

Exhibit A

Credit Agreement

DEBTOR-IN-POSSESSION CREDIT AGREEMENT

Dated as of May 29, 2019,

among

**AMERICAN HOME PRODUCTS LLC,
a Delaware limited liability company,
as Debtor-in-Possession**

as the Borrower,

and

**THE LOUVER SHOP HOLDINGS, LLC,
a Delaware limited liability company,**

as Lender

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EXHIBITS

Form of

- A Approval Order [separately attached to motion]
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DEBTOR-IN-POSSESSION CREDIT AGREEMENT

This **DEBTOR-IN-POSSESSION CREDIT AGREEMENT** (this “Agreement”) is entered into as of May 29, 2019, by and among **AMERICAN HOME PRODUCTS LLC**, a Delaware limited liability company, as Debtor-in-Possession (the “Borrower”), and **THE LOUVER SHOP HOLDINGS, LLC**, a Delaware limited liability company (the “Lender”).

WHEREAS, the Borrower is a debtor-in-possession in a Chapter 11 case pending in the United States Bankruptcy Court for the Northern District of Georgia (the “Bankruptcy Court”), under the caption *In re American Home Products LLC*, as Case No. 19-[_____] (the “Bankruptcy Case”);

WHEREAS, the Borrower is continuing in the possession of its assets and in the management of its business in the ordinary course as a debtor-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, the Borrower is in need of additional working capital on a short term basis, has been unable to obtain funds on other terms, and has requested that the Lender make a debtor-in-possession loan to the Borrower in the maximum principal amount of \$400,000.00, the proceeds of which shall be used exclusively to fund the Borrower’s ongoing operations in accordance with the Budget and the administration of the Bankruptcy Case;

WHEREAS, to provide security for the repayment of the loans made available pursuant hereto and payment of the other obligations of the Borrower hereunder, the Borrower has agreed to grant to the Lender certain Liens on the Collateral pursuant to and in accordance with the Loan Documents; and

WHEREAS, the Lender has agreed to make a debtor-in-possession loan to the Borrower, but only in strict accordance with the terms and conditions of this Agreement.

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

DEFINITIONS AND ACCOUNTING TERMS

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

“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.

“Agreement” means this Debtor-In-Possession Credit Agreement.

“Approval Order” means an order, whether interim or final, substantially in the form attached hereto as Exhibit A, and to the extent revised from Exhibit A, acceptable to the Lender’s satisfaction in its sole discretion, entered by the Bankruptcy Court approving this Agreement and

the transactions contemplated hereby, and providing protections to the Lender in the nature of first priority priming liens on the personal property of the Borrower and super-priority claims in accordance with the Bankruptcy Code and as more specifically described in the other Loan Documents.

“Attributable Indebtedness” means, on any date, (a) in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease or similar 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 Capitalized Lease.

“Bankruptcy Case” has the meaning set forth in the recitals.

“Bankruptcy Code” means 11 U.S.C. §§ 101, *et seq.*, as amended and currently in effect.

“Bankruptcy Court” has the meaning set forth in the recitals.

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

“Borrowing” means a borrowing of the DIP Loan.

“Budget” means the budget attached hereto as Schedule 1.01, together with any subsequent budget approved by the Lender, in its sole discretion, and approved by the Bankruptcy Court such Bankruptcy Court approval including the general authority to issue subsequent Budgets agreed between Borrower and Lender.

“Business” means the business conducted by the Borrower in the ordinary course of its operations.

“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, Atlanta, Georgia.

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

“Carve Out” means a carve-out from the Liens and Superpriority Claims of the Lender and Prepetition Lender for the benefit of Retained Professionals and the Office of the United States Trustee, in the following amounts: (a) fees owed to the Office of the United States Trustee, in such amounts as are determined by agreement with the Office of the United States Trustee or by final order of the Bankruptcy Court; (b) fees payable to the Clerk of the Bankruptcy Court; (c) the fees and expenses of Retained Professionals that are incurred or accrued on or prior to the Maturity Date, to the extent: (i) of the amounts set forth for the respective Retained Professional in the Budget(s); and (ii) that such amounts are later approved by the Bankruptcy Court pursuant to the Bankruptcy Code; and (d) the fees and expenses of all Retained Professionals that are incurred or accrued subsequent to the Maturity Date in a total amount not to exceed \$30,000, to the extent that such amounts are later approved by the

Bankruptcy Court pursuant to the Bankruptcy Code. Notwithstanding section (c)(i) of this definition, which provides for each Retained Professional to have its own Carve-Out line item in the Budget, if any Retained Professional for the Borrower does not use its full Budget amount, any such excess amount shall be available to the other Retained Professionals of the Borrower (including the noticing agent line item). This provision shall not allow a professional for the Borrower to use excess funds in the Budget line items of a Retained Professional of the Committee, and it shall not allow a professional for the Committee to use excess funds in the Approved Budget line items of a Retained Professional of the Borrower.

“Cash Equivalents” means any of the following types of Investments, to the extent owned by the Borrower or any of its Subsidiaries free and clear of all Liens (other than Permitted Liens):

readily marketable obligations issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof having maturities of not more than three hundred sixty days (360) days from the date of acquisition thereof; provided that the full faith and credit of the United States of America is pledged in support thereof;

time deposits with, or insured certificates of deposit or bankers’ acceptances of, any commercial bank that (i) (A) is the Lender or (B) is organized under the laws of the United States of America, any state thereof or the District of Columbia or is the principal banking subsidiary of a bank holding company organized under the laws of the United States of America, any state thereof or the District of Columbia, and is a member of the Federal Reserve System, (ii) issues (or the parent of which issues) commercial paper rated as described in clause (c) of this definition and (iii) has combined capital and surplus of at least \$1,000,000,000, in each case with maturities of not more than one hundred eighty (180) days from the date of acquisition thereof;

commercial paper issued by any Person organized under the laws of any state of the United States of America and rated at least “Prime-1” (or the then equivalent grade) by Moody’s or at least “A-1” (or the then equivalent grade) by S&P, in each case with maturities of not more than one hundred eighty (180) days from the date of acquisition thereof; and

Investments, classified in accordance with GAAP as current assets of the Borrower or any of its Subsidiaries, in money market investment programs registered under the Investment Company Act of 1940, which are administered by financial institutions that have the highest rating obtainable from either Moody’s or S&P, and the portfolios of which are limited solely to Investments of the character, quality and maturity described in clauses (a), (b) and (c) of this definition.

“Change in Law” means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority;

provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) 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.

“Closing Date” means a date in compliance with Section 4.01(d).

“Code” means the Internal Revenue Code of 1986.

“Collateral” means, collectively, the assets and rights and interest in or to property of the Borrower, whether real or personal, tangible or intangible, in which a Lien is granted or purported to be granted pursuant to the Security Instruments; provided, however, that Collateral shall specifically exclude all claims and causes of action of the Borrower or its bankruptcy estate arising under the Bankruptcy Code (including, but not limited to Chapter 5 thereof) and the proceeds and recoveries thereof and shall be subject to the Carve Out.

“Committee” means any official committee of unsecured creditors appointed in the Bankruptcy Case.

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

“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.

“Controlled Accounts” has the meaning specified in Section 6.16.

“Credit Extension” means a Borrowing.

