participation Register. Each Participation Register shall be available for inspection by the Borrowers during normal business hours upon prior reasonable notice to the applicable Lender maintaining the Participant Register to the extent required to cause the Obligations to be in "registered form" within the meaning of Treasury Regulation Sections 5f.103-1 and 1.871-14(c). For the avoidance of doubt, Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participation Register.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01 or 3.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.01 unless Borrower Agent is notified of the participation sold to such Participant and such Participant agrees, for the benefit of Borrowers, to comply with Section 3.01(e) as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) 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.

(g) Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(h) Resignation as L/C Issuer and/or Swing Line Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time BMO assigns all of its Revolving Credit Commitment or Revolving Loans pursuant to subsection (b) above, such Person may, (i) upon 30 days' notice to Borrower Agent and the Lenders, resign as L/C Issuer and/or (ii) in the case of BMO, upon 30 days' notice to Borrower Agent, resign as Swing Line Lender. In the event of any such resignation as L/C Issuer, or Swing Line Lender, Borrower Agent shall be entitled to appoint from among the Lenders willing to serve in such capacity a successor L/C Issuer or Swing Line Lender hereunder, as the case may be; provided, however, that no failure by Borrower Agent to appoint any such successor shall affect the resignation of such Person as L/C Issuer or Swing Line Lender, as the case may be. If BMO resigns as L/C Issuer, such Person shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make

Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If BMO resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as the case may be, and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of such L/C Issuer with respect to such Letters of Credit.

(i) If at any time Sponsor or any Affiliate of Sponsor becomes a Lender hereunder, neither Sponsor nor such Affiliate of Sponsor shall be entitled to the benefits of Section 3.01(a)(ii) or Section 3.01(c) in respect of Canadian Taxes (it being understood that this sentence shall in no way affect the benefits of any other Lender under such Sections).

**10.07. Treatment of Certain Information; Confidentiality.** Each of the Lender Parties agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, trustees, officers, employees, agents, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to Borrowers and their obligations, (g) with the consent of Borrower Agent or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Lender Parties or any of their respective Affiliates on a nonconfidential basis from a source other than the Loan Parties.

For purposes of this Section, "**Information**" means all information received from Sponsor, any Loan Party or any Subsidiary relating to a Loan Party or any Subsidiary or any of their respective businesses, other than any such information that is available to any Lender Party on a nonconfidential basis prior to disclosure by a Loan Party or any Subsidiary, provided that, in the case of information received from Sponsor, a Loan Party or any Subsidiary after the date hereof, any information not marked "PUBLIC" at the time of delivery will be deemed to be confidential; provided, that any information marked "PUBLIC" may also be marked "Confidential". Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Lender Parties acknowledges that (a) the Information may include material non-public information concerning a Loan Party or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such

material non-public information in accordance with applicable Law, including Federal and state securities Laws.

Each of the Loan Parties hereby authorize Administrative Agent to publish the name and logo of any Loan Party and the amount of the credit facility provided hereunder in any "tombstone" or comparable advertisement which Administrative Agent elects to publish. Administrative Agent reserves the right to provide to industry trade organizations information necessary and customary for inclusion in league table measurements.

**10.08. Right of Setoff.** If an Event of Default shall have occurred and be continuing, each Lender, the L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, only after obtaining the prior written consent of Administrative Agent, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the L/C Issuer or any such Affiliate to or for the credit or the account of any Loan Party against any and all of the obligations of Borrowers now or hereafter existing under this Agreement or any other Loan Document to such Lender or the L/C Issuer, irrespective of whether or not such Lender or the L/C Issuer shall have made any demand under this Agreement or any other Loan Document and although such obligations of Borrowers may be contingent or unmatured or are owed to a branch or office of such Lender or the L/C Issuer different from the branch or office holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to Administrative Agent for further application in accordance with the provisions of Section 2.17 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, the L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the L/C Issuer or their respective Affiliates may have. Each Lender and the L/C Issuer agrees to notify Borrower Agent and Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

**10.09. Interest Rate Limitation.** Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "**Maximum Rate**"). If Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to Borrowers. In determining whether the interest contracted for, charged, or received by Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

**10.10. Counterparts; Integration; Effectiveness.** This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Subject to Section 4.01, this Agreement shall become effective when it shall have

been executed by Administrative Agent and when Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement and each other Loan Document by telecopy or other electronic means shall be effective as delivery of a manually executed counterpart of this Agreement.

**10.11. Survival.** All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Lender Parties, regardless of any investigation made by any Lender Party or on their behalf and notwithstanding that any Lender Party may have had notice or knowledge of any Default or Event of Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

Further, the provisions of Sections 3.01, 3.04 and 3.05 and Article X shall survive and remain in full force and effect regardless of the repayment of the Obligations, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof. In connection with the termination of this Agreement and the release and termination of the security interests in the Collateral, Administrative Agent may require such indemnities and collateral security as it shall reasonably deem necessary to protect the Lender Parties against loss on account of credits previously applied to the Obligations that may subsequently be reversed or revoked.

**10.12. Severability.** If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by Administrative Agent, the L/C Issuer or the Swing Line Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

**10.13. Replacement of Lenders.** If any Lender requests compensation under Section 3.04, if Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, if any Lender is a Defaulting Lender, or if any Lender fails to approve any amendment, waiver or consent requested by Borrower Agent pursuant to Section 10.01 that has received the written approval of not less than the Required Lenders but also requires the approval of such Lender, then in each such case Borrower Agent may, at its sole expense and effort, upon notice to such Lender and Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights and obligations under this Agreement and the related Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) Borrower Agent shall have paid to Administrative Agent the assignment fee specified in Section 10.06(b);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or Borrower Agent (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(d) in the case of any such assignment resulting from the refusal of a Lender to approve a requested amendment, waiver or consent, the Person to whom such assignment is being made has agreed to approve such requested amendment, waiver or consent; and

(e) such assignment does not conflict with applicable Laws.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling Borrowers to require such assignment and delegation cease to apply.

#### **10.14. Governing Law; Jurisdiction; Etc.**

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT ADMINISTRATIVE AGENT, ANY LENDER OR THE L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST BORROWERS OR THEIR PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY

IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

**10.15. Waiver of Jury Trial.** EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

**10.16. USA PATRIOT Act Notice.** Each Lender that is subject to the Act (as hereinafter defined) and Administrative Agent (for itself and not on behalf of any Lender) hereby notifies Borrowers that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "*Act*"), it is required to obtain, verify and record information that identifies Borrowers, which information includes the name and address of Borrowers and other information that will allow such Lender or Administrative Agent, as applicable, to identify Borrowers in accordance with the Act.

**10.17. No Advisory or Fiduciary Responsibility.** In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Loan Party acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Lender Parties are arm's-length commercial transactions between each Loan Party, on the one hand, and the Lender Parties, on the other hand, (B) each Loan Party has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each Lender Party is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for any Loan Party or any of its Affiliates or any other Person and (B) no Lender Party has any obligation to any Loan Party or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents, (iii) the Lender Parties may be engaged in a board range of transactions that involve interests that differ from those of the Loan Parties and their Affiliates, and no Lender Party has any obligation to disclose any of such interests to any Loan Party or its Affiliates and (iv) the Lender Parties have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. To the fullest extent permitted by law, each Loan Party hereby waives and releases any claims that it may have against

any Lender Party with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

**10.18. Attachments.** Any exhibits, schedules and annexes attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein; except, that, in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail.

## **ARTICLE XI CONTINUING GUARANTEE**

### **11.01. Guarantee.**

(a) Holdings, each Borrower and each Subsidiary Guarantor hereby absolutely and unconditionally guarantees, as a guarantee of payment and performance and not merely as a guarantee of collection, prompt payment when due, whether at stated maturity, by required prepayment, upon acceleration, demand or otherwise, and at all times thereafter, of any and all of the Obligations, whether for principal, interest, premiums, fees, indemnities, damages, costs, expenses or otherwise, of Borrowers to the Lender Parties, arising hereunder or under any other Loan Document (including all renewals, extensions, amendments, refinancings and other modifications thereof and all costs, attorneys' fees and expenses incurred by the Lender Parties in connection with the collection or enforcement thereof, subject to the limitations set forth in Section 10.04(a) hereof). Administrative Agent's books and records showing the amount of the Obligations shall be admissible in evidence in any action or proceeding, and shall be binding upon Holdings, each Borrower and each Subsidiary Guarantor, and conclusive for the purpose of establishing the amount of the Obligations, subject to manifest error. This Guarantee shall not be affected by the genuineness, validity, regularity or enforceability of the Obligations or any instrument or agreement evidencing any Obligations, or by the existence, validity, enforceability, perfection, non-perfection or extent of any collateral therefor, or by any fact or circumstance relating to the Obligations which might otherwise constitute a defense to the obligations of Holdings, any Borrower or any Subsidiary Guarantor under this Guarantee (other than defense of payment), and Holdings, each Borrower and each Subsidiary Guarantor hereby irrevocably waives any defenses it may now have or hereafter acquire in any way relating to any or all of the foregoing (other than defense of payment).