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

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

“Default Rate” means a rate per annum equal to five percent (5%) above the Interest Rate.

“Delayed Draw DIP Loan Advance” has the meaning specified in Section 2.01(b).

“DIP Loan” means advances made by the Lender under the DIP Loan Facility.

“DIP Loan Commitment” means the Lender’s obligation to fund the Borrowing pursuant to Section 2.01 in a principal amount not to exceed \$400,000.00.

“DIP Loan Facility” means the facility described in Section 2.01 relating to the DIP Loan.

“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by the Borrower or any Subsidiary (or the granting of any option or other right to do any of the foregoing), 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.

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

“Domestic Subsidiary” means any Subsidiary that is organized under the laws of any political subdivision of the United States.

“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) 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, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

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

“Excluded Taxes” means, with respect to any Recipient, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such Recipient is organized or doing business or in which its principal office is located or, in the case of the Lender, in which its applicable Lending Office is located, and (b) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction.

“Facility” means the DIP Loan Facility.

“FASB ASC” means the Accounting Standards Codification of the Financial Accounting Standards Board.

“GAAP” means generally accepted accounting principles in the United States of America applied on a consistent basis and subject to the terms of Section 1.03.

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

“Guarantee” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness of the kind described in clauses (a) through (g) of the definition thereof 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) any Lien on any assets of such Person securing any Indebtedness of the kind described in clauses (a) through (g) of the definition thereof or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed or expressly undertaken 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. The term “Guarantee” as a verb has a corresponding meaning.

“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;

the maximum amount of all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments;

all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and not past due for more than sixty (60) days after the date on which such trade account was created);

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

all Attributable Indebtedness in respect of Capitalized Leases and Synthetic Lease Obligations of such Person and all Synthetic Debt of such Person;

all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person or any warrant, right or option to acquire such Equity Interest, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; and

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, unless such Indebtedness is expressly made non-recourse to such Person.

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

“Indemnitee” has the meaning specified in Section 9.04(b).

“Interest Rate” means a rate per annum equal to nine percent (9.0%).

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests 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 interest in, another 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 or all or a substantial part of the business of, such Person. 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.

“IP Rights” has the meaning specified in Section 5.16.

“Laws” means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, 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.

“Lease” means each operating lease of real property, or both real and personal property, related to the operations of the Business.

“Lender” means each of the Persons identified as a “Lender” on the signature pages hereto, each other Person that becomes a “Lender” in accordance with this Agreement and, their successors and assigns.

“Lending Office” means the office or offices, address and, as appropriate, account of the Lender as set forth on Schedule 9.02, or such other office or offices, address or account as the Lender may from time to time notify the Borrower.

“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 Documents” means this Agreement, the Note, each Security Instrument, the Approval Order(s), and all other documents, agreements and certificates executed or delivered in connection with or contemplated by this Agreement or other document evidencing or securing the DIP Loan.

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect upon, the Business taken as a whole; (b) a material impairment of the rights and remedies of the Lender under any Loan Document, or of the ability of the Borrower to perform its obligations under any Loan Document to which it is a party; (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the Borrower of any Loan Document to which it is a party, or the Approval Order; or (d) a material impairment in Lender’s superpriority Liens and security interests in the Collateral under Section 364(d) of the Bankruptcy Code, or Lender’s superpriority claims under Section 364(c)(1) of the Bankruptcy Code.

“Material Contract” means, as to Borrower, any supply, franchise, purchase, service, employment, management, tax, indemnity, shareholder or other agreement or contract being used in the current operations of the Business as of the Closing Date for which the aggregate amount or value of services performed or to be performed for or by, or funds or other property transferred or to be transferred to or by, any Person pursuant to such agreement or contract (to which such Person is a party or by which any such Person or any of its properties is otherwise bound) during any calendar year exceeds \$250,000 or which is otherwise material to the operation of its and their business.

“Maturity Date” means (a) August 16, 2019, or such date as agreed in writing by Borrower and Lender, or (b) such earlier date upon which the Outstanding Amounts under the

DIP Loan Facility, including all accrued and unpaid interest, are either due and payable (unless the Lender forbears in writing from enforcing the obligation to pay such Outstanding Amounts) or are otherwise paid in full in accordance with the terms hereof.

“Maximum Rate” has the meaning specified in Section 9.09.

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

“Note” means the promissory note made by the Borrower in favor of the Lender evidencing the DIP Loan, substantially in the form of Exhibit B.

“Obligations” means (a) all advances to, and debts, liabilities, obligations, covenants and duties of, the Borrower arising under any Loan Document or otherwise with respect to the DIP Loan, and (b) all costs and expenses incurred in connection with enforcement and collection of the foregoing, including the fees, charges and disbursements of counsel, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising.

“Organization Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement or limited liability company agreement (or equivalent or comparable documents with respect to any non-U.S. jurisdiction); (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization (or equivalent or comparable documents with respect to any non-U.S. jurisdiction) and (d) with respect to all entities, 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 (or equivalent or comparable documents with respect to any non-U.S. jurisdiction).

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

“Outstanding Amount” means with respect to the DIP Loan on any date, the aggregate outstanding principal amount thereof after giving effect to any Borrowings and any prepayments or repayments of the DIP Loan occurring on such date.

“Permitted Liens” means (i) those Liens created by the Loan Documents or permitted under Section 7.01 hereof, and (ii) (a) municipal and zoning ordinances which are not violated in any material respect by the existing improvements and the present use made by the Borrower, (b) Liens for general real estate taxes and assessments not yet delinquent, and (c) such other items as to which the Lender may consent.

“Permitted Variance” means, with respect to the Budget, (i) all favorable variances, and (ii) an unfavorable variance of no more than ten (10%) in the aggregate.

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

“Petition Date” means the date that that the Borrower filed its voluntary petition seeking relief under Chapter 11 of the Bankruptcy Code.

“Prepetition Lender” means The Huntington National Bank and The Huntington Capital Investment Company II, each as Lender under that certain Credit Agreement dated as of January 27, 2015, and that certain Senior Subordinated Note Purchase Agreement dated as of January 25, 2015, respectively, each as amended, restated and otherwise modified from time to time, and the successors and assigns of such entities, including The Louver Shop Holdings, LLC, a Delaware limited liability company, pursuant to that certain Loan Purchase Agreement dated May 24, 2019, and that certain Loan Purchase Agreement dated May 24, 2019.

“Prepetition Obligations” means (a) all advances to, and debts, liabilities, obligations, covenants and duties of, the Borrower owing to the Prepetition Lender, and (b) all costs and expenses incurred in connection with enforcement and collection of the foregoing, including the fees, charges and disbursements of counsel, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against the Borrower or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

“Recipient” means the Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder.

“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.

“Request for Credit Extension” means, with respect to a Borrowing, a notice in the form attached hereto as Exhibit B.

“Responsible Officer” means the chief executive officer, president, chief restructuring officer, chief financial officer, treasurer or manager (in the case of a limited liability company) of the Borrower. Any document delivered hereunder that is signed by a Responsible Officer of the Borrower shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of the Borrower and such Responsible Officer shall be conclusively presumed to have acted on behalf of the Borrower.

“Restricted Payment” means (a) the payment of any management fee, (b) any distribution, dividend or other distribution, direct or indirect, on account of any shares (or equivalent) of any class of Equity Interests of the Borrower or any of its Subsidiaries, now or

hereafter outstanding, (c) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares (or equivalent) of any class of Equity Interests of the Borrower or any of its Subsidiaries, now or hereafter outstanding, and (d) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of Equity Interests of the Borrower or any of its Subsidiaries, now or hereafter outstanding.

“Retained Professionals” means professionals of the Borrower or any Committee retained under Sections 327, 328, or 1103 of the Bankruptcy Code.

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

“Security Agreement” means that certain Security Agreement made by the Borrower in favor of the Lender.

“Security Instruments” means, collectively or individually as the context may indicate, the Security Agreement, mortgages, and all other agreements (including control agreements), instruments and other documents, whether now existing or hereafter in effect, pursuant to which the Borrower shall grant or convey to the Lender a Lien in, or any other Person shall acknowledge any such Lien in, property as security for all or any portion of the Obligations and any other obligation under any Loan Document.

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity 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. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower.

“Superpriority Claim” means any superpriority administrative claim of the Lender or the Prepetition Lender, whether granted to such party by order of the Bankruptcy Court or through operation of law.

“Synthetic Debt” means, with respect to any Person as of any date of determination thereof, all obligations of such Person in respect of transactions entered into by such Person that are intended to function primarily as a borrowing of funds but are not otherwise included in the definition of “Indebtedness” or as a liability on the consolidated balance sheet of such Person and its Subsidiaries in accordance with GAAP.

“Synthetic Lease Obligation” means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property (including sale and leaseback transactions), in each case, creating obligations that do not appear on the balance sheet of such Person but which, upon the

application of any Debtor Relief Laws to such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

“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.

“Uniform Commercial Code” shall mean the Uniform Commercial Code as in effect in the State of Georgia.

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

“Variance Report” has the meaning specified in Section 6.02.

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 the Loan Documents and 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, (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.

Accounting Terms. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, except as otherwise specifically prescribed herein. To the extent any defined term states that it is determined “on a consolidated basis”, such consolidation shall be in accordance with GAAP applied on a consistent basis. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Borrower and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 on financial liabilities shall be disregarded.

Rounding. Any financial ratios required to be maintained by the Borrower 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).

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

THE COMMITMENT AND CREDIT EXTENSIONS

DIP Loan.

Subject to the terms and conditions set forth herein, the Lender agrees to advance on the Closing Date, a portion of the DIP Loan in the maximum principal amount of \$[] (the “Initial DIP Loan Advance”) to fund the Borrower’s ongoing operations in accordance with the Budget and the administration of the Bankruptcy Case. The execution and delivery of this Agreement by the Borrower and the satisfaction of all conditions precedent pursuant to Article IV shall be deemed to constitute the Borrower’s request to borrow the Initial DIP Loan Advance on the Closing Date.

Subject to the terms and conditions set forth herein, prior to the Maturity Date, the Lender agrees to make one or more additional advances of the DIP Loan each in a principal amount of \$25,000 (or such lesser amount as approved by the Lender in its reasonable discretion) or a whole multiple of \$5,000 in excess thereof to fund the Borrower’s ongoing operations in accordance with the Budget and the administration of the Bankruptcy Case (each a “Delayed Draw DIP Loan Advance”); provided, however, that after giving effect to the Initial DIP Loan Advance and each Delayed Draw DIP Loan Advance, the Outstanding Amount of the DIP Loan shall not exceed the DIP Loan Commitment.

The entries made in such records and/or on the schedule annexed to the Note evidencing the DIP Loan shall be *prima facie* evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided, that the failure or delay of the Lender in maintaining or making entries into any such record or on such schedule or any error therein shall not in any manner affect the obligation of the Borrower to repay the DIP Loan (both principal and unpaid accrued interest) in accordance with the terms of this Agreement. Subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01 and prepay under Section 2.03 but Borrower may not re-borrow under this Section 2.01.

Borrowings. Upon satisfaction of the applicable conditions set forth in Section 4.01 and Section 4.02, the Lender shall make each Borrowing available to the Borrower by wire transfer of such funds in accordance with instructions provided to (and reasonably acceptable to) the Lender by the Borrower. Each Delayed Draw DIP Loan Advance shall be made upon the Borrower's irrevocable notice to the Lender, which shall be in the form of a written Request for Credit Extension (which may be a .pdf via e-mail), appropriately completed and signed by a Responsible Officer of the Borrower. Each such notice must be received by the Lender by 2:00 p.m. on the Friday immediately prior to the requested date of any Borrowing. Each Borrowing shall only occur on a Tuesday, unless otherwise approved by Lender.

Voluntary Prepayments. In addition to the required payments of principal of the DIP Loan set forth in Section 2.04, the Borrower may, upon irrevocable notice to the Lender, voluntarily prepay the DIP Loan in whole or in part from time to time on any Business Day, without penalty or premium; provided that (i) such notice must be received by the Lender not later than 11:00 a.m., one (1) Business Day prior to any date of prepayment, and (ii) any prepayment shall be in a principal amount of \$25,000 or a whole multiple of \$5,000 in excess thereof (or, in each case, if less, the entire principal balance thereof then outstanding of the DIP Loan). Each such notice shall specify the date and amount of such prepayment. Each such prepayment in accordance with this section shall be applied to all sums due under the DIP Loan in inverse order of maturity. The Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

Repayment of DIP Loan. Borrower shall repay the Outstanding Amount of the DIP Loan on the Maturity Date.

Interest; Late Fees.

Subject to the provisions of subsection (b) below, the DIP Loan shall bear interest on the outstanding principal amount thereof at a rate per annum equal to the Interest Rate.

(b) Default Rate.

If any amount of principal of the DIP Loan is not paid when due, whether at stated maturity, by acceleration or otherwise, then at the election of the Lender, such amount shall thereafter (but only until such amount is paid) bear interest at the Default Rate to the fullest extent permitted by applicable Laws.

If any amount (other than principal of the DIP Loan) payable by the Borrower under any Loan Document is not paid when due, whether at stated maturity, by acceleration or otherwise, then at the election of the Lender, such amount shall thereafter (but only until such amount is paid) bear interest at the Default Rate to the fullest extent permitted by applicable Laws.

At the election of the Lender, while any Event of Default exists, the Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at the Default Rate to the fullest extent permitted by applicable Laws.

Interest on the DIP Loan shall accrue during the term of the Loan and shall be due and payable in arrears on the Maturity Date.

Fees. In addition to any other amounts due under this Agreement and any other Loan Documents:

Loan Origination Fee. The Borrower shall pay to the Lender a one-time loan origination fee in an amount equal to \$10,000.00, which shall be payable upon the Maturity Date. Such fee shall be fully earned on the Closing Date and shall not be refundable for any reason whatsoever.