(b) Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to honor all of its obligations under this Guaranty in respect of Swap Obligations. The obligations of each Qualified ECP Guarantor under this Section 11.01(b) shall remain in full force and effect until Payment in Full of the Obligations. Each Qualified ECP Guarantor intends that this Section 11.01(b) constitute, and this Section 11.01(b) shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

**11.02. Rights of Lenders.** Holdings, each Borrower and each Subsidiary Guarantor consents and agrees that the Lender Parties may, at any time and from time to time, without notice or demand, and without affecting the enforceability or continuing effectiveness hereof and subject only to the terms of this Agreement: (a) amend, extend, renew, compromise, discharge, accelerate or otherwise change the time for payment or the terms of the Obligations or any part thereof; (b) take, hold, exchange, enforce, waive, release, fail to perfect, sell, or otherwise dispose of any security for the payment of this Guarantee or any Obligations; (c) apply such security and direct the order or manner of sale thereof as Administrative Agent, the L/C Issuer and the Lenders in their sole discretion may determine; and (d) release or substitute one or more of any endorsers or other guarantors of any of the Obligations.

Without limiting the generality of the foregoing, Holdings, each Borrower and each Subsidiary Guarantor consents to the taking of, or failure to take, any action which might in any manner or to any extent vary the risks of Holdings, each Borrower or any Subsidiary Guarantor under this Guarantee or which, but for this provision, might operate as a discharge of Holdings, any Borrower or any Subsidiary Guarantor.

### **11.03. Certain Waivers.**

(a) Holdings, each Borrower and each Subsidiary Guarantor waives, to the fullest extent permitted by law, (i) any defense arising by reason of any disability or other defense of any Borrower or any other Guarantor, or the cessation from any cause whatsoever (including any act or omission of any Lender Party) of the liability of Borrowers; (ii) any defense based on any claim that Holdings', any Borrower's or any Subsidiary Guarantor's obligations exceed or are more burdensome than those of any Borrower; (iii) the benefit of any statute of limitations affecting Holdings', any Borrower's or any Subsidiary Guarantor's liability hereunder; (iv) any right to require any Lender Party to proceed against any Borrower, proceed against or exhaust any security for the Obligations, or pursue any other remedy in the power of any Lender Party whatsoever; (v) any benefit of and any right to participate in any security now or hereafter held by any Lender Party; and (vi) to the fullest extent permitted by law, any and all other defenses or benefits that may be derived from or afforded by applicable law limiting the liability of or exonerating guarantors or sureties. Holdings, each Borrower and each Subsidiary Guarantor expressly waives, to the fullest extent permitted by law, all setoffs and counterclaims and all presentments, demands for payment or performance, notices of nonpayment or nonperformance, protests, notices of protest, notices of dishonor and all other notices or demands of any kind or nature whatsoever with respect to the Obligations, and all notices of acceptance of this Guarantee or of the existence, creation or incurrence of new or additional Obligations, except as otherwise expressly set forth in this Agreement.

(b) Holdings, each Borrower and each Subsidiary Guarantor agrees that its obligations hereunder are absolute and unconditional, irrespective of (i) the genuineness, validity, regularity, enforceability, subordination or any future modification of, or change in, any Obligations or Loan Document, or any other document, instrument or agreement to which any Borrower or other Loan Party is or may become a party or be bound; (ii) the absence of any action to enforce this Agreement (including this Section) or any other Loan Document, or any waiver, consent or indulgence of any kind by Administrative Agent or any Lender with respect thereto; (iii) the existence, value or condition of, or failure to perfect a Lien or to preserve rights against, any security or guarantee for the Obligations or any action, or the absence of any action, by Administrative Agent or any Lender in respect thereof (including the release of any security or guarantee); (iv) the insolvency of any Borrower or any other Loan Party; (v) any election by Administrative Agent or any Lender in proceeding under Debtor Relief Laws for the application of Section 1111(b)(2) of the Bankruptcy Code; (vi) any borrowing or grant of a Lien by any Borrower or other Loan Party, as debtor-in-possession under Section 364 of the Bankruptcy Code or otherwise; (vii) the disallowance of any claims of Administrative Agent or any Lender against any Borrower for the repayment of any Obligations under Section 502 of the Bankruptcy Code or otherwise; or (viii) any other action or circumstances that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, except defense of payment.

(c) Holdings, each Borrower and each Subsidiary Guarantor expressly waives, to the fullest extent permitted by law, all rights that it may have now or in the future under any statute, at common law, in equity or otherwise, to compel Administrative Agent or Lenders to marshal assets or to proceed against any Borrower, or any other Person or security for the payment or performance of any Obligations before, or as a condition to, proceeding against Holdings, such Borrower or such Subsidiary Guarantor. Holdings, each Borrower and each Subsidiary Guarantor waives, to the fullest extent permitted by law, all defenses available to a surety, guarantor or accommodation co-obligor other than defense of payment. It is agreed among Holdings, each Borrower and each Subsidiary Guarantor, Administrative Agent and



Lenders that the provisions of this Article XI are essential to the transaction contemplated by the Loan Documents and that, but for such provisions, Administrative Agent and Lenders would decline to make Loans and issue Letters of Credit. Holdings, each Borrower and each Subsidiary Guarantor acknowledges that its guarantee pursuant to this Section is necessary to the conduct and promotion of its business, and can be expected to benefit such business.

(d) Administrative Agent and Lenders may, in their discretion, pursue such rights and remedies as they deem appropriate, including realization upon Collateral by judicial foreclosure or non-judicial sale or enforcement, without affecting any rights and remedies under this Article XI. If, in taking any action in connection with the exercise of any rights or remedies, Administrative Agent or any Lender shall forfeit any other rights or remedies, including the right to enter a deficiency judgment against any Loan Party or other Person, whether because of any applicable Laws pertaining to "election of remedies" or otherwise, Holdings, each Borrower and each Subsidiary Guarantor consents to such action and waives any claim based upon it, even if the action may result in loss of any rights of subrogation that Holdings, any Borrower or any Subsidiary Guarantor might otherwise have had. Any election of remedies that results in denial or impairment of the right of Administrative Agent or any Lender to seek a deficiency judgment against any Borrower shall not impair Holdings', each Borrower and each Subsidiary Guarantor's obligation to pay the full amount of the Obligations.

**11.04. Obligations Independent.** The obligations of Holdings, each Borrower and each Subsidiary Guarantor hereunder are those of primary obligor, and not merely as surety, and are independent of the Obligations and the obligations of any other guarantor, and a separate action may be brought against Holdings, each Borrower and each Subsidiary Guarantor to enforce this Guarantee whether or not any Borrower or any other person or entity is joined as a party.

**11.05. Subrogation.** Neither Holdings, nor any Borrower nor any Subsidiary Guarantor shall exercise any right of subrogation, contribution, indemnity, reimbursement or similar rights with respect to any payments it makes under this Guarantee until the Facility Termination Date. If any amounts are paid to Holdings, any Borrower or any Subsidiary Guarantor in violation of the foregoing limitation, then such amounts shall be held in trust for the benefit of the Lender Parties and shall forthwith be paid to Administrative Agent to reduce the amount of the Obligations, whether matured or unmatured.

**11.06. Termination; Reinstatement.** This Guarantee is a continuing and irrevocable guarantee of all Obligations now or hereafter existing and shall remain in full force and effect until the Facility Termination Date. Notwithstanding the foregoing, this Guarantee shall continue in full force and effect or be revived, as the case may be, if any payment by or on behalf of a Borrower or Holdings or any Subsidiary Guarantor is made, or any of the Lender Parties exercises its right of setoff, in respect of the Obligations and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by any of the Lender Parties in their discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Laws or otherwise, all as if such payment had not been made or such setoff had not occurred and whether or not the Lender Parties are in possession of or have released this Guarantee and regardless of any prior revocation, rescission, termination or reduction. The obligations of Holdings, each Borrower and each Subsidiary Guarantor under this paragraph shall survive termination of this Guarantee.

**11.07. Subordination.** Holdings, each Borrower and each Subsidiary Guarantor hereby subordinates the payment of all obligations and indebtedness of any Borrower owing to Holdings, each Borrower and each Subsidiary Guarantor, whether now existing or hereafter arising, including but not limited to any obligation of any Borrower to Holdings, any other Borrower or any Subsidiary Guarantor as subrogee of the Lender Parties or resulting from Holdings', any other Borrower's or any Subsidiary

Guarantor's performance under this Guarantee, to the indefeasible Payment in Full of all Obligations. If the Required Lenders so request after the occurrence and during the continuance of any Event of Default, any such obligation or indebtedness of any Borrower to Holdings, any other Borrower or any Subsidiary Guarantor shall be enforced and performance received by Holdings, any Borrower or any Subsidiary Guarantor as trustee for the Lender Parties and the proceeds thereof shall be paid over to Administrative Agent to be applied to the Obligations, but without reducing or affecting in any manner the liability of Holdings, any Borrower or any Subsidiary Guarantor under this Guarantee.