Other Fees. The Borrower shall pay to the Lender such fees as shall have been separately agreed upon in writing in the amounts and approved by the Bankruptcy Court and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

Computation of Interest and Fees. All computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a three hundred sixty-five (365) day year). Interest shall accrue on the DIP Loan for the day on which the DIP Loan is made, and shall not accrue on the DIP Loan, or any portion thereof, for the day on which the DIP Loan or such portion is paid, provided that any portion of the DIP Loan that is repaid on the same day on which it is made shall, subject to Section 2.09, bear interest for one (1) day. Each determination by the Lender of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

Evidence of Debt. The Credit Extensions made by the Lender shall be evidenced by one or more accounts or records maintained by Lender in the ordinary course of business. The accounts or records maintained by the Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lender to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. The Lender may attach schedules to the Note and endorse thereon the date, amount and maturity of the DIP Loan and payments with respect thereto.

Payments Generally. All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise

expressly provided herein, all payments by the Borrower hereunder shall be made to the Lender, at the Lending Office in Dollars and in immediately available funds not later than 2:00 p.m. on the respective dates specified herein. All payments received by the Lender 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 the Borrower 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 in computing interest. All payments by the Borrower under this Agreement shall be made without offset, counterclaim or other deduction and in such amounts as may be necessary in order that all such payments shall not be less than the amounts otherwise specified to be paid under this Agreement and the Note.

Approval Order. The entry of the Approval Order on an interim basis shall be a condition precedent to the effectiveness of the Parties' obligations under this Agreement.

TAXES

Taxes.

Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes, provided that if the Borrower shall be required by applicable law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law; provided, however, Borrower shall not be responsible for the payment of any Excluded Taxes.

Indemnification by the Borrower. The Borrower shall indemnify the Lender, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Lender and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by the Lender shall be conclusive absent manifest error.

Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Lender the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Lender.

Treatment of Certain Refunds. If the Lender determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Lender, 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 the Borrower, upon the request of the Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Lender in the event the Lender is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require the Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

Survival. All of the Borrower's obligations under this Article III shall survive termination of the DIP Loan Commitment and repayment of all other Obligations hereunder.

CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

Conditions of Initial Credit Extension. The obligation of the Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent, any of which may be waived by Lender in its sole discretion:

The Lender's receipt of the following, each of which shall be originals or telecopies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the Borrower, each dated the Closing Date or such prior date acceptable to the Lender (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to the Lender:

executed counterparts of this Agreement and each Security Instrument, sufficient in number for distribution to the Lender and the Borrower;

the Note executed by the Borrower in favor of the Lender;

such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of the Borrower as the Lender may reasonably require evidencing the identity, authority and capacity of each

Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which the Borrower is a party;

Organization Documents of the Borrower, and such other documents and certifications as the Lender may reasonably require to evidence that the Borrower is duly organized or formed, and that the Borrower is validly existing, in good standing and qualified to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect;

the Approval Order shall have been entered by the Bankruptcy Court on an interim basis within seven (7) days following the Petition Date, in form and substance acceptable to the Lender in its sole discretion, which interim order shall include, without limitation, a copy of the Budget as an exhibit thereto, and which shall: (A) authorize and approve the DIP Loan and transactions contemplated pursuant to this Agreement, including, without limitation, the granting of the superpriority status, security interests and liens, and payment of all fees referred to herein; (B) lift or modify the automatic stay in accordance with the Approval Order to permit the Borrower to perform its obligations and the Lender to exercise its rights and remedies with respect to the DIP Loan; and (C) authorize the use of cash collateral and provide adequate protection in favor of the Prepetition Lender as and to the extent described therein; which interim order shall be in full force and effect, shall not have been reversed, vacated or stayed and shall not have been amended, supplemented or otherwise modified without the prior written consent of the Lender;

the Lender shall have been afforded valid and perfected Liens on and security interests in the Collateral on the basis and with the priority set forth in the Approval Order (entered on an interim basis), and such Lien of the Lender shall be senior to all other Liens other than Permitted Liens;

delivery of Uniform Commercial Code financing statements (or continuations thereof) suitable in form and substance for filing in all places required by applicable Law to perfect the Liens of the Lender 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 necessary under applicable Law to perfect the Liens of the Lender under the Security Instruments as a first priority Lien in and to such other Collateral as the Lender may require;

the representations and warranties of the Borrower contained in Article II, 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 on and as of the Closing Date; and

such other assurances, certificates, documents, consents or opinions as the Lender reasonably may require.

Any fees required to be paid on or before the Closing Date shall have been paid.

All first day motions filed by the Borrower and related orders entered by the Bankruptcy Court in the Bankruptcy Case shall be in form and substance satisfactory to the Lender, and all motions and other documents to be filed with and submitted to the Bankruptcy Court relating to the DIP Loan and the approval thereof shall be in form and substance satisfactory to the Lender.

The Closing Date shall have occurred on or before June 3, 2019.

Conditions to all Credit Extensions. The obligation of the Lender to honor any Request for Credit Extension is subject to the following conditions precedent, any of which may be waived by Lender in its sole discretion:

the representations and warranties of the Borrower contained in Article II, 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 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 as of the date of such earlier date, and except that for purposes of this Section 4.02, the representations and warranties contained in Section 5.05 shall be deemed to refer to the most recent statements (if any) furnished pursuant to Section 6.01;

no Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof;

the making of such Credit Extension (and the use of the proceeds therefrom) shall not violate any law or be enjoined, temporarily, preliminarily or permanently;

No event, occurrence or omission shall have occurred causing a Material Adverse Effect;

the Borrower shall have complied with the Budget in all respects, subject to any Permitted Variances;

the Approval Order shall have been entered, either an on interim or final basis, as the case may be, and provide for all the terms, protections and provisions enumerated in Section 4.01(a)(v) hereof;

no Chapter 11 trustee or examiner shall have been appointed for the Borrower in the Bankruptcy Case, and the Bankruptcy Case has not been converted to a case under Chapter 7 of the Bankruptcy Code;

the Lender shall have received a Request for Credit Extension in accordance with the requirements hereof;

evidence in form and substance acceptable to the Lender in its sole discretion that the proceeds of the applicable Credit Extension shall be used to fund the Borrower's ongoing operations in accordance with the Budget or the administration of the Bankruptcy Case; and

such other receipts, invoices, and other supporting documentation and procedures as requested by the Lender, each satisfactory to the Lender in its reasonable discretion.

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Lender, to the best knowledge of Wayne Tanner and Greg Bangs, that as of the date hereof and as of the date of each Borrowing:⁶

Existence, Qualification and Power; Compliance with Laws. Borrower (a) is a duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, (c) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license, and (d) is in compliance with all Laws. The copy of the Organization Documents of the Borrower provided to the Lender pursuant to the terms of this Agreement is a true and correct copy of each such document, each of which is valid and in full force and effect.

Authorization; No Contravention. The execution, delivery and performance by the Borrower have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of the Borrower's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which the Borrower or its property is subject; or (c) violate any Law. The Borrower is in compliance with all Contractual Obligations referred to in clause (b)(i).

Governmental Authorization; Other Consents. Other than the Approval Order, no approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with (a) the execution, delivery or performance by, or enforcement against, the Borrower of this Agreement or any other Loan Document, (b) the grant by the Borrower of the Liens granted by it pursuant to the Loan Documents, or (c) the perfection or maintenance of the Liens created under the Loan Documents (including the super-priority nature thereof).

⁶ Lender understands and agrees that the representations are being made by the Borrower, and that Mr. Bangs' knowledge comes from his position as an employee and Mr. Tanner's knowledge comes from his position as an employee of Aurora Management Consultants. In each case, neither Mr. Bangs nor Mr. Tanner shall have any personal liability with respect to the representations and warranties given herein

Binding Effect. Subject to entry of the Approval Order, this Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of the Borrower, enforceable against the Borrower that is party thereto in accordance with its terms.

Financial Statements; No Material Adverse Effect. Since the date of the most recent financial statements furnished, 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.

Litigation. Except for the Bankruptcy Case, and considering the effect of the Bankruptcy Case and the automatic stay, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower after due and diligent investigation, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or against any of its properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document or any of the transactions contemplated hereby, or (b) either individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

Intentionally Omitted.

Ownership of Property; Liens. The Borrower has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its Business as operated as of the Closing Date, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Collateral is subject to no Liens, other than Liens permitted by Section 7.01.

Insurance. The properties of the Borrower are insured with financially sound and reputable insurance companies not Affiliates of the Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower operates.

Taxes. The Borrower has filed all federal, state and other material tax returns and reports required to be filed, and have paid all federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the Borrower that would reasonably be expected to have a Material Adverse Effect. The Borrower is not party to any tax sharing agreement.

Intentionally Omitted.

Intentionally Omitted.

Disclosure. The Borrower has disclosed to the Lender all agreements, instruments and corporate or other restrictions to which it is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse

Effect. No report, financial statement, certificate or other information furnished (whether in writing or orally) by or on behalf of the Borrower to the 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, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time such projections were prepared.

Compliance with Laws. The Borrower 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.

Taxpayer Identification Number. The Borrower's true and correct U.S. taxpayer identification number is set forth on Schedule 5.15.

Intellectual Property; Licenses, Etc. The Borrower owns, or possesses the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, "IP Rights") that are reasonably necessary for the operation of its business, without any known conflict with the rights of any other Person. To the best knowledge of the Borrower, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Borrower infringes upon any rights held by any other Person.

Collateral and Security Interests. All of the Collateral is owned by the grantor of the security interest therein in favor of the Lender free of any title defects or any Liens or interests of others, except for the Liens and security interests of the Lender and Permitted Liens.

Location of the Borrower. As of the Closing Date, the Borrower's correct legal name, type of organization, jurisdiction of organization, state organization number and federal employers identification number are set forth on Schedule 5.18. The Borrower's chief executive office is located at the address set forth in Schedule 5.18.

Leases. Each Lease is in full force and effect without amendment or modification from the form or copy delivered to the Lender except for amendments or modifications permitted hereunder. No default by any party exists under any Lease that (i) could result in termination of such Lease, nor has any event occurred which, with the passage of time or the giving of notice, or both, would constitute such a default, and (ii) could reasonably be expected to have a Material Adverse Effect.

Material Contracts. Each Material Contract has been duly executed and delivered by each of the parties thereto and constitutes a legal, valid and binding obligation of the Borrower and, to the knowledge of the Borrower, each of the other parties thereto, enforceable against such

parties in accordance with its terms, subject (a) as to the enforcement of remedies, as applicable bankruptcy, insolvency reorganization, moratorium, fraudulent conveyance and other similar laws affecting the enforcement of creditors' rights generally, from time to time in effect and (b) to general principles of equity.

Use of Proceeds. The use of proceeds of the Credit Extensions in accordance with the Budget are not in contravention of any Law.

AFFIRMATIVE COVENANTS

So long as the DIP Loan or other Obligation hereunder shall remain unpaid or unsatisfied, the Borrower shall:

Financial Statements; Reports. To the extent that failure to do so would have a Material Adverse Effect, keep books of account and prepare financial statements in the ordinary course of its business as it is being conducted as of the Closing Date, and prepare and provide such financial reports in accordance with Section 6.02 and as the Lender may otherwise reasonably request from time to time, in form and detail satisfactory to the Lender.

Financial Reporting. To the extent that failure to do so would have a Material Adverse Effect, deliver to the Lender, in form and detail satisfactory to the Lender:

monthly consolidated financial statements of the Borrower within thirty (30) days of the end of each calendar month, certified by a Responsible Officer;

on the Monday occurring four (4) weeks, eight (8) weeks, and twelve (12) weeks after the Closing Date, an updated 13-week cash flow forecast, in each case, in form and substance satisfactory to the Lender in its sole discretion (each such forecast approved by the Lender shall constitute a new Budget for the purposes of this Agreement) for the subsequent 13-week period consistent with the form of the initial Budget;

beginning on the second Friday following the Closing Date and on each Friday thereafter, a variance report (the "Variance Report") setting forth actual cash receipts and disbursements of the Borrower for the prior week and setting forth all the variances, on a line-item and aggregate basis, from the amount set forth for such week as compared to the Budget delivered prior to such Variance Report on a weekly and cumulative basis, and each such Variance Report shall include explanations for all material variances and shall be certified by a Responsible Officer;

the Borrower will promptly provide notice to the Lender of any event or occurrence giving rise to a Material Adverse Effect;

the Borrower will provide to the Lender such other reports and information as may be reasonably requested by the Lender;

promptly, such additional information regarding the business, financial or corporate affairs of the Borrower, or compliance with the terms of the Loan Documents,

including updates regarding the Bankruptcy Case, as the Lender may from time to time reasonably request; and

promptly, any notice of any material litigation, proceeding, environmental action or claim against, or liability of, the Borrower, or any tax event or liability.

In addition to the foregoing, the Borrower shall cause its accountants, financial advisors, consultants and parties providing management services to the Borrower to cooperate, consult with and provide to the Lender all such information as may be reasonably requested with respect to the businesses, results of operations, and financial condition of the Borrower

Notices. To the extent that failure to do so would have a Material Adverse Effect, promptly notify the Lender:

of the occurrence of any Default;

of 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 any default under, a Contractual Obligation; (ii) any dispute, litigation, investigation, proceeding or suspension involving any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding;

of any material change in accounting policies or financial reporting practices by Borrower and its Subsidiaries; and

any default (or receipt of notice of any claimed default) under any Lease.

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

Payment of Obligations; Compliance with Budget. Remain in compliance with the Budget for each applicable period thereunder. To comply with the Budget, (i) the actual aggregate disbursements by the Borrower for any applicable period shall not exceed the aggregate amount of disbursements in the Budget for such period by more than the Permitted Variance, and (ii) actual aggregate cash receipts by the Borrower (excluding proceeds of the DIP Loan that may be deemed a receipt) during the applicable period shall not be less than the aggregate amount of such cash receipts in the Budget for such period by more than the Permitted Variance; provided, however, that a Default or Event of Default shall not be deemed to occur on account of the failure to meet one of such aggregate cash receipts covenants if the Borrower receives sufficient additional receipts within ten (10) Business Days after the applicable date of determination that, when added to the receipts as of the applicable date of determination, would enable the Borrower to satisfy such covenant. The Permitted Variance with respect to each period shall be determined and reported to the Lender not later than the Friday immediately following

each such period. Additional variances, if any, from the Budget, and any proposed changes to the Budget, shall be subject to the approval of the Lender in its sole and absolute discretion.

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; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

Maintenance of Properties. (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) use the standard of care typical in the industry in the operation and maintenance of its facilities.