**11.08. Stay of Acceleration.** If acceleration of the time for payment of any of the Obligations is stayed, in connection with any case commenced by or against Holdings, any Borrower or any Subsidiary Guarantor under any Debtor Relief Laws, or otherwise, all such amounts shall nonetheless be payable by Holdings, each Borrower and each Subsidiary Guarantor immediately upon demand by the Lender Parties.

**11.09. Condition of Borrowers.** Holdings, each Borrower and each Subsidiary Guarantor acknowledges and agrees that it has the sole responsibility for, and has adequate means of, obtaining from each Borrower and any other guarantor such information concerning the financial condition, business and operations of Borrowers and any such other guarantor as Holdings, each Borrower and each Subsidiary Guarantor requires, and that none of the Lender Parties has any duty, and neither Holdings, nor any Borrower, nor any Subsidiary Guarantor is relying on the Lender Parties at any time, to disclose to Holdings, any Borrower or any Subsidiary Guarantor any information relating to the business, operations or financial condition of Borrowers or any other guarantor (Holdings, each Borrower and each Subsidiary Guarantor waiving any duty on the part of the Lender Parties to disclose such information and any defense relating to the failure to provide the same).

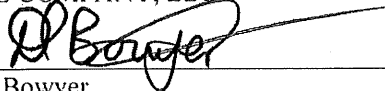
**11.10. Limitation of Liability.** Notwithstanding any provision of this Article XI to the contrary, it is intended that the provisions of this Article XI not constitute a "Fraudulent Conveyance" (as defined below). Consequently, each Lender Party and Loan Party agrees that if the provisions of this Article XI, or any Liens securing the obligations and liabilities arising pursuant to this Article XI, would, but for the application of this sentence, constitute a Fraudulent Conveyance, this Agreement and each such Lien shall be valid and enforceable only to the maximum extent that would not cause such provisions or such Lien to constitute a Fraudulent Conveyance, and such provisions shall automatically be deemed to have been amended accordingly at all relevant times. For purposes hereof, "**Fraudulent Conveyance**" means a fraudulent conveyance or fraudulent transfer under Section 548 of the Bankruptcy Code or a fraudulent conveyance or fraudulent transfer under the provisions of any applicable fraudulent conveyance or fraudulent transfer law or similar law of any Governmental Authority as in effect from time to time.

[Remainder of page is intentionally left blank; signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

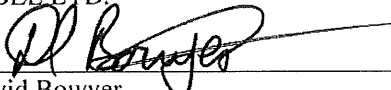
**U.S. BORROWER:**

TAPP LABEL COMPANY, LLC

By:   
Name: David Bowyer  
Title: Chief Executive Officer

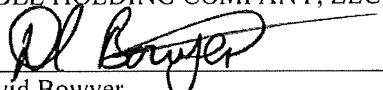
**CANADIAN BORROWER:**

TAPP LABEL LTD.

By:   
Name: David Bowyer  
Title: President

**HOLDINGS:**

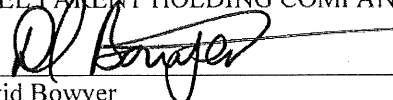
TAPP LABEL HOLDING COMPANY, LLC

By:   
Name: David Bowyer  
Title: Chief Executive Officer

Solely for Purposes of Sections 7.15, 7.17 and 8.01:

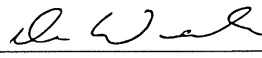
**PARENT:**

TAPP LABEL PARENT HOLDING COMPANY, LLC

By:   
Name: David Bowyer  
Title: Chief Executive Officer

**ADMINISTRATIVE AGENT:**

BANK OF MONTREAL, as Administrative Agent

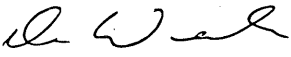
By: 

Name: Dan M. Weeks

Title: Director

**LENDERS:**

BANK OF MONTREAL, as a Lender, a U.S. Term Lender,  
a U.S. Revolving Lender, an L/C Issuer and Swing Line  
Lender

By:   
Name: Dan M. Weeks  
Title: Director

BANK OF MONTREAL, as a Lender, a Canadian Term  
Lender, a Canadian Revolving Lender, an L/C Issuer and  
Swing Line Lender

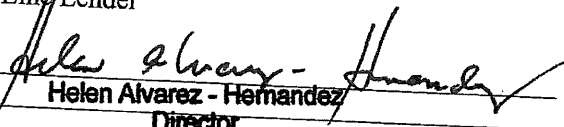
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LENDERS:**

BANK OF MONTREAL, as a Lender, a U.S. Term Lender,  
a U.S. Revolving Lender, an L/C Issuer and Swing Line  
Lender

By: \_\_\_\_\_  
Name: Dan M. Weeks  
Title: Director

BANK OF MONTREAL, as a Lender, a Canadian Term  
Lender, a Canadian Revolving Lender, an L/C Issuer and  
Swing Line Lender

By:   
Name: Helen Alvarez - Hernandez  
Title: Director

SCHEDULE 2.01

COMMITMENTS AND APPLICABLE PERCENTAGES

	U.S. Term Loan		Canadian Term Loan		Revolving Loan	
Lender	Amount	Applicable Percentage	Amount	Applicable Percentage	Amount	Applicable Percentage
Bank of Montreal	\$19,716,500	100%	\$15,716,500	100%	\$7,000,000	100%
Total	\$19,716,500		\$15,716,500		\$7,000,000	

**SCHEDULE 5.05**

**LITIGATION**

None.



**SCHEDULE 5.07(b)**

**LEASED REAL ESTATE**

**Tapp Label Company, LLC:**

1. 6052 Industrial Way, Livermore, County of Alameda, CA 94551, USA
2. 1100 SW 11th Street, Building D, Suite 400, Beaverton, Washington County, OR, USA
3. Units 101, 104 and 201 – 6270 205<sup>th</sup> Street, Langley, BC V2Y 1N7, Canada
4. 580 Gateway Drive, Napa, CA 94558, USA
5. 1901 Kelly Road, Napa, CA 94558, USA
6. 20215 – 97<sup>th</sup> Avenue, Langley, BC V1M, Canada

**Tapp Label Ltd.:**

7. 999 Progress Avenue, Toronto, ON M1B 6J1, Canada

**SCHEDULE 5.09**

**INSURANCE**

<b>Nature of Policy</b>	<b>Policy Number</b>	<b>Coverage Amount</b>	<b>Carrier</b>	<b>Expiration Date</b>
Commercial Property Insurance	35940677	Commercial Property Coverage Amount: \$4,900,000  Business Personal Property Amount: \$2,500	Federal Insurance Company	12/31/2015
General Liability	35940677	\$1,000,000	Federal Insurance Company	12/31/2015
Automobile Liability	994951285	\$1,000,000	Federal Insurance Company	12/31/2015
Workers Compensation and Employer's Liability	71750672	\$1,000,000	Federal Insurance Company	12/31/2015
Umbrella Liability	79893533	\$5,000,000	Federal Insurance Company	12/31/2015

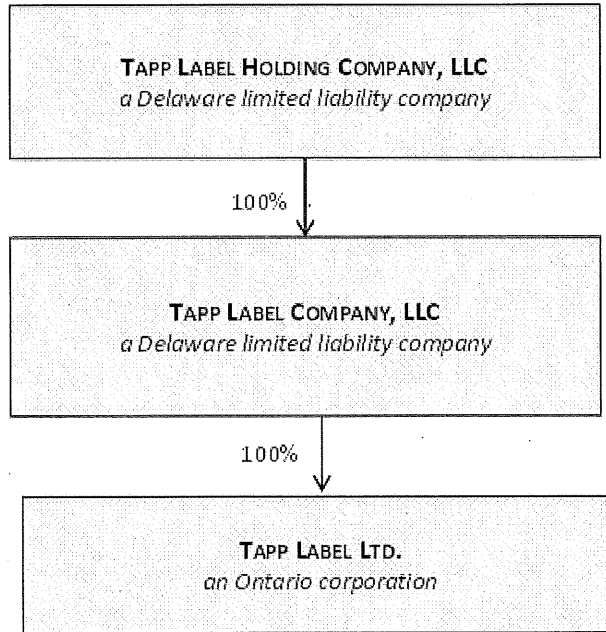
**SCHEDULE 5.11(d)**

**PENSION PLANS**

1. Eligible Employees under the Tapp Label Company, LLC 401(k) Profit Sharing Plan (Plan Number 001) with an Effective Date of March 1, 2015, administered by Tapp Label Company, LLC.

**SCHEDULE 5.12**

**SUBSIDIARIES; CAPITALIZATION; OTHER EQUITY INVESTMENTS**



**SCHEDULE 5.16**  
**LABOR MATTERS**

None.

**SCHEDULE 7.01**

**EXISTING INDEBTEDNESS**

None.

**SCHEDULE 7.02**

**EXISTING LIENS**

None.

**SCHEDULE 7.03**

**EXISTING INVESTMENTS**

None.



**SCHEDULE 7.08**

**AFFILIATE TRANSACTIONS**

None.

**SCHEDULE 10.02**

**ADMINISTRATIVE AGENT'S OFFICE (AND ACCOUNT)**

BMO Harris Bank N.A.  
111 West Monroe  
Chicago, Illinois 60603  
Attention: Dan M. Weeks  
Facsimile No.: (312) 293-8532  
Telephone No.: (312) 461-1533  
Email: Dan.weeks@bmo.com

**Wire Transfer Instructions:**

BMO Harris Bank NA  
Chicago, IL  
ABA # 0710 00288  
Acct Name: Bank of Montreal  
Acct No: 183-320-1  
Attention: Agency Services Dept.  
Reference: Tapp Label Company, LLC

**FORM OF COMMITTED LOAN NOTICE**

Date: \_\_\_\_\_, \_\_\_\_\_

To: Bank of Montreal, as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Credit Agreement, dated as of July 6, 2015 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Agreement"; the terms defined therein being used herein as therein defined), among Tapp Label Company, LLC, a Delaware limited liability company (the "U.S. Borrower"), Tapp Label Ltd., an Ontario corporation (the "Canadian Borrower"), the Guarantors party thereto, the Lenders from time to time party thereto, and Bank of Montreal, as Administrative Agent, Swing Line Lender and L/C Issuer.

The undersigned hereby requests (select one):

- A Borrowing of  Revolving Loans  a Term Loan
- A conversion or continuation of  Revolving Loans  a Term Loan

1. On \_\_\_\_\_ (a Business Day).
2. In the amount of \$ \_\_\_\_\_.
3. Comprised of \_\_\_\_\_.  
[Type of Loan requested]
4. For Eurodollar Rate Loans: with an Interest Period of \_\_\_\_ months.

After giving effect to the Revolving Borrowing, if any, requested herein the limitations set forth in Section 2.01(a)(i) through (iv) of the Agreement have been met.

In connection with any Borrowing requested hereunder, the matters set forth in Section 4.02(a), (b) and (d) of the Agreement are true, correct and complete as of the date hereof.

[TAPP LABEL COMPANY, LLC][TAPP LABEL LTD.]

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**FORM OF SWING LINE LOAN NOTICE**

Date: \_\_\_\_\_, \_\_\_\_\_

To: Bank of Montreal, as Swing Line Lender  
Bank of Montreal, as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Credit Agreement, dated as of July 6, 2015 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Agreement"; the terms defined therein being used herein as therein defined), among Tapp Label Company, LLC, a Delaware limited liability company (the "U.S. Borrower"), Tapp Label Ltd., an Ontario corporation (the "Canadian Borrower"), the Guarantors party thereto, the Lenders from time to time party thereto, and Bank of Montreal, as Administrative Agent, Swing Line Lender and L/C Issuer.

The undersigned hereby requests a Swing Line Loan:

1. On \_\_\_\_\_ (a Business Day).
2. In the amount of \$ \_\_\_\_\_.

After giving effect to the Swing Line Borrowing requested herein the limitations set forth in Section 2.01(a)(v) and (vi) of the Agreement has been met.

In connection with any Swing Line Borrowing requested hereunder, the matters set forth in Section 4.02(a), (b) and (d) of the Agreement are true, correct and complete as of the date hereof.

[TAPP LABEL COMPANY, LLC][TAPP LABEL LTD.]

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**FORM OF  
REVOLVING LOAN NOTE**

\_\_\_\_\_, 20\_\_

FOR VALUE RECEIVED, the undersigned (the “[U.S./Canadian] Borrower”) hereby promises to pay to \_\_\_\_\_ or registered assigns (the “Lender”), in accordance with the provisions of the Agreement (as hereinafter defined), the principal amount of each Revolving Loan from time to time made by the Lender to the [U.S./Canadian] Borrower under that certain Credit Agreement, dated as of July 6, 2015 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “Agreement”; the terms defined therein being used herein as therein defined), among the [U.S./Canadian] Borrower, the other borrower party thereto, the Guarantors party thereto, the Lenders from time to time party thereto, and Bank of Montreal, as Administrative Agent, Swing Line Lender and L/C Issuer.

The [U.S./Canadian] Borrower promises to pay interest on the unpaid principal amount of each Revolving Loan made to it from the date of such Revolving Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Agreement. All payments of principal and interest shall be made to the Administrative Agent for the account of the Lender in [U.S./Canadian] Dollars in immediately available funds at the Administrative Agent’s Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Agreement.

This Revolving Loan Note is one of the Revolving Loan Notes referred to in the Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein. This Revolving Loan Note is also secured by the Collateral. Upon the occurrence and continuation of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Revolving Loan Note shall become, or may be declared to be, immediately due and payable all as provided in the Agreement. Revolving Loans made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Revolving Loan Note and endorse thereon the date, amount and maturity of its Revolving Loans and payments with respect thereto.

The [U.S./Canadian] Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Revolving Loan Note.

*[Signature Page Follows]*

THIS REVOLVING LOAN NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

[TAPP LABEL COMPANY, LLC][TAPP LABEL LTD.]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**REVOLVING LOANS AND PAYMENTS WITH RESPECT THERETO**

<b>Date</b>	<b>Type of Loan Made</b>	<b>Amount of Loan Made</b>	<b>End of Interest Period</b>	<b>Amount of Principal or Interest Paid This Date</b>	<b>Outstanding Principal Balance This Date</b>	<b>Notation Made By</b>

FORM OF  
TERM LOAN NOTE

\_\_\_\_\_, 20\_\_

FOR VALUE RECEIVED, the undersigned (the “[U.S./Canadian] Borrower”) hereby promises to pay to \_\_\_\_\_ or registered assigns (the “Lender”), in accordance with the provisions of the Agreement (as hereinafter defined), the principal amount of the Term Loan made by the Lender to the [U.S./Canadian] Borrower under that certain Credit Agreement, dated as of [\_\_\_\_\_] 2015 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “Agreement”; the terms defined therein being used herein as therein defined), among the [U.S./Canadian] Borrower, the other borrower party thereto, the Guarantors party thereto, the Lenders from time to time party thereto, and Bank of Montreal, as Administrative Agent, Swing Line Lender and L/C Issuer.

The [U.S./Canadian] Borrower promises to pay interest on the unpaid principal amount of the Term Loan made to it from the date of such Term Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Agreement. All payments of principal and interest shall be made to the Administrative Agent for the account of the Lender in [U.S./Canadian] Dollars in immediately available funds at the Administrative Agent’s Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Agreement.

This Term Loan Note is one of the Term Loan Notes referred to in the Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein. This Term Loan Note is also secured by the Collateral. Upon the occurrence and continuation of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Term Loan Note shall become, or may be declared to be, immediately due and payable all as provided in the Agreement. The Term Loan made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business.

The [U.S./Canadian] Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Term Loan Note.

*[Signature Page Follows]*



THIS TERM LOAN NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

[TAPP LABEL COMPANY, LLC][TAPP LABEL LTD.]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

FORM OF COMPLIANCE CERTIFICATE

Financial Statement Date: \_\_\_\_\_, 20\_\_

To: Bank of Montreal, as Administrative Agent

Ladies and Gentlemen:

This certificate is given by Tapp Label Company, LLC, a Delaware limited liability company (the "Borrower Agent"), pursuant to Section 6.02(a) of that certain Credit Agreement dated as of July 6, 2015 among Borrower Agent, and the other borrowers party thereto (collectively with Borrower Agent, "Borrowers"), the Guarantors party thereto, the Lenders from time to time party thereto and Bank of Montreal, as Administrative Agent for Lenders (as such agreement may have been amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"). Capitalized terms used herein without definition shall have the meanings set forth in the Credit Agreement.

The undersigned Responsible Officer hereby certifies to Administrative Agent and Lenders, solely as an officer of Borrower Agent and not individually, that:

(a) the financial statements delivered with this certificate in accordance with Section 6.01(a) and/or 6.01(b) of the Credit Agreement were prepared in accordance with GAAP and are fairly stated in all material respects [, **subject to normal year-end adjustments and the absence of footnotes**] **[note: delete bracketed text where the Compliance Certificate is delivered in conjunction with the annual audited financial statements.]**

(b) I have reviewed the terms of the Credit Agreement and have made, or caused to be made under my supervision, a review in reasonable detail of the transactions and conditions of Holdings and its Subsidiaries during the accounting period covered by such financial statements;

(c) such review has not disclosed the existence during or at the end of such accounting period, and I have no knowledge of the existence as of the date hereof, of any condition or event that constitutes a Default or an Event of Default, except as set forth in Schedule 1 hereto, which includes a description of the nature and period of existence of such Default or an Event of Default and what action Borrowers have taken, are undertaking and propose to take with respect thereto;

(d) Borrowers are in compliance with the covenants contained in Section 7.12 of the Credit Agreement, as demonstrated by the calculation of such covenants below, except as set forth below; and