Maintenance of Insurance. Maintain with financially sound and reputable insurance companies not Affiliates of the Borrower, insurance with respect to its properties and business against loss or damage, in amounts similar to that carried as of the Closing Date;

Compliance with Laws. To the extent that failure to do so would have a Material Adverse Effect, comply in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, 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 could not reasonably be expected to have a Material Adverse Effect.

Books and Records; Accounts. (a) Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied, shall be made of all financial transactions and matters involving the assets and business of Borrower; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over the Borrower.

Inspection Rights. To the extent that failure to do so would have a Material Adverse Effect, permit representatives and independent contractors of the Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided, however, that when an Event of Default exists the Lender (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice.

Use of Proceeds. Use the proceeds of the DIP Loan to fund the Borrower's ongoing operations in accordance with the Budget and the administration of the Bankruptcy Case.

Leases and Material Contracts. At all times, comply in all material respects with the post-petition obligations of the Borrower under the Leases and Material Contracts under which the Borrower is receiving goods or services as of the Petition Date, and cause such obligations of Borrower to be performed, and effect renewals or extensions (A) on either substantially the same terms, or (B) as otherwise reasonably approved by the Lender in writing, provided, however, that the foregoing shall be subject to any rights of Borrower to reject such Leases and/or Material Contracts under Section 365 of the Bankruptcy Code with the prior written consent of Lender.

Collateral Records. Execute and deliver promptly to the Lender, from time to time, solely for the Lender's convenience in maintaining a record of the Collateral, such written statements and schedules as the Lender may reasonably require designating, identifying or describing the Collateral. The failure by the Borrower, however, to promptly give the Lender such statements or schedules shall not affect, diminish, modify or otherwise limit the Liens on the Collateral granted pursuant to the Security Instruments.

Further Assurances. Promptly upon the reasonable request by the Lender, (a) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Lender may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Loan Documents, (ii) to the fullest extent permitted by applicable Law, subject the Borrower's properties, assets, rights or interests to the Liens now or hereafter intended to be covered by any of the Security Instruments, (iii) perfect and maintain the validity, effectiveness and priority of any of the Security Instruments and any of the Liens intended to be created thereunder and (iv) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Lender the rights granted or now or hereafter intended to be granted to the Lender under any Loan Document or under any other instrument executed in connection with any Loan Document to which the Borrower is a party.

Bankruptcy Deliverables. Promptly deliver to the Lender for review and comment, as soon as commercially reasonable, and in any event not less than two (2) Business Days prior to filing, all material pleadings, motions and other documents (provided that any of the foregoing relating to the DIP Loan shall be deemed material) to be filed on behalf of the Borrower in the Bankruptcy Case.

Cash Management.

At all times after the Petition Date, maintain a cash management system that is (i) approved the Bankruptcy Court, (ii) sufficient in all respects to support the ordinary course of the Borrower's Business, and (iii) approved by Lender.

Cooperate with the Lender in obtaining a deposit account control agreement signed by the Borrower, the Lender and the depository institution, over Borrower's accounts holding proceeds of the DIP Loan and any collateral therefor and any successor

account thereof (collectively, the “Controlled Accounts”) reasonably promptly after the Petition Date and the opening of any such successor accounts, which establishes “control” (as defined in the Uniform Commercial Code as in effect from time to time in the applicable governing jurisdiction) in favor of the Lender, in form and substance satisfactory to the Lender. The Borrower shall maintain all proceeds of the DIP Loan in the Controlled Accounts, except as permitted to be used in accordance with the Budget and this Agreement.

NEGATIVE COVENANTS

So long as the DIP Loan or other Obligations (other than contingent indemnification obligations to which no claim has been made) hereunder shall remain unpaid or unsatisfied, the Borrower shall not directly or indirectly, without the written consent of Lender:

Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, deposit accounts, operating accounts, assets or revenues, whether now owned or hereafter acquired, other than the following:

Liens pursuant to any Loan Document; and

Liens existing on the Closing Date and listed on Schedule 7.01 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 except as contemplated by Section 7.03(b), and (iii) the direct or any contingent obligor with respect thereto is not changed.

Any Liens permitted under this Section 7.01 shall be junior in priority to that afforded to the Liens securing the DIP Loan.

Investments. To the extent that doing so would have a Material Adverse Effect, make any Investments, except:

Investments held by the Borrower in the form of cash deposits, Cash Equivalents or short-term marketable securities;

Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

Investments existing on the Closing Date and listed on Schedule 7.02, and any renewal or extension thereof; provided that the principal amount thereof is not increased; and

endorsement of instruments for collection in the ordinary course of business.

Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) Indebtedness outstanding on the date hereof and listed on Schedule 7.03 and any refinancings, refundings, renewals or extensions thereof; provided that 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 and the direct or any contingent obligor with respect thereto is not changed, as a result of or in connection with such refinancing, refunding, renewal or extension; and

(c) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business, provided that such Indebtedness is extinguished within five (5) Business Days of its incurrence.

All claims for Indebtedness permitted under this Section 7.03 shall be junior in priority to the claims arising from the DIP Loan.

Fundamental Changes. Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person.

Dispositions. Except for Dispositions of inventory in the ordinary course of business, make any Disposition or enter into any agreement to make any Disposition.

Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, or issue or sell any Equity Interests.

Change in Nature of Business. Engage in any material line of business other than the Business.

Transactions with Affiliates. To the extent that doing so would have a Material Adverse Effect, enter into any transaction of any kind with any Affiliate (other than a Domestic Subsidiary) of the Borrower, whether or not in the ordinary course of business, other than (i) transactions that are expressly permitted by this Agreement, (ii) transactions no less favorable to the Borrower than would be obtainable by the Borrower at the time in a comparable arm's length transaction with a Person other than an Affiliate, and (iii) fees to, and indemnification of, directors of the Borrower and its Subsidiaries on terms that are customary for the industry and geographic territory in which the Borrower and its Subsidiaries operates.

Burdensome Agreements. To the extent that doing so would have a Material Adverse Effect, enter into any Contractual Obligation (other than this Agreement or any other Loan

Document) that limits the ability of the Borrower to create, incur, assume or suffer to exist Liens on the Collateral in favor of the Lender.

Critical Vendors. Make or commitment to make payments to critical vendors (other than those critical vendors that are approved in writing by the Lender) in respect of prepetition amounts in excess of the amount included in the Budget, without first obtaining the prior written consent of the Lender.

Leases. To the extent that doing so would have a Material Adverse Effect, cause or permit any Lease (a) to be terminated or cancelled prior to its stated term or (b) to expire in accordance with its terms, in each case without a replacement Lease, as applicable, in form and substance reasonably satisfactory to the Lender, being in full force and effect.

General Partner. To the extent that doing so would have a Material Adverse Effect, become a general partner, either directly or indirectly, in any partnership.

Amendments of Organization Documents. Amend any of its Organization Documents in any manner that would have a Material Adverse Effect.

Accounting Changes. To the extent that doing so would have a Material Adverse Effect, make any change in accounting policies or reporting practices, except as required by GAAP.