(e) **[subsequent to the delivery of the last Compliance Certificate submitted pursuant to the Credit Agreement, except as set forth in Schedule 2 hereto, no Loan Party has (i) acquired any Titled Collateral (as such term is defined in the Security Agreement), (ii) obtained any registration of a patent or trademark, (iii) applied for the registration of a patent or trademark, (iv) acquired any license that is material to the conduct of such Person's business or (v) executed any statement of use or amendment to allege use with respect to intent-to-use trademark application.]**

IN WITNESS WHEREOF, the undersigned officer has executed and delivered this certificate, solely as an officer of Borrower Agent and not individually, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

TAPP LABEL COMPANY, LLC

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_ of the Borrower Agent

Annex 1

**CONSOLIDATED TOTAL NET LEVERAGE RATIO<sup>1</sup>**  
**(Section 7.12(a))**

Total Net Debt is defined as follows:

Outstanding principal balance of the Revolving Loans as of the last day of the applicable measurement period (the "Defined Period") \$ \_\_\_\_\_

Plus (without duplication):

Outstanding principal balance of the Term Loan as of the last day of the Defined Period \_\_\_\_\_

L/C Obligations as of the last day of the Defined Period \_\_\_\_\_

Outstanding principal balance of all other Indebtedness of Holdings and its Subsidiaries as of the last day of the Defined Period \_\_\_\_\_

Less: Qualified Cash \_\_\_\_\_

Less: Indebtedness under the Holdco Notes<sup>2</sup> \_\_\_\_\_

Total Net Debt \$ \_\_\_\_\_

Adjusted Consolidated EBITDA for the Defined Period is defined as follows:

Net income (or loss) for the Defined Period of Holdings and its Subsidiaries, but excluding: (a) the income (or loss) of any Person (other than Subsidiaries of Holdings) in which Holdings or any of its Subsidiaries has an ownership interest unless received by Holdings or its Subsidiaries in a cash distribution; (b) the income (or loss) of any Person accrued prior to the date it became a Subsidiary of Holdings or is merged into or consolidated with Holdings or any of its Subsidiaries; and (c) the undistributed earnings of any Subsidiary to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any contractual obligation (other than under any Loan Documents) or requirement of law applicable to such Subsidiary \$ \_\_\_\_\_

---

<sup>1</sup> All amounts in Canadian Dollars shall be expressed in their U.S. Dollar Equivalent.

<sup>2</sup> Subject to review of Holdco Notes.

Plus (without duplication):

Any provision for (less, even if it results in a negative number, any benefit, including income tax credits, from) federal, state, local or other income and franchise taxes deducted in the determination of net income for the Defined Period or, without duplication, any Tax Distribution under Section 7.06(e) of the Credit Agreement for the Defined Period

---

Interest expense, non-use fees, letter of credit fees, amortization or write-off of debt discount, debt issuance, warrant or other equity issuance discounts, and net costs associated with permitted Swap Contracts in respect of the Loans and other indebtedness permitted under the Credit Agreement (less, even if it results in a negative number, interest income) deducted (or included) in the determination of net income for the Defined Period

---

Amortization and depreciation deducted in the determination of net income for the Defined Period

---

Losses (less, even if it results in a negative number, gains) from Asset Dispositions included in the determination of net income for the Defined Period

---

Non-cash charges or expenses (less, even if it results in a negative number, non-cash gains or income) deducted (or included) in the determination of net income for the Defined Period and for which no cash outlay (or cash receipt) is foreseeable prior to the Revolving Credit Maturity Date or, if later, the final scheduled installment in respect of the Term Loan; provided that if notwithstanding such foreseeability any such amount is paid in cash in a subsequent Defined Period, such amount shall be deducted from net income to arrive at EBITDA in such subsequent Defined Period

---

Expenses and fees deducted in the determination of net income and incurred during the Defined Period in connection with the consummation on the Closing Date of the transactions contemplated by the Loan Documents, up to an aggregate amount not to exceed \$2,250,000

---

Expenses and fees (including expenses and fees paid to Administrative Agent and Lenders) deducted in the determination of net income and incurred during the Defined Period and after the Closing Date in connection with the consummation or administration of the Loan Documents, and the Subordinated Indebtedness Documents up to an aggregate amount not to exceed \$500,000 (or such other amount acceptable to Administrative Agent) in the case of such expenses and fees other than fees paid to Administrative Agent and Lenders

---

Extraordinary losses (less, even if it results in a negative number, extraordinary gains) deducted (or included) in the determination of net income during the Defined Period, net of related tax effects

---

Expenses deducted in the determination of net income during the Defined Period and covered by indemnification or purchase price adjustments in connection with any Acquisition, to the extent actually received in cash during the Defined Period

---

Expenses and fees deducted in the determination of net income during the Defined Period and paid to non-Affiliates and which are incurred in connection with (i) the consummation (or attempted consummation) of any Permitted Acquisitions or any Acquisitions which would reasonably be expected to have (if they had been consummated) satisfied the requirements of the defined term "Permitted Acquisition" but for the fact they are not consummated and/or (ii) issuances of equity securities, debt issuances or other financings, mergers, investments or dispositions permitted by the Loan Documents (in each case whether consummated or not); provided that the amount of such expenses and fees for all such non-consummated transactions shall not exceed 3.0% of Consolidated EBITDA in any Fiscal Year ("Transaction Fees")

---

With respect to any Permitted Acquisition, pro forma synergies, operating expense reductions, cost savings and improvements and adjustments reasonably estimated by Borrowers in good faith to be realized within 12 months after the consummation of such Permitted Acquisition (collectively, "Pro Forma EBITDA Adjustments"); provided that, the aggregate amount of Pro Forma EBITDA Adjustments for such Permitted Acquisitions pursuant to this clause shall not exceed \$2,000,000 for each Fiscal Year (the "Expected Cost Savings Addback")

---

Losses deducted in the determination of net income during the Defined Period, but for which insurance or indemnity recovery is actually received in cash during the Defined Period

---

Expenses deducted in the determination of net income during the Defined Period and reimbursed by third parties to the extent such reimbursements are actually received in cash during the Defined Period

---

Non-cash exchange or translation losses (less, even if it results in a negative number, non-cash exchange or translation gains) deducted (or included) in the determination of net income during the Defined Period and arising from foreign currency hedging transactions or currency fluctuations

---

Non-cash deductions or charges (less, even if it results in a negative number, non-cash gains or positive adjustments) to net income attributable to purchase accounting adjustments made in accordance with GAAP

---

To the extent deducted in the determination of net income during the Defined Period, any non-recurring or unusual costs or expenses incurred in connection with facility closures, consummated mergers, acquisitions or investments or any disposition permitted under the Loan Documents, in each case approved by Administrative Agent and the Purchasers (as defined in the Subordinated Indebtedness Documents), provided that the foregoing amounts shall not exceed 3.0% of Consolidated EBITDA in any Defined Period ("Non-Recurring Items")

Consolidated EBITDA for the Defined Period (for use in Sections 7.12(b))<sup>3</sup> \$ \_\_\_\_\_

Plus: Pro Forma Acquisition EBITDA (as defined below) for each Permitted Acquisition

Permitted Acquisition	#1:	_____	
Permitted Acquisition	#2:	_____	
Permitted Acquisition	#3:	_____	
<b>[additional line items, as applicable]</b>			_____

<sup>3</sup> Notwithstanding the foregoing, Consolidated EBITDA for each period set forth below shall be deemed to be the amount set forth below opposite such period:

<b>Period</b>	<b>Consolidated EBITDA</b>
June 2014	\$1,536,000
July 2014	\$1,378,000
August 2014	\$1,111,000
September 2014	\$649,000
October 2014	\$328,000
November 2014	\$812,000
December 2014	\$590,000
January 2015	\$1,168,000
February 2015	\$634,000
March 2015	\$1,162,000
April 2015	\$1,194,000
May 2015	\$1,249,000
June 2015	To be determined in a manner comparable to the figures set forth above

Adjusted Consolidated EBITDA \$ \_\_\_\_\_

Consolidated Total Net Leverage Ratio (ratio of Total Net Debt to Adjusted Consolidated EBITDA for the Defined Period) \_\_\_\_\_ to 1.0

Maximum Permitted Consolidated Total Net Leverage Ratio for the Defined Period \_\_\_\_\_ to 1.0

In Compliance Yes/No

“Pro Forma Acquisition EBITDA” means Consolidated EBITDA (calculated in the same manner as Consolidated EBITDA is calculated above) attributable to the target of each Permitted Acquisition (with such pro forma adjustments for excess owner’s compensation, owner’s personal expenses and other expenses, all as are directly attributable to such Permitted Acquisition, reasonably identifiable, expected to be realized within 12 months of the date of such Permitted Acquisition, and otherwise reasonably acceptable to Administrative Agent and the Purchasers based upon data presented to Administrative Agent to its reasonable satisfaction) consummated during the one (1) year period preceding the date of determination calculated solely for a number of months immediately preceding the consummation of the applicable Permitted Acquisition, which number equals twelve (12) minus the number of months following the consummation of the applicable Permitted Acquisition for which financial statements of Holdings and its Subsidiaries have been delivered to Administrative Agent pursuant to Section 6.01(b).



Annex 2

**CONSOLIDATED SENIOR NET LEVERAGE EBITDA RATIO<sup>4</sup>**

Total Net Debt (calculated in Annex 1 of the Compliance Certificate) as of the last day of the Defined Period	\$ _____
Less: Outstanding principal balance of Subordinated Indebtedness as of the last day of the Defined Period	\$ _____
Senior Net Debt	\$ _____
Adjusted Consolidated EBITDA (calculated in Annex 1 of the Compliance Certificate) for the Defined Period	\$ _____
Consolidated Senior Net Leverage Ratio (ratio of Senior Net Debt to Adjusted Consolidated EBITDA for the Defined Period)	_____ to 1.0

---

<sup>4</sup> All amounts in Canadian Dollars shall be expressed in their U.S. Dollar Equivalent.

Annex 3

**CONSOLIDATED FIXED CHARGE COVERAGE RATIO<sup>5</sup>**  
**(Section 7.12(b))**

Fixed Charges (calculated for Holdings and its Subsidiaries on a consolidated basis) for the Defined Period is defined as follows:

Interest expense, non-use fees, letter of credit fees and costs associated with permitted Swap Contracts in respect of the Loans and other indebtedness permitted under the Credit Agreement, in each case paid or required to be paid in cash (\$[\_\_\_\_\_]), net of interest income received in cash (\$[\_\_\_\_\_]), by Holdings and its Subsidiaries for the Defined Period

\$ \_\_\_\_\_

Plus (without duplication):

Any federal, state, local, foreign or other income and franchise taxes paid or required to be paid in cash and included in the determination of net income for the Defined Period, net of any cash tax credit or other cash tax benefits received during the Defined Period, plus, without duplication, the amount of any Tax Distribution paid in cash during the Defined Period

\_\_\_\_\_

Scheduled payments of principal for the Defined Period with respect to all Indebtedness (including previously capitalized interest and the portion of scheduled payments under Capital Leases allocable to principal but excluding mandatory prepayments required by Section 2.06(b) and excluding repayments of Revolving Loans and other Indebtedness subject to re-borrowing to the extent not accompanied by a concurrent and permanent reduction of the Revolving Credit Commitment (or equivalent loan commitment))

\_\_\_\_\_

Restricted Payments made in cash during the Defined Period, to the extent not deducted in the determination of net income for the Defined Period

\_\_\_\_\_

Deferred purchase price payments (including earnout payments) made during the Defined Period with respect to the Closing Date Acquisition or any Permitted Acquisition

\_\_\_\_\_

Transaction Fees paid in cash and Non-Recurring Items paid in cash, in each case added back to net income to arrive at Consolidated EBITDA for the Defined Period

Fixed Charges<sup>6</sup>

\$ \_\_\_\_\_

---

<sup>5</sup> All amounts in Canadian Dollars shall be expressed in their U.S. Dollar Equivalent.

Consolidated Operating Cash Flow:

Consolidated EBITDA for the Defined Period (calculated in the manner required by Annex 1 of the Compliance Certificate)

\$ \_\_\_\_\_

Less: Consolidated Capital Expenditures (as calculated below) (\$[\_\_\_\_\_]), excluding the portion thereof financed under Capital Leases or other Indebtedness (excluding drawings under the Revolving Credit Facility) (\$[\_\_\_\_\_]) (“Unfinanced Capital Expenditures”)<sup>7</sup>

\_\_\_\_\_

---

<sup>6</sup> Each component of Fixed Charges shall exclude the operating results of any target of a Permitted Acquisition prior to the date the target became a Subsidiary of a Borrower, in the case of Permitted Acquisitions consummated as a purchase of the capital stock of such target.

<sup>7</sup> For purposes of calculating the Fixed Charge Coverage Ratio for the Defined Periods ending \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_, Fixed Charges and Unfinanced Capital Expenditures for each such Defined Period shall be calculated as follows:

(i) interest shall be calculated by taking the amount of interest for the period from \_\_\_\_\_ through the last day of the Defined Period and multiplying such amount by (A) [\_\_\_\_\_] in the case of the Defined Period ending \_\_\_\_\_, (B) [\_\_\_\_\_] in the case of the Defined Period ending \_\_\_\_\_, and (C) [\_\_\_\_\_] in the case of the Defined Period ending \_\_\_\_\_;

(ii) Restricted Payments, tax items and deferred purchase price payments shall be calculated as the actual amount of such payments paid on and after the Closing Date;

(iii) scheduled principal payments of Indebtedness (excluding deferred purchase price payments) shall be the greater of (A) the actual amounts paid on and after the Closing Date and (B) the amounts scheduled to be paid during the one-year period commencing on the Closing Date; and

(iv) Unfinanced Capital Expenditures shall equal the sum of (i) the actual amounts paid on and after the Closing Date for Unfinanced Capital Expenditures, plus (ii) the sum of the applicable respective amounts as set forth below for each of the full calendar quarters (or other periods) occurring prior to the Closing Date and included in such Defined Period:

Period	Pre-Closing Unfinanced Capital Expenditures
Quarter ended September 30, 2014	\$484,000
Quarter ended December 31, 2014	\$484,000
Quarter ended March 31, 2015	\$484,000
Month ended April 30, 2015	\$161,000
Month ended May 30, 2015	\$161,000

Consolidated Operating Cash Flow \$ \_\_\_\_\_

Consolidated Fixed Charge Coverage Ratio (Ratio of Consolidated Operating Cash Flow to Fixed Charges) for the Defined Period \_\_\_\_\_ to 1.0

Minimum Required Consolidated Fixed Charge Coverage Ratio for the Defined Period \_\_\_\_\_ to 1.0

In Compliance Yes/No

\*\*\*\*\*

Consolidated Capital Expenditures for the Defined Period are defined as follows:

Expenditures capitalized during the Defined Period by Holdings and its Subsidiaries for property, plant and equipment and other fixed assets, and for research and development, but in each case excluding purchase price payments with respect to any Permitted Acquisition \$ \_\_\_\_\_

Plus: deposits made in the Defined Period in connection with property, plant, and equipment; less deposits of a prior period included above \_\_\_\_\_

Less (without duplication):  
Net Cash Proceeds of Dispositions received during the Defined Period which (i) Borrowers or a Subsidiary are permitted to reinvest pursuant to the terms of the Credit Agreement and (ii) are included in amount capitalized above \_\_\_\_\_

Proceeds of property insurance policies and condemnation awards received during the Defined Period which (i) Borrowers or a Subsidiary are permitted to reinvest pursuant to the terms of the Credit Agreement and (ii) are included in amount capitalized above \_\_\_\_\_

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June 1, 2015 to Closing Date

Unfinanced Capital Expenditures of Holdings and its Subsidiaries determined in a manner comparable to the figures set forth above

To the extent included in amounts capitalized above, expenditures to the extent financed with (i) cash indemnity payments or third party reimbursements received during the Defined Period, (ii) trade-ins of property, plant and equipment Disposed of in a manner permitted by the Credit Agreement or (iii) proceeds of Excluded Issuances

Consolidated Capital Expenditures (for use in Annex 4 of the Compliance Certificate)

\_\_\_\_\_  
\$ \_\_\_\_\_

Annex 4

**CONSOLIDATED CAPITAL EXPENDITURES**  
**(Section 7.12(c))**

Consolidated Capital Expenditures (calculated in the manner required by Annex 3 of the Compliance Certificate) \$ \_\_\_\_\_

Maximum Permitted Consolidated Capital Expenditures \$ \_\_\_\_\_

In Compliance Yes/No

**Schedule 1 to  
Compliance Certificate**

**[Borrowers to list any existing Defaults or Events of Default, specifying the nature and period of existence of each, and the actions Borrowers have taken, are undertaking and propose to take in respect thereof. If no Defaults and no Events of Default are then in existence, such schedule should read "None".]**

**Schedule 2 to  
Compliance Certificate**

Titled Collateral

Patent and Trademark Registrations and Applications

Material Licenses

Statements of Use/Amendments to Allege Use of Intent-to-Use Trademark Applications



**FORM OF EXCESS CASH FLOW CERTIFICATE**

Financial Statement Date: \_\_\_\_\_, \_\_\_\_\_

To: Bank of Montreal, as Administrative Agent

Ladies and Gentlemen:

This certificate is given by Tapp Label Company, LLC, a Delaware limited liability company (the "Borrower Agent"), pursuant to Section 6.02(b) of that certain Credit Agreement dated as of July 6, 2015 among Borrower Agent, the other borrowers party thereto, the Guarantors party thereto, the Lenders from time to time party thereto and Bank of Montreal, as Administrative Agent for Lenders (as such agreement may have been amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"). Capitalized terms used herein without definition shall have the meanings set forth in the Credit Agreement.

The undersigned Responsible Officer hereby certifies to Administrative Agent and Lenders, solely as an officer of Borrower Agent and not individually, that:

(a) set forth below is a schedule of Excess Cash Flow for the year ended \_\_\_\_\_, 20\_\_ and the calculation of the required prepayment of \$ \_\_\_\_\_; and

(b) the schedule set forth below is based on the audited financial statements which have been delivered to Administrative Agent in accordance with Section 6.01(a) of the Credit Agreement.