EVENTS OF DEFAULT AND REMEDIES

Events of Default. Any of the following shall constitute an Event of Default:

Non-Payment. The Borrower fails to (i) pay when and as required to be paid herein, any amount of principal of the DIP Loan, or (ii) pay when and as required to be paid herein, any interest on the DIP Loan, or any fee due hereunder, or (iii) pay within five (5) days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

Specific Covenants. The Borrower fails to perform or observe any term, covenant or agreement contained in any of Sections 6.01, 6.02, 6.03, 6.04, 6.08, 6.10, 6.11, 6.15, 6.16 or Article VII; or

Other Defaults. The Borrower fails to perform or observe any other 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 ten (10) days after the earlier of (i) notice of such failure is delivered to the Borrower by the Lender or (ii) the Borrower has actual knowledge of such failure; or

Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by the Borrower herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made; or

Invalidity of Loan Documents. Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all Obligations arising under the Loan Documents, ceases to be in full force and effect; or the Borrower contests in any manner the validity or enforceability of any provision of any Loan Document; or the Borrower denies that it has any or further liability or obligation under any provision of any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document; or

Collateral. With respect to the Collateral, (i) any Security Instrument after delivery thereof pursuant to Section 4.01 shall for any reason (other than pursuant to the terms thereof) cease to create valid and perfected first priority Liens and security interests in the Collateral afforded priority set forth under Section 364(d) of the Bankruptcy Code; or the Borrower claims that the Lender does not have enforceable first priority Liens and security interests in the Collateral afforded priority set forth under Section 364(d) of the Bankruptcy Code, or (ii) other than with respect to the Bankruptcy Case but subject to Section 8.01(g), the Collateral, or any material part thereof, or any other material asset of the Borrower, is attached, seized, levied upon or comes within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors; or

Claims. With respect to the DIP Loan, (i) any amounts advanced under the DIP Loan are not afforded or cease being afforded status as super-priority claims pursuant to Section 364(c)(1) of the Bankruptcy Code, or (ii) the Borrower challenges the super-priority claim status under Section 364(c)(1) afforded to the Lender for amounts advanced under the DIP Loan; or

Bankruptcy Milestones. Any of the following shall fail to occur in the Bankruptcy Case:

(i) the failure of the Approval Order to be approved on an interim basis on or before seven (7) days after the Petition Date;

(ii) the failure of the Approval Order to be approved on a final basis on or before twenty-one (21) days after the Petition Date;

(iii) the failure of an order approving bidding procedures for the sale of substantially all the Borrower's assets in form and substance acceptable to the Lender in its sole discretion to be entered by the Bankruptcy Court on or before twenty-one (21) days after the Petition Date; or

(iv) the failure of an order approving the sale of substantially all the Borrower's assets pursuant to Section 363 of the Bankruptcy Code in form and substance satisfactory to Lender in its sole discretion to be entered by the Bankruptcy Court within sixty (60) days after the Petition Date;

Bankruptcy Case Occurrences. Any of the following shall occur in the Bankruptcy Case:

(i) filing of a plan of reorganization or liquidation under Chapter 11 of the Bankruptcy Code by the Borrower to which the Lender has not consented;

(ii) Borrower shall file a pleading seeking to vacate or modify any Approval Order without the prior written consent of the Lender;

(iii) entry of an order without the prior consent of the Lender amending, supplementing or otherwise modifying the Approval Order;

(iv) reversal, vacation or stay of the effectiveness of any of any Approval Order for a period in excess of seven (7) days;

(v) any material violation of the terms of any of Approval Order by the Borrower;

(vi) dismissal of the Bankruptcy Case or conversion of the Bankruptcy Case to a case under Chapter 7 of the Bankruptcy Code (which dismissal or conversion shall not have been reversed, stayed or vacated within seven (7) days);

(vii) appointment of a Chapter 11 trustee in the Bankruptcy Case (which dismissal or conversion shall not have been reversed, stayed or vacated within seven (7) days);

(viii) any sale of all or substantially all assets of the Borrower pursuant to section 363 of the Bankruptcy Code, unless (A) the proceeds of such sale are used to indefeasibly satisfy the Obligations in full in case, or (B) the Lender consents to such sale;

(ix) appointment of a responsible officer or examiner with enlarged powers relating to the operation of the business of the Borrower without the prior written consent of the Lender (which appointment shall not have been reversed, stayed or vacated within seven (7) days);

(x) except as set forth in the Approval Order with respect to the Lender, granting of relief from the automatic stay in the Bankruptcy Case to permit foreclosure or enforcement on, or any right or remedy with respect to, material assets of the Borrower;

(xi) the Borrower's filing of (or supporting another party in the filing of) a motion seeking entry of, or the entry of an order, granting any superpriority claim or Lien (except as contemplated herein) which is senior to or *pari passu* with the Lender's claims and Liens for or securing the DIP Loan, other than the Carve-Out;

(xii) the Borrower's challenge (or support of any other person's challenge) to the validity or enforceability of any of the obligations of the Borrower to the Prepetition Lender;

(xiii) payment of or granting adequate protection with respect to the Prepetition Obligations, other than as expressly provided herein or in the Approval Order or otherwise consented to by the Lender;

(xiv) the Borrower's loss of its exclusive right, pursuant to Section 1121 of the Bankruptcy Code, to file a plan of reorganization (or any modification of such right); or

(xv) cessation of the Liens of the Lender or the superpriority claims of the DIP Loan to be valid, perfected and enforceable in all respects in accordance with any Approval Order.

Remedies Upon Event of Default. Subject to the Carve-Out, if any Event of Default occurs and is continuing, the Lender may deliver written notice to the Borrower and Bankruptcy Court that the automatic stay provisions of Section 362 of the Bankruptcy Code have been vacated and modified to the extent necessary to permit the Lender to exercise all rights and remedies provided for in the Loan Documents, and to take any or all of the following actions without further order of or application to the Bankruptcy Court (as applicable):

declare (with notice to the Borrower, the United States Trustee and counsel to the Committee) the commitment of the Lender to make the DIP Loan to be terminated, whereupon such commitments and obligation shall be terminated;

declare (with notice to the Borrower, the United States Trustee and counsel to the Committee) the unpaid principal amount of the DIP Loan, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

exercise any and all remedies available under the Loan Documents and otherwise available under applicable Law, including without limitation the remedies available under Article 9 of the Uniform Commercial Code, such as notifying any account debtor to pay the amount due to the Borrower directly to the Lender, and to sue in the name of the Borrower to collect any such amount;

immediately terminate the Borrower's use of any and all cash collateral;

freeze monies or balances in the Borrower's accounts and sweep and transfer all funds in the Controlled Accounts to the Lender;

immediately set-off and otherwise enforce any and all rights against the Collateral in the possession of the Lender including, without limitation, disposition of such Collateral solely for application against the Obligations; and/or

take any other actions or exercise any other rights or remedies permitted under any Approval Order, the Loan Documents or applicable Law to effectuate the repayment of the Obligations;

provided, however, that prior to the exercise of any right in clauses (c), (d), (e), (f) or (g) of this paragraph, the Lender shall be required to provide three (3) days written notice to the Borrower and the Committee of the Lender's intent to exercise its rights and remedies; provided, further, that neither the Borrower, the Committee nor any other party-in-interest (other than the Prepetition Lender or the Lender) shall have the right to contest the enforcement of the remedies set forth in the Approval Order and the Loan Documents on any basis other than an assertion that an Event of Default has not occurred or has been cured within the cure periods expressly set forth in the applicable Loan Documents.