IN WITNESS WHEREOF, the undersigned officer has executed and delivered this certificate, solely as an officer of Borrower Agent and not individually, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_ of the Borrower Agent

Excess Cash Flow is defined as follows:

**U.S. Borrower** **Canadian**  
**Borrower**

Consolidated Operating Cash Flow (as calculated on the Compliance Certificate):

\$ \_\_\_\_\_ \$ \_\_\_\_\_

Less (without duplication):

Any federal, state, local, foreign or other income and franchise taxes paid or required to be paid in cash and included in the determination of net income, net of any cash tax credit or other cash tax benefits

\_\_\_\_\_

Regularly scheduled principal payments with respect to all Indebtedness actually paid (including previously capitalized interest payments made on Capital Leases which are allocable to principal, but excluding (i) mandatory prepayments required by Section 2.06(b) of the Credit Agreement, (ii) repayments of the applicable Revolving Loans and other Indebtedness subject to re-borrowing to the extent not accompanied by a concurrent and permanent reduction of the U.S. Revolving Credit Commitment or Canadian Revolving Credit Commitment, as applicable (or equivalent loan commitment), and (iii) the amortization of debt discount or premium)

\_\_\_\_\_

Total Interest Expense (as calculated on the Compliance Certificate)

\_\_\_\_\_

Extraordinary losses (or plus extraordinary gains) to the extent (i) added back in the computation of Consolidated Operating Cash Flow and (ii) made in cash (in the case of losses) or received in cash (in the case of gains)

\_\_\_\_\_

Cash payments paid as the purchase price for Permitted Acquisitions, including cash earnout payments and cash payments of other similar contingent obligations

\_\_\_\_\_

Restricted Payments made in cash by the applicable Borrower and permitted under Section 7.06 of the Credit Agreement, to the extent not deducted in the calculation of Consolidated Operating Cash Flow

\_\_\_\_\_

Amounts added back in calculating Consolidated EBITDA in reliance on the Expected Cost Savings Addback

\_\_\_\_\_

Increase (or plus the decrease) in Working Capital (defined below)

\_\_\_\_\_

Increases (or plus the decreases) in long term deferred tax assets

\_\_\_\_\_

Decreases (or plus the increases) in long term deferred tax liabilities

\_\_\_\_\_

Excess Cash Flow

\$ \_\_\_\_\_ \$ \_\_\_\_\_

Required prepayment percentage

\_\_\_\_\_ % \_\_\_\_\_ %

Required gross prepayment amount

\_\_\_\_\_

Less (without duplication):

Optional principal prepayments with respect to the applicable Term Loans actually paid and optional principal prepayments with respect to all applicable Revolving Loans actually paid to the extent accompanied by a concurrent and permanent reduction of the U.S. Revolving Credit Commitment or Canadian Revolving Credit Commitment, as applicable

\_\_\_\_\_

Required prepayment amount

\$ \_\_\_\_\_ \$ \_\_\_\_\_

Decrease (increase) in Working Capital, for the purposes of the calculation of Excess Cash Flow, means the following:

	Beg. of Period	End of Period
Current assets:	\$ _____	\$ _____
Less: Cash	_____	_____
Cash Equivalents	_____	_____
Amounts due from Affiliates to the extent included in current assets	_____	_____
Adjusted current assets:	\$ <u>          </u>	\$ <u>          </u>
Current liabilities:	\$ _____	\$ _____
Less: Revolving Loans	_____	_____
Current portion of Indebtedness	_____	_____
Amounts due to Affiliates to the extent included in current liabilities	_____	_____
Adjusted current liabilities:	\$ <u>          </u>	\$ <u>          </u>
Working Capital:	\$ <u>          </u>	\$ <u>          </u>
Decrease (Increase) in Working Capital (calculated as the beginning of period Working Capital minus end of period Working Capital)		\$ <u>          </u>

**Note: If one or more Permitted Acquisitions occur in any Fiscal Year, all end-of-year figures should take into account the opening balance sheet for each Permitted Acquisition.**

**FORM OF  
ASSIGNMENT AND ASSUMPTION**

This Assignment and Assumption (this “Assignment and Assumption”) is dated as of the Effective Date set forth below and is entered into by and between **[the][each]** Assignor identified in item 1 below (**[the][each, an]** “Assignor”) and **[the][each]** Assignee identified in item 2 below (**[the][each, an]** “Assignee”). **[It is understood and agreed that the rights and obligations of [the Assignors][the Assignees] hereunder are several and not joint.]** Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (the “Credit Agreement”), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions (the “Standard Terms and Conditions”) set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, **[the][each]** Assignor hereby irrevocably sells and assigns to **[the Assignee][the respective Assignees]**, and **[the][each]** Assignee hereby irrevocably purchases and assumes from **[the Assignor][the respective Assignors]**, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of **[the Assignor’s][the respective Assignors’]** rights and obligations in **[its capacity as a Lender][their respective capacities as Lenders]** under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of **[the Assignor][the respective Assignors]** under the respective facilities identified below (including, without limitation, the Letters of Credit included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of **[the Assignor (in its capacity as a Lender)][the respective Assignors (in their respective capacities as Lenders)]** against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by **[the][any]** Assignor to **[the][any]** Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as **[the][an]** “Assigned Interest”). Each such sale and assignment is without recourse to **[the][any]** Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by **[the][any]** Assignor.

1. Assignor: \_\_\_\_\_
2. Assignee: \_\_\_\_\_  
*[for each Assignee, indicate [Affiliate][Approved Fund] of [identify Lender]]*
3. Borrowers: Tapp Label Company, LLC and Tapp Label Ltd.
4. Administrative Agent: Bank of Montreal, as the administrative agent under the Credit Agreement (defined herein).

5. Credit Agreement: Credit Agreement, dated as of July 6, 2015, among Tapp Label Company, LLC, as the U.S. Borrower, Tapp Label Ltd., as Canadian Borrower, the Guarantors party thereto, the Lenders from time to time party thereto, and Bank of Montreal, as Administrative Agent, Swing Line Lender and L/C Issuer.

6. Assigned Interest:

Assignor[s] <sup>8</sup>	Assignee[s] <sup>9</sup>	Facility Assigned <sup>10</sup>	Aggregate Amount of Commitment/Loans for all Lenders <sup>11</sup>	Amount of Commitment/Loans Assigned*	Percentage Assigned of Commitment/Loans <sup>12</sup>	CUSIP Number
			\$ _____	\$ _____	_____ %	
			\$ _____	\$ _____	_____ %	
			\$ _____	\$ _____	_____ %	

[7. Trade Date: \_\_\_\_\_]

Effective Date: \_\_\_\_\_, 20\_\_ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: \_\_\_\_\_

Title: \_\_\_\_\_

<sup>8</sup> List each Assignor, as appropriate.

<sup>9</sup> List each Assignee, as appropriate.

<sup>10</sup> Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment (e.g. "U.S. Revolving Credit Commitment", "Canadian Revolving Credit Commitment", "U.S. Term Loan", "Canadian Term Loan", etc.)

<sup>11</sup> Amounts in this column and in the column immediately to the right to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

<sup>12</sup> Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

ASSIGNEE

[NAME OF ASSIGNEE]

By: \_\_\_\_\_

Title: \_\_\_\_\_

**[Consented to and] Accepted:**

BANK OF MONTREAL, as  
Administrative Agent

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**[Consented to:]**

TAPP LABEL COMPANY, LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_



*ANNEX 1 TO ASSIGNMENT AND ASSUMPTION*

**STANDARD TERMS AND CONDITIONS FOR  
ASSIGNMENT AND ASSUMPTION**

1. Representations and Warranties.

1.1. Assignor. **[The][Each]** Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of **[the][the relevant]** Assigned Interest, (ii) **[the][such]** Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrowers, any of their Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrowers, any of their Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. **[The][Each]** Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under the Credit Agreement (subject to such consents, if any, as may be required under the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of **[the][the relevant]** Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by **[the][such]** Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire **[the][such]** Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 7.01 thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase **[the][such]** Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase **[the][such]** Assigned Interest, and (vii) if it is a Foreign Lender, attached hereto is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by **[the][such]** Assignee; and (b) agrees that (i) it will, independently and without reliance upon the Administrative Agent, **[the][any]** Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of **[the][each]** Assigned Interest (including payments of principal, interest, fees and other amounts) to **[the][the relevant]** Assignor for amounts which have accrued to but excluding the Effective Date and to **[the][the relevant]** Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

***EXHIBIT G***

**FORM OF CLOSING CHECKLIST**

*[See Attached]*

**SCHEDULE OF CLOSING DOCUMENTS**

relating to the

**CREDIT AGREEMENT**

dated as of July 6, 2015

AMONG

**TAPP LABEL COMPANY, LLC**  
AS THE *U.S. BORROWER*,

**TAPP LABEL LTD.**  
AS THE *CANADIAN BORROWER*,

**TAPP LABEL HOLDING COMPANY, LLC**  
AS *HOLDINGS*,

**THE SUBSIDIARY GUARANTORS PARTIES THERETO,**

**THE LENDERS FROM TIME TO TIME PARTIES THERETO,**

AND

**BANK OF MONTREAL,**  
AS *ADMINISTRATIVE AGENT*

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**BMO HARRIS BANK, N.A., AS ARRANGER AND BOOKRUNNER**

Each capitalized term used but not otherwise defined herein shall have the meaning ascribed thereto by the Credit Agreement.

**Parties and Defined Terms**

1.	Bank of Montreal	“BMO” or “Administrative Agent”
2.	Tapp Label Company, LLC, a Delaware limited liability company	“U.S. Borrower”
3.	Tapp Label LTD., an Ontario corporation	“Canadian Borrower”
4.	U.S. Borrower and Canadian Borrower	“Borrowers”
5.	Tapp Label Holding Company, LLC, a Delaware limited liability company	“Holdings”
6.	Borrowers and Holdings	“Loan Parties”
7.	The Stephen Adams Living Trust	“Sponsor”
8.	Winston & Strawn LLP, counsel to BMO	“W&S”
9.	Dentons Canada LLP, Canadian counsel to BMO	“Dentons”
10.	Kaplan, Strangis and Kaplan, P.A. counsel to Loan Parties	“KSKPA”
11.	Morgan Stanley Credit Partners II, L.P.	“MSCP”
12.	Proskauer Rose, LLP, counsel to MSCP	“Proskauer”
13.	McMillan LLP, Canadian counsel to Loan Parties	“McMillan”
14.	King & Spalding LLP, New York counsel to Loan Parties	“K&S”

<b>I.</b>	<b>LOAN DOCUMENTS</b>	<b>Responsible Party</b>	<b>Status</b>
1.	Credit Agreement	W&S	Final
	<u>Schedules:</u> Schedule 2.01 – Commitments and Applicable Percentages Schedule 5.05 – Litigation Schedule 5.07(b) – Leased Real Estate Schedule 5.09 – Insurance Schedule 5.11(d) – Pension Plans Schedule 5.12 – Subsidiaries; Capitalization; Other Equity Investments Schedule 5.16 – Labor Matters Schedule 7.01 – Existing Indebtedness Schedule 7.02 – Existing Liens Schedule 7.03 – Existing Investments Schedule 7.08 – Affiliate Transactions Schedule 10.02 – Administrative Agent's Office (and Account)	BMO  Borrowers Borrowers Borrowers Borrowers Borrowers  Borrowers Borrowers Borrowers Borrowers BMO	Final
	<u>Exhibits:</u> Form of Exhibit A – Committed Loan Notice Exhibit B – Swing Line Loan Notice Exhibit C-1 – Revolving Loan Note Exhibit C-2 – Term Loan Note Exhibit D – Compliance Certificate Exhibit E – Excess Cash Flow Certificate Exhibit F – Assignment and Assumption Exhibit G – Closing Checklist	W&S	Final
2.	Term Notes signed by Canadian Borrower in favor of BMO	W&S	Final
3.	Revolving Notes signed by U.S. Borrower in favor of BMO	W&S	Final
4.	Revolving Notes signed by Canadian Borrower in favor of BMO	W&S	Final
<b>II.</b>	<b>SECURITY DOCUMENTS</b>		
1.	U.S. Pledge and Security Agreement	W&S	Final
	<u>Schedules and Exhibits:</u> Schedule I – Legal Names, Organizational Identification Numbers; States or Jurisdiction of Organization Schedule II – Copyrights Schedule III – Licenses Schedule IV – Patents	Borrowers  Borrowers Borrowers Borrowers	Final

	<p>Schedule V – Trademarks and Tradenames</p> <p>Schedule VI – Locations of Grantors</p> <p>Schedule VII – Deposit Accounts, Securities Account and Commodities Accounts</p> <p>Schedule VIII – UCC Financing Statements</p> <p>Schedule IX – Commercial Tort Claims</p> <p>Schedule X – Pledged Debt</p> <p>Schedule XI – Pledged Shares</p> <p>Exhibit A – Irrevocable Proxy</p> <p>Exhibit B – Pledgee Registration Page</p> <p>Exhibit C – Pledge Amendment</p> <p>Exhibit D – Grant of Security Interest in Intellectual Property</p> <p>Exhibit E – Form of Security Agreement Supplement</p>	<p>Borrowers</p> <p>Borrowers</p> <p>Borrowers</p> <p>Borrowers</p> <p>Borrowers</p> <p>Borrowers</p> <p>Borrowers</p> <p>W&amp;S</p> <p>W&amp;S</p> <p>W&amp;S</p> <p>W&amp;S</p> <p>W&amp;S</p>	
2.	Canadian Security Agreement	Dentons	Final
3.	Perfection Certificate	W&S	Final
4.	<p>Membership/stock certificates and accompanying stock powers for:</p> <ul style="list-style-type: none"> <li>• U.S. Borrower</li> <li>• Canadian Borrower</li> </ul>	Borrowers	Final
5.	<p>UCC-1s filed in favor of Administrative Agent against:</p> <ul style="list-style-type: none"> <li>• U.S. Borrower in Delaware (all assets)</li> <li>• Canadian Borrower in District of Columbia (all assets)</li> <li>• Holdings in Delaware (all assets)</li> </ul>	W&S	Final
6.	PPSAs filed in favor of Administrative Agent against Canadian Borrower	Dentons	Final
7.	Grant of Security Interest in Trademarks	W&S	Final
8.	UCC, PPSA and lien searches against Holdings and each of its Subsidiaries	W&S	Received
9.	Evidence of insurance naming Administrative Agent as mortgagee, additional insured or lender's loss payee, as applicable	Borrowers	Received
10.	Payoff letter from Rabobank	KSKPA	Received
11.	UCC-3/PPSA terminations	KSKPA	Received
<b>III.</b>	<b>SUBORDINATED DEBT DOCUMENTS</b>		
1.	Subordinated Note Purchase Agreement	Proskauer	Final

2.	Subordinated Notes	Proskauer	Final
3.	Intercreditor and Subordination Agreement	W&S	Final
<b>IV.</b>	<b>HOLDCO NOTES DOCUMENTS</b>		
1.	Holdco Note Purchase Agreement	Proskauer	Final
2.	Holdco Notes	Proskauer	Final
3.	Subordination Agreement	W&S	Final
<b>V.</b>	<b>CONVERTIBLE NOTES DOCUMENTS</b>		
1.	Convertible Notes Subordination Agreement	Proskauer	Final
2.	Subordination Agreement	W&S	Final
<b>VI.</b>	<b>WARRANT DOCUMENTS</b>		
1.	Warrant Subordination Agreement	Proskauer	Final
2.	Subordination Agreement	W&S	Final
<b>VII.</b>	<b>CORPORATE DOCUMENTS AND CERTIFICATES</b>		
1.	Certificate of Secretary of Holdings with the following attached: <ul style="list-style-type: none"> <li>• good standing certificates</li> <li>• articles of formation/incorporation</li> <li>• LLC Agreement/bylaws</li> <li>• resolutions</li> <li>• incumbency</li> </ul>	KSKPA	Final
2.	Certificate of Secretary of U.S. Borrower with the following attached: <ul style="list-style-type: none"> <li>• good standing certificates</li> <li>• articles of formation/incorporation</li> <li>• LLC Agreement/bylaws</li> <li>• resolutions</li> <li>• incumbency</li> </ul>	KSKPA	
3.	Certificate of Secretary of Canadian Borrower with the following attached: <ul style="list-style-type: none"> <li>• good standing certificates</li> <li>• [articles of formation/incorporation]</li> <li>• [LLC Agreement/bylaws]</li> <li>• resolutions</li> <li>• incumbency</li> </ul>	KSKPA	
4.	Closing Certificate	KSKPA	Final
5.	Solvency Certificate	KSKPA	Final
<b>VI.</b>	<b>LEGAL OPINIONS</b>		
1.	Opinions of KSKPA	KSKPA	Final
2.	Opinions of K&S	K&S	Final
3.	Opinions of Canadian Counsel to Borrowers	McMillan	Final
<b>VII.</b>	<b>MISCELLANEOUS</b>		
1.	Notice of Borrowing from U.S. Borrower	KSKPA	Final
2.	Notice of Borrowing from Canadian Borrower	KSKPA	Final



3.	Letter of Direction	W&S	Final
4.	Funds Flow	Borrowers	Final
5.	Fee Letter	W&S	Final
6.	Sponsor Equity Contribution Agreement	KSKPA	Final
7.	Documentation required by the Patriot Act, including W-9s for each Loan Party	Borrowers	Received
8.	Financial Statements required pursuant to Section 4.01(a)(v)	Borrowers	Received
9.	Payment of fees and expenses	Borrowers	Included in Funds Flow
<b>VIII.</b>	<b>ACQUISITION DOCUMENTS</b>		
1.	Closing Date Acquisition Agreement	Borrowers	Executed copy received
2.	Amendment to Acquisition Agreement		Executed copy received