Application of Funds. Subject to the Carve-Out, after the exercise of remedies provided for in Section 8.02, any amounts received on account of the Obligations shall be applied by the Lender in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts payable to the Lender (including reasonable fees, charges and disbursements of counsel to the Lender (including fees and time charges for attorneys who may be employees of the Lender) and amounts payable under Article III);

Second, to payment of that portion of the Obligations constituting any interest on the DIP Loan and other Obligations;

Third, to payment of that portion of the Obligations constituting unpaid principal of the DIP Loan; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

Cooperation. The Borrower shall cooperate fully with the Lender in its exercise of rights and remedies, whether against the Collateral or otherwise. The Borrower hereby waives any right to seek relief under the Bankruptcy Code, including under Section 105 thereof, to the extent such relief would restrict or impair the rights and remedies of the Lender set forth in any Approval Order and in the Loan Documents.

Lender's Election of Remedies. In case any one or more of the covenants and/or agreements set forth in this Agreement or any other Loan Document shall have been breached by the Borrower, then the Lender may proceed to protect and enforce its rights either by suit in equity and/or by action at law, including an action for damages as a result of any such breach and/or an action for specific performance of any such covenant or agreement contained in this Agreement or such other Loan Document. Without limitation of the foregoing, the Borrower agrees that failure to comply with any of the covenants contained herein will cause irreparable harm and that specific performance shall be available in the event of any breach thereof. The Lender acting pursuant to this paragraph shall be indemnified by the Borrower against all

liability, loss or damage, together with all reasonable costs and expenses related thereto (including reasonable legal and accounting fees and expenses).

Lender's Right to Credit Bid. In connection with any sale of all or any portion of the Collateral, including pursuant to Sections 9-610 or 9-620 of the Uniform Commercial Code, at any sale thereof conducted under the provisions of the Bankruptcy Code, including Section 363 of the Bankruptcy Code or as part of restructuring plan subject to confirmation under Section 1129(b)(2)(A)(iii) of the Bankruptcy Code, or at any sale or foreclosure conducted by the Lender, in accordance with applicable Law, the Borrower hereby gives: (i) the Lender the power and right, without assent by the Borrower, to "credit bid" the full amount of all Obligations in order to purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral; and (ii) the Prepetition Lender the power and right, without assent by the Borrower, to "credit bid" the full amount of all Prepetition Obligations in order to purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral. In connection with the foregoing, each of the Prepetition Lender and the Lender shall have the right to assign its respective right to purchase all or any portion of the Borrower's assets in connection with any such "credit bid" to one or more newly-formed acquisition vehicles or affiliates.

MISCELLANEOUS

Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower therefrom, shall be effective unless in writing signed by the Lender and the Borrower.

Notices; Effectiveness; Electronic Communication.

Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or email as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, if to the Borrower or the Lender to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 9.02.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient).

Electronic Communications. Notices and other communications to the Lender hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Lender, provided that the foregoing shall not apply to notices to the Lender pursuant to Article II if the Lender, has notified the Borrower that it is incapable of receiving notices under

such Article by electronic communication. The Lender or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Lender otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

Change of Address, Etc. Each of the Borrower and the Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto.

Reliance by Lender. The Lender shall be entitled to rely and act upon any notices purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the 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 the Borrower. All telephonic notices to and other telephonic communications with the Lender may be recorded by the Lender, and each of the parties hereto hereby consents to such recording.

No Waiver; Cumulative Remedies. No failure by the Lender 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.

Expenses; Indemnity; Damage Waiver.

Costs and Expenses. The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Lender and its Affiliates (including the reasonable fees, charges and disbursements of outside counsel), in connection the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated),

and (ii) all out of pocket expenses incurred by the Lender (including the fees, charges and disbursements of counsel for the Lender), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the DIP Loan, including all such out of pocket expenses incurred during any workout, restructuring or negotiations in respect of the DIP Loan. The forgoing expenses shall be due and payable to Lender on the Maturity Date.

Indemnification by the Borrower. The Borrower shall indemnify the Lender and each Related Party of the Lender (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all reasonable fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower 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 or the consummation of the transactions contemplated hereby or thereby, (ii) the DIP Loan or the use or proposed use of the proceeds therefrom, (iii) any liability arising out of any matter contemplated by this Agreement, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower, 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 fraud, gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower against an Indemnitee for breach in bad faith of such Indemnitee’s obligations hereunder or under any other Loan Document, if the Borrower has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Borrower shall not assert, and hereby waives, 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, the DIP Loan 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 to such unintended recipients by such Indemnitee 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 other than for direct or actual damages

resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

Payments. All amounts due under this Section shall be payable not later than ten (10) Business Days after demand therefor.

Survival. The agreements in this Section shall survive the repayment, satisfaction or discharge of all the other Obligations.

Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Lender, or the Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, set aside or required (including pursuant to any settlement entered into by the Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then 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.

Successors and Assigns. 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 the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Lender. Without limiting the generality of the foregoing, if (a) the Lender, or its designee, acquires substantially all the Borrower's assets pursuant to a sale approved by the Bankruptcy Court under Section 363 of the Bankruptcy Code, and (b) in connection with such sale, the Lender, or its designee, assumes the Obligations under the DIP Loan, then the Borrower, and its bankruptcy estate, shall be released from the DIP Loan and the Obligations; provided, however, that such release shall in no way affect or impair the validity of the DIP Loan or the Obligations against the assignee thereof. For the avoidance of doubt, notwithstanding anything herein to the contrary, the Lender may freely assign the DIP Loan to any Person at any time, subject only to any approvals as may be required by the Bankruptcy Court.

Intentionally Omitted.

Intentionally Omitted.

Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If the Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the DIP Loan or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the 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.

Counterparts; Integration; Effectiveness. This Agreement and the other Loan Documents 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. Except as provided in Section 4.01, this Agreement and the other Loan Documents shall become effective when they shall have been executed by the Lender and when the Lender 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 the other Loan Documents by telecopy shall be effective as delivery of a manually executed counterpart of this Agreement and the other Loan Documents. In the event of any conflict between this Agreement and the other Loan Documents, the terms of this Agreement shall control.

Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Lender, regardless of any investigation made by the Lender or on its behalf and notwithstanding that the Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as the DIP Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

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.

Governing Law; Jurisdiction; Etc.

GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF GEORGIA.

SUBMISSION TO JURISDICTION. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE BANKRUPTCY COURT, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR 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, IN SUCH 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 THE LENDER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

WAIVER OF VENUE. THE BORROWER 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.

SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN ANY MANNER PERMITTED BY APPLICABLE LAW.

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.

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), the Borrower acknowledges and agrees that: (i) (A) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Lender is and has been acting solely as a principal


and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Affiliates or any other Person and (B) the Lender has no obligation to the Borrower 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 and (iii) the Lender and its respective Affiliates may be engaged in a board range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and the Lender has no obligation to disclose any of such interests to the Borrower or its Affiliates.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

BORROWER:


AMERICAN HOME PRODUCTS LLC, a
Delaware limited liability company

By: 
Name: Greg Bangs
Title: CFO

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

LENDER:

THE LOUVER SHOP HOLDINGS, LLC, a
Delaware limited liability company

By: 
Name: Steven Poir
Title: